

shall thereupon by order in writing, place the same in the custody of the officer or other proper person in such order named and designated, to be kept by him until the trial or final discharge of the offender, and shall send a copy of such order without delay to the district attorney of the county. The officer or person so named and designated in such order shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear until his final discharge or conviction. Upon the conviction of such offender, the animals, implements, or other property shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge without conviction of such offender, such court shall on demand, direct the delivery of the property so held in custody to the owner thereof.

Order to be made for custody of.

Duty of custodian.

Forfeiture.

Property to be returned, when.

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

Approved April 10, 1889.

[No. 661, A.]

[Published April 13, 1889.]

CHAPTER 348.

AN ACT to amend section 4096, of chapter 176, of the revised statutes, entitled, "of evidence," as amended by chapter 194, of the laws of 1882, and by chapter 321, of the laws of 1885.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 4096, of the revised statutes of 1878, as amended by chapter 194, of the laws of 1882, and by chapter 321, of the laws of 1885, is hereby amended by adding thereto, at the end thereof, the following: Provided, that whenever any plaintiff or defendant is a non-resident of the state his deposition may be had under the provisions of this section, in the county in which the action is pending, if he can be personally served

Amending section 4096, R. S.

Deposition of non-resident party to action may be taken in county where action is pending.

Attendance
may be com-
pelled.

Section 4096, R.
S., amended.

Deposition of
non-resident.

with notice and subpoena in such county. In any examination under the provisions of this section the judge or commissioner before whom the same is had shall have power and authority to compel the party examined to answer all questions relevant to the issues involved, and also to compel the production by the party examined of books and papers relevant and pertinent to the issues, and may enforce such answers and the production of such books and papers by contempt proceedings, so that said section when so amended shall read as follows: Section 4096. No action to obtain a discovery under oath, in aid of the prosecution or defense of another action shall be allowed; but the examination of a party, or in case a corporation be a party, the examination of the president, secretary or other principal officer or general managing agent of such corporation, otherwise than as a witness on a trial, may be taken by deposition at the instance of the adverse party, in any action or proceeding, at any time after the commencement thereof, and before judgment. Such deposition shall be taken before a judge at chambers on a previous notice to such party and any other adverse party, or their respective attorneys, of at least five days; or it may be taken without the state upon commission in the manner provided for taking other depositions. The attendance of the party to be examined may be compelled upon subpoena, and the payment or tender of his fees as a witness; and such examination shall be subject to the same rules as that of any other witness, but he shall not be compelled to disclose anything not relevant to the controversy. If such examination shall be taken before issue joined, the notice of taking the same shall be accompanied by an affidavit of the party, his agent or attorney, stating the general nature and object of the action, that discovery is sought to enable the party to plead, and the points upon which such discovery is desired, and such examination shall be limited to the discovery of the facts relevant to the points so stated, unless the court or the presiding judge thereof, on motion and one day's notice shall, before the examination is begun, by order further limit the subjects to which such examination shall extend, but such examination shall not pre-

clude the right to another examination after issue joined upon all the issues in the cause, and the party examining shall, in all cases, be allowed to examine upon oral interrogatories. Such examination shall not be compelled in any other county than that in which the party to be examined resides; provided, that whenever plaintiff or defendant is a non resident of the state his deposition may be had under the provisions of this section in the county in which the action is pending, if he can be personally served with notice and subpoena in such county. In any examination under the provisions of this section the judge or commissioner before whom the same is had shall have power and authority to compel the party examined to answer all questions relevant to the issues involved, and also to compel the production by the party examined of books and papers relevant and pertinent to the issues, and may enforce such answers and the production of such books and papers by contempt proceedings.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.
Approved April 10, 1889.

[No. 638, A.]

[Published April 12, 1889.]

CHAPTER 349.

AN ACT to amend the charter of the city of Milwaukee.

(See Vol. 2.)