TITLE XIII.

Regulation of Industry.

CHAPTER 101.

INDUSTRIAL COMMISSION.

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101.01 Definitions of terms used. The following terms as used in sections 101.01 to 101.29 of the statutes, shall be construed as follows:

(1) The phrase "place of employment" means and includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but shall not include any place where persons are employed in (a) private domestic service which does not involve the use of mechanical power or (b) farming. The term "farming" includes those activities specified in s. 102.04 (4), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or his employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production.

(2) The term "employment" shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in subsection (1).

(3) The term "employer" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employe.

(4) The term "employe" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

(5) The term "frequenter" shall mean and include every person, other than an employe, who may go in or be in a place of employment or public building under circumstances which render him other than a trespasser.

(6) The term "deputy" shall mean and include any person employed by the industrial commission designated as such deputy by the commission, who shall possess special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the industrial commission, and who may be engaged in the performance of duties under the direction of the commission, calling for the exercise of such abilities or qualities.

(7) The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the commission, or any other determination arrived at or decision made by such commission.

(8) The term "general order" shall mean and include such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments, or places of employment or public buildings of a class under the jurisdiction of the commission. All other orders of the commission shall be considered special orders.

(9) The term "local order" shall mean and include any ordinance, order, rule or determination of any common council, board of aldermen, board of trustees, or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the industrial commission has jurisdiction.

(10) The term "welfare" shall mean and include comfort, decency and moral well-being.

(11) The term "safe" or "safety" as applied to an employment or a place of employment or a public building, shall mean such freedom from danger to the life, health, safety or welfare of employes or frequenters, or the public, or tenants, or firemen, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.

(12) The term "public building" as used in ss. 101.01 to 101.29 means and includes any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants.

(13) The term "owner" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building. Said sections 101.01 to 101.29, inclusive, shall apply, so far as consistent, to all architects and builders.

History: 1955 c. 425; 1957 c. 342.

101.01 (11) and 101.06 do not distinguish between obvious dangers and hidden dangers. Umnus v. Wisconsin Public Service Corp. 260 W 433, 51 NW (2d) 42.

A retaining wall constructed at the side of a driveway leading to a garage on the premises of a religious seminary was not an essential or integral part of the garage necessary to its construction, and such retaining wall itself was not a "public building" within the meaning of the safe-place statute, 101.01 (12); hence the seminary was not liable under 101.06, as owner, for injuries sustained by a deputy sheriff in falling from the retaining wall while patrolling the premises. Hanlon v. St. Francis Seminary, 264 W 603, 60 NW (2d) 381.

The fact, than in constructing a softball-playing field it was necessary for the city to bring in soil as a fill, did not constitute the field a "structure" within the meaning of such term as used in (12). Hoepner v. Eau Claire, 264 W 608, 60 NW (2d) 392.

A sidewalk approach between the public sidewalk and the entrance doors of a parochial school owned and operated by a religious corporation was not a "structure" within the meaning of such term as used in (12). Baldwin v. St. Peter's Congregation, 264 W 626, 60 NW (2d) 349.

See note to 101.06, citing Paykel v. Rose, 265 W 471, 61 NW (2d) 909.

Under (1), defining the term "place of employment" as including every place "where either temporarily or permanently any industry, trade, or business is carried on," "and" "where any person is, directly or indirectly, employed by another for direct or indirect gain or profit," the last-quoted phrase, preceded by the conjunctive "and," cannot stand by itself but must be considered jointly with the quoted phrase preceding it. A complaint which alleged only that the defendants owned and operated the apartment house where the injuries were sustained on an outside step, without further particularizing, was insufficient, as against general demurrer, to establish that the operation of the apartment house was a "business," since such ownership and operation may have constituted merely an investment. Cross v. Leuenberger, 267 W 232, 65 NW (2d) 35, 66 NW (2d) 168.

A wooden stairway on the side of a bluff in a public park, leading from a public sidewalk to a public beach below, was not a "structure" within the meaning of (12), and neither a city nor a county, as owner of the premises, was liable under 101.06 for injuries sustained by a frequenter when he fell because of a missing tread near the bottom of the stairway. Weiss v. Milwaukee, 268 W 377, 68 NW (2d) 13.

A complaint alleging that the defendant owners of the premises on which a mixer machine was being operated were engaged in the business of selling and repairing farm implements on the premises, and that

their premises constituted a place of employment under ch. 101, was sufficient as alleging that such defendants were the owners of a place of employment within the safe-place statute, although not reciting verbatim from the statute that such defendants employed persons at their place of business "for direct or indirect gain or profit." Nechodomu v. Lindstrom, 269 W 455, 69 NW (2d) 608.

An instruction requiring the jury to pass on whether a "substantial defect" was present, and that the jury in determining the question "should consider it as it applies to an ordinarily prudent and intelligent person under the same circumstances," was objectionable as applying a different and lower standard of care than imposed by (11). Bobrowski v. Henne, 270 W 173, 70 NW (2d) 666.

Plaintiff was injured by fall on ice on entrance walk leading to defendant's 2-apartment building. General demurrer sustained on ground that Wisconsin does not recognize a common law liability in such cases and the building was not a place of employment within (1), nor a public building within (12). Davis v. Lindau, 270 W 218, 70 NW (2d) 686.

An inclined ramp located on city school grounds, but outside the lines of the school building, and leading up to an area paved with cement adjacent to the school building, was not a public "building" or "structure" within the meaning of (12). Hemmingway v. Janesville, 275 W 304, 81 NW (2d) 492.

A toboggan slide operated by a city without charge in a public park, and consisting of a raised wooden platform to which was connected a wooden slide enclosed by wooden railings sloping toward ground level, in which blocks of ice formed the sliding surface, was not a "public building" within the purview of (12). Ball v. Madison, 1 W (2d) 62, 82 NW (2d) 894.

101.02 Commission created; appointments. There is hereby created a board which shall be known as the "Industrial Commission of Wisconsin." The governor, by and with the advice and consent of the senate, shall appoint the members of the industrial commission and at the time of making appointments shall designate a chairman who shall serve as such for a period of 2 years and until his successor is designated. The term of office of each member of the industrial commission holding office on the effective date of this amendment (1957) shall expire on said effective date. Thereupon appointment shall be made of 3 successor members for terms commencing on the date of appointment, one term to end June 1, 1957, one term to end June 1, 1959, and one term to end June 1, 1961. Thereafter each member shall be appointed and confirmed for terms of 6 years each. Each member of the board shall take and file the official oath. A majority of the board shall constitute a quorum for the exercise of the powers or authority conferred upon it. In case of a vacancy the remaining 2 members of the board shall exercise all the powers and authority of the board until such vacancy is filled.

History: 1951 c. 97 s. 37; 1951 c. 247 s. 38; 1957 c. 263.

101.03 Quorum; joint powers. A majority of said commissioners shall constitute a quorum to transact business. No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission.

101.04 Office at capitol; supplies; extramural sessions. The commission shall keep its office at the capitol and shall be provided by the director of purchases with suitable rooms, necessary furniture, stationery, books, periodicals, maps, instruments and other necessary supplies. The commission may, however, hold sessions at any place other than the capitol when the convenience of the commission and the parties interested so requires

101.05 Legal status; seal. The commission shall be known collectively as the "Industrial Commission of Wisconsin" and in that name may sue and be sued. It shall have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words "Industrial Commission—Wisconsin—Seal."

101.06 Employer's duty to furnish safe employment and place. Every employer shall furnish employment which shall be safe for the employes therein and shall furnish a place of employment which shall be safe for employes therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employes and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

History: 1957 c. 120.

An electrician's "place of employment" in running some electrical conduits for an aluminum company was the aluminum-company property, and the duty to maintain it according to the standards of the safe-place statute was on that company, so that the safe-place statute did not apply as a basis for liability of a power company for injuries sustained by such electrician when he placed a ladder against and came in contact with a transformer-supporting pole of the power company located on the aluminum-company property. La Duke v. Northern States Power Co. 256 W 286, 41 NW (2d) 274.

Where the elevator company's contract was expressly to make a monthly examination of the elevator in the store, and the elevator company's mechanic was the very person charged with this duty, and he was injured in falling through the top of the elevator because of his own failure to examine the top to ascertain whether bolts securing the grille were in place, before using the top as a platform, he was not entitled to recover for his injuries from the operator of the store on the theory that the latter had failed to furnish him with a safe place of employment. Barrows v. Leath & Co. 258 W 154, 44 NW (2d) 918.

Under evidence as to the position of a wire strung by pranksters from the lower hinge of the door of the lavatory to a stall

post, and as to the person injured having entered the unlighted lavatory from a dark hall and having then turned on the lavatory light so that the lavatory was suddenly lighted up just before he tripped over the wire, the question whether there was causal connection between the defendant's failure to have the lavatory lighted and the injuries sustained was for the jury. Failure to properly light a building or a part thereof subject to the safe-place statute is a violation and presents a question for the jury without regard to the existence or nonexistence of a code requirement. Zimmers v. St. Sebastian's Congregation, 258 W 496, 46 NW (2d) 820.

As a matter of law, a hardware company was not negligent in omitting a guardrail and toeboards from the outside or loading edge of a shipping platform at its warehouse, from which platform a customer fell when a dolly which he was using in loading some articles onto his truck lurched forward and caused him to lose his balance. Stellmacher v. Wisco Hardware Co. 259 W 310, 485 NW (2d) 48.

The supreme court takes judicial notice that a step is a usual and reasonable device employed to facilitate foot passage from one level to another, which in itself does not violate the requirement of reasonable safety prescribed by the safe-place statute. By itself, the presence of a step or steps in any public place is not a potential breach of the duty owed by the custodian or owner of the premises to an employe, frequenter, or member of the public under the safe-place statute. Bradstrom v. Lasker Jewelers, 259 W 366, 48 NW (2d) 490.

A complaint alleging that the plaintiff, after looking at the jewelry display in the window of the recessed entry to the defendant's jewelry store, fell from the platform terrazzo to the sidewalk, and that the defendant did not construct and maintain the premises in a safe condition because it failed to provide a ramp from sidewalk level to store level, or to provide warning signs or nonslip treads in the entrance or louver lights, and constructed and maintained a step of 2¾ inches from the entry down to the sidewalk level, but not alleging any particular in which this step, because of its construction or situation, was more hazardous than the safest of steps, failed to state a cause of action. Bradstrom v. Lasker Jewelers, 259 W 366, 48 NW (2d) 490.

The plaintiff, a welder who was severely burned when an inflammable liquid which the defendant painting contractor was using in the plant of the plaintiff's employer became ignited, was not a trespasser when he carried on his own work in the area which the defendant was using as a paint shop, and in respect to that area and in respect to the defendant the plaintiff was a frequenter entitled to the protection of the safe-place statute, and the defendant was charged with the duty of keeping that area safe for frequenters within the provisions of the statute, so far as the defendant's own operations were concerned, although its control over the area was not exclusive. An instruction to the jury that the plaintiff was an employe "and" a frequenter was harmless to the defendant painting contractor, since the plaintiff was a frequenter in respect to the defendant and the defendant's paint shop in the plant of the plaintiff's employer, and the defendant's duty toward the plaintiff was the same in either case and was not increased by describing him in 2 capacities instead of one. See also note to this case under 102.29. Johannsen v. Peter P. Woboril, Inc. 260 W 341, 51 NW (2d) 53.

The established rule of nonliability of municipal corporations for negligence while engaged in governmental operations should not be so construed by the court as to extend the exemption beyond the boundaries of its previous application. Britten v. Eau Claire, 260 W 382, 51 NW (2d) 30.

