

necessary expense of the said examination shall be paid by the corporation, society, order or association requesting the same.

SECTION 13. All necessary expenses incurred by the attorney general and the commissioner of insurance in prosecuting violations of this act or misdemeanors under this act, shall be paid out of the general fund. The said attorney general and the commissioner of insurance shall certify to the secretary of state that the expenses incurred were actually necessary in the prosecution of said suits, whereupon it shall be the duty of the secretary of state to draw his warrant upon the state treasury for the same. All fines and forfeitures received under the provisions of this act shall be paid into the general fund.

Expenses of prosecution, how paid.

SECTION 14. Any person who shall falsely make any sworn statement, verified report or declaration, under oath required or authorized by this act shall on conviction thereof be punished by imprisonment in the state prison not less than one year, nor more than three years.

Penalty for making false statements, reports, etc.

SECTION 15. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SECTION 16. This act shall take effect and be in force from and after its passage and publication.

Approved April 23, 1891.

No. 593, A.]

[Published May 27, 1891.

CHAPTER 419.

AN ACT relating to the harbor districts and improvement thereof, in the city of Superior.

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

SECTION 1. For the purposes provided in this act, the city of Superior is hereby divided into the following harbor districts:

Harbor districts.

District Number One. Commencing at the intersection of the east section line of section

District number one; boundaries.

thirty-five, in town forty-nine, range thirteen, with the shore line of Lake Superior, and running thence south to the northeast corner of the northeast quarter, of section 2, in township forty-eight north, of range thirteen west, and running thence west along the section line to the center line of St. Anthony avenue, thence running along the center line of St. Anthony avenue to the shore of Lake Superior.

District number two; boundaries.

District Number Two. Commencing at the intersection of the center line of St. Anthony avenue produced, with the shore of Lake Superior, and running thence southwestwardly, along the center line of St. Anthony avenue produced, to the center line of East Itasca street, produced; thence northwestwardly along the center line of East Itasca street to its intersection with the center line of Wise avenue; from this point, running in a straight line along the center line of Wise avenue produced, in a northeasterly direction to the shore of Lake Superior.

District number three; boundaries.

District Number Three. Commencing at the intersection of the center lines of East Itasca street and Hudson avenue, and running thence along the center line of Hudson avenue in a southwesterly direction to the intersection of that line with the north line of section five, in township forty-eight, range thirteen west, and running thence west along the north section line of said section five to its intersection with the center line of Stuart avenue, and thence in a northeasterly direction along the center line of Stuart avenue to its intersection with the center line of East Itasca street, thence southeasterly along the center line of East Itasca street to the place of beginning.

District number four; boundaries.

District Number Four. Commencing with the intersection of the shore of Lake Superior, with the westerly line of Harbor district number two, hereinbefore described, and running thence southwestwardly in a straight line to the point of intersection of the center line of Wise avenue with the center line of East Itasca street, and running thence northwestwardly along the center line of East Itasca street to its intersection with the thread of the stream of the Nemadji river; thence along the thread of the stream as near as may be to the center line of the government

channel in front of the mouth of the Nemadji river; thence following the center line of the government channel into Lake Superior between the piers.

District Number Five. Commencing at the intersection of East Itasca street with the center line of McBain avenue, and running thence southwesterly along the center line of McBain avenue to the north line of section six, in township forty-eight, range thirteen, and running thence west along the section line to the intersection of the center line of Robertson avenue produced, with the said section line; thence along the center line of Robertson avenue produced in a northeasterly direction, to its intersection with the center line of West Itasca street; thence along the center line of East and West Itasca street to the place of beginning.

District number five; boundaries.

District Number Six. Commencing at the intersection of West First street with the center line of Robertson avenue, thence along the center line of West First street to the center line of Thompson avenue, thence along the center line of Thompson avenue, produced, to the middle of the government channel in the bay of Superior, thence along the central line of the government channel in a southeasterly direction to the intersection of the westerly line of district number 4, hereinbefore described; the same being at or about the intersection of the thread of the stream of the Nemadji river with the center of said government channel.

District number six; boundaries.

District Number Seven. Commencing at the intersection of the center line of West First street with the center line of Thompson avenue and running thence west to its intersection with the center line of Nettleton avenue; thence westerly along the center line of Nettleton avenue to the intersection of that line with the center line of West Second street; thence northwest along the center line of West Second street to its intersection with the center line of Pouillot avenue; thence in a northeasterly direction along the center line of Pouillot avenue produced, to the center of the government channel; thence along the center line of the government channel in a southeasterly direction to the intersection of the center line of Thompson avenue produced; thence along

District number seven; boundaries.

the center line of Thompson avenue produced, in a southwesterly direction to the point of beginning.

Council may establish other districts.

SECTION 2. And the common council of the city of Superior may, by ordinance, establish other harbor districts in the city of Superior, and change, from time to time, the boundaries of such harbor districts as may be hereafter established by said common council. Provided, however, that no tract of land or town lot or block, every part of which is distant more than one thousand feet from the high water mark of any river, creek, bay or lake, or other water courses, shall be included in any harbor district created by the said common council. And provided further, that the boundaries of any harbor district hereafter established by the said common council shall not be changed after the taxes herein provided for shall be levied, until after such taxes or other debt existing against such district shall have been fully paid.

Proceedings to secure improvement of districts, how instituted.

