

No. 385, A.]

[Published May 25, 1945.]

CHAPTER 197.

AN ACT to create 261.01 (11b) of the statutes, relating to place of trial in assault and battery actions.

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

261.01 (11b) of the statutes is created to read:

261.01 (11b) ASSAULT AND BATTERY ACTIONS. Of an action growing out of assault and battery, the county in which the cause of action arose or where the defendant resides.

Approved May 23, 1945.

No. 9, S.]

[Published May 26, 1945.]

CHAPTER 198.

AN ACT to amend 366.01, 366.02, 366.05, 366.06, 366.07, 366.09, 366.10, 366.13, 366.14 and 366.19 (2) and (3) and to create 366.121 of the statutes, relating to coroners' inquests and autopsies.

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

SECTION 1. 366.01 of the statutes is amended to read:

366.01 Whenever the district attorney shall have notice of the death of any person * * * and from the circumstances surrounding the same there is good reason to believe that murder, * * * manslaughter, *negligent homicide, excusable or justifiable homicide* has been committed, and the venue of such offense is in his county, he shall forthwith order and require the coroner, deputy coroner, or in the event of the absence or disability of the coroner * * * or * * * deputy coroner, some justice of the peace * * * to take an inquest * * * as to how such person came to his death. In any inquest ordered by the district attorney he shall appear in the inquest representing the state in presenting the evidence. For the purpose of taking such inquest deputy coroners may perform all the duties and exercise all the jurisdiction and powers conferred upon such coroners by this chapter and shall be entitled to the same fees as such coroner for the performance of like duties,

except as hereinafter provided. * * * Nothing herein contained shall be construed as preventing such coroner from holding an inquest *under the circumstances hereinabove specified* without being first notified by the district attorney so to hold such inquest. Such inquest * * * *may be held in * * * any county, if within this state, * * * 'in which there would be venue for the trial of the offense.*

SECTION 2. 366.02 of the statutes is amended to read:

366.02 JURY TO BE CALLED, WHEN. Whenever any coroner, deputy coroner or justice of the peace shall hold an inquest, *he may in his discretion dispense with the summoning of a coroner's jury and conduct the inquest himself and render a verdict therein in the same manner as a coroner's jury would do; or he shall issue a precept to the sheriff or any constable forthwith to summon a jury of 6 good and lawful men of the county to appear before him at the time and place specified in the precept, which precept shall be in substance as follows:*

THE STATE OF WISCONSIN, to the sheriff or any constable of the county of

You are hereby required immediately to summon six good and lawful men of the county of, to appear forthwith before me at, in the town of, to inquire. * * * how and by what means * * * *the person known as* came to his death.

Given under my hand this day of, 19.....
.....Coroner.

SECTION 3. 366.05 of the statutes is amended to read:

366.05 If 6 jurors shall not appear at the time and place appointed the coroner may require the officer to summon such number of jurors as shall make up the number 6, and when the requisite number so summoned shall appear the coroner shall * * * administer to them an oath or affirmation in substance as follows, viz.: You do solemnly swear that you will diligently inquire in behalf of this state when, and in what manner and by what means the person * * * *known as..... who is now dead* came to his death; that you will return a true inquest thereon according to your knowledge and such evidence as shall be laid before you.

SECTION 4. 366.06 of the statutes is amended to read:

366.06 The coroner may issue subpoenas for witnesses, returnable forthwith or at such time and place as he shall therein

direct * * * and the attendance of the persons so served with such subpoenas may be * * * *compelled* in the * * * manner * * * *provided in section 325.12*; and it shall be lawful for the coroner taking such inquest, in all such cases, to require by subpoena the attendance of one or more expert witnesses, competent physicians or surgeons for the purpose of making an examination of the body and of testifying as to the result of the same. Such expert witnesses, physicians and surgeons so subpoenaed shall * * * *receive fees as expert witnesses the reasonable amount of which shall be determined by the district attorney and the coroner but shall not be less than \$5 for each examination.*

SECTION 5. 366.07 of the statutes is amended to read:

366.07 An oath or affirmation to the following effect shall be administered to each witness by the coroner: You do solemnly swear that the evidence you shall give to this inquest concerning the death of the person * * * *known as* shall be the truth, the whole truth, and nothing but the truth.