Although it was a part of the duty of the contractor-employer of the deceased employe to make the place of employment safe, such employe was not employed for that purpose nor engaged in it, and the lack of a guardrail as to him was a violation of the safe-place statute. (Barrows v. Leath & Co. 258 W 154, distinguished.) Umnus v. Wisconsin Public Service Corp. 260 W 433, 51 NW (2d) 42.

When one owing a duty to make a place or an employment safe fails to do so and that accident occurs which the performance of the duty was designed to prevent, then the law presumes that the damage was caused by such failure; and if such presumption is not rebutted by evidence, the plaintiff has met his burden of proof. Where no one saw the contractor's deceased employe and his wheelbarrow fall into an unguarded opening in the flat roof, the plaintiff's burden of proof of causation was met when she showed to the jury's satisfaction the duty of the defendant owner of the building to fence the opening, the failure to do so, and the entry of the employe into the opening in a manner such as an efficient rail was designed to prevent. (Wm. Esser & Co. v. Industrial Comm. 191 W 473, distinguished.) Umnus v. Wisconsin Public Service Corp. 260 W 433, 51 NW (2d) 42.

The protection of the presumption of the exercise of due care for one's own safety is given to a deceased person until evidence of his negligence is produced. A person required to work in a place of danger is not required to give that undivided attention to the danger which threatens him as is required of a person with nothing to distract his attention from it. The fact that the danger from the unguarded opening in the flat roof was apparent, and that the deceased employe and his wheelbarrow may have fallen into the opening from a spot which was not on his shortest or usual course for the transportation of material, did not destroy the presumption afforded him that he was pursuing his work with due care for his own safety, nor preclude the jury from absolving him of contributory negligence. Umnus v. Wisconsin Public Service Corp. 260 W 433, 51 NW (2d) 42.

The alleged fact, that the deceased employe and his wheelbarrow fell into the unguarded opening in the flat roof at a point which was not on his shortest course for the transportation of material, would not warrant a deduction that he had abandoned his work and thereby ceased to be a frequenter of the roof entitled to the statutory protection due such a person. Umnus v. Wisconsin Public Service Corp. 260 W 433, 51 NW (2d) 42.

In an action against the owner of a building under construction for the death of a contractor's employe, whose work required him to wheel building material on the flat roof from an elevator and to circle a large, unguarded opening in the center of the roof which lay in the direct path of the transportation of material, and who with his wheelbarrow fell through the opening, it was a jury question whether the defendant had provided a place of employment as free from danger to frequenters as the nature of the employment and the place of employment would reasonably permit, it being clear that the opening constituted a danger, and there being sufficient evidence that it was practicable to guard the opening with a rail, and that such a rail would have made the place of the decedent's employment much safer and would not have interfered with any work which was going on. Umnus v. Wisconsin Public Service Corp. 260 W 433, 51 NW (2d) 42.

A complaint by the subrogated liability insurer of the owner of a building occupied as a drugstore by the defendant tenant, alleging that a customer in the drugstore had been injured in a fall in the rear entranceway thereof, that the building and entranceway were not constructed and maintained in safe condition in certain respects, that the injuries were the proximate result of such unsafe conditions, and that the plaintiff had made a fair settlement with the injured customer, and alleging facts sufficient to show that it was likewise the duty of the defendant tenant, under the safe-place statute, to furnish a place safe for customers and other frequenters thereof as well as safe for employes, stated a cause of action for contribution. Hardware Mut. Casualty

Co. v. Rasmussen Drug Co. 261 W 1, 51 NW (2d) 551.

The safe-place statute does not make the owner of a building or an employer an insurer, and the possibility that a safe structure or instrument might be made more safe does not require the conclusion that there has been a violation of the safe-place statute. Hipke v. Industrial Comm. 261 W 226, 52 NW (2d) 401.

Although a trap door when closed presents no hazards to patrons of a store or other establishment, the situation resulting from the door being left open in a floor area to which frequenters are permitted access is highly dangerous and renders the premises unsafe, so that a tenant in possession may be held liable on the ground of violation of the safe-place statute, if a frequenter falls into the unguarded opening. Wannmacher v. Baldauf Corp. 262 W 523, 55 NW (2d) 895.

In requiring an "owner" to so "maintain" the premises as to render the same safe, the safe-place statute does not apply in the case of a landlord-owner to temporary conditions having no relation to the structure of the building or the materials of which it is composed, and over which temporary conditions the landlord has no control, and hence, where a tenant left a trap door open, thereby creating a temporary condition, and the opening and closing of the trap door was entirely within the exclusive control of the tenant, the tenant alone would be liable for injuries sustained by a patron of his in falling through the unguarded opening, unless there existed some safety order or ordinance which required the landlord to construct a railing or other guard around the trap door. Wannmacher v. Baldauf Corp. 262 W 523, 55 NW (2d) 895.

An order of the state building code, entitled "trap doors and floor openings" and requiring that "every opening through any floor shall be guarded by a substantial enclosure or rail at least 3 feet high" is a safety order, the violation of which is a violation of the safe-place statute. The words "every opening through any floor" include trap-door floor openings, and the order, as so construed is not so unreasonable as to be void. "Enclosure" construed. A trap door is not an enclosure. Expert testimony as to the feasibility of a removable guard or gate at the stairway end of the opening would make a jury question as to whether the failure to provide the same constituted a violation of the safe-place statute. Wannmacher v. Baldauf, 262 W 523, 55 NW (2d) 895.

In determining whether the landlord-owner of a building could be held liable, on the ground of violation of the safe-place statute, for injuries sustained by a patron of the tenant in falling through a trap-door opening and down the basement stairs in the shoeshine parlor and cleaning establishment of the tenant, whether the tenancy at the time of the accident was one from year to year, or one from month to month, was immaterial, inasmuch as the landlord was then not only out of possession but had no right to possession because no notice to terminate the tenancy under either 234.03 or 234.07 had been given. Wannmacher v. Baldauf Corp. 262 W 523, 55 NW (2d) 895.

A landlord at common law is under no obligation to enter and make repairs or alterations unless the duty is imposed on him by the provisions of the lease, and the safe-place statute does not effect a change in this common-law rule so as to impose a duty on a landlord to make repairs or alterations, in premises which were structurally safe at the time of leasing, where the landlord has no duty under the leasing arrangement to make repairs, and no right of entry to the premises. Wannmacher v. Baldauf Corp. 262 W 523, 55 NW (2d) 895.

Although a grantee, acquiring a building structurally unsafe as to a trap-door opening because of the previous owner's failure to have complied with the state building code, never possessed the right of possession or re-entry to the premises because they were under lease to a tenant, such grantee, by his act of acquiring title, stepped into the shoes of the previous owner with respect to the liability imposed by the safe-place statute, to future frequenters of the premises arising by reason of such structural defect, and assumed the liability of "owner" to a patron of the tenant if the patron was injured as the result of such structural defect and was a frequenter of the premises. Wannmacher v. Baldauf Corp. 262 W 523, 55 NW (2d) 895.

If there is adequate notice to a frequenter that he should not go into a part of a public building and, in spite of such notice he disregards the same and enters into the forbidden area he becomes a trespasser so as not to be entitled to damages under the safe-place statute for injuries sustained in the forbidden area, since no duty is owed to a trespasser under the statute. Wannmacher v. Baldauf, 262 W 523, 55 NW (2d) 895.

In an action for injuries sustained by a customer of the defendant's store in a fall at night on the icy and rutted surface of a parking lot provided by the defendant for its customers, the jury's findings, supported by credible evidence, of the defendant's failure to maintain a safe surface on its parking lot, as well as of a failure to have the surface adequately lighted at the time of the accident, were sufficient to warrant a judgment for the plaintiff, although the rutty condition of the surface of the parking lot, alone, might not have been sufficient to entitle the plaintiff to recover. The safe-place statute imposes on an employer an absolute duty to make the place as free from danger to employes and frequenters as the nature of the employment will reasonably permit, and not merely a reasonably safe place as at common law. Paepcke v. Sears, Roebuck & Co. 263 W 290, 57 NW (2d) 352.

Under evidence disclosing that the defendant's salesman had unrolled a length of woven-wire fencing on the floor of a salesroom in the defendant's store, and was measuring it for sale to a customer, and that the plaintiff, a prospective customer, approached and saw the wire lying on the floor and could have walked around it but decided to walk on and across it, and was injured when he tripped on it and fell, there was as to the plaintiff no breach of the defendant's duty to maintain its salesroom as free from danger to its patrons as the nature of its business would reasonably permit. The negligence of the plaintiff in going on the wire, when he could have walked around it, was at least equal, as a matter of law, to the negligence, if any, of the defendant in choosing the floor of its salesroom to show the wire to a customer. Klein v. Montgomery Ward & Co. 263 W 317, 57 NW (2d) 188.

Failure to light a part of a building subject to the safe-place statute may be a failure to maintain the building in a safe condition and, therefore, a violation of such statute regarding maintenance. Perry v. Labor Temple Asso. 264 W 36, 58 NW (2d) 293.

A complaint alleging that a swimming pool owned and operated by the defendant city was a public building, and that the city failed to construct, repair and maintain the pool so as to render the same as free from danger to frequenters and the public as its nature reasonably permitted, stated a cause of action based on violation of the safe-place statute, as against demurrer, in that the safe-place statute applies to cities regardless of whether at a given time they are acting in a proprietary or in a governmental capacity, and a swimming pool is a "public building" within the meaning of such term as defined in 101.01 (12). Flesch v. Lancaster, 264 W 234, 58 NW (2d) 710.

The evidence in a workmen's compensation proceedings supported a finding of the commission that an injury which an employe suffered to his hand while operating a power brake press was caused by the machine's not being in good working order, constituting a violation of the safe-place statute, and warranting an award of 15 per cent increased compensation to the employe

under 102.57. Northern Light Co. v. Industrial Comm. 264 W 313, 58 NW (2d) 653.

The duty of the owner of a public building to construct or maintain the building in a safe condition extends only to such parts of the building as are used by the public or by 3 or more tenants in common. Hanlon v. St. Francis Seminary, 264 W 603, 60 NW (2d) 381.

A softball-playing field owned and operated by a city without income or profit therefrom was neither a "place of employment" nor a "public building"; hence the city was not liable for injuries sustained by the plaintiff when his shoe caught in an imbedded strand of wire while he was playing a game of softball. Hoepner v. Eau Claire, 264 W 608, 60 NW (2d) 392.

The duty of the owner of a public building so to construct, repair and maintain the building as to render the same safe relates to the building and not to temporary conditions which may negligently be permitted to exist within the building, or to other temporary conditions, which have no relation to the structure of the building or the materials of which it is composed. Baldwin v. St. Peter's Congregation, 264 W 626, 60 NW (2d) 349.

In an action for injuries sustained when the plaintiff went over to a power shovel and by means of his hands guided the bucket thereof as it was lowered into a trench, the submission of the defendant's negligence to the jury on the theory of a possible violation of the safe-place statute was prejudicial error, in that such statute, as applied to a "place of employment," has reference to an unsafe condition rather than to an act in the process of taking place. The alleged acts of the defendant's crane operator as to the manner of dropping the bucket, and failing to warn the plaintiff before so dropping it, related to acts of operation as distinguished from the condition of the machine, so that the issue of the crane operator's negligence should have been submitted on the basis of common-law negligence. Deaton v. Unit Crane & Shovel Corp. 265 W 349, 61 NW (2d) 552.

In an action for injuries sustained by a person who had been invited by a company to attend a picnic of its employes at an amusement park not owned or operated by it, and who was struck by a baseball while walking along an areaway adjacent to a baseball diamond which the company was using for a game with the consent of the owner of the park, the complaint did not state a cause of action against the company based on violation of the safe-place statute in that it did not allege that the company or its employes were using the park for any purposes rendering the place where the plaintiff was injured a "place of employment" as defined in 101.01 (1), and in that the portion of the park which was being used was not a public "building" as defined in 101.01 (12). Paykel v. Rose, 265 W 471, 61 NW (2d) 909.