SECTION 3. Whenever the owners of at least sixty per centum of all the lands or town lots or blocks situated within any wholly unimproved harbor district hereby created, or which may be hereafter created, by the common council of the city of Superior, under the provisions of this act (and for the purposes hereof, improvements made or to be made by the United States government, shall not be regarded); or the owners of twenty per centum of all lands or town lots or blocks situated within any such harbor district partially improved, or the owners of ten per centum of all lands or town lots or blocks situated upon, adjacent or appurtenant to any existing slip, channel or water-way lateral to the main channel, within such harbor district, appurtenant or adjacent to which lateral slip there may be existing docks, piers, warehouses, or other structures, designed to facilitate lake traffic or business, completed or in the course of construction, and which lands, lots or blocks shall be subject to the assessment hereinafter provided, shall desire to have such harbor district, or any part thereof, or any lateral slip, channel or water way therein improved, or made more useful or accessible to water crafts, or to vehicles or cars from the land lying within or without such dis-

tract, and they shall consider such improvements as may be proposed by them, public improvements, and that the public welfare and interests will be promoted thereby, and shall desire to institute proceedings for making such improvements under the provisions of this act, may make and sign a petition as hereinafter provided.

SECTION 4. Such petitioners may apply to the county court of Douglas county, or to the presiding judge thereof, by such petition, asking the institution of such proceedings, and the appointment of three commissioners, to be known as "Harbor Commissioners of the city of Superior," and file the same with him. Such petitions shall specify, in general terms, the nature of improvements or changes desired to be made, as near as may be without a preliminary survey, describing the lands to be benefited thereby, and stating the supposed public benefits and conveniences to result therefrom, to the private property which it is believed by them will be benefited thereby and specify therein whether they desire the assessments hereafter mentioned, to be placed upon all the land within such harbor district, or that adjacent to any such lateral slip, channel or waterway within such harbor district which may be proposed to improve. Such petition shall state further that the proposed improvements are practicable and are not inconsistent with or detrimental to any existing improvements or the general system of harbor improvements in and about the city of Superior, whether proposed by the city, or the commission hereinafter mentioned, or the United States government. The petition shall also specify in general terms, the streams, lakes, bays, harbors and harbor districts proposed to be dredged, widened, deepened, straightened, altered or improved, and to what extent; the principal obstructions to be removed, and the structures to be made or erected, channels to be cut, and, generally, a statement of the whole character of the proposed improvement; and that in the belief of the petitioners, the costs, damages and expenses of such proposed improvements will be less than the benefits which will result therefrom to the owners of the lands likely to be benefited thereby. And the common council of the city of Superior may join

Petition for improvement and appointment of commissioners, what to contain.

said petition in behalf of said city; said petition may also give information as to any other matters relative or pertaining to the matter. Such petitions shall be verified by the oath of one or more persons, and shall be filed temporarily in the office of the said county judge.

Notice of hearing of petition, appointment of commissioners; qualification.

SECTION 5. The said county judge shall cause a notice to be published in one or more of the daily papers published in the city of Superior, to the effect that such petition has been filed, describing briefly the harbor district to be affected thereby and the need of the proposed improvements therein, and that within thirty days of the date of such notice, three persons will be appointed by him, harbor commissioners of the city of Superior, and that at some general or special term of the county court to be held within twenty days after the date of such notice, applications may be filed by any person desiring to become a member of such commission; and that at the term, time and place specified in such notice reasons for or against such application will be heard and considered by him, and that within ten days thereafter, such appointments will be made and the certificate of such appointment be issued by him to the persons who shall constitute the first commission. In appointing such commissioners, the county judge may or may not, at his option, appoint persons making applications or others. Within the time so specified the county court of Douglas county, or the presiding judge thereof shall appoint three persons who in his judgment, are suitable and competent therefor, and who are residents of and freeholders in Douglas county, to constitute the harbor commissioners of the city of Superior. Of persons so appointed one shall hold for one year, one for two and one for three years; the vacancies occurring thereafter in said commission shall be filled at or after the expiration of the term of any commissioner, for three years. The commissioners shall, before entering upon their duties, and after their appointment, take and subscribe an oath that they will support the constitution of the United States and the constitution of the state of Wisconsin, and to faithfully discharge their duties as commissioners to the best of their

ability. Any vacancies happening in the commission shall be filled in like manner by the said court or the presiding judge thereof, upon the petition of the remaining members of the commission showing that a vacancy exists, and the removal of any commissioner from Douglas county shall vacate his office. And the county court of Douglas county is hereby given power to remove any person from said commission who may have been appointed thereto, for misconduct in office or incompetency, or for any other reason which shall appear to the court sufficient; but before any person so appointed can be removed, the charges shall be made by some person owning land within any harbor district which shall have been or may be affected by the action or proposed action of such commission; and the person against whom such charges are made shall have an opportunity to meet and defend against the same. Before entering upon the duties of such harbor commissioner, each commissioner shall execute a bond as such commissioner, to be filed in the office of the city clerk of the city of Superior, running the said clerk as obligee for the benefit of all persons interested in amount and with sureties to be approved by the said court or presiding judge, conditioned to the faithful discharge of his duties as said commissioner and the faithful accounting for and application of all moneys which shall come to his hand as such officer. The order appointing such commissioner, made by the said county court or presiding judge thereof, heretofore provided for, shall be filed in the office of said city clerk, and he shall issue to them a certified copy of the order for their appointment. The bond hereinbefore provided for, to be given by each of said commissioners, shall be renewed on the first Tuesday of May in each succeeding year, if in the judgment of the said county court or the judge thereof, it ought to be done; and it will be the duty of the said city clerk, at or before that time in each year, to render a statement to the said county judge of the doings of the said harbor commission for the preceding year, stating the amount of moneys on hand and the probable amount of moneys which will come into their hands during the following year and other pertinent matters by which he may be able to

determine whether a new bond ought to be given and the amount thereof.

