

No. 11, S.]

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CHAPTER 473.

AN ACT to amend sections 6.47, 10.35, 10.50, 10.54, introductory paragraph of subsection (2) of 17.19, subsection (1) of 17.25, subsection (1) of 32.10, 41.08, subsection (4) of 54.03, 59.38, subsection (1) of 59.81, subsection (1) of 60.18, paragraph (b) of subsection (4) of 62.09, paragraph (b) of subsection (5) of 62.09, subsection (6) of 67.12, 69.05, subsection (2) of 70.32, subsection (1) of 75.07, subsection (4) of 75.54, subsection (2) of 80.11, the last sentence of 80.27, subsection (2) of 80.30, subsection (3) of 80.51, 81.15, 116.62, 142.01, subsection (6) of 147.23, 175.01 and 343.071, subsection (6) of 180.22, 196.53, subsection (2) of 231.32, 233.18, 235.46, 247.29, 252.04, subsection (2) of 253.02, 256.29, 262.10, 270.24, 270.33, subsection (1) of 281.02, 288.08, subsection (2) of 291.06, subsection (2) of 313.13, 314.01, 353.01; to repeal subsection (4) of section 17.17, subsection (5) of section 20.03, subsection (13) of section 62.15, paragraph (a) of subsection (3) of section 84.02, paragraph (i) of subsection (4) of section 85.04, section 99.32, section 330.32, chapter 282, Laws 1901, chapter 224, Laws of 1919, chapter 16, Laws Spl. S. 1920, chapter 332, Laws 1923; to renumber section 20.73 to be section 14.71, sections 60.305 to 60.3059 to be sections 60.301 to 60.309; paragraph (f) of subsection (7) of section 84.02 to be paragraph (a) of subsection (3) of section 84.02, the last sentence of subsection (4) of section 84.03 to be subsection (2) of section 83.01, section 165.01 to be sections 165.01 to 165.44, section 352.47 to be 143.11, section 352.48 to be section 143.10, section 3 of chapter 656, Laws 1919, to be section 136.01; and to create section 330.32.

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

SECTION 1. Section 6.47 of the statutes is amended to read:

6.47 OPENING AND CLOSING OF BALLOT BOXES.

The inspectors of election, or one of them, immediately before proclamation is made of the opening of the polls, shall open the ballot boxes in the presence of the people there assembled, and turn them upside down, so as to empty them of everything that may be in them, and lock them; and they shall not be reopened

* * * until the close of the polls for the purpose of counting the ballots therein.

SECTION 2. Section 10.35 of the statutes is amended to read:

10.35 APPLICATION OF GENERAL CITY ELECTION LAWS. Except as otherwise specially provided, * * * sections 10.35 to 10.44 * * * and chapters 5 and 6 apply to all city elections in all cities. * * *

SECTION 3. Section 10.50 of the statutes is amended to read:

10.50 VILLAGE TO CONSTITUTE ELECTION DISTRICT. Every village shall constitute a separate election district. * * *

SECTION 4. Section 10.54 of the statutes is amended to read:

10.54 SPECIAL TOWN ELECTIONS. Special town election may be called * * * to enable the electors to vote upon any question lawfully submitted to them for determination, in the same manner that special town meetings are called. * * *

SECTION 5. Subsection (4) of section 17.17 of the statutes is repealed.

SECTION 6. The introductory paragraph of subsection (2) of section 17.19 of the statutes is amended by substituting "8.02" for "8.03."

SECTION 7. Subsection (1) of section 17.25 of the statutes is amended by striking from the eighth line thereof the words "town supervisor in towns wherein the term of such office is three years."

SECTION 8. Subsection (5) of section 20.03 of the statutes is repealed.

SECTION 9. Section 20.73 of the statutes is renumbered section 14.71 GENERAL DEPARTMENTAL POWERS.

SECTION 10. Subsection (1) of section 32.10 of the statutes is amended by inserting the word "in" in place of the word "and" in next to the last line thereof.