In an action against a charitable hospital for injuries sustained by a 4-year-old child patient, who climbed from a radiator onto the sill of a partly opened window in his room, leaned against the allegedly insecurely fastened window screen, and fell through the open window to the ground when the screen gave way, the complaint as a whole stated a cause of action so as not to be subject to general demurrer. Wright v. St. Mary's Hospital of Franciscan Sisters, 265 W 502, 61 NW (2d) 900.

Where a mink farm employe's hand was cut in a power saw when he turned to avoid being struck by an object thrown by the saw, the jury's finding of 25 per cent negligence on the part of the employe based on his manner of operating the unguarded saw and of 75 per cent on the part of the employer in violating the statute by removing the saw's guard and not telling the employe of its existence will be sustained. (Klein v. Montgomery Ward & Co. 263 W 317; Frei v. Frei, 263 W 430, distinguished.) Maus v. Bloss, 265 W 627, 62 NW (2d) 708.

The operation of a mink farm is not "farming" as the term is ordinarily understood and is not within the exception to the covered places of employment under the term "farm labor" as defined in 101.01 (1) (b). The inclusion of fur farming in 29.579 held not applicable to the safe-place statute. Maus v. Bloss, 265 W 627, 62 NW (2d) 708.

A charitable hospital corporation is not liable as an employer nor as operator of a place of employment, but may be as owner of a public building. As such there is no liability for injuries resulting from slipping on a tile floor temporarily wet from rain, unless insufficient lighting is shown. Grabinski v. St. Francis Hospital, 266 W 339, 63 NW (2d) 693.

A city is not liable for injuries sustained on a defective walk leading to the street since the sidewalk is not part of the building and is not a "structure" as defined in 101.01 (12). Mistele v. Board of Education, 267 W 28, 64 NW (2d) 428.

A city was not liable for injuries sustained by plaintiff when she left a voting booth located along the curb line of a street and fell from a square, wooden platform which was 15 inches above the level of the street surface and located just outside the exit door but not attached to the booth-building, since such unattached platform, even if considered as a step, was not an integral part of the building and was not a "structure" within the meaning of 101.01 (12). Moore v. Milwaukee, 267 W 166, 65 NW (2d) 3.

In an action for injuries sustained by a patron when he sat down in an unoccupied theater seat from which the cushion was missing, the evidence of inadequate inspection, although it might be sufficient to prove that the defendant would not have discovered seasonably an existing defect, did not create proof of how long the defect had existed, and particularly that it has existed so long that the defendant's failure to act was negligence; and without such proof the statute imposed no liability on the defendant whether inattentive or not. Boutin v. Cardinal Theatre Co. 267 W 199, 64 NW (2d) 848.

The safe-place statute, together with 101.01 (11), does not make an owner or employer the insurer of the safety of a frequenter, and his duty to repair or maintain does not arise until he has at least constructive notice of the defect. Boutin v. Cardinal Theatre Co. 267 W 199, 64 NW (2d) 848.

In an action for injuries sustained by an employe of an independent contractor, who weighed 200 pounds and was painting a floodlight pole at a filling station while standing on a ladder which he had placed against the top of the pole, when the pole broke off near the base and he fell to the ground, the evidence would not have supported a finding that the employer-owner of the premises had either actual or constructive notice of the defect, if any. (Saxhaug v. Forsyth Leather Co. 252 W 376, distinguished.) Williams v. International Oil Co. 267 W 227, 64 NW (2d) 817.

The obligation of the owner of a public building to furnish a safe place is limited to structural defects; but an employer has a duty not only with respect to the structure, which constitutes the place of employment, but with reference to the devices and other property installed in such place. Williams v. International Oil Co. 267 W 227, 64 NW (2d) 817.

See note to 101.01, citing Cross v. Leuenberger, 267 W 232, 65 NW (2d) 35, 66 NW (2d) 168.

See note to 102.57, citing L. G. Arnold, Inc. v. Industrial Comm. 267 W 521, 66 NW (2d) 176.

Where a concrete stairway and concourse in front of the entrance to a church building were constructed as an approach to the church and served the purpose of a sidewalk only, such stairway and concourse did not constitute a "public building" or "structure" within 101.01 (12), and hence the church corporation was not liable, as owner of the building, for fatal injuries sustained by a person who fell on the first step of the stairway because of ice thereon. Meyers v. St. Bernard's Congregation, 268 W 285, 67 NW (2d) 302.

A safety order of the commission which provides that no workman may be permitted

to work on a slippery surface unless the surface is made nonslippery in an effective way is invalid as imposing a greater duty than the statute requires. Wisconsin Bridge & Iron Co. v. Industrial Comm. 268 W 314, 67 NW (2d) 378.

Where an owner, although retaining the right to enter, examine, repair, etc., has delivered to a tenant premises which are structurally safe in a public building and which thereafter are rendered structurally unsafe by the tenant without the owner's knowledge, then, until the owner has actual or constructive notice of what his tenant has done, the owner's duty under this section does not arise in respect to structural defects which the tenant has produced. Sheehan v. 535 North Water Street, 268 W 325, 67 NW (2d) 273.

Where a street was safe when turned over to a contractor to install a sewer, and the city retained no control except a right to inspect the work, the city was not liable for the death of the contractor's employe who was killed in the cave-in of an unshored trench. (Waskow v. Robert L. Reisinger & Co. 180 W 537, 193 NW 357, distinguished.) Potter v. Kenosha, 268 W 361, 68 NW (2d) 4.

See note to 101.01, citing Weiss v. Milwaukee, 268 W 377, 68 NW (2d) 13.

A resort owner did not fail to provide a safe place of employment where facts showed that a 10-year-old guest accompanied an employe into a workshop and caught his hand in an ice-cube cutting machine after leaning over a guard and putting his hand into a covered chute. Mahnke v. Ahles, 268 W 430, 67 NW (2d) 874.

Owners of a place of employment who occupied the premises at all times cannot be said to have relinquished control over them so as not to be liable for negligence of an independent contractor in operating a mixer machine in certain work outside of the building. Nechodomu v. Lindstrom, 269 W 455, 69 NW (2d) 608.

Plaintiff's testimony that the material onto which he stepped from the concrete step in front of the defendant's tavern was soft and gave way under his weight, and not that there was merely some unevenness in a hard surface, was sufficient to present a jury issue as to the defendant's compliance with the safe-place statute. Bobrowski v. Henne, 270 W 173, 70 NW (2d) 666.

An instruction given to the jury in a safe place action which correctly stated that the jury was to determine whether the ground adjacent to a step was as safe for frequenters as the nature of the place would reasonably permit, but which further stated that "the question is not whether a cement apron would make it safer, because a gravel parking lot or private driveway is perfectly legal," was objectionable, in that there was no issue as to whether defendant should have placed a new asphalt or concrete surfacing on his entire parking lot or driveway but only whether a firmer surface than loose dirt or gravel should have been provided at the point where patrons leaving the tavern stepped off the concrete step onto the ground. Bobrowski v. Henne, 270 W 173, 70 NW (2d) 666.

Although temporary conditions wholly disassociated from the structure of the building do not constitute a violation of the safe-place statute by the owner of a public building, they may constitute a violation thereof if permitted by an employer in a place of employment, and the rendering unsafe of a place of employment due to a natural accumulation of snow and ice may be the basis of holding an employer liable under the safe-place statute. Sturm v. Simpson's Garment Co. 271 W 587, 74 NW (2d) 137.

The safe-place statute is applicable to religious corporations. The violation of a general safety order issued by the industrial commission pursuant to 101.10 (5) by an owner of a public building may subject such owner to liability under 101.06. Harnett v. St. Mary's Congregation, 271 W 603, 74 NW (2d) 382.

Where the 6-step flight of steps on which the plaintiff fell was not only physically attached to the building but all except the bottom step were enclosed by the pilasters on either side, such steps were part of a public "building" within the meaning of the safe-place statute so as to subject the church corporation, as owner, to liability for the injuries incurred. Harnett v. St. Mary's Congregation, 271 W 603, 74 NW (2d) 382.

A public sidewalk adjacent to the defendant's theater in a city, which sidewalk was used by theater patrons in order to obtain tickets at the ticket window and to gain entrance to the theater, was not a "place of employment" and hence the defendant was not subject to liability for injuries sustained by a theater patron in falling because of an alleged defect in such sidewalk. Miller v. Welworth Theatres, 272 W 355, 75 NW (2d) 386.

The owner or custodian of premises is not liable, under the safe-place statute, to an employe of a contractor, or to the contractor, when the contractor, to whom control of the premises has been given, brings about a change in the premises, and the employe, or the contractor, is injured as a result thereof. Burmeister v. Damrow, 273 W 568, 79 NW (2d) 87.

The placing of curtain racks in rows in the defendant's drapery department so as to leave an aisleway only 3 feet wide into which the feet of the racks projected approximately 11 inches on each side, was a violation of the safe-place statute. Blong v. Ed. Schuster & Co. 274 W 237, 79 NW (2d) 820.

A charitable corporation, as the owner of a public building operated as a home for the aged, was not liable under the safe-place statute for injuries suffered by a frequenter who slipped on a pool of wax on the floor of a hall therein, which pool of wax was momentarily present while the janitor, who was rewaxing the floor at this place and had poured a quantity of wax on the floor, was gone to get more wax before rubbing it down, leaving the place unguarded. Watry v. Carmelite Sisters, 274 W 415, 80 NW (2d) 397.

An employe of an independent contractor working on the premises is a "frequenter". Frankovis v. Klug & Smith Co. 275 W 156, 81 NW (2d) 495.

See note to 101.01, citing Ball v. Madison, 1 W (2d) 62, 82 NW (2d) 894.

A painter who was injured while working for an independent contractor in painting steel towers carrying live high voltage wires is not guilty of assumption of risk. The owner of the towers cannot delegate his duty under the safe-place statute without giving up complete control to the contractor. The owner was liable under the safe-place statute even though it was not asked to turn off the current. Hrabak v. Madison G. and E. Co. 240 F. (2d) 472.

In view of 1.02, the safe-place statute does not apply to a federal building. Williams v. United States, 145 F. Supp. 4.

101.07 Same; employes not to meddle with safeguards. (1) No employer shall require, permit or suffer any employe to go or be in any employment or place of employment which is not safe, and no such employers shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(2) No employe shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, nor interfere in any way with the use thereof by any other person, nor shall any such employe interfere with the use of any method or process adopted for the protection of any employe in such employment or place of employment or frequenter of such place of employment, nor fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes or frequenters.

101.08 Employers to furnish information; statistics; inspection by commission. (1) Every employer and every owner shall furnish to the commission all information required by it to carry into effect the provisions of sections 101.01 to 101.29, inclusive, and shall make specific answers to all questions submitted by the commission relative thereto.

(2) Any employer receiving from the commission any blanks calling for information required by it to carry into effect the provisions of sections 101.01 to 101.29, inclusive, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case he is unable to answer any question, he shall give a good and sufficient reason for such failure, and said answer shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and returned to the commission at its office within the period fixed by the commission.

(3) Any commissioner or deputy of the commission may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employes, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the commission, and any failure on the part of such employer or owner to comply therewith. No employer or owner shall refuse to admit any commissioner or deputy of the commission to his place of employment or public building.

101.09 Supervisory jurisdiction and powers of commission over employments and places of employment. The industrial commission is vested with the power and jurisdiction to have such supervision of every employment, place of employment and public building in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life, health, safety and welfare of every employe in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building; provided, however, that the provisions of this section shall not apply to rural school buildings.

101.10 Other powers, duties and jurisdiction of commission. It shall also be the duty of the industrial commission, and it shall have power, jurisdiction and authority:

(1) To employ, promote and remove deputies, clerks and other assistants as needed, to fix their compensation, and to assign to them their duties; and to appoint advisors who shall, without compensation, assist the industrial commission in the execution of its duties.

