

in which the aid shall be earned, it shall be lawful for the proper authorities of such county, town, city or village, upon the application of the railroad company in aid of which such subscription has been or shall be made, in their discretion, to extend the time when such aid shall be earned, not exceeding one year beyond the time so limited:” *provided*, the powers and authority hereby granted and conferred shall not be used or exercised by any county, town, city or village where the aid granted for railroad purposes and stock subscribed for shall exceed the amount of five per cent. of the assessed valuation thereof.

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

Approved March 19, 1873.

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## CHAPTER 278.

[*Published March 27, 1873.*]

AN ACT to authorize incorporated villages to lay out, change and open streets, alleys and public squares within the same.

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

SECTION 1. The president and trustees of any incorporated village shall have the power to lay out, open, change, extend and widen public squares, grounds, highways, streets and alleys as follows: Whenever six or more freeholders residing in said village shall, by petition, represent to the board of trustees of said village that it is necessary to take certain lands within said village for the public use, for the purpose of laying out, opening, changing, extending or widening public squares, grounds, highways, streets or alleys, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of said lands, if the same shall be known to the petitioners, being stated in said petition, the board of trustees shall thereupon cause notice of such application to be given as follows: If the owner or owners of any portion of said lands are known, and reside in said village, a written or printed notice shall be served upon such owner or owners personally; if such owner or owners are not known, or being known,

Village authorities may lay out, change and open streets, on petition of freeholders.

How notice to be given to residents and non-residents.

do not reside in said village, said notice shall be given by publishing the same, at least once in each week for three successive weeks in a newspaper published in said village, and in case any one is in the actual occupancy of said lands, such notice shall be served upon such occupant or occupants personally.

What notice shall contain.

SECTION 2. Such notice shall contain a plain and concise description of the public square, grounds, highways, streets or alleys designed to be laid out, opened, changed, extended or widened, and of the lands proposed to be taken, and shall state that at a certain time and place therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the judge of the county court of the county in which said village is situated, or to a justice of the peace in and for said county, and resident in said village, for the appointment of six jurors to view said lands, and to determine if it will be necessary to take the same for the purpose specified in said petition, and to assess the damage sustained by the owner or owners of said land, by reason of the taking of the same, in case they shall determine it will be necessary to take such lands for the purpose aforesaid.

Judge shall appoint jurors to view premises, and report to trustees.

SECTION 3. Upon the presentation of such application, at the time and place in such notice mentioned, and upon proof of the service or publication of said notice as hereinbefore required, the said judge or justice shall appoint six freeholders and residents of said village, but not interested in the result of such application, and shall thereupon issue his precept directed to said jurors, requiring them, on a day in said precept to be named, not more than ten nor less than five days from the date of said precept, to view said lands proposed to be taken as aforesaid, which lands shall be described in said precept, and report to the board of trustees whether, in their judgment, it is necessary to take said lands for the purpose specified in said application, and also to report to said board the amount of damage sustained by the owner or owners of said lands or of any distinct part thereof, by reason of taking the same as aforesaid.

How judge may fill vacancies.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting or shall refuse to act, the said judge or justice shall appoint others in their place, and all reasons causing such substitution shall be indorsed on the precept.

SECTION 5. Said jurors, before entering upon the discharge of their duties shall take an oath before some officer authorized to administer oaths, that they are residents and freeholders of said village, and are not interested in the lands to be taken, and that they will faithfully and impartially discharge the trust reposed in them; and shall, at the time mentioned in said precept, proceed in a body to view the lands in question, and shall hear such testimony as may be offered by any party interested, and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jurors shall take oath and proceed to view premises.

SECTION 6. After viewing said lands and hearing such testimony as may be offered as aforesaid, said jurors shall decide whether it is necessary to take said lands for the purpose specified in said application, and in case that they shall decide that it is necessary to take said lands for the purpose aforesaid, they shall also determine and assess the amount of damage which the owner or owners of said lands or of any distinct part thereof will sustain by reason of the taking of the same as aforesaid, which said report and precept shall be filed with the clerk of said village within five days from the day designated in said precept for said jurors to view said lands.

After viewing premises and hearing testimony, shall determine and assess damages.

