

CHAPTER 277.

[Published March 23, 1875.]

AN ACT to authorize the city of La Crosse to condemn lands for municipal purposes.

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

SECTION 1. In case the common council of the said city of La Crosse shall at any time, by resolution duly passed, determine that it is necessary to take and appropriate certain lands or real estate, within the corporate limits of said city for municipal purposes, and more especially for the purpose of laying out, establishing, and maintaining within said city a public market place or places, the said city of La Crosse shall have the right to acquire title to such lands or real estate in the manner and by the special proceedings prescribed in this act.

Acquirements of lands for municipal purposes.

SECTION 2. For the purpose of acquiring such title the said city of La Crosse, after the passage of said resolution as aforesaid, shall file within thirty days thereafter, a petition with the clerk of the circuit court for said La Crosse county, praying for the appointment by said circuit court or the judge thereof, of twelve jurors to view the lands or real estate proposed to be taken and appropriated by said city for the purposes aforesaid, and to determine whether it will be necessary to take the same for such purposes. It must contain a particular description of the lands or real estate to be taken, the names of the parties who are in possession of, or who own, or have, or claim to own or have estate or interest of record in the said lands or real estate, and if any of said parties are infants, idiots or persons of unsound mind, or unknown, or non-residents of the state, that fact must be stated. It must also state the specific purposes for which the lands or real estate are to be taken and appropriated, and have annexed thereto a duly certified copy of the resolution of the common council above referred to. A notice stating briefly the objects of the petition and containing a several description of the lands or real estate proposed to be taken, and stating the time and place when and where the same will be presented to the said court or judge, shall be served on each and every person named

How lands may be acquired-petition for appointment of jury to view lands.

Notice to be served on owners of lands.

In case lands to be taken belong to corporation, infant, person of unsound mind, or *feme covert*.

How notice served on non-resident.

Owners of land may show cause against granting petition.

Court to appoint jurors and issue precept.

therein as owner, or having or claiming to own or have any estate or interest in such lands or real estate, at least ten days previous to the time of presenting such petition. Such service shall be made by delivering a copy of such notice to each of the persons named therein, if a resident of this state, or in case of the absence of such person, by leaving a copy of such notice at his or her usual place of abode, with some person of suitable age of discretion then resident therein. In case of domestic corporation such service may be made upon the president, secretary, or any director or trustee of such corporation; in case of minors, on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons, or persons of unsound mind, on their guardians or committee, or in case no guardian or committee shall have been appointed, then on the person in whose care or charge they are bound; in case of *feme covert* on the husband as well as the *feme covert*. In all cases where the owner or person claiming an interest in such lands or real estate is unknown, or is a non-resident, service of such notice may be made by the publication thereof in any newspaper published in the said city of La Crosse, once a week for two successive weeks.

SECTION 3. On presenting such petition to said court or judge, with proof of the publication on service of said notice, all or any of the persons whose estate or interest are to be affected by the proceedings, may show cause against granting the passage of the petition, and make objections to the appointment of any juror proposed to be appointed by said court or judge, stating the grounds of objections. The court or judge shall hear the parties interested, and if no sufficient cause is shown against granting the prayer of the petition, said court or judge shall appoint twelve reputable freeholders residents of the said county of La Crosse, but not in any manner interested in the result of such petition. The said court or judge shall thereupon issue a precept, directed to said jurors, requiring them to view the lands or real estate described in said petition, and to make return under their hands to the said court or judge whether in their judgment it is necessary to take for the purpose specified in said petition, and said court or judge, shall at the same time fix the time and place

of the first meeting of said jurors and limit the time within which their report shall be made.

SECTION 4. If any of the jurors so appointed, shall be disqualified from acting, or shall refuse to act, the court or judge shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

In case of disqualification of jurors.

SECTION 5. The jurors so appointed shall, before entering upon their duties, take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution of this state. The jurors shall proceed in a body to view the premises described in the petition, and for their own information, as to the value of the premises to be taken, or the necessity of taking the same, said jury, or any one of their number, may apply to the clerk of said circuit court to subpoena such witnesses as they may desire to appear before said jury, and testify as to the facts in the case. Said jury shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors. The necessary oaths to witnesses shall be administered by some justice of the peace of said La Crosse county.

Jurors to take oath, and hear testimony.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings in writing, which shall be signed by them respectively, and which shall state whether, in their judgment, it will be necessary to take the premises in question for the purpose specified in the petition. Said report, together with said testimony and precept, shall be returned to said court or judge.

Jurors to make report in writing.

SECTION 7. Should the jurors report that it is necessary to take such premises, the court or judge shall make an order confirming the whole of said report or any part thereof, and discharging said jurors.

In case jury report it necessary to take lands.

SECTION 8. Upon the confirmation of said report said court or judge shall make an order appointing three disinterested and competent freeholders of the said county of La Crosse, as commissioners, to ascertain and determine the compensation to be made to the owners or persons interested in the lands or real estate to be taken and appropriated, and fixing the time and place of the first meeting of the commissioners.