(1a) The commission, or any member thereof, or any examiner appointed thereby, may hold hearings and take testimony.

(2) To administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to child labor, laundries, stores, employment of females, licensed occupations, school attendance, bakeries, employment offices, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, wood-sawing machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employes in employments and places of employment and frequenters of places of employment.

(3) To investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employes of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders, and to establish and maintain museums of safety and hygiene in which shall be exhibited safety devices, safeguards and other means and methods for the protection of life, health, safety and welfare of employes.

(4) To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employes in employments and places of employment or frequenters of places of employment.

(5) To ascertain, fix and order such reasonable standards, rules or regulations for

the construction, repair and maintenance of places of employment and public buildings, as shall render them safe.

(5a) To make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering firemen in case of fire.

(5b) The industrial commission and its deputies shall have the right at all reasonable hours to enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or to the prevention of fire. Any employe of the department of the state fire marshal who may be on July 1, 1917, engaged in fire prevention inspection shall be eligible to appointment as a deputy for similar work by the industrial commission.

(5c) The industrial commission is hereby empowered and directed to provide the form of a course of study in fire prevention for use in the public schools, dealing with the protection of lives and property against loss or damage as a result of preventable fires, and transmit the same by the first day of August in each year to the state superintendent of public instruction.

(5d) The industrial commission is hereby empowered and directed to prepare and provide suitable forms for distribution to the school systems in the state through the office of the state department of public instruction, for the purpose of providing uniform reports on fire drills conducted during the year in accordance with s. 40.47 (3) of the statutes.

(5f) To require a suitable space in which lunches may be eaten in any place of employment if found by the commission to be reasonably necessary for the protection of the life, health, safety and welfare of employes therein.

(6) To investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of sections 101.01 to 101.29, inclusive.

(7) To adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

(8) To do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employes, and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations and legal proceedings in matters of employment. In pursuance of this duty it may appoint temporary boards of arbitration, provide necessary expenses of such boards, order reasonable compensation not exceeding five dollars per day for each member engaged in such arbitration, prescribe rules of procedure for such arbitration boards, conduct investigations and hearings, publish reports and advertisements, and may do all other things convenient and necessary to accomplish the purposes directed in sections 101.01 to 101.29, inclusive. The commission shall designate a deputy to be known as chief mediator and may detail other deputies from time to time to act as his assistants, for the purpose of executing these provisions. Deputies may act on temporary boards without extra compensation.

(9) To establish and conduct free employment agencies, to license and supervise the work of private employment offices, to do all in its power to bring together employers seeking employes and working people seeking employment, to make known the opportunities for self-employment in this state, to aid in procuring employment for the blind adults of the state, to aid in inducing minors to undertake promising skilled employments, to provide industrial or agricultural training for vagrants and other persons unsuited for ordinary employments, and to encourage wage earners to insure themselves against distress from unemployment. It shall investigate the extent and causes of unemployment in the state of Wisconsin and the remedies therefor in this and other countries, and it shall devise and adopt the most efficient means within its power to avoid unemployment, to provide employment, and to prevent distress from involuntary idleness.

(9a) Any county, city, town or village may enter into an agreement with the Wisconsin industrial commission for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and it shall be lawful for any county, city, town or village to appropriate and expend the necessary money and to permit the use of public property for the joint establishment and maintenance of such offices as may be agreed upon, or in counties containing two hundred fifty thousand inhabitants or more in any city, town or village therein to purchase a site and construct necessary buildings. Provided, that in any county, city, village or town therein (wherein there is a citizens' committee on unemployment, such committee shall have the power to rent, lease,

purchase or construct necessary buildings for the joint establishment and maintenance of such free employment office, subject to the approval of such plans by the industrial commission. The industrial commission may establish such free employment offices as it may deem necessary to carry out the purposes of chapter 108. All expenses of such offices, or all expenses not defrayed by the county, city, town or village in which an office is located, shall be charged to the appropriation to the industrial commission provided in s. 20.440 (73) and (74).

(10) To collect, collate and publish statistical and other information relating to the work under its jurisdiction and to make public reports in its judgment necessary.

(11) To rent, furnish and equip, except as provided in subsection (9a) of this section, such offices as may be needed in cities for the conduct of its affairs. All payments arising under this section shall be charged against the proper appropriation for the industrial commission.

(12) To fix and collect fees for the annual inspection of boilers, refrigerating plants, elevators, power dumb-waiters and moving stairways. The amount of such fees shall be fixed by the commission with the advice of a committee appointed by it and shall be the approximate cost of the commission for such inspections. Until the commission determines the amount of such fees, the fees for such inspection shall be $6 for elevators, power dumb-waiters and moving starways, $10 for internal inspection of boilers, $5 for external inspection of boilers and $5 for refrigerating plants. The requirements of this subsection shall not apply to vessels classed as petroleum or liquefied petroleum gas tanks, processing equipment or containers. The fees so fixed shall be paid by the owners of such boilers or elevators or other equipment. The commission shall accept inspections of boilers and elevators by qualified inspectors of insurance companies where such boilers or elevators are insured, in which case no fee shall be charged. The commission may also accept inspections by qualified inspectors of boilers or elevators in cities of the first, second and third classes, in which case the city may collect and retain such fee for inspection as may be fixed by the commission for its own inspections. The fees fixed, determined or provided under this subsection and sub. (13) shall not apply to buildings of the federal, state and local government.

(13) To require the submission of proper plans and specifications for places of employment and public buildings, also for elevators, toilets and other permanent equipment of such buildings. Where such plans and specifications are required by the commission, no local officer shall issue any permit or license for the construction or use of such building, until the plans and specifications therefor as to safety and sanitation shall have been approved by the commission. But this requirement shall not apply in cities of the first, second or third class if plans are examined and building permits issued by a city building inspector in a manner approved by the commission in which case cities may collect and retain fees established by local authority. When requested so to do by the owner the commission may, before approval thereof, submit such plans and specifications to the insurance commissioner for examination and recommendation as provided in s. 200.03 (17). No plans shall be approved by the commission until the required fees have been paid. The amount of such fees shall be fixed by the commission with the advice of the committee appointed under authority of sub. (12) and shall be the actual costs to the commission for such examination. Until the commission determines the amount of such fees, the fees therefor shall be in accordance with the following schedule:

(a) *Building and heating and ventilation plans.* 1. Factories (including all places where manual labor is employed), mercantile buildings where commodities are bought and sold, taverns, warehouses, railroad stations, garages, service stations and filling station.

Building plan examination—10 cents for each 1,000 cubic feet of content or fraction thereof.

Heating and ventilation plan examination—5 cents for each 1,000 cubic feet of content or fraction thereof.

2. Office buildings.

Building plan examination—15 cents for each 1,000 cubic feet of content or fraction thereof.

Heating and ventilation plan examination—7 cents for each 1,000 cubic feet of content or fraction thereof.

3. Theaters and assembly halls (including those accommodating less than 100 persons), schools and all other places of instruction, libraries, art galleries, museums, apartment buildings, rooming houses, hotels, dormitories, convents, monasteries, hospitals, children's homes, homes for the aged and infirm, nursing homes, convalescent hospitals, convalescent homes, asylums, jails and other places of abode or detention.

Building plan examination—20 cents for each 1,000 cubic feet of content or fraction thereof.

Heating and ventilation plan examination—10 cents for each 1,000 cubic feet of content or fraction thereof.

4. The minimum fee for examination of building plans, including preliminary plans shall be $5 per plan and for heating and ventilation plans including preliminary plans shall be $3 per plan.

5. The volume of buildings shall be equal to the area of the building (including exterior walls) at basement or lowest floor level in square feet, multiplied by the height in feet from the basement or lowest floor level to the average height of the roof. The volume of open spaces open to the sky may be deducted.

6. If changes in the plans are required by the commission, additional fees may be charged for additional examinations at the discretion of the commission.

(b) *Stadia, grandstands and bleachers.* $3 per 1,000 seating capacity or fraction thereof.

(c) *Structural plans.* $2 for each floor or roof plan.

(d) *Fire escapes.* $3 for each plan.

(e) *Plans for alterations and repairs to buildings or structures.* $1 for every $1,000, or fraction thereof, of estimated cost, with a minimum fee of $3 per plan.

(f) *Plans for industrial exhaust systems.* $3 for each plan.

(g) *Plans for elevators.* $10 for each plan.

(14) To investigate and attempt equitably to adjust controversies between employers and employes as to alleged wage claims and to enforce the provisions of section 103.39. In pursuance of this duty, it may take an assignment in trust for the assigning employe of any wage claim deemed to be valid in the opinion of the commission and not exceeding $200, such assignment to run to the industrial commission. The commission may sue the employer on any wage claim so assigned and the provisions of subsection (3) of section 103.39 shall apply. The commission may join in a single proceeding any number of wage claims against the same employer, but the court may order separate trials or hearings. In such cases the taxable costs recovered shall be paid into the general fund.

(15) To conduct such investigations, hold such public meetings and attend or be represented at such meetings, conferences and conventions inside or outside of the state as may, in its judgment, tend to better the execution of its functions.

(16) To ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

(17) To co-operate with the federal veterans administration in the performance of functions prescribed in U. S. Public Law 679 and any acts amendatory thereof or supplementary thereto. The commission is authorized with the approval of the governor to take all necessary steps in the making of leases or other contracts with the federal government in the adoption and execution of plans, methods, and agreements to effectuate said Public Law 679.

History: 1951 c. 434; 1953 c. 489; 1955 c. 221.

See note to 102.57, citing Manitowoc Co. v. Industrial Comm. 273 W 293, 77 NW (2d) 693.

Under 101.09 and 101.10, the industrial commission has power to regulate the maximum width of private roadways leading to outdoor theater entrance gates where such roadways and structures or places of employment as defined by 101.01 (1) and (12). The commission may not establish zoning regulations governing the location of outdoor theaters. 41 Atty. Gen. 122.

101.103 Mine excavations; application; permit; inspections. (1) For the purpose of this section:

(a) "Shaft" means an opening made for mining minerals, for hoisting and lowering men or material, or for ventilating underground workings.

(b) "Mineral" means a product recognized by standard authorities as mineral, whether metalliferous or nonmetalliferous.

(c) "Excavation" or "workings" means any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, cross cuts, raises, winzes, stopes and all other working places in a mine.

(2) No excavation of a shaft shall be commenced unless a permit is first issued therefor by the industrial commission. Permits for such excavation shall be issued without cost upon application filed with the commission, if the commission is satisfied that the shaft or the excavation and workings will be in compliance with the safety orders adopted by the industrial commission and applicable thereto. Application shall be made upon forms prescribed by the industrial commission and shall be furnished upon request.

(3) The provisions of subsection (2) do not apply to shafts which will be less than 50 feet in depth wherein persons are not employed, or which are not equipped with power driven hoists used for hoisting persons in and out of the shafts, or which are not covered with a flammable building.

(4) The industrial commission is empowered:

(a) To employ additional mining inspectors, who shall have had at least 10 years experience in underground mining or be a graduate of a recognized college with a degree of mining engineering.

(b) To cause the inspection of all underground mines, quarries, pits, zinc works or other excavations.

(5) The commission shall require all mine operators to conform with all general orders as are promulgated relating to the safety of mines, explosives, quarries and the like.

(6) (a) The commission shall cause the inspections of mines and similar establishments at least once every 2 months. In the making of the inspections the owner and the labor union identified as the bargaining representative of the employes of the mine or establishment shall be permitted to accompany the inspector engaged in the tour of inspection. The commission shall cause a report of any inspection so made, to be submitted to representatives of the operator and of the employes.