SECTION 11. Section 41.08 of the statutes is amended to read:

41.08 COURSES, BUILDINGS, EQUIPMENT, TEACHERS. Whenever any school board shall have established a trade school, * * * said school board shall have authority to prepare courses of study, employ or dismiss instructors, purchase machinery, tools and supplies, and purchase or rent suitable grounds or buildings for the use of such trade schools.

SECTION 12. Subsection (4) of section 54.03 of the statutes is amended by substituting the figure "(3)" for "(4)."

SECTION 13. Section 59.38 of the statutes is amended by striking out the words "such clerk" in line 1 and by inserting in lieu thereof the words "clerk of the circuit court."

SECTION 14. Subsection (1) of section 59.81 of the statutes is amended by adding at the end thereof the following: "except as provided in section 67.12."

SECTION 15. Subsection (1) of section 60.18 of the statutes is amended by striking out the last clause, namely: "and a further additional sum not exceeding two per centum of said valuation may be raised for school purposes when under the township system of school government."

SECTION 16. Section 60.305 to 60.3059 of the statutes are renumbered as follows:

Section 60.305 is renumbered to be 60.301

Section 60.3051 is renumbered to be 60.302

Section 60.3052 is renumbered to be 60.303 (1)

Section 60.3054 is renumbered to be 60.303 (2)

Section 60.3053 is renumbered to be 60.304

Section 60.3055 is renumbered to be 60.305

Section 60.3056 is renumbered to be 60.306

Section 60.3057 is renumbered to be 60.307

Section 60.3058 is renumbered to be 60.308

Section 60.3059 is renumbered to be 60.309

SECTION 17. Paragraph (b) of subsection (4) of section 62.09 of the statutes is amended by striking from line 1 thereof the words "justices of the peace;" and paragraph (b) of subsection (5) of said section is amended by striking from lines 2 and 3, the words "unless otherwise provided pursuant to paragraph (d) of subsection (2) of section 59.03."

SECTION 18. Subsection (13) of section 62.15 of the statutes and chapter 332, Laws 1923, are repealed.

SECTION 19. Subsection (6) of section 67.12 of the statutes is amended by striking the word "city" from the last sentence of said subsection.

SECTION 20. Section 69.05 of the statutes is amended to read:

69.05 DISTRICTS AND LOCAL REGISTRARS. For the purposes of * * * *this chapter*, the state shall be divided into registration districts as follows: Each city, incorporated village and town * * * shall constitute a primary registration district. The health officer of the board of health in cities and the clerk of each town * * * and incorporated village shall be the local registrar of vital statistics.

SECTION 21. Subsection (2) of section 70.32 of the statutes is amended by changing “or” to “as” in line 5.

SECTION 22. Subsection (1) of section 75.07 of the statutes is amended by inserting after the word, “published” in line 3 the words “once a week for four successive weeks.”

SECTION 23. Subsection (4) of section 75.54 of the statutes is amended by adding at the end thereof the words “or such person as the court may appoint.”

SECTION 24. Subsection (2) of section 80.11 of the statutes is amended by striking out the word “and” where it occurs in line 3 after the word “supervisor” and by inserting in lieu thereof the word “or.”

SECTION 25. The last sentence of section 80.27 of the statutes is amended by substituting the word “juror” for the word “jury.”

SECTION 26. Subsection (2) of section 80.30 of the statutes is amended by changing the word “or” to the word “of” at the end of line 5.

SECTION 27. Subsection (3) of section 80.51 of the statutes is amended by inserting the word “not” at the end of line 3.

SECTION 28. Section 81.15 of the statutes is amended by changing the word “and” to the word “or” in line 9.

SECTION 28a. Sections 81.21 to 81.26 of the statutes are renumbered to be respectively sections 66.21 to 66.26.

SECTION 29. Paragraph (a) of subsection (3) of section 84.02 of the statutes is repealed and paragraph (f) of subsection (7) of said section is renumbered paragraph (a) of said subsection (3).

SECTION 30. The last sentence of subsection (4) of section 84.03 of the statutes is renumbered subsection (2) of section 83.01.