Commissioners to be body corporate. To appoint clerk and treasurer.

SECTION 6. Having been appointed and so qualified and having received certified copy of the order of their appointment, the said commission shall for the purpose of this act be deemed established and be deemed a corporation under the laws of this state, and thereupon the county judge shall turn over to them the petition or petitions that may have been filed with him asking for harbor improvements, and for all purposes thereafter the harbor commission shall be deemed to have jurisdiction thereof and of all subsequent petitions that may be made. And the commission shall, as soon as may be thereafter, meet and employ and appoint a clerk and treasurer of the harbor commission, who shall hold office at the pleasure of the commissioners and who may be required by them to give such security for the faithful performance of their duties as they shall deem requisite. The commissioners shall then adjourn to some time and place to be fixed by them, and shall publish a notice thereof for at least one week in one or more newspapers published in the city of Superior, to the effect that they will meet at said time and place to consider such petition, which notice shall briefly describe the petition, the improvements asked to be made and the harbor district to be affected thereby. At the time and place to which the commissioners shall have adjourned as aforesaid, they shall meet and hear reasons that may be urged by any interested party for or against the proposed improvements; and any person owning lands proposed to be affected thereby, shall be considered an interested party. If upon its preliminary hearing it shall appear to the commissioners that such improvements ought to be undertaken and made, the commissioners shall place a copy of the original petition in the hands of some competent engineer, to be by them selected and employed, who shall without delay, taking with him the necessary assistants, proceed to make an accurate survey of the proposed improvements or system of improvements and of all the lands to be affected thereby, and on the completion thereof shall return to the clerk of the commission a plat and profile of the same with a description of

the proposed improvements, its availability and of each separate tract of land which will be affected by said improvements or system of improvements, its situation as compared with adjoining lands, the amount of docking and bridging to be done, fills and piers to be made, embankments to be constructed to preserve the cuts, channels and other improvements, and all such other facts as he shall deem material, and such specifications as shall be necessary for the plan of the proposed work. Upon the coming in of such return, the commissioners shall cause a notice of the pendency and prayer of said petition and of the time and place at which they will hear the same, which notice shall contain a general statement of the object of said petition and of the harbor district in which the proposed improvements are to be made and a general description of the lands to be effected thereby, and they shall cause the same to be published for two successive weeks before said hearing, at least once in each week, in some newspaper published in the city of Superior.

Time and purpose of meeting to be published.

SECTION 7. On the day fixed by such notice for hearing such petition, or some other day to which said hearing may be adjourned, and the commissioners are authorized to make such adjournment as they deem necessary, the commissioners, after hearing the parties interested who shall appear, shall decide upon said petition; and if they shall be of the opinion that the public convenience or welfare will be thereby promoted, and shall decide favorably upon the intended work, they shall make an order therefor, and, if necessary, order another survey to be made, and necessary maps, plans and specifications and estimates of cost thereof to be made; but in determining the amount or kind of plan of the proposed improvement or system of improvements, the commissioners are not necessarily confined to the proposals or prayer of the petition, but they may amend, extend, limit or modify the petition or the prayer thereof, or the improvements proposed, or the system of improvements contemplated, in such way as will best promote and accomplish or facilitate the public convenience and good, and they may modify the expense of the pro-

Hearing on petitions for improvements; order thereon.

posed improvement or system of improvements; all of which final specifications, estimates, orders, plans, surveys, etc., are to be filed in the office of the city clerk of the city of Superior. And the clerk of the harbor commissioners shall cause to be kept and filed in the office of the city clerk, a complete record of all proceedings in each case.

Final plans etc., and order to be laid before the common council. Duty of, thereupon.

SECTION 8. Such final plan, specifications, orders and estimates, and all other documents or maps, necessary to show the true character of the proposed improvements and the order or determination of the commissioners to make the same, and their findings and order that the proposed improvement or system of improvements will promote the public convenience and welfare of said city, shall, as soon as made, be laid before the common council of the city of Superior by the harbor commissioners, and it will be the duty of the common council of the city of Superior, to investigate the same as to whether the proposed improvement or system of improvements are, or will be, in the judgment of the common council, a public benefit or convenience, and this investigation shall be made by the common council as soon as may be after the commission shall have acted thereon. The common council shall give at least a week's notice to be published in one of the city papers at least once, of the time and place at which they will consider the report and determination of the harbor commissioners upon such petition. This notice shall describe briefly the petition, the proposed improvement or system of improvements, the harbor district affected, and in general terms the land affected thereby, and the estimated cost thereof. At the time and place fixed in the notice, any person interested may be heard before the common council as to whether the proposed improvement or system of improvements will promote the public benefit or welfare of the city of Superior. If the common council shall determine that such proposed improvement or system of improvements will promote the public benefit or welfare of said city, and the proposed improvement or system of improvements do not conflict with and are not detrimental to any existing improvements in the harbor of Su-

perior, made by it or the United States government, then they shall by resolution adopt the same. From this determination of the common council that such proposed improvement or system of improvements will be a public benefit and promote the public welfare, there shall be no appeal. The common council may, in its discretion, report the whole matter back to the harbor commissioners, requiring any modification on the plans or extent of the said improvement or system of improvements, if, in the judgment of the common council, the public benefit or welfare will be thereby promoted. In that event it will be the duty of the commissioners to so modify the plans of the proposed improvement or system of improvements, so as to meet the views of the common council. And when the plans, expense and extent of the proposed improvements are in such shape that the public benefit and welfare will be promoted thereby, it will be the duty of the common council to approve the same by resolution.