(b) The commission may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of any owner or operator to comply with the order or judgment of the court shall subject such party or parties to criminal contempt proceedings.

History: 1957 c. 540.

101.104 Mines, tunnels, quarries, pits; operation in violation of safety aids. If any shaft or workings of a mine, or any tunnel, trench, caisson, quarry, or gravel or sand pit is being operated or used in violation of the safety orders of the industrial commission applicable thereto, the owner or operator upon receiving notice of such violation from the commission shall immediately cease such operation or use. The operation or use of such shaft or workings of a mine, or of such tunnel, trench, caisson, quarry or gravel or sand pit, shall not be resumed until such safety orders have been complied with.

101.105 Liquefied petroleum gas. (1) The term "liquefied petroleum gas" as used in this section, shall mean and include any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes, normal butane or isobutane and butylenes.

(2) The industrial commission shall ascertain, fix and order such reasonable standards, rules or regulations for the design, construction, location, installation, operation, repair and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer, liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe. The promulgation, effect and review of standards, rules and regulations adopted under this section shall be controlled by the provisions of this chapter. The industrial commission shall appoint an advisory committee to assist in the promulgation of such standards.

(3) No person, firm or corporation, except the owner thereof and those duly authorized by the owner so to do, shall fill, refill or use in any manner a liquefied petroleum gas container or receptacle for any purpose whatsoever.

(4) Every person, firm, association or corporation actually performing the work of installing, on and after the effective date of regulations promulgated by the industrial commission pursuant to this section, equipment utilizing liquefied petroleum gas for fuel purposes, shall furnish the customer or user of said equipment, a statement, the form of which shall be prescribed by the industrial commission, showing that the design, construction, location and installation of said equipment conforms with the rules and regulations adopted by the industrial commission pursuant to this section.

(5) Any person, firm, association or corporation violating any of the provisions of this section, or any standard, rule or regulation adopted by the industrial commission pursuant to the provisions of this section, or issuing a false statement under subsection (4), shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than $25 nor more than $100, or by imprisonment in the county jail not less than 30 days nor more than 6 months.

(6) The provisions of this section shall not apply to railroads engaged in interstate commerce or to equipment used by them.

101.11 Complaints and investigation as to safety of employments; hearing and order. (1) Upon petition, after January 1, 1912, by any person that any employment or place of employment or public building is not safe, the commission shall proceed with or without notice, to make such investigation as may be necessary to determine the matter complained of.

(2) After such hearing as may be necessary, the commission may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(3) Whenever the commission shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

101.13 Orders of commission declared lawful. All orders of the industrial commission in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to chapter 227 or until altered or revoked by the commission.

101.14 Orders, when effective. (1) All general orders shall take effect as provided in s. 227.026. Special orders shall take effect as therein directed.

(2) The commission shall, upon application of any employer or owner, grant such time as may be reasonably necessary for compliance with any order.

(3) Any person may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

History: 1955 c. 221.

101.15 Petition and hearing on reasonableness of orders. (1) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the commission in the manner provided in sections 101.01 to 101.29, inclusive.

(2) Such petition for hearing shall be by verified petition filed with the commission, setting out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the commission on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the order upon which a hearing is sought other than those set forth in the petition. All hearings of the commission shall be open to the public.

(3) Upon receipt of such petition, if the issues raised in such petition have theretofore been adequately considered, the commission shall determine the same by confirming without hearing its previous determination, or if such hearing is necessary to determine the issues raised, the commission shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the petitioner and to such other persons as the commission may find directly interested in such decision.

(4) Upon such investigation, if it shall be found that the order complained of is unjust or unreasonable the commission shall substitute therefor such other order as shall be just and reasonable.

(5) Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the commission, the commission shall grant such time as may be reasonably necessary for such compliance.

101.16 General orders; local orders. (1) Nothing contained in sections 101.01 to 101.29, inclusive, shall be construed to deprive the common council, the board of aldermen, the board of trustees or the village board of any village or city, or the board of health of any municipality of any power or jurisdiction over or relative to any place of employment or public building, provided that, whenever the industrial commission shall, by an order, fix a standard of safety or any hygienic condition for employments or places of employment or public buildings, such order shall, upon the filing by the commission of a copy thereof with the clerk of the village or city to which it may apply, be held to amend or modify any similar conflicting local order in any particular matters governed by said order. Thereafter no local officer shall make or enforce any order contrary thereto.

(2) Any person affected by any local order in conflict with an order of the commission, may in the manner provided in section 101.15 of the statutes, petition the industrial commission for a hearing on the ground that such local order is unreasonable and in conflict with the order of the commission. The petition for such hearing shall conform to the requirements set forth for a petition in said section 101.15 of the statutes.

(3) Upon receipt of such petition the commission shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the commission may find directly interested in such decision, including the clerk of the

municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the commission, the commission may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect.

101.17 Condition precedent to action to review order. (1) No action, proceeding or suit to set aside, vacate or amend any order of the commission or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the commission for a hearing thereon at the time and as provided in section 101.15 of the statutes, and in the petition therefor shall have raised every issue raised in such action.

(2) Every order of the commission shall, in every prosecution for violation thereof, be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation a proceeding for judicial review of such order shall have been instituted, as provided in chapter 227.

101.18 Per diem unit of violations. Every day during which any person, persons, corporation or any officer, agent or employe thereof, shall fail to observe and comply with any order of the commission or to perform any duty enjoined by sections 101.01 to 101.29, inclusive, shall constitute a separate and distinct violation of such order, or of said sections as the case may be.

101.185 Noncompliance with orders a defense to action on contract. Proof by any person, firm or corporation employing a contractor to construct, repair, alter or improve any building or structure, that such contractor in performing such work has failed to comply with any applicable order or regulation of the industrial commission promulgated under the provisions of section 101.10 shall constitute a defense to any action for payment by such contractor to the extent that it shall bar recovery for any part of the work which fails to comply. Advancements paid to the contractor for work which fails to comply as well as any reasonable amount expended to effectuate compliance with any applicable order or regulation may be recovered from such contractor by way of counterclaim or in a separate action. The provisions of this section shall not apply where plans or specifications were prepared by an architect or engineer licensed to do business in this state and the contract performed in accordance therewith.

The mere failure of a contractor to obtain approval of the plans before the installation of a heating system on the defendant's premises, as required by an order of the industrial commission, did not bar the contractor from recovery, and limits the defense afforded thereunder in an action for payment so as to bar recovery only for any part of the "work" which fails to comply. Pflugradt v. Neth, 269 W 528, 69 NW (2d) 477.

101.19 Testimonial powers of commission. Each of the commissioners shall have power to certify to official acts, and take testimony.

101.20 Witness fees. Each witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the chairman of the commission, and charged to the proper appropriation for the industrial commission. But no witness subpœnaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated.

101.21 Depositions. The commission or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts. The expense incurred by the state in the taking of such depositions shall be charged against the proper appropriations for the industrial commission.

101.22 Record of proceedings. A full and complete record shall be kept of all proceedings had before the commission on any investigation and all testimony shall be taken down by the stenographer appointed by the commission.

101.23 Special agents; delegation of inquisitorial powers. (1) For the purpose of making any investigation with regard to any employment or place of employment or public building, the commission shall have power to appoint, by an order in writing, any member of the commission, any deputy who is a citizen of the state, or any other competent person as an agent whose duties shall be prescribed in such order.

(2) In the discharge of his duties such agent shall have every power whatsoever of an inquisitorial nature granted in this act to the commission, and the same powers as a court

commissioner with regard to the taking of depositions; and all powers granted by law to a court commissioner relative to depositions are hereby granted to such agent.

(3) The commission may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the commission shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude the taking of further testimony if the commission so order nor further investigation.

101.24 Attorney general, district attorney, special prosecutor. (1) The commission shall have authority to direct any deputy who is a citizen to act as special prosecutor in any action, proceeding, investigation, hearing or trial relating to the matters within its jurisdiction.

(2) Upon the request of the commission, the attorney-general or district attorney of the county in which any investigation, hearing or trial had under the provisions of sections 101.01 to 101.29, inclusive, is pending, shall aid therein and prosecute under the supervision of the commission, all necessary actions or proceedings for the enforcement of said sections and all other laws of this state relating to the protection of life, health, safety and welfare, and for the punishment of all violations thereof.

101.25 Technical omissions not fatal to orders. A substantial compliance with the requirements of sections 101.01 to 101.29, inclusive, shall be sufficient to give effect to the orders of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

101.26 Court review. Orders of the commission under sections 101.01 to 101.25 shall be subject to review in the manner provided in chapter 227.

101.28 Penalty for violations. If any employer, employe, owner, or other person shall violate any provisions of sections 101.01 to 101.13, inclusive, of the statutes, or shall do any act prohibited in sections 101.01 to 101.29, inclusive, or shall fail or refuse to perform any duty lawfully enjoined, within the time prescribed by the commission, for which no penalty has been specifically provided, or shall fail, neglect or refuse to obey any lawful order given or made by the commission, or any judgment or decree made by any court in connection with the provisions of sections 101.01 to 101.29, inclusive, for each such violation, failure or refusal, such employer, employe, owner or other person shall forfeit and pay into the state treasury a sum not less than ten dollars nor more than one hundred dollars for each such offense. It shall be the duty of all officers of the state, the counties and municipalities, upon request of the industrial commission, to enforce in their respective departments, all lawful orders of the industrial commission, insofar as the same may be applicable and consistent with the general duties of such officers.

101.29 Fire inspection. (1) The chief of the fire department in every city, village or town, except cities of the first class, is hereby constituted a deputy of the industrial commission, subject to the right of the commission to relieve any such chief from his duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy of the industrial commission. The commission may, in its discretion, appoint either the chief of the fire department or the building inspector as its deputy in cities of the first class.

(2) Such chief of the fire department is required, by himself or by officers or members of his fire department designated by him for that purpose, to inspect all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires.

(3) Such inspection shall be made at least once in six months in all of the territory served by such fire department, and not less than once in three months in such territory as the common council shall have designated or shall thereafter designate as within the fire limits or as a congested district subject to conflagration, and oftener as the chief of the fire department may order. Each six months' period shall begin on the first day of January and July, and each three months' period on the first day of January, April, July and October, of each year.

(4) The chiefs of fire departments in every city of the first, second and third classes shall designate a sufficient number of men as inspectors to carry out the provisions of this section.

(5) Written reports of inspection shall be made and kept on file in the office of the chief of the fire department in the manner and form required by the industrial commission.

(6) Such inspection shall be subject to the supervision and direction of the industrial commission, which shall upon examination certify to the commissioner of insurance after the expiration of each calendar year each such city, village or town where the inspections

for such year have been made, and records thereof have been made and kept on file as required by law.

(7) A copy of any report showing a change in the hazard from the survey, or any violation of law or ordinance relating to the fire hazard upon any risk shall be given by the industrial commission to any inspection bureau making written request therefor.

History: 1957 c. 172.

The duty to make certain building inspections for discovering and protecting against fire hazards may not be delegated to any persons other than officers or members of the fire department. 42 Atty. Gen. 192.

101.30 Boiler inspection, penalties. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employes and frequenters in places of employment and public buildings and with the orders of the industrial commission adopted and published in conformity with sections 101.01 to 101.28, inclusive, of the statutes. Any person, firm, or corporation, violating the provisions of this act shall be subject to the forfeitures provided in sections 101.18 and 101.28 of the statutes.

101.31 Architects and professional engineers. (1) PRACTICE REQUIREMENTS, REGISTRATION. (a) Any person practicing or offering to practice the profession of architecture or the profession of professional engineering in this state shall comply with the provisions of this section.

(b) It is unlawful for any person to practice the profession of architecture or the profession of professional engineering in this state unless such person has been duly registered, is exempt under the provisions of subsection (9) or has in effect a permit under subsection (11) (d).