SECTION 31. Paragraph (i) of subsection (4) of section 85.04 of the statutes is repealed.

SECTION 31a. Subsection (3) of section 85.15 of the statutes is amended by striking therefrom the sentence which reads as follows: “The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend the action, not exceeding ninety days from the date of the filing of the action in such court.”

SECTION 32. Section 116.62 of the statutes is amended by striking out the phrase “in sections 203.25 and 203.26 of these statutes, relating to insurance premiums, and also.”

SECTION 33. Section 3 of chapter 656, Laws of 1919, is renumbered subsection (26) of section 136.01, and is amended by changing the word “act” in line 1 to the word “section.”

SECTION 34. Section 142.01 of the statutes is amended to read:
 142.01 PUBLIC PATIENTS. A resident of Wisconsin who is afflicted with a deformity or ailment which can probably be remedied or advantageously treated, if he or the person liable for his support is financially unable to provide proper treatment, *may be treated at the Wisconsin General Hospital at Madison.*

SECTION 35. Subsection (6) of section 147.23 of the statutes is amended by substituting the number “147.20” for “147.08.”

SECTION 36. The subsections of section 165.01 of the statutes are renumbered to be sections 165.01 to 165.44, and the paragraphs are renumbered to be subsections.

SECTION 37. Section 175.01 of the statutes is repealed.

SECTION 38. Subsection (6) of section 180.22 of the statutes is amended by substituting the word “subsection” for the word “section” in line 6.

SECTION 38a. Chapter 139, Laws of 1923, section 1806a, Statutes 1923, and section 192.80, Statutes 1925, are repealed.

SECTION 39. Section 196.53 of the statutes is amended to read:
 196.53 FRANCHISE TO DOMESTIC CORPORATION ONLY. No license, permit or franchise to own, operate, manage or control any plant or equipment for the production, transmission, delivery or furnishing of heat, light, water or power shall be * * * granted or transferred * * * to a *foreign* corporation * * * .

SECTION 40. Subsection (2) of section 231.32 of the statutes is amended by striking out the word “of” and by inserting the word “or” in the last line of the introductory paragraph.

SECTION 41. Section 233.18 of the statutes is amended by striking out the word “in” and inserting the word “of” in the second line after the word “lands.”

SECTION 42. Section 235.46 of the statutes is amended to read as follows:

235.46 REAL ESTATE TITLES; RECORD EVIDENCE. Affidavits, witnessed by two subscribing witnesses, stating facts as to possession of any premises, descent, heirship, date of birth, death or marriage, or as to the identity of a party to any conveyance of record, or that any such party *was or is* single or married, or as to the identification of any plats or subdivisions of

any city or village, may be recorded in the office of the register of deeds in any county where such conveyance is recorded, or within which such *premises or city or village* is situated, and the record of any such affidavit, or a certified copy thereof, shall be prima facie evidence of the facts touching any such matter, which are therein stated.

SECTION 42a. Subsection (2) of section 241.13 of the statutes is amended by striking out the last sentence.

SECTION 42b. Sections 351.44 and 351.45 of the statutes are repealed; and subsection (1) of section 245.03 is amended to read: (245.03) (1) No marriage shall be contracted while either of the parties has a husband or wife living, nor between persons who are nearer of kin than second cousins, excepting that marriage may be contracted between first cousins where the female has attained the age of fifty years. Relationship under this section shall be computed by the rule of the civil law, whether the parties to the marriage are of the half or of the whole blood. No insane, * * * *imbecile, feeble-minded or epileptic person* or idiot shall be capable of contracting marriage.

SECTION 44. Section 252.04 of the statutes is amended by changing the word "tested" to "attested" in line 2.

SECTION 45. Subsection (2) of section 253.02 of the statutes is amended by inserting the word "of" between the words "court" and "record" in line 5.

SECTION 46. Section 256.29 of the statutes is amended by striking out the word "consent" and by inserting the word "counsel" in the first line of the fourth paragraph.

SECTION 47. Section 262.10 of the statutes is amended by striking from line 2 the words "in the circuit court."