SECTION 9. For the purpose of this act the harbor commissioners are invested with, and may exercise the power of eminent domain in the manner prescribed in this chapter and in the charter of the city of Superior and also in the manner prescribed in sections 895, 896, 897, 898 and 899 of the revised statutes, and chapter 17, entitled, "Eminent domain," on page 580 of the annotated statutes of Wisconsin, and any law of this state in respect thereto, should they find it more convenient to do so. All damage for lands taken for the purpose of harbor improvement, and all damages to property of any kind, in the reduction or removal of any obstruction to harbor improvements that may have been determined upon, may be fixed by agreement in writing between the owners thereof and the harbor commissioners, and shall be filed with the city clerk, which agreement shall forever preclude such owners and any persons claiming under them from any further claim for damages. The commissioners shall make an award in writing of damages to every owner of lands so taken which shall not have been so agreed upon, and file the same in the office of the city clerk within thirty days after filing the order directing such

Commissioners may exercise power of eminent domain. Damages, how determined.

improvement or system of improvements to be made. In order to carry out such improvement or system of improvements as may have been determined upon by said commissioners to be made, they may take by eminent domain any lands or improvements thereon situated within such harbor district, upon paying the owner therefor the value of such lands and the damages he may otherwise sustain by reason of the taking thereof over and above his special benefits.

Assessments
for benefits,
and when
made.

SECTION 10. As soon as the plans for the work have been determined and approved by the common council, the commissioners shall proceed to make a special assessment for benefits by classifying the lands in the district in tracts of ten acres, more or less, according to the government survey, and town lots or blocks affected, according to the plat of the town site, on a graduated scale, to be numbered according to the benefits to be received by the contemplated improvements. The tracts of lands, or town lots or blocks, which will receive most and about equal benefits shall be marked "one hundred," and such as are adjudged to receive less benefit shall be marked with a less number denoting its per centum of benefits. This classification, when established, as hereinafter provided, shall remain as a basis for such levy of taxes as may be necessary for the purpose of the harbor district.

Notice to
owner of pro-
posed work to
be served.

SECTION 11. The commissioners shall cause to be personally served upon all parties owning land to be affected by the proposed work or other property liable to be taxed under this act, and residing in this state, a written or printed notice of the time and place at which they will meet to hear any and all objections that may be made to the classification of lands on the graduated scale, which notice shall be served in case of residents of this state, not less than ten days before the time set for hearing, and in the same manner as is provided by law for service of summons in the circuit court; and the harbor commissioners shall cause to be sent by mail such notice to all owners who do not reside in this state whose land is to be affected, in case their post-office address is known to the commissioners, or to any of them, or can be ascertained by rea-

sonable diligence. And in case the property of any non-resident of this state is to be affected, then publication of said notice is to be made in some newspaper published in the city of Superior, for three successive weeks, at least once in each week prior to the time of such hearing, and when so published, service on all non-residents shall be held sufficient. And the commissioners may adjourn such meeting from day to day by public announcement of the commissioners made at the meeting until all objections are heard; and all persons duly notified of the first daily meeting as hereinbefore provided in this section, shall take cognizance of all such adjournments without further notification. The affidavit of any creditable person or persons that he has or they have served or mailed said notices hereinbefore required, and the affidavit of the publisher or foreman or printer of such publication, shall be *prima facie* evidence of such facts.

SECTION 12. At the time of meeting for review the commissioners shall hear whatever objections may be raised by any person interested, and if satisfied that any injustice has been done in the classification of the several tracts of land, or any of them they shall correct the same in accordance with the right of the matter; but if not so satisfied they shall leave the classification as first made and enter an order to that effect. Any person appearing and urging objections, who is not satisfied with the decision of the commissioners, may appeal from their decision as hereinafter provided within ten days after the decision of the commissioners was rendered, by filing with the said clerk a notice of appeal and bond with a security to be approved by said clerk conditioned to pay such tax as may be finally levied upon the land or property in question, and the cost occasioned by the appeal, in case the harbor commissioners shall be sustained. The appeal shall contain a description of the lands, the classification as determined by the harbor commissioners, and shall fix a certain time and place, not less than six nor more than ten days after the date of filing thereof, at which the appellant will appeal to the county judge for a jury to determine such classification. And the

Appeals from
commissioners'
decision, how
taken.

said clerk shall, as soon as may be thereafter, transmit all the papers on the appeal to the county judge of Douglas county, to be used by him in determining such appeal.

Appointment of jury to fix classification of land. May review commissioners' classification.

SECTION 13. At the time and place mentioned in such notice, the county judge of Douglas county, shall make a list of fifteen disinterested persons, freeholders of the county, not of kin to any of the owners or occupants of said land, described in said notice of appeal, or otherwise disqualified. Each party may object to five on such list, and if none of the commissioners or their attorneys be present, the county judge shall strike off five names for the commissioners and shall thereupon issue a precept to the sheriff or any constable of said county, directing him to summon the five persons so named in the list not objected to by the parties to meet at the time and place to be specified in said precept, to fix the classification of said land. At the time and place appointed for the appearance of said jury, they shall be sworn by the county judge, or any officer authorized to administer oaths, justly and impartially to make such classification, and they shall examine the same and hear the allegations and testimony in support of the same, and may if they or the county judge deem it necessary, visit the district and view the lands. If they find the tracts of land or town lots or blocks in question are marked too high or too low in the classification, they shall correct the errors, but if no injustice has been done, they shall confirm the classification as made by the harbor commissioners. Their final determination shall be made in writing, which, together with all the papers in the matter, shall be filed by the county judge with the city clerk. The classification when established as hereinafter provided, shall be recorded with other papers in a book to be kept by the clerk of the harbor commissioners in the office of the city clerk, to be known as the "Harbor Improvement Record," and such classification shall be conclusive.