(c) It is unlawful for any person to offer to practice the profession of architecture or the profession of professional engineering or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is an architect or professional engineer or to advertise to furnish architectural or professional engineering services unless such person has been duly registered or has in effect a permit under subsection (11) (d).

(2) DEFINITIONS. (a) The term "architect" as used in this section means a person who is legally qualified to practice the profession of architecture.

(b) The practice of architecture within the meaning and intent of this section includes any professional service, such as consultation, investigation, evaluation, planning, aesthetic and structural design, or responsible supervision of construction, in connection with the construction of any private or public buildings, structures, projects, or the equipment thereof, or addition to or alteration thereof, wherein the safeguarding of life, health or property is concerned or involved.

(c) The term "professional engineer" as used in this section means a person who by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined.

(d) The practice of professional engineering within the meaning and intent of this section includes any professional service, requiring the application of engineering principles and data, wherein the public welfare or the safeguarding of life, health or property is concerned and involved, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction, alteration, or operation, in connection with any public or private utilities, structures, projects, bridges, plants and buildings, machines, equipment, processes and works. A person shall be deemed to offer to practice professional engineering, within the meaning and intent of this section, who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer; or who through the use of some other title implies that he is a professional engineer; or who holds himself out as able to practice professional engineering.

(e) The term "board" as used in this section shall mean the state registration board of architects and professional engineers, as provided for by this section.

(f) The term "engineer-in-training" as used in this section means a person who is a graduate in an engineering curriculum of 4 years or more from a school or college approved by the board as of satisfactory standing, or a person who has had 4 years or more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects prior to the completion of the requisite years in engineering work, as provided in subsection (6), and who has received from the board a certificate of record stating that he has successfully passed this portion of the professional examinations.

(3) REGISTRATION BOARD, MEMBERSHIP, TERM, ELIGIBILITY, PAY, REMOVALS, VACANCIES. (a) The board shall consist of 9 members: The state architect, the state engineer, the

dean of the college of engineering of the state university, or their representatives, 3 architects and 3 professional engineers. The 3 architects and 3 professional engineer members of the board shall be appointed by the industrial commission from lists consisting of 2 or more names for each position to be filled, submitted by the architectural and engineering societies of the state. Every member of the board shall receive a certificate of his appointment from the industrial commission and before beginning his term of office shall file with the secretary of state his written oath for the faithful discharge of his official duty. On the expiration of the terms of architect and engineer members of the board, the industrial commission shall each year, from lists consisting of 2 or more names for each vacancy to be filled, appoint new members for a term of 3 years, as follows: One registered architect and one registered professional engineer, from the nominating lists to be submitted from the membership lists of registered architects and registered professional engineers by the architectural and engineering societies of the state. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor has been duly appointed and qualified.

(b) Each member of the board shall be a citizen of the United States and shall have been a resident of this state for at least one year and shall have been engaged in the practice of the profession of architect or of professional engineer for at least 10 years, and shall have been in responsible charge of architectural or professional engineering work for at least 5 years.

(c) No member of the board shall be entitled to any compensation for his or her services, but shall, however, be reimbursed for all actual traveling, incidental and clerical expenses necessarily incurred in carrying out the provisions of this section.

(d) The industrial commission may upon request of two-thirds of the membership of the interested division of the board remove any architect or professional engineer member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient proven cause. Vacancies in the membership of the board shall be filled by appointment by the industrial commission for the unexpired term.

(4) BOARD SECTIONS; MEETINGS; JURISDICTIONS; RULES; SEAL; TESTIMONY. (a) The board in operation shall be divided into 2 divisions, one division shall consist of the dean of the college of engineering, the state architect and the architect members. The other division shall consist of the dean of the college of engineering, the state engineer and the engineering members.

(b) The board shall hold joint meetings within 30 days after its members are first appointed and thereafter shall hold at least one joint meeting each year. In addition, the architectural and engineering division shall each hold at least 2 regular meetings each year. Special meetings shall be held at such times as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The board shall elect annually from its architectural members a chairman and a vice chairman for the architectural division and from its engineering members a chairman and a vice chairman for the engineering division.

(c) All matters pertaining to the passing upon the qualifications of applicants for and the granting or revocation of registration, also all other matters of interest to either the architectural or to the engineering division shall be acted upon solely by the interested division. All matters of joint interest shall be considered by joint meetings of both architectural and engineering divisions of the board. At such joint meetings the dean of the college of engineering shall preside as chairman and the state architect and the state engineer shall cast the vote of their respective divisions, and the dean of the college of engineering shall cast the deciding vote.

(d) The board may make all bylaws and rules, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt an official seal. In carrying into effect the provisions of this section, the board or its divisions may take testimony in any case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths to witnesses.

(5) SECRETARY, BOND, SALARY, CLERKS; RECORDS, REPORTS, ROSTER. (a) The secretary of the board shall give a surety bond to this state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary of the board may receive such salary as the board determines. The board may employ such other clerical help or assistants as are necessary for the proper performances of its work, or may make expenditure of this fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties. Under no circumstances, however, shall the total amount of warrants issued by the

state auditor in payment of the expenses of the board exceed the amount of the examination and registration fees collected and appropriated as herein provided.

(b) The board shall keep a record of its proceedings and a register of all applications for registration together with a record of all other information pertaining thereto as may be deemed necessary by the board. The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(c) The board shall annually submit to the industrial commission a report of its transactions of the preceding year, and shall also transmit to the industrial commission a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

(d) A roster showing the names and places of business of all registered architects and professional engineers shall be prepared annually by the secretary of the board. A copy of this roster shall be obtainable by each person so registered and a copy shall be placed on file with the secretary of state.

(e) A list showing the names and addresses of all engineers-in-training certified by the board during the period from July 1 to June 30, inclusive, shall be prepared each year by the secretary of the board. A copy of such list shall be obtainable by each person whose name appears upon it and by each person registered as a professional engineer. A copy of such list shall be placed on file with the secretary of state.

(6) REGISTRATION REQUIREMENTS. (a) An applicant for registration as an "architect" shall submit satisfactory evidence to the board as follows:

1. That he or she has acquired a thorough knowledge of sound construction, building hygiene, architectural design and mathematics.

2. A diploma of graduation, or a certificate, from an architectural school or college approved by the board as of satisfactory standing, together with at least 3 years' practical experience of a character satisfactory to the board in the design and construction of buildings; or

3. A specific record of 7 or more years of experience in architectural work of a character satisfactory to the board in the design and construction of buildings;

4. Graduation in architecture from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 4 years of experience, and the completion satisfactory to the board of each year of work in architecture in such school or college without graduation shall be considered equivalent to one year of experience. Graduation in a course other than architecture from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 2 years of experience. No applicant shall receive credit for more than 4 years of experience under this subdivision.

(b) An applicant for registration as a "professional engineer" shall submit satisfactory evidence to the board as follows:

1. A diploma of graduation, or a certificate, from an engineering school or college approved by the board as of satisfactory standing in an engineering course of not less than 4 years, together with an additional 4 years of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; or

2. A specific record of 8 or more years of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; or

3. A specific record by an applicant not less than 35 years of age of 12 years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering.

4. Graduation in engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 4 years of experience, and the completion satisfactory to the board of each year of work in engineering in such school or college without graduation shall be considered as equivalent to one year of experience. Graduation in a course other than engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 2 years of experience. No applicant shall receive credit for more than 4 years of experience under this subdivision.

(c) An applicant for certification as an engineer-in-training shall submit satisfactory evidence to the board as follows:

1. A diploma of graduation in engineering or a certificate in engineering from a school or college approved by the board as of satisfactory standing, or

2. A specific record of 4 years or more of experience in engineering work of a character satisfactory to the board.

3. Graduation in engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 4 years of experience and the completion satisfactory to the board of each year of work in engineering in such school or college without graduation shall be considered as equivalent to one year of experience. Graduation in a course other than engineering from a school or college approved by the board as of satisfactory standing shall be considered as equivalent to 2 years of experience. No applicant shall receive credit for more than 4 years of experience under this subdivision.

(d) In considering the qualifications of applicants, responsible charge of architectural or engineering teaching may be construed as experience.

(e) No person shall be eligible for registration as an architect or a professional engineer, or certification as engineer-in-training who is not of good character and repute.

(g) Written examinations will be required of every applicant for certification as engineer-in-training.

(i) Written or written and oral examinations will be required of every applicant for registration as an architect or a professional engineer except an applicant who meets the requirements of par. (b) 3.

(j) Written or written and oral examinations shall be held at such time and place as the board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise architectural or engineering work, which shall insure the safety of life, health and property. A candidate failing an examination may, upon application and payment of the required reexamination fee, be examined again by the board.

(7) PARTNERSHIP OR CORPORATION. (a) A firm, or a copartnership, or a corporation, or a joint stock association may engage in the practice of architecture or professional engineering in this state only provided such practice is carried on under the responsible direction of one or more registered architects or professional engineers. Any and all plans, sheets of design and specifications shall carry the signature of the registered architect or registered professional engineer who is in responsible charge.

(b) No such firm, or copartnership, corporation, or joint stock association shall offer to practice the profession of architecture or the profession of professional engineering in this state, or to use in connection with its name or otherwise assume, use or advertise any title or description tending to convey the impression that it is engaged in the practice of the profession of architecture or the profession of professional engineering, nor shall it advertise to furnish architectural ar professional engineering services, unless firm members or copartners owning a majority of the capital interest in such firm or copartnership, or unless the executive director and the holders of the majority of stock of such corporation or joint stock association are duly registered under the provisions of this section.

(8) CHANGE OF NAME. No person shall practice the profession of architecture or the profession of professional engineering in this state under any other Christian or given name or any other surname than that under which he was originally licensed or registered to practice in this or any other state, in any instance in which Wisconsin registration board of architects and professional engineers shall, after a hearing, find that practicing under such changed name operates to unfairly compete with another practitioner or to mislead the public as to identity or to otherwise result in detriment to the profession or the public. This subsection does not apply to a change of name resulting from marriage or divorce.

(9) EXEMPT PERSONS. The following persons, while practicing within the scope of their exemption, shall be exempt from registration under the provisions of this section, to wit:

(a) An employe of a person holding a certificate of registration in this state who is engaged in the practice of the profession of architecture or of professional engineering and an employe of a person temporarily exempted from registration; provided, such practice does not include responsible charge of architecture or professional engineering practice as defined in this section.

(b) Officers and employes of the government of the United States while engaged within this state in the practice of the profession of architecture or of professional engineering for said government.

(c) A person who practices the profession of professional engineering as a regular employe of a public service company by rendering to such company professional engineering services in connection with its facilities which are subject to regulation, supervision and control by a commission of the state of Wisconsin.

(d) Any person who practices the profession of architecture or professional engineering, exclusively as a regular employe of a private company or corporation, by rendering to such company architectural or professional engineering services in connection with its operations, so long as such person is thus actually and exclusively employed and no longer; provided, that such company shall have at least one architect or professional engineer, registered under the provisions of this section, in responsible charge of such company's architectural or professional engineering work in this state.

(10) EXEMPT BUILDINGS. (a) Nothing contained in this section shall prevent persons from advertising and performing services such as consultation, investigation, evaluation, in connection with and making plans and specifications for, or supervising the erection, enlargement or alterations of any of the following buildings:

1. Dwellings for single families, and outbuildings in connection therewith, such as barns and private garages.

2. Apartment buildings used exclusively as the residence of not more than 2 families.

3. Buildings used exclusively for agricultural purposes.

4. Temporary buildings or sheds used exclusively for construction purposes, not exceeding 2 stories in height, and not used for living quarters.