SECTION 48. Section 270.24 of the statutes is amended to read:

270.24 NO NONSUIT AFTER ARGUMENT. The plaintiff shall have no right to submit to a nonsuit after the argument of the cause to the jury * * * shall have been concluded or waived.

SECTION 48a. Chapter 31 of the Laws of 1923 is repealed; and section 270.26 of the statutes is amended to read: 270.26 MOTION FOR DIRECTED VERDICT WAIVES JURY TRIAL. Whenever in an action tried before a jury all the parties to the action shall, without reservation, move the court to direct a verdict, such motions shall, unless otherwise directed by the

court before the discharge of the jury, be considered as equivalent to a stipulation by the parties waiving a jury trial and submitting the entire case to the court for decision of the facts as well as the law. * * *

SECTION 49. Section 270.33 of the statutes is amended to read:

270.33 TRIAL BY COURT; FINDINGS, JUDGMENT. (1)

Upon a trial of a question of fact by the court, its decision shall be given in writing and filed with the clerk within twenty days after the * * * term at which the trial took place, * * * and * * * shall state * * * separately: * * * (a) The facts found * * * and * * * (b) * * * The conclusions of law thereon. *Judgment upon the decision shall be entered accordingly as of the term at which the cause was tried.*

(2) The decision shall be prepared * * * either from * * * the court's minutes or from * * * findings submitted by the parties, or both.

SECTION 49a. Section 270.40 of the statutes is amended to read: 270.40 EXCEPTIONS IN TRIAL BY COURT. In any trial by the court an exception taken at the trial may be settled as in trials by jury under section 270.39. * * * All such exceptions may be incorporated in the bill of exceptions which may be thereafter settled. *The findings of fact and conclusions of law made by the court shall be reviewed, by the appellate court, without exceptions being filed.*

SECTION 49b. Section 270.41 of the statutes is amended to read: 270.41 EXCEPTIONS IN TRIAL BY REFEREE. In any trial by a referee either party may take exceptions in the same manner as on trials by the court, and the referee shall note in his minutes any exceptions so taken as they are taken. * * * *It shall not be necessary to file an exception to any finding of fact or conclusion of law by the referee * * * to obtain a review thereof in the trial court.* When the referee's findings of fact or conclusions of law are set aside or modified by the court no exceptions shall be necessary to enable a full review of such orders upon appeal or writ of error.

SECTION 49c. Section 270.46 of the statutes is amended to read: 270.46 EXCEPTIONS AS AMENDMENTS, HOW INCORPORATED IN BILL. When a bill of exceptions shall be served after trial by the court or by referees the adverse party may, within ten days after such service, file with the clerk

* * * *a copy* such of the testimony as shall be material, *to be* incorporated with the bill of exceptions. He may also have his objections and exceptions to the admission of testimony on any trial, by jury or otherwise, likewise incorporated.

SECTION 49d. Section 274.34 of the statutes is amended to read: 274.34 INTERMEDIATE ORDERS MAY BE REVIEWED. Upon an appeal from a judgment, as well as upon a writ of error, the supreme court may review any intermediate order or determination of the court below, which involves the merits and necessarily affects the judgment, appearing upon the record transmitted or returned from the circuit court, whether the same were excepted to or not; nor shall it be necessary in any case to take any exception or settle any bill of exceptions to enable the supreme court to review any alleged error which would, without a bill of exceptions, appear upon the face of the record. Any question of fact or of law decided upon trials by the court or by referees may be reviewed, * * * *without* exceptions to the findings of fact * * * *being* taken. * * *

SECTION 50. Subsection (1) of section 281.02 of the statutes is amended by striking from line 6 the words "of such county."

SECTION 51. Section 288.08 of the statutes is amended to read: 288.08 JUDGMENT, HOW ENFORCED. Where any property has been seized and detained pursuant to * * * *chapter 129*, in case of the recovery of judgment for the forfeiture, * * * and nonpayment thereof, the court may issue its warrant directed to the sheriff or other proper officer of the county commanding him to cause such judgment, with the costs, to be forthwith collected by sale of the property so seized, and that if sufficient property be not found whereof to collect the same to commit the defendant to the jail of the proper county, there to be imprisoned not exceeding six months or until otherwise discharged pursuant to law.