Special assessments may be ordered. Form of tax lists.

SECTION 14. The commissioners by order or resolution shall order such amount of money to be raised by special assessments upon the lands of the district as may be necessary and shall also include therein an amount estimated by them as

Appeals from
levy of tax, how
taken.

SECTION 15. Any party against whose lands the tax has thus been levied may within ten days after the list has been filed with the said clerk, appeal as hereinafter provided, by filing a bond in double the amount of tax appealed from in the office of the city clerk, but the appeal shall be upon the ground only that such tax is a greater amount than the benefits to accrue to the lands in question by the proposed harbor improvement. Provided that any proceeding under this act where the costs have been unnecessarily or improperly made, such costs may be adjudged against the party making the same, and that taking of any appeal by any person or persons as hereinafter provided shall not operate to delay the collection of any taxes from which no appeal has been taken or delay the progress of the work.

Appeals from
award of dam-
ages, how
taken:
jury to appraise
damages.

SECTION 16. When any person shall have been aggrieved by any decision of the harbor commissioners awarding him damages on account of property taken, or for the destruction or removal of any improvement or structure thereon, or the interference of any right upon or injury to real estate on account of said proposed improvement or system of improvements, or by the imposition of any tax provided in this act, he may appeal from the action herein as follows: Within ten days after the filing with the city clerk of the decision of the commissioners fixing any such damages or levying any tax as herein provided, he shall file with the city clerk a bond conditioned to pay the cost of said appeal, not exceeding two hundred and fifty dollars; such bond to be with security to be approved by the city clerk, and a notice setting forth the land which is affected by said decision or action of said harbor commissioners with respect thereto at which he is aggrieved. Said notice shall also specify the time and place in which said person shall apply to the county judge of Douglas county for a jury to assess said damages or establish said tax as hereinafter provided. At the time and place mentioned in such notice, or at any time thereafter to be fixed by him, of which all concerned have notice, the county judge shall make a list of fifteen disinterested resident free-holders of the county, not of kin to any of the owners or occupants of said lands described in said notice of

appeal or otherwise disqualified. Each party may object to five on said list, and if none of the commissioners be present, the county judge shall strike off five for the commissioners, and they shall thereupon issue a precept to the sheriff or any constable of said county commanding him to summon the five persons named in said list not objected to by the parties, to meet at the time and place to be specified in said precept, to appraise the damages sustained by the owner or owners appealing from the action of said commissioners as aforesaid. At the time and place appointed for the appearance of said jury, they shall be sworn by the county judge, justly and impartially to make such appraisal of damages or to determine such taxes, and they shall, if they deem it necessary, proceed to view the premises in question and hear the statements and testimony and propositions of the parties, and they shall make the return of their appraisal to the county judge, which shall be certified by said judge and filed by the said clerk with the awards of the commissioners aforesaid. And if the amount of the appraisal of said award shall exceed the amount awarded by the commissioners, or if said tax shall be decided in favor of said appellants, the costs and expenses shall be paid by the commissioners from the fund belonging to said harbor commission, otherwise by the appellant. Either the commissioners or the party aggrieved may appeal to the circuit court of Douglas county from the decision of said jury, taking such appeal in the same manner with the same notice and affidavit as an appeal is taken from a judgment of a justice of the peace; but said appeal shall be brought to trial in the circuit court for Douglas county and tried therein the same as any appeal cases from justices of the peace, as aforesaid, and shall thereafter be deemed an action pending in said circuit court subject to all the rules of practice and to all the rights of appeal to the supreme court as shall pertain to actions in the circuit court, the costs and expenses to follow the final determination of said appeal.

SECTION 17. The taking of any appeal by any person or persons as herein provided shall not operate to delay the collection of any taxes from

Appeals not to operate to delay collection of tax or progress of work.

which no appeal has been taken, nor delay the progress of the work.

Tax may be ordered paid in installments.

SECTION 18. It shall be competent for the harbor commissioners to order the tax to be paid in installments of such amounts and at such times as will be convenient for the accomplishment of the proposed work; otherwise, the whole amount of such tax shall be payable immediately upon such conformation and shall be a lien upon the lands assessed until paid; and such taxes shall draw interest at the rate of eight per cent. per annum from the time they shall become payable until they are paid. And such interest may be collected and enforced as a part of the taxes.

Tax list to be certified to city treasurer.

SECTION 19. Immediately after the commissioners shall have filed their tax list, and (the) city clerk shall make out and certify to the city treasurer a copy of the said tax list. The said harbor commissioners are authorized to, and shall at any time they deem proper, but before any moneys are handled by them, appoint a treasurer of the harbor commission who shall be required to give security to be approved by the commissioners, conditioned for a faithful accounting and payment of all moneys that may come into his possession or under his control by virtue of his appointment, to hold the position at the pleasure of the commissioners, and to be paid such sum as the commissioners shall deem proper for his services. The said treasurer shall deposit the money belonging to the harbor commission in such bank or banks as may be approved by the commission, and which banks shall pay such rate of interest on such deposits as may be agreed upon between them and said treasurer for the use of the money, and such bank or banks shall give such security as the harbor commissioners may approve on account of such deposits, and when such security shall have been given the treasurer shall not be responsible for loss by failure of any bank. The treasurer of the harbor commission shall keep in separate funds the moneys arising from or pertaining to each harbor district, to be drawn out only for purposes pertaining to the harbor district to which it belongs. And the treasurer shall render an account of all moneys, whenever called upon so to do by the commissioners; and no

Treasurer of harbor commission; his duties.

moneys shall be paid out except by order of the commissioners on the treasurer. The treasurer shall keep accurate accounts of all receipts and disbursements of the said moneys. The commissioners and their treasurer shall at the expiration of their respective offices turn over all moneys, books and papers pertaining to the harbor commission to their successors in office.