(b) Nothing contained in this section shall prevent persons, firms or corporations from making plans and specifications for or supervising the erection, enlargement or alteration of any new building containing less than 50,000 cubic feet total volume or addition to a building which by reason of such addition results in a building containing less than 50,000 cubic feet total volume or structural alteration to a building containing less than 50,000 cubic feet total volume. Nor shall anything contained in this section prevent persons, firms or corporations from making repairs or interior alterations to buildings which do not affect health or safety.

(c) Any multiple family building having a common roof and party walls shall be deemed a single building for purposes of this section.

(d) This section shall not apply to inspection and service work done by employes of insurance rating bureaus, insurance service bureaus, insurance companies or insurance agents.

(11) CERTIFICATE OF REGISTRATION OR RECORD; PERMIT; RECIPROCITY PROVISIONS. (a) The board may, upon application therefor, and the payment of the required fee, issue a certificate of registration as an architect, or as a professional engineer to any person who holds an unexpired certificate of similar registration issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the registration of architects, or of professional engineers are of a standard not lower than specified in this section.

(b) The board may, upon application therefor and payment of the required fee, issue a certificate of registration as an architect, or as a professional engineer to any person who holds an unrevoked card or certificate of national reciprocal registration, issued by any state, province or country in conformity with the regulations of the national council of state board of architectural, or engineering examiners, and who complies with the regulations of this board, except as to qualifications and registration fee.

(c) The board may, upon application therefor, and the payment of the required fee, issue a certificate-of-record as engineer-in-training to any person who holds an unexpired certificate of similar certification issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the certification of engineers-in-training are of a standard not lower than specified in this section.

(d) The board may, upon application therefor, issue a permit to practice or to offer to practice the profession of architecture or professional engineering to a person who is not a resident of and has no established place of business in this state, or who has recently become a resident thereof, if he has filed with the board an application for a certificate of registration and has paid the required fee, provided, that such person holds an unexpired certificate of similar registration issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the registration of architects or professional engineers are of a standard not lower than specified in this section.

(12) APPLICATIONS FOR REGISTRATION, FEES, CONTENTS OF CERTIFICATION, EXPIRATION. (a) Applications for registration or for a certificate of record shall be on forms prescribed and furnished by the board and shall contain statements made under oath showing the applicant's education and detail summary of his technical work and not less than 5 references, of whom 3 or more shall have personal knowledge of his architectural or

engineering experience in the case of an application for registration or of his technical education or engineering work in the case of an application for a certificate of record.

(b) The registration fee for architects or professional engineers who do not hold a certificate of record as engineer-in-training shall be $20, one-half of which shall accompany the application and the other half of which shall be paid upon issuance of the certificate of registration. If the board denies the application, the amount deposited with the application shall be retained by the board as an examination fee.

(c) The certificate of record fee for engineers-in-training shall be $10 and said fee shall accompany the application. If the board denies the application, said amount shall be retained by the board as an examination fee.

(d) The registration fee for applicants for registration as professional engineer who hold a certificate of record as engineer-in-training shall be $10, one-half of which shall acompany the application and the other half of which shall be paid upon issuance of the certificate of registration. If the board denies the application, the amount deposited with the application shall be retained by the board as an examination fee.

(e) The registration fee for architects and for professional engineers who hold an unexpired certificate of registration, or similar authority, issued by the proper authority in any country, state or territory outside of this state shall be $20, one-half of which shall accompany the application and the other half of which shall be paid upon issuance of the certificate of registration. If the board denies the application, the amount deposited with the application shall be retained by the board as an examination fee.

(f) The certificate of record fee for engineers-in-training who hold an unexpired certificate of record, or similar certification issued by the proper authority in any country, state or territory outside of this state shall be $5 and said fee shall accompany the application. If the board denies the application, said amount shall be retained by the board as an examination fee.

(g) The fee for the issuance of a new certificate to replace any certificate revoked, lost, destroyed or mutilated shall be $3.

(h) The board shall issue a certificate of registration upon payment of registration fee to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this section. The certificate shall authorize the practice of "architecture" or of "professional engineering." Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board.

(i) The issuance of a certificate of registration by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered architect or a registered professional engineer under the classification stated on his certificate, while said certificate remains unrevoked or unexpired.

(j) Certificates of registration shall expire on the last day of the month of July of the second year following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this section of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for 2 years; such notice shall be mailed at least one month in advance of the date of expiration of said certificate. Renewal may be effected at any time during the month of July by the payment of a fee of $10. The failure on the part of any registrant to renew his certificate every second year in the month of July as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of July shall be increased 10 per cent for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

(k) The board shall issue a certificate of record as engineer-in-training to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this section pertaining to engineers-in-training. The certificate of record shall show the full name of the engineer-in-training, shall have a serial number, and shall be signed by the chairman and secretary of the board under the seal of the board.

(l) A certificate of record as engineer-in-training is evidence that the engineer-in-training to whom it is issued has successfully passed the portion of the examinations in the fundamental engineering subjects required of an applicant for registration as a professional engineer.

(m) Certificates of record as engineers-in-training shall expire on the last day of the month of July of the tenth year after their issuance unless extended by the board. An application for extension shall contain evidence satisfactory to the board that the applicant's professional experience has been delayed.

(n) The re-examination fee for an applicant for registration as an architect or professional engineer is $10.

(o) The re-examination fee for an applicant for a certificate of record as engineer-in-training is $5.

(13) REVOCATION OF REGISTRATION. The board has the power to revoke the certificate of registration of any registrant, and the certificate of record of any engineer-in-training, who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration or a certificate of record;

(b) Any gross negligence, incompetency or misconduct in the practice of architecture or as a registered architect or of professional engineering as a registered professional engineer, or in the professional activity of a holder of a certificate of record as engineer-in-training.

(c) Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant or holder of a certificate of record as engineer-in-training. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board. Also, the board may on its own motion make such charges. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the division of the board interested, within 3 months after the date on which they shall have been preferred.

(d) The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing shall be personally served on or mailed to the last known address of such registrant or holder of a certificate of record, at least 30 days before the date fixed for the hearing. At any hearing, the accused registrant or holder of a certificate of record shall have the right to appear personally and by counsel, to cross examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(e) If, after such hearing, 4 members of the division of the board holding the hearing vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registered architect or registered professional engineer or the certificate of record of such holder.

(f) The action of the board shall be subject to review in the manner provided in chapter 227.

(g) The board, for reasons the interested division may deem sufficient, may reissue a certificate of registration or a certificate of record to any person whose certificate has been revoked, providing 4 members of the architectural division or 4 members of the engineering division of the board vote in favor of such reissuance. A new certificate of registration or certificate of record, to replace any certificate revoked, lost, destroyed or mutilated may be issued, subject to the rules of the board and the payment of the required fee.

(14) PENALTIES, LAW ENFORCEMENT. (a) Any person who practices or offers to practice architecture or the profession of professional engineering in this state, or who uses the word "architect" or the term "professional engineer" as part of his business name or title or in any way represents himself as an architect or a professional engineer unless he is registered or exempted in accordance with this section, or unless he is the holder of an unexpired permit issued under sub. (11) (d), or any person presenting or attempting to use as his own the certificate of registration of another, or any person who gives any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who falsely impersonates any other registrant of like or different name, or any person who attempts to use an expired or revoked certificate of registration, or violates any of the provisions of this section, shall be fined not less than $100 nor more than $500, or imprisoned for not more than 3 months, or both.

(b) It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of this section and to prosecute any persons violating same. The attorney general of the state or his assistant shall act as legal advisor of the board and render such legal assistance as may be necessary in carrying out the provisions of this section.

(15) INJUNCTION. If it appears upon complaint to the board by any person, or is known to the board that any person who is neither registered nor exempt under this section nor the holder of an unexpired permit under subsection (11) (d) is practicing or offering to practice, or is about to practice or to offer to practice, the profession of architecture or the profession of professional engineering in this state the board or the attorney-general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name and on behalf of the state of

Wisconsin against any such person to enjoin such person from practicing or offering to practice architecture or professional engineering.

History: 1951 c. 261 s. 10; 1955 c. 10, 620; 1957 c. 528.

The board is not required to look behind a national reciprocal registration certificate in granting state registration pursuant to (11) to ascertain what requirements the applicant met in obtaining such national certificate. The board must ascertain whether or not the requirements for obtaining a certificate from that other jurisdiction are—as of the time of the application and decision—at least as high as those of Wisconsin. Whether or not the applicant could have met the Wisconsin requirements at the time of his initial registration in the other jurisdiction is immaterial. 41 Atty. Gen. 130.

An engineer not registered, exempted, or the holder of a permit to practice professional engineering as defined in (2) (d), who advertises himself as qualified to perform services in the design and supervision of construction of buildings wherein the public welfare and safeguarding of life, health, or property is involved, and who prepares construction plans for additions and alterations to buildings, where such buildings are not of the class described by (10) violates (1) (b) and (1) (c). 41 Atty. Gen. 336.

Interpretations of 101.31 (2) (b), (2) (d), and (10) (b), published by registration board of architects and professional engineers under authority of 101.31 (4) (d), and properly filed as required by 227.03 are valid. The interpretations are rules under 227.01 (2). Approval of attorney general is not required to make them effective. 41 Atty. Gen. 392.

A professional engineer, not also an architect, is limited under (2) (d) in preparation of plans for other than industrial plants and buildings to the structural members thereof. (14) (b) does not refer to officials of the industrial commission. The commission may not refuse to approve general plans submitted by a professional engineer for nonindustrial buildings if plans are satisfactory in respect to public welfare and safeguarding of life, health or property. 44 Atty. Gen. 126.

Under (7) (a), plans, sheets of design and specifications furnished by a corporation engaged in the practice of architecture must bear the signature of the registered architect in responsible charge, and under Rule A-E 1.04 of the board there must also be affixed the seal or rubber stamp of such architect. 45 Atty. Gen. 163.

The board has no authority to make United States citizenship a prerequisite for registration as an architect. 45 Atty. Gen. 284.

101.315 Land surveyors. (1) PRACTICE REQUIREMENTS, REGISTRATION, DEFINITIONS. (a) No person shall, after January 31, 1956, practice land surveying in this state or use or advertise any title or description tending to convey the impression that he is a land surveyor unless he has been issued a certificate of registration or granted a permit to practice as provided by this section.

(b) The practice of land surveying within the meaning and intent of this section includes surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the platting of lands and subdivisions thereof.

(c) Authorizations to practice land surveying by registration or permit to practice shall be granted as hereinafter provided by the engineering division of the state registration board of architects and professional engineers, referred to in this section as the division and board, respectively. The secretary of the board, referred to in this section as the secretary, shall be the secretary of the division and the laws relating to his duties as secretary of such board shall apply to his duties under this section.

(d) The division may make such rules as are reasonably necessary for the performance of its duties under this section, and shall adopt an official land surveyor's seal. In the conduct of proceedings any member may administer oaths.

(2) REGISTRATION, APPLICATION, QUALIFYING EXPERIENCE. (a) Application for registration as a land surveyor or a permit to practice shall be made to the division under oath, on forms provided by it, which shall require the applicant to submit such information as the division deems necessary. The division may require applicants to pass written or oral examinations or both, to be held at such times and places as it shall designate. Applicants who are of good character and repute shall be entitled to be registered or issued permit to practice as land surveyors when satisfactory evidence is submitted that the applicant has met one or more of the requirements of sub. (3).

(b) Each year, but not more than 2 years, of work or training completed in a curriculum in land surveying approved by the division, or responsible charge of land surveying teaching may be considered as equivalent to one year of qualifying experience in land surveying work, and each year, but not more than 4 years completed in a curriculum other than land surveying approved by the division, may be considered as equivalent to one-half year of qualifying experience.