SECTION 52. Subsection (2) of section 291.06 of the statutes is amended to read:

(291.06) (2) In case there is no person residing on the demised premises and the person against whom the summons is issued cannot be * * * *served* in the county, * * * then the officer having the summons for service shall make return of such facts on said summons on or before the return day mentioned therein, and if the defendant does not appear before said justice within the hour after the summons is made returnable,

then the justice shall enter an order in his docket requiring the plaintiff to publish in a newspaper to be designated by said justice, if there be one printed in the county, and if there be none, then to post up, at least ten days before the adjourned day, in three of the most public places therein, a notice to the defendant that a complaint in writing has been filed with said justice for the removal of said defendant from the premises, describing them, and that a summons has been issued thereon as provided by section 291.05, and that unless he appear before said justice at a time and place mentioned in said order and notice, not less than fourteen nor more than thirty days from the date of said order, judgment will be rendered against him as prayed for in the complaint in said section; and the justice shall thereupon continue the cause to the time and place mentioned in said order. Such notice shall be published at least once in each week for two successive weeks before the day to which the action has been adjourned, proof of such publication or posting to be filed with said justice at or before said adjourned day.

SECTION 53. Subsection (2) of section 313.13 of the statutes is amended to read:

(313.13) (2) That an appeal has been taken from some action of the county court * * * which is still pending and necessarily delays the settlement of the estate:

SECTION 54. Section 314.01 of the statutes is amended to read:

314.01 DOWER MAY BE ASSIGNED. When a widow is entitled to dower in lands of which her husband died seized and her right to dower is not disputed by the heirs or devisees or any person claiming under them or either of them, it may be assigned to her in whatever counties the lands may lie by the county court * * * of the county * * * *proper for the probate of the estate of her husband*, * * * upon petition of the widow or any other person interested in the lands. Notice of the time and place of hearing such petition shall be given to such heirs, devisees or other persons in such manner as said court shall direct.

SECTION 55. Section 330.32 of the statutes is repealed, and a new section is created to be numbered and to read:

330.32 EFFECT OF MILITARY EXEMPTION FROM CIVIL PROCESS. The time during which any resident of this state has been exempt from the service of civil process on account of being in the military service of the United States or of this

state, shall not be taken as any part of the time limited by law for the commencement of any civil action in favor of or against such person.

SECTION 56. Section 352.47 of the statutes is renumbered section 143.11.

SECTION 57. Section 352.48 of the statutes is renumbered section 143.10 and amended to read:

143.10 CONTAGIOUS DISEASES; SUSPECTED CASES; PROTECTION OF PUBLIC. * * * Any person who knows that he is afflicted with smallpox, diphtheria, scarlet fever or other dangerous, * * * *communicable* disease, who shall wilfully enter any public place or public conveyance, or shall, in any way, wilfully subject others to danger of contracting * * * *his* disease * * * and any person who shall knowingly and wilfully take, aid in taking, advise or cause to be taken, a * * * person who is afflicted or is suspected of being afflicted with any such disease, into any such place or conveyance, or in any way knowingly and wilfully subject, *expose or aid in exposing* any other person * * * to danger of contracting any such disease, * * * shall be punished by imprisonment in the county jail not more than one hundred days nor less than twenty days, or by fine not exceeding one hundred dollars nor less than fifty dollars, or by both such fine and imprisonment. * * *

SECTION 58. Section 353.01 of the statutes is amended by striking out the phrase "of a jury."

SECTION 59. Chapter 282, Laws 1901, is repealed.

SECTION 60. Chapter 224, Laws 1919, is repealed.

SECTION 61. Chapter 16, Special Session Laws of 1920, is repealed.

SECTION 61a. Section 99.32 of the statutes is repealed.

SECTION 62. This act shall take effect upon passage and publication.

Approved August 1, 1927.