SECTION 20. It shall be the duty of the city treasurer, at the usual time and in the usual manner as provided by the general laws for the collection of county and city taxes to collect the harbor taxes in the usual manner, for the usual purpose and at the usual time as provided by the general laws for the collection of city taxes, and shall return the same in the same way to the treasurer of the harbor commission, taking receipts therefor, which receipts or the duplicates thereof shall be filed with the city clerk among the papers pertaining to the harbor commissioners; and the city treasurer shall return in the same way and at the same time to the county treasurer a certified list of all delinquent lands upon which the tax or any installment or any part thereof assessed for the purpose herein mentioned remains unpaid to the county treasurer of Douglas county on or before the day fixed by law for the returning of the list of delinquent taxes to said county treasurer. And the like proceedings shall be had and with like force and effect in the collection of such delinquent taxes or installments thereof, and the sale of said lands for the non-payment thereof, as in ordinary collections of state, county and city taxes, and the sales of real estate by them for such non-payment, and of redemption from such sales. At the sale of lands for any delinquent harbor improvement, assessment or taxes, the commissioners may become the purchasers, or may designate or appoint some person to attend and bid at such sale for and in behalf of said commissioners and their successors. The treasurer and clerk of Douglas county, whenever any such delinquent tax shall be paid to them, or said land redeemed from sale, shall pay over to the treasurer of said harbor commissioners all such moneys, a receipt for which, or duplicate thereof, shall be filed as hereinbefore

City treasurer
to collect har-
bor taxes.

Sale of lands
for harbor
taxes.

provided with the said clerk of the city of Superior.

Commissioners
may enter upon
lands to per-
form work;
may let work by
contract.

SECTION 21. The said harbor commissioners shall have the right to enter upon any land or real estate upon which they procured said right by agreement, or upon which the damages shall have been ascertained and fixed as provided by this chapter for prosecuting such work and making said improvements, the same as if said real estate shall have been actually condemned. But no injury shall be done to real estate, and no structure thereon shall be damaged, removed or destroyed, or interfered with in any way until the excess of damages over benefits agreed upon, or ascertained or fixed as provided by this chapter shall have been actually paid or deposited as hereinafter provided, subject to the order of the person to whom they belong. All excess, if any, of allowances for right of way and damages over the amount of tax against the same person, company or corporation, shall be paid or tendered to the owners thereof, before the commissioners shall be authorized to enter upon said lands for the construction of any work thereon, or make any harbor improvements in case the owner or owners are unknown, or there shall be a contest in regard to the ownership of the land, or the commissioners cannot for any reason safely pay the same to the owner, they may deposit the same with the clerk of the circuit court of Douglas county, and the said court may order the payment thereof to such party as shall be entitled to the same. The said commissioners may divide the work of improvement or any part thereof, into sections, and if they shall see fit they may let the entire work or any section thereof, on one or more contracts, and the owners of the land shall have the preference where the bids are equal to contract that part belonging to his own lands.

Channels and
lateral slips
may be con-
structed: also
roads, bridges
and railroad
tracks.

SECTION 22. For the purpose of making the harbor improvements mentioned and contemplated in this chapter, the said commissioners shall have power to cause to be made any channel wholly within any harbor district or extending through one or more harbor districts in the bay of St. Louis or the bay of Superior to connect the same with any government channel that

may be contemplated by the United States government, or any channel in the bay of Superior that may be constructed or contemplated, and to cut lateral slips to connect thereto or therewith, and may alter the course of, deepen, widen, change or extend any such channel, slip or water way and construct all necessary embankments or walls to protect the same from the action of the water or any natural element, and may erect and construct roads, bridges or railroad tracks to connect such slip or channel with the roads or railroads existing beyond the boundary of such harbor district, and do any act or thing that may be necessary to improve the harbors within the city of Superior and to make the same useful and accessible for harbor purposes, and they may improve one or more districts at the same time. The limit upon the power of the harbor commissioner is this, that the work done or proposed to be done by them shall be of such a character that the public will be benefited and the public good promoted thereby.

SECTION 23. As soon as practicable the commissioners shall cause notice to be given of the time and place of letting, and of the kind and amount of work to be done, and where the plans and specifications of the same may be seen, by publication for two successive weeks at least twice in each week in some daily newspaper published in the city of Superior; the bids for the work shall be sealed up and the commissioners may reject any and all bids, and may continue the letting from time to time, and may, after such publications, let the contract or contracts to persons who did not formally bid therefor, if in their judgment the same be necessary; and the harbor commissioners shall require the contractors to make deposits and give bonds with sureties to be approved by them, conditioned for the faithful performance of said work. The said commissioners shall not, during their term of office, be interested directly or indirectly, in any contract for the construction, repair or maintenance of any work in any such harbor district, nor in the wages, nor supplies to men or teams, or other agencies or appliances in any work under their jurisdiction. Any person or persons taking work under contract shall, on

Advertisements
for sealed bids
for contracts.

completion thereof according to contract and the satisfaction of said commissioners, be paid for such work by the said treasurer hereinbefore provided for upon the order of the commissioners. If any person or persons to whom any portion of said work shall be let as aforesaid, shall fail to perform said work within the time and the manner provided for in the contract, the same shall be relet, or otherwise completed in such manner as the commissioners shall think best.