Court to appoint commissioners.

SECTION 9. The commissioners so appointed, shall, before entering on their duties, take and subscribe

Commissioners to hear allegations of

parties, and appraise value of property to be taken.

the oath prescribed in the twenty-eighth section of the fourth article of the constitution of this state. The commissioners shall view the premises described in the petition, and hear the allegations of the parties, and shall appraise, ascertain, and determine the value of each tract or parcel of land proposed to be taken with the improvements thereon, and of each separate estate therein, and the damages sustained by the owner or person interested by reason of the taking thereof, and fix the amount of compensation to be made to such owner or person interested. A majority of the commissioners, all being present, shall be competent to determine all matters before them. The commissioners shall, within thirty days after viewing any of the lands so taken, make and file in the office of the clerk of said circuit court a report of their proceedings concerning such lands or real estate, setting forth the award made for each tract or parcel thereof, or separate therein, to the owner or owners thereof, or persons interested therein. The commissioners shall be entitled to such compensation as the said court or judge may direct, which shall be paid by said city. A majority of the commissioners may adjourn the proceedings before them from time to time in their discretion.

Commissioners to file report.

Right of appeal to circuit court.

SECTION 10. Within thirty days after the filing of the report of the commissioners in the office of the clerk of said circuit court, any party may appeal to the said circuit court from any award made by the commissioners, by filing in the office of said clerk and in the office of the city clerk of said city, a written notice of appeal. Upon filing such notice as aforesaid, the appeal shall be considered an action pending in court, subject to a change of the place of trial, and appeal to the supreme court, as other actions, and shall be entered upon the records of said court by the clerk thereof. Such appeal shall be tried by jury, unless a trial by jury is waived by both parties. Costs shall be allowed to the successful party on such appeal.

Report of commissioners to be recorded.

SECTION 11. The report of the commissioners shall be recorded by the clerk of said court, in the judgment book of said court, and at any time after the filing of the same, the said city of La Crosse may pay to the owner or owners, or persons interested in the lands to be taken, or to the clerk of said court for the use of such owner or owners or persons interested, the amounts awarded by the commissioners, and

thereupon may enter upon, take and use the lands or real estate for the purposes for which it was condemned, and a writ of assistance may be issued to put the said city in possession of the same; *provided*, that no such writ shall be issued before the time for appeals from an award has expired, nor after an appeal shall have been taken, without notice to the adverse party, and giving such security for the payment of any verdict which may be rendered on such appeal as the court may require. If any defect of title to or encumbrances upon any parcel of the premises shall be suggested in said petition, or if any party to said proceeding or any person not a party shall petition the said court, setting up a claim, adverse to the title set out in said petition to said premises, and to the money, or any part of it to be paid as compensation for the property so taken, the court shall hear and determine the rights of the parties to said money and for that purpose may order a reference or an issue to be tried by a jury. Either party may except to the decision of the court, and appeal to the supreme court in like manner as in actions. Either court may award cost to the prevailing party and render judgment therefor against the other party.

Lands to be possessed by city.

In case of defect of title or encumbrance.

Right of appeal to supreme court.

SECTION 12. When no appeal shall be taken from any award within the time provided by law, and the said city shall have paid the amount thereof into court, or filed a receipt therefor, duly signed by the owner, in the office of the clerk of the said circuit court for La Crosse county, or when, after the determination of such an appeal, the said city shall have paid into court the amount of the judgment rendered therefor, or filed a receipt therefor as aforesaid, the clerk of said circuit court shall make a minute of such payment or of the filing of such receipt, at the foot of the record of the report of such commissioners, in the judgment book of said court, and thereupon the exclusive use of said premises, and every part and parcel thereof shall rest in said city without any other or further act, deed or conveyance, and said record or a certified copy thereof shall be *prima facie* evidence of such title in all courts and places.

When property shall become vested in city.

SECTION 13. The said circuit court or the judge thereof, shall have power, at any time, to annul any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such fur-

Power of court to amend defect in proceedings.

ther notice to be given to any party in interest, as may be proper, and also to appoint other commissioners in the place of any who shall die or refuse or neglect to serve or be incapable of serving.

SECTION 14. This act shall take effect and be in force from and after its passage.

Approved March 4, 1875.

CHAPTER 278.

[Published March 15, 1875.]

AN ACT to exempt the Wisconsin Valley railroad company from the payment of the license fee required by law, for the term of three years.

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

Exempted
from payment
of license fees.

SECTION 1. The Wisconsin Valley railroad company is hereby exempted from the payment of the license fees required by law, for the term of three years.

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

Approved March 5, 1875.

CHAPTER 279.

AN ACT to appropriate a sum of money therein named to pay for legislative manuals.

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

Appropriation.

SECTION 1. There is hereby appropriated the sum of two thousand dollars from any money in the treasury not otherwise appropriated, to pay for one thousand copies of the legislative manual ordered by resolution of the legislature at its present session.

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

Approved March 4, 1875.