

CHAPTER 363.

[Published April 28, 1860.]

AN ACT in relation to the abatement and revivor of suits.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Proceedings
necessary to
revive writs or
proceedings in
any court of
record in the
state.

SECTION 1. In all writs and proceedings in any of the courts of record of this State, whenever it shall be necessary, or proper, to revive the same, the person or persons entitled to revive the same may, at any time, either in term or vacation, file in the office of the clerk of the court, and without leave of the court, an affidavit, petition, or supplemental complaint, as the case may be, and may, thereupon, enter a rule of course, requiring the other party or parties, or his or their proper representative, as the case may be, to show cause, if any they have, within twenty days after service of notice of such rule on them, why such suit or proceeding should not be revived. And if no cause be shown, after twenty days from the service of such notice, the suit or proceeding shall stand revived as of course, without further or other order or rule in the premises.

How notice
may be served
Service by
publication.

SEC. 2. Such notice may be served in the same manner as a summons; *Provided*, that service by publication may be made in the following cases: when the person to be served is either,

- 1st. A foreign corporation; or
- 2d. A non-resident, or his residence is unknown; or
- 3d. Absent from the State, or concealed therein, with intent to avoid the service of such notice or other process.

Upon an affidavit, showing to the satisfaction of the court, or judge, county judge, or court commissioner, a proper cause for publication, within this section, such court or officer may make an order directing the notice, and a copy of the rule to be published for such length of time, not less than once a week for four weeks, as shall be deemed reasonable, in one newspaper, to be designated in said order; and also, in case his residence is known, or can, with reasonable diligence, be ascertained, directing a copy of such notice and rule to be forthwith deposited in the post office, directed to the person to be served, at his place of residence.

SEC. 3 When publication is ordered, personal service of such notice out of the State shall be equivalent to publication and deposit in the post office; and in case of publication, the service shall be deemed complete at the expiration of the time prescribed by the order of publication. What constitutes service of notice, and when notice complete.

SEC. 4. In case the party to be served is an infant, the service must be made upon him and upon his guardian *ad litem*; if any has been appointed. If no guardian *ad litem* has been appointed, the service may be made upon the infant, and a guardian *ad litem* must then be appointed, in the same manner as in other cases, who shall stand as the guardian *ad litem* of such infant during the pending of such suit, unless otherwise ordered by the court, and his duties and liabilities shall be the same as in other cases. In case the party to be served is an infant.

SEC. 5. This act shall take effect and be in force from and after its passage and publication.

Approved April 2, 1860.

CHAPTER 364.

[Published April 28, 1860.]

AN ACT authorizing the Supreme Court to pronounce final judgment in certain criminal cases.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever any writ of error shall be brought on any judgment in a criminal case, and the case shall be removed, by such writ, to the Supreme Court of this State, and the Supreme court shall reverse such judgment, because of any defect, illegality, or irregularity in the proceedings in such case, subsequent to the rendition of the verdict of the jury therein, it shall be competent for the Supreme Court either to pronounce the proper judgment, or to remit the record to the court below, in order that such court may pronounce the proper judgment. Supreme court may pronounce final judgment on writ of error in criminal cases.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved April 2, 1860.