(3) REQUIREMENTS; CERTIFICATE OF REGISTRATION. (a) The division may issue a certificate of registration as a land surveyor to any person who has submitted to it an application and the required fees, and:

1. A record of completion of a course in land surveying of not less than 2 years' duration approved by the division together with 2 years of practice in land surveying work of satisfactory character which indicates that the applicant is competent to be placed in responsible charge of such work, if he has passed a satisfactory oral and written or written examination; or

2. A record of 6 years of practice in land surveying of satisfactory character, which

indicates that the applicant is competent to be placed in responsible charge of such work, if he has passed a satisfactory oral and written or written examination; or

3. A record of 20 years of practice in land surveying of satisfactory character, which indicates that the applicant is competent to be placed in responsible charge of such work, if the applicant is not less than 45 years of age; or

4. An unexpired certificate of registration as a land surveyor issued to him by the proper authority in any state or territory or possession of the United States or in any other country whose requirements meet or exceed the requirement for registration in this paragraph.

5. A record of satisfactory completion of an apprenticeship training course in land surveying prescribed by the industrial commission, of satisfactory character which indicates that the applicant is competent to be placed in responsible charge of such work, if he has passed a satisfactory oral and written or written examination.

(b) The division shall issue a certificate of registration as a land surveyor to any person who files an application prior to January 1, 1957, pays the fees for such registration and requests that he be registered under this paragraph, without a written examination, if he submits satisfactory evidence that he has been a resident of Wisconsin for at least one year immediately preceding July 1, 1955, was practicing land surveying in this state during that period and has done satisfactory land surveying work.

(4) PERMIT TO PRACTICE. The secretary may issue a permit to practice land surveying during the time his application is pending to a person who is not registered in this state, if he has filed an application for registration as a land surveyor and paid the required fee, if such person holds an unexpired certificate which in the opinion of the secretary meets the requirements of sub. (3) (a). Such permit shall be revocable by the division at its pleasure.

(5) EXEMPTIONS. The following persons doing surveying work are exempt from the provisions of this section:

(a) An employe of a land surveyor registered in this state or authorized to practice under a permit, while working under the supervision of the employer. Such exempt employe shall not be in responsible charge of land surveying.

(b) Officers and employes of the United States while engaged in land surveying for the United States.

(c) Employes of the state of Wisconsin while engaged in land surveying for the state.

(d) Employes of public utilities regulated by the public service commission of Wisconsin in land surveying for such utilities.

(6) FEES; RENEWALS. (a) Application for registration as a land surveyor shall be accompanied by a fee of $10 which shall be retained by the division. Such application shall entitle the applicant to undergo the oral or written examinations for land surveyors the first time such examinations are held after such application is made, or subsequent examinations, and to a certificate of registration if the requirements of this section are met.

(b) The division shall issue a certificate of registration as a land surveyor to any applicant who has met the requirements of this section. Such certificate shall expire on the second January 31 after the date of its issuance unless renewed. Such certificate may be renewed for a period of 2 years during the month of January in which it expires by the payment of a fee of $10.

(c) An expired certificate of registration may be renewed within 10 months, effective to the second January 31 after renewal, on payment of a fee of $10 plus $1 for each month or fraction of a month after its expiration. If the certificate has expired for longer than 10 months, it may be renewed to the second January 31 after renewal, by payment of a fee of $20.

(d) The secretary shall notify every registered land surveyor of the date of the expiration of his certificate and the fee required for its renewal, by mail at least one month in advance of such expiration.

(e) The fee for re-examination of an applicant for registration shall be $10.

(f) The fee for the issuance of a new certificate to replace any certificate lost, destroyed, mutilated or reinstated, shall be $3.

(7) ROSTER. A roster showing the names and mailing addresses of all registered surveyors shall be prepared annually by the secretary and made available to each registrant or permittee at request, and a copy shall be placed on file with the secretary of state.

(8) REVOCATION OF CERTIFICATE. (a) The division shall have the power to revoke the certificate of registration of any land surveyor for the practice of any fraud or de-

ceit in obtaining the certificate, or any gross negligence, in competence or misconduct in the practice of land surveying.

(b) Charges of fraud, deceit, gross negligence, incompetence or misconduct may be made against any surveyor by the division or any person. Such charges may be made on information and belief but shall be in writing, stating the specific acts, be signed by the complainant, and filed with the secretary. All such charges, unless dismissed by the division as trivial, shall be heard by it within 3 months after their filing.

(c) The time and place for such hearing shall be fixed by the division, and a copy of the charges, together with a notice of the time and place of hearing shall be given by personal service or by registered letter with return receipt requested, mailed to the last known address of such land surveyor, at least 30 days before the hearing. The land surveyor so charged shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(d) If, after such hearing, 4 members vote in favor of revocation, the division shall revoke the certificate of registration of such land surveyor and notify him to that effect. The surveyor shall return his certificate to the secretary immediately on receipt of such notice. The action of the division may be reviewed under ch. 227.

(e) The division, for reasons it deems sufficient, may reinstate a certificate of registration that has been revoked, if 4 members vote in favor of such reinstatement.

(9) PENALTIES; LAW ENFORCEMENT. Any person who violates this section shall be fined not more than $500, or imprisoned not more than 3 months, or both.

(10) INJUNCTION. If it appears upon complaint or is known to the division that any person who is not authorized is practicing or offering to practice land surveying in this state, the division, the attorney general or the district attorney of the proper county may, in addition to other remedies, bring action in the name and on behalf of the state to enjoin such person from practicing or offering to practice land surveying.

(11) INTENT. It is the intent of this section that registration of land surveyors shall be a duty of the division and its secretary to the same extent as their duties under s. 101.31; that the moneys derived from fees collected under this section shall be merged with those collected under s. 101.31; and that bona fide land surveyors practicing in this state on August 12, 1955 shall be entitled to a certificate authorizing them to practice, if application is made under this section.

(12) EXCEPTION. A license shall not be required for an owner to survey his own land for purposes other than for sale.

History: 1955 c. 547.

101.33 Acceptance of federal emergency relief; validating executive acts. (1) The legislature hereby accepts the provisions of an act of congress, approved July 21, 1932, entitled "An act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public works program," cited as the "Emergency Relief and Construction Act of 1932."

(2) The legislature hereby approves, ratifies and confirms all past acts of the governor in accepting funds for the state pursuant to the provisions of said "Emergency Relief and Construction Act of 1932."

(3) The governor is authorized to accept for the state at all times when the legislature is not in session the provisions of any act of congress whereby funds are made available to the state for unemployment or other emergency relief or public works to be undertaken to relieve unemployment.

(4) All moneys and credits now in the hands of trustees appointed by the governor pursuant to the "Emergency Relief and Construction Act of 1932" shall upon the taking effect of this section be paid into the general fund of the state treasury and all moneys hereafter paid to the state by the federal government pursuant to this section shall immediately upon receipt be paid into the general fund.

101.34 Acceptance of acts of congress for economic recovery. (1) The governor is authorized to accept for the state the provisions of any act of congress whereby funds or other benefits are made available to the state, its political subdivisions, or its citizens, so far as the governor may deem such provisions to be in the public interest; and to this end the governor may take or cause to be taken all necessary acts including (without limitation because of enumeration) the making of leases or other contracts with the federal government; the preparation, adoption and execution of plans, methods, and agreements, and the designation of state, municipal or other agencies to perform specific duties.

(2) The Wisconsin Rural Rehabilitation Corporation is authorized to waive, transfer, dispose, assign, convey or release to the Farm Security Administration, any and all property, real, personal and mixed of whatsoever kind, nature or character which the state of Wisconsin may have in the assets, property, real, personal or mixed, of the Wisconsin

Rural Rehabilitation Corporation for the purpose of facilitating and expediting the execution and carrying out of the Federal Rural Rehabilitation and Resettlement Program pursuant to acts of congress.

101.345 Acceptance of federal benefits by governor. The governor is authorized to accept for the state at all times the provisions of any act of congress whereby funds are made available to the state for any purpose whatsoever, including the school health program under the social security act, and to perform all other acts necessary to comply with and otherwise obtain, facilitate, expedite, and carry out the required provisions of such acts of congress.

Governor has authority to accept a grant of federal funds for educational purposes, and such funds can be expended lawfully under 20.21 (10) only in accordance with the purposes of the grant. 40 Atty. Gen. 6.

101.35 Power to convey or encumber state-owned lands. Any state board or agency having charge of any state-owned land is authorized, subject to the approval of the emergency board, to deed, mortgage, lease or otherwise encumber such lands to the federal government or to any of its agencies for the purpose of taking advantage of the provisions of the National Recovery Act (Public Act 67, 73d Congress) or any other act of the first session of the seventy-third congress. It is the intent of this section to make available to this state the benefits offered by the provisions of such federal acts relating, among others, to the erection of buildings and structures by the federal government, and to this end said state boards and agencies, subject to the approval of the emergency board, are authorized to take or cause to be taken all necessary acts, including (without limitation because of enumeration) the preparation, adoption and execution of plans, methods and agreements and the designation of state, municipal or other agencies to perform specific duties.

101.36 Contracts and surety bonds to conform to federal requirements. In the construction of public works undertaken in this state from funds made available under the National Industrial Recovery Act or any other act of the seventy-third or seventy-fourth congress, the requirements as to bid guaranties, surety bonds and partial payments on contracts and other contract conditions shall conform to the requirements prescribed by the federal government, notwithstanding the provisions of any statute or law of this state or of any ordinance of any political subdivision of the state to the contrary.

101.37 Acceptance of federal act relating to public employment offices. (1) The legislature hereby accepts the provisions of an act of congress, approved June 6, 1933, entitled "An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes."

(2) The industrial commission of Wisconsin is hereby authorized and directed to cooperate with the United States employment service in the administration of said act and in carrying out all agreements made thereunder.

(3) All funds made available to this state under said act shall, upon receipt thereof, be paid into the unemployment administration fund under s. 20.440 (73) and (74), and are appropriated therefrom to the industrial commission to be expended as required by the act of congress making such funds available and the rules and regulations issued thereunder.

101.40 Public works, unemployment. The state department of public welfare shall ascertain from the various departments and state institutions tentative plans for such extension of public works of the state as shall be best adapted to supply increased opportunities for advantageous public labor during periods of temporary unemployment, together with estimates of the amount, character and duration of such employment, and the number of employes that could profitably be used therein, and the rates of wages and such other information as the department of public welfare deems necessary.

101.41 Industrial commission, unemployment. In co-operation with the state department of agriculture, the industrial commission shall keep constantly advised of industrial conditions affecting the employment of labor in this state; and whenever it is represented to the industrial commission by the governor, or the commission shall otherwise have reason to believe, that a period of extraordinary unemployment caused by industrial depression exists in the state, the commission shall immediately inquire into the facts relating thereto, and find and report to the governor whether in fact such condition does exist.

101.42 Department of public welfare, expenditures to relieve depression. In the event that the industrial commission reports to the governor that a condition of extraordinary unemployment caused by industrial depression exists in the state, the department of public welfare may make such disposition of funds to be used for said purposes among

the several institutions and departments for such extension of the public works of the state under the charge or direction thereof, including the purchase of materials and supplies necessary therefor, as shall, in the judgment and discretion of the department of public welfare, be best adapted to advance the public interest by providing the maximum of public employment, in relief for the existing conditions of extraordinary unemployment, consistent with the most useful, permanent and economic extension of the works aforesaid.

101.43 Industrial commission, depression, labor lists, employment. Immediately upon publication of a finding that a period of extraordinary unemployment due to industrial depression exists throughout the state, the industrial commission shall cause to be prepared by the various institutions and departments approved lists of applicants for public employment and secure from such applicants full information as to their industrial qualifications and submit the same to the state department of public welfare. Preference for employments under the provisions of sections 101.40 to 101.43 shall be extended first to citizens of this state, second to other citizens of the United States at the time of making application, and last to aliens who are residents of this state at the time of making such application.