SECTION 7. Any person whose property said jurors shall decide it is necessary to take as aforesaid, may at any time within ten days from the time said report shall be filed with the village clerk as aforesaid, appeal from said report, and the decision and determination therein contained, determined and amount therein contained, or any part thereof, to the circuit court in and for the county in which said village is situate. Said appeal shall be taken by filing with the clerk of said village, within said ten days, a notice of appeal, stating whether said appeal is from the whole or only a part of said report, and if from a part only, what part, and by also filing at the same time with said clerk a bond in the sum of two hundred and fifty dollars, and signed by two good and sufficient sureties, and conditioned for the payment to said village under its corporate name, of all costs which shall be awarded against said appellant in case said report or the part thereof appealed from shall be sustained.

Any property holder may appeal from report.

Shall file notice of appeal and give undertaking.

SECTION 8. Within ten days after filing said notice of appeal and bond, the clerk of said village shall make out two copies of all the papers and proceedings on file in his office relating to the matter appealed from, and shall attach thereto his certificate to the effect that he has compared the same with the originals, and that they

Village clerk to make out two copies of papers and proceedings.

are correct transcripts therefrom, and of all the papers and proceedings on file in his office relating to the matter appealed from, and shall file the same with the clerk of said circuit court within said ten days; said appeal shall thereupon be heard, tried and disposed of in the circuit court, in the same manner as cases appealed from justices' courts, except that the verdict of the jury shall be, in case they find for the appellant, as follows: "We find that the report of the jury below should be reversed;" if in case only a part of said report is appealed from, then "we find that that portion of the report of the jury below appealed from should be reversed," and in case they find against the appellant, their verdict shall be as follows: "We find that the report of the jury below should be sustained," or in case only a part of said report is appealed from, then, "we find that that portion of the report of the jury below appealed from should be sustained," and in either case, said verdict shall be signed and returned as in ordinary cases, and judgment shall be entered on said verdict as follows: In case the verdict be for sustaining said report, or the portion thereof appealed from, against said appellant and in favor of said village in its corporate name, to the effect that "said report or the portion thereof appealed from is sustained, and for costs;" and in case said verdict be for reversing said report or the portion thereof appealed from, judgment shall be entered against said village in its corporate name, and in favor of said appellant, to the effect that "said report or the portion thereof appealed from is reversed, and for costs." And as soon as judgment shall have been entered in said circuit court, and the costs taxed and entered in said judgment, the clerk of said court shall transmit and file with the clerk of said village a certified copy of said judgment.

How appeal tried.

What verdict of jury shall be.

Copy of judgments to be filed with village clerk.

When the board of trustees may declare street opened.

SECTION 9. If said jurors shall decide that it is necessary to take said lands for the purpose aforesaid, and shall determine and assess the amount of damage as aforesaid, and shall make and file their report aforesaid, and there shall have been no appeal from said report as aforesaid, or in case there shall have been an appeal, and said report or the portion appealed from shall have been sustained, the board of trustees, within ten days after the expiration of the time to appeal, where no appeal has been taken, or within ten days after the filing of a certified copy of said judgment with the clerk of said village, in case an appeal shall have been taken, and said report or the portion appealed from shall have been sustained, shall, by reso-

lution to be entered in the minutes of the proceedings of said board, declare said public squares, grounds, highways, streets or alleys, as the case may be, laid out, opened, changed, extended or widened, as the case may be, and that the damages awarded to the owner or owners of said lands, or of any distinct part thereof, by the reason of the taking of said lands, for the purpose aforesaid, are as stated in said report, and shall cause said resolution to be published at least once in each week for three successive weeks in a newspaper published in the county in which said village is situated, and after such publication and the payment or tender of payment by the village, to the parties entitled thereto of the damages awarded to each respectively, or in place of such payment or tender, the deposit in any bank in said village of the amount of said damages to the credit of the parties respectively entitled thereto as aforesaid, said lands shall for all intents and purposes be deemed and considered laid out, opened, changed, extended or widened, and shall be enjoyed as a public square, grounds, highways, streets or alleys, as the case may be, and the said board of trustees may cause fences and other obstructions to be removed therefrom, in the same manner as supervisors of towns are by law authorized to remove fences and other obstructions from highways laid out or altered by them.

Shall cause resolution to be published and deposit damages in bank.

SECTION 10. All taxes raised and collected in any village, either general or special, for any purpose authorized by this act, shall be levied and assessed upon all property, real and personal, within the corporate limits of said village which is by any general law of this state subject to taxation for general purposes, or to special assessments for local improvements within cities or incorporated villages.

How taxes authorized by this act to be levied.

SECTION 11. This act shall take effect and be in force from and after its passage.

Approved March 19, 1873.