SECTION 6. 366.09 of the statutes is amended to read:

366.09 The jury, * * * after hearing the testimony of the witnesses and making all needful inquiries, shall draw up and deliver to the coroner their inquisition under their hands, in which they shall find and certify when, and in what manner and by what means the deceased came to his death, and his name, if known; and if it shall appear that he came to his death by unlawful means the jurors shall further state who was guilty, either as principal or accessory or were in any manner the cause of his death, if known.

SECTION 7. 366.10 of the statutes is amended to read:

366.10 Such inquisition may be in substance in the following form:

An inquisition taken at, in the county of, on the day of, 19 , before the coroner of the said county, * * * *as to the cause of the death of the person known as (or a person unknown), there dead, by the jurors whose names are hereunto subscribed, who being duly sworn to inquire on behalf of this state, when, in what manner and by what means the said (or person unknown) came to his death, upon their oaths do say (here insert when, in what manner and by what means, persons, weapons or instruments he was killed or came to his death.)*

In Testimony Whereof, the said coroner and the jurors of this inquest have hereunto set their hands the day and year aforesaid.

SECTION 8. 366.121 of the statutes is created to read:

366.121 AUTOPSIES. The coroner shall have the authority to conduct an autopsy or order the conducting of an autopsy upon the body of a dead person any place within the state of Wisconsin in cases where a coroner's inquest might be had as provided in section 366.01 notwithstanding that no such inquest is ordered or had.

SECTION 9. 366.13 of the statutes is amended to read:

366.13 When any coroner shall take an inquest * * * *as to the cause of death* of a stranger or, being called for that purpose, shall not think it necessary * * * that an inquest should be taken, he shall cause the body to be decently buried or cremated; and the said coroner shall certify to all the charges incurred in taking any inquest by him and to the expenses of burial or cremation of such dead body; and the same shall be audited by the county board of the proper county and paid out of the county treasury.

SECTION 10. 366.14 of the statutes is amended to read:

366.14 The sole compensation of the coroner and deputy coroners for taking inquest * * * or making an investigation to determine the necessity to take inquest shall be \$8 for each day and \$4 for each half day actually and necessarily required for the purpose, and 10 cents for each mile actually and necessarily traveled in performing such duty; provided, that any coroner or deputy coroner * * * *may be paid an annual salary * * * and allowance for traveling expenses to be established by the county board pursuant to section 59.15 which shall be in lieu of any and all fees, per diem, compensation for services rendered.*

SECTION 11. 366.19 (2) and (3) of the statutes are amended to read:

366.19 (2) It shall be the duty of the respective coroners of this state, in any case where the body is to be cremated, to * * * make a careful personal inquiry into the cause and manner of death, and conduct an autopsy or order the conducting of an autopsy, if in their opinion it is necessary to determine the cause and manner of death, and thereupon certify that no

further examination or judicial inquiry concerning the same is necessary, if so satisfied, otherwise, or in the event of doubt to proceed as otherwise provided by law.

(3) The coroner shall receive a fee of \$10, to be paid out of the county treasury, for each body so viewed or inquiry made, *unless an annual salary has been established by the county board pursuant to section 366.14.*

Approved May 24, 1945.

No. 217, S.]

[Published May 28, 1945.

CHAPTER 199.

AN ACT to amend 195.29 (6) of the statutes, relating to view at railway crossings, and providing a penalty.

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

195.29 (6) of the statutes is amended to read:

195.29 (6) Every railroad shall keep its right of way clear of brush or trees for a distance of not less than 330 feet in each direction from the center of its intersection at grade with any public highway, and for such further distance as is necessary to provide an adequate view of approaching trains, from such highway. Every municipality shall keep the public highways within its jurisdiction clear of brush and shall adequately trim all trees within 330 feet of the center of any railroad highway grade crossing. Every person or corporation owning or occupying any land adjacent to any railroad highway grade crossing shall keep all brush cut and adequately trim all trees on said land within the triangles bounded on 2 sides by the railway and the highway, and on the third side by a line connecting points on the center lines of the railway and the highway, 330 feet from the intersection of said center lines. The commission, upon its own motion, or upon any complaint to the effect that any work required by this subsection has not been performed, after due notice and hearing, may order the corporation, municipality or person at fault to perform said work; provided, however, that if the physical conditions at any crossing are such that the performance of the required work will not materially improve the view for highway traffic, or, if unreasonable loss would be caused thereby, the commission may excuse the party in interest from