Contractors from whom tax due, may receive receipt in part payment

SECTION 24. In case any person from whom taxes are due, contracts to do any work, and the said work is done according to contract and to the satisfaction of the commissioners the said harbor commissioners shall give such person a receipt for so much of said taxes as said work amounts to, and said receipt may be received by the city treasurer or county treasurer or county clerk as payment of so much of said taxes, or to be applied for the redemption of delinquent taxes.

District funds may be used for payment of employes, etc.

SECTION 25. The harbor commissioners may use money belonging to the district for the purpose of paying an attorney, their clerk, their engineer, and other necessary employes hired by them, and for the purpose of compromising suits and controversies arising under this act, and in the employment of all necessary agents or attorneys in the defense of such operations, and to pay all necessary employes; provided, the acts of the commissioners shall be uniform as to the rights of all persons and property.

Employes may be authorized to go upon lands or waters to perform work.

SECTION 26. The commissioners may authorize any of their employes to go upon the lands or waters lying within said harbor districts for the purpose of examining the same and making surveys; and after payment or tender of compensation allowed, may authorize the contractors or other employes with their servants, teams, tools, instruments, appliances or other acquittances, and enter thereon for the purpose of constructing and making such proposed work and harbor improvements, and may ever thereafter enter upon said lands as aforesaid for the purpose of maintaining or repairing such work, doing no more damage than the necessity of the case may require; and if any person shall willfully prohibit or prevent any of the aforesaid persons from entering said lands for the purpose afore-

said shall be fined in a sum not exceeding twenty-five dollars per day for such hindrance, to be collected as other fines. In any case where the proposed work, improvements or repairs of existing works or structures shall not exceed in estimated cost one thousand dollars, the said harbor commissioners may cause the same to be done by day's work, or in the most practical way to accomplish the same, and need not necessarily advertise for bids therefor, or let the same by contract.

SECTION 27. The commissioners shall have the right to use any part of the right of way of any public highway, or any part of a ship channel or slip or water way, for the purpose of the work to be done; provided, such use shall not permanently destroy or materially impair such highway, ship channel or water way for public use. And if, in the construction of such work any public highway or railroad, or any part of the same shall be benefited, the commissioners may assess to such public highway, road or railroad, such sum or sums as shall be just and equitable for such road or railroad to pay in proportion to the benefit received, which shall be determined by estimating the amount of benefits to the entire district, including the benefit to such railroad or public road; and also the benefit to the railroad or public road, then the fractional figures expressing the ratio between the sum of the benefits for the whole district, and the sum found to be the benefit to the railroad or public road shall express the proportional part of the tax of the district to be paid by such railroad or road as the case may be. Such proportional classification shall be subject to like review and appeal as provided for individual land owners. The amount of said road tax shall be paid out of the miscellaneous fund of the city of Superior. The commissioners shall have the power and are required to make all necessary bridges and culverts along or across any public street, highway or railroad which may be deemed necessary for the use and protection of the work, and the cost of the same shall be paid out of the miscellaneous fund of the city of Superior, or by the railroad company, as the case may be. Provided, however, notice shall first be given to the city or railroad authorities to

May use public right of way for purpose of performing work.

complete or construct such bridge or culvert, and they shall have thirty days in which to complete or construct the same; such bridges or culverts shall in all cases be constructed so as not to interfere with the free flow of water or with navigation. Should any railroad company refuse or neglect to complete or construct any bridge or culvert as herein required, the harbor commissioners constructing the same may recover the cost and expense therefor in a suit against such railroad company before any court having jurisdiction. The proper authorities of any public road, or street or railroad, shall have the right to appeal the same as provided for individual land owners.

Supplementary
levies of tax.

Appeals from,
etc.

SECTION 28. If, after the commencement of the work, and before the completion thereof, it shall appear that a sufficient amount has not been levied as taxes to complete the work, the commissioners may proceed to levy an additional amount in the same manner as hereinbefore provided, and they shall be levied and collected in the same manner. And the same right of appeal from the action of the harbor commissioners shall be given to all persons affected thereby. After the completion of the work the commissioners shall thereafter keep the same in repair unless the common council of the city of Superior shall by resolution certify to the commissioners that the city of Superior elects to keep the same in repair under the provisions of the charter of said city, in which case the jurisdiction of the said commissioners over the work or portions of the work in any harbor district or districts, or the whole of any harbor district or districts shall cease. But jurisdiction of the commissioners may again attach thereto whenever a petition for further improvements therein shall be made to it and the common council of the city of Superior by resolution consent that the jurisdiction of said commissioners may again attach. If the said harbor commissioners find that by reason of error in locating or constructing the main channel, slips, water ways or slips lateral thereto, or any of them, or from other causes the land in a district or some of them, receive but partial or no benefit from the improvement or system of improvements made, they shall use the corporate funds

and their powers of raising funds to carry out the original purpose, to the end that all lands lying within any harbor district, so far as practicable, shall receive their proper and equal benefits as contemplated when the lands were classified. If it shall be necessary to clear and enlarge natural or artificial channels to reach the ends aforesaid lying beyond the boundaries of any harbor district, the commissioners may use the corporate funds for this purpose, and if the necessary privileges cannot be obtained by agreement, the commissioners may acquire the same by condemnation under the act for exercising right of eminent domain. Provided, in all cases if sufficient funds are not on hand for any of the purposes of contemplated improvements, the commissioners shall make a new tax levy.

SECTION 29. Any person who shall wrongfully and purposely fill up, cut, injure, destroy or in any manner impair the usefulness of any channel, slip or water way, or road or railroad, or any wharf or docks, or other work constructed or in the course of construction, or established or belonging to the harbor district, may be fined in a sum not to exceed two hundred dollars before any competent court in Douglas county. All complaints under this section shall be in the name of the state of Wisconsin, and all fines when collected shall be paid in to the treasurer of Douglas county for the benefit of the school fund. And in addition to these penalties the person so wrongfully or purposely injuring or impairing the usefulness of any such channel, slip, cut, or any other work within the harbor district shall be liable to the commissioners having charge thereof for all damages occasioned to such work and to the owners and occupants of the land for damages that may result to them by such wrongful act, to be recovered before any court of competent jurisdiction.

Penalty for injury to or destruction of work constructed or being constructed.

SECTION 30. For the failure to perform any of the duties imposed upon them by the provisions in this act, the harbor commissioners so failing, upon complaint made by any person, under oath, who has paid a tax for the construction, maintenance or repair of such work, be liable to a fine not exceeding two hundred and fifty dollars, to be recovered in an action in the name of the state of

Penalty for commissioners' failure to perform duties.

Wisconsin, before any competent court in Douglas county. And all fines when collected shall be paid into the treasury of Douglas county, for the benefit of the school fund

Assessments
shall be lien on
land assessed.

SECTION 31. Any and all assessments or levies hereafter made under the provisions of this act shall be taken, held and considered to be a lien upon each and every tract of land or property assessed in such district, to the extent and amount of the proportionate share assessed or levied against the same. But such land or the owner thereof shall not be liable for more than such proportionate share of the subsequent levy or levies for construction, maintenance and repair, and for the payment of interest thereon, which lien may be discharged on the payment of the amount thereof to the treasurer aforesaid at any time before notes or bonds of the district are issued on the assessment. In case the owner or owners of any lands lying in said district and which are assessed, fails or neglects to pay any assessment or assessments, installment or installments, tax levy or levies when due, and the same be not collected on or before the annual sale of land for the non-payment of taxes, the commissioners of such harbor district may file a petition in the circuit court for the foreclosure of such lien, and the commissioners may proceed in their corporate name and capacity to foreclose such lien as provided by law for the foreclosure of a tax certificate. They may also commence and maintain suits at law for the recovery of judgment against the person or party whose lands or property is assessed for benefits for any assessment or tax, or any part or installment thereof, which remains due or unpaid on the lands or property of such person or party. Any judgment so recovered may be enforced and collected as other judgments in the same court. The remedy provided in this section for the collection of delinquent, special assessment or taxes, shall not be construed to abridge, or in any manner to interfere with the right and power to enforce collection of any delinquent assessment or tax in the manner provided by the tax laws of this state, or other provisions of this act, but the remedy herein provided shall be taken and held

as an additional means of enforcing the payment of such delinquent assessment of tax.

SECTION 32. Each of the commissioners provided for in this act shall receive four dollars per day for the time actually and necessarily employed in the discharge of the duties of his office. They shall make out their accounts under oath, and their accounts shall be presented and allowed by the judge of the county court, and the amount allowed by the said court shall be paid out of the funds of the district for which the services were rendered, and a majority of said commissioners shall have power to act and decide upon all matters pertaining to such harbor improvements. Their clerk shall receive for his services such sum as may be fixed by the commissioners. He shall keep an accurate record of all proceedings had by said commissioners, on file in the office of the city clerk, who, said city clerk, shall keep them open to the inspection of all persons interested.

Compensation of commissioners.

SECTION 33. In case of the completion of any work and the termination of the office of said original commissioners appointed under this act, it shall be necessary to maintain the harbor commission hereinbefore provided, new commissioners may be appointed in the same manner and with the same powers and subject to all the rules and regulations of this chapter the same as the original commissioners appointed herein.

New commissioners, when may be appointed.

SECTION 34. The powers given by this chapter shall not be deemed a repeal of the provisions of the charter of the city of Superior pertaining to harbor improvements, but concurrent therewith except that the common council of the city of Superior shall not within two years change or vacate the harbor districts established by this act; and after a petition shall have been filed for the improvement of any of the harbor districts herein provided not in course of improvement under the charter, the harbor commissioners herein provided shall be deemed to have exclusive jurisdiction in the premises with respect to such district until such improvements have been completed and the debts arising therefrom are paid.

Harbor district not to be changed or vacated for two years.

SECTION 35. The harbor commissioners may borrow money for the prosecution of harbor improvements and pledge the taxes levied for that

Commissioners may borrow money, when.

purpose, or that may thereafter be levied, to secure repayment of the same; and the city of Superior may by resolution of the city council lend its credit for the purpose of raising money to make or complete any harbor improvements herein authorized. The work of making harbor improvements may be commenced immediately after the taxes therefor are levied, or after they have been collected in whole or in part in the discretion of the harbor commissioners.

Act, how construed.

SECTION 36. This act shall be liberally construed to promote the improvement of the harbors in and about the city of Superior and for the maintenance thereof.

SECTION 37. All acts and parts of acts, inconsistent with the provisions of this act are hereby repealed, except as above provided.

SECTION 38. This act shall take effect and be in force from and after its passage and publication.

Approved April 24, 1891.

No. 492, A.]

[Published May 29, 1891

CHAPTER 420.

AN ACT to revise the charter of the city of Fort Howard.

(See Vol. 2.)