

SECTION 2. All acts and parts of acts, contravening **Repealed.**
the provisions of this act, are hereby repealed.

SECTION 3. This act shall take effect and be in force
from and after its passage and publication.

Approved March 8, 1877.

[Published March 16, 1877.]

CHAPTER 251.

AN ACT relating to the Sturgeon Bay and Lake Michigan ship canal, and to amend chapter 365, of the private and local laws of 1864, entitled "An act to incorporate the Sturgeon Bay and Lake Michigan Ship Canal and Harbor Company," approved April 2nd, 1864.

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

SECTION 1. Chapter 365, of the private and local **Amended.**
laws of the year 1864, entitled "An act to incorporate the Sturgeon Bay and Lake Michigan Ship Canal and Harbor Company," approved April 2, 1864, is hereby amended by inserting between sections seven and eight of said chapter the following sections:

SECTION 2. It shall be lawful for said company, its officers, engineers, contractors, and agents to enter upon, take possession of, and use, any lands not exceeding 800 feet in width along the line of the route of said canal, and also all other lands adjacent to the line of said canal, or beyond the termini thereof, as the engineer of said company shall certify to the president of said company to be necessary to the construction, use, or operation of said canal, subject, however, to the payment of such compensation as the company may have agreed to pay therefor, or shall be ascertained in the manner hereinafter provided; and when such compensation shall have been paid or tendered, the title to such lands shall vest in said company, in fee simple, and the said company shall have the right to hold the same; and whenever, in the opinion of the company, the same or any part thereof shall no longer be necessary for the purposes for which the same was taken, the said company is hereby authorized to lease or sell the same, or any part thereof, in fee simple.

Authority of company to take land necessary for construction of its works.

SECTION 3. Said company may apply, by its attorney, **Appointment of commissioners to view and ap-**
to the judge of any circuit court of this state, and it

praise lands to be taken.

shall be lawful for said judge, on the application of said company, as aforesaid, either in term time or vacation, and at the cost of said company, to appoint three disinterested persons residing in the county where the lands are situated, not of kin to the owner or owners thereof, whose duty it shall be to view and examine any lands so taken by the said company in said county, with the buildings and improvement, if any, thereon, and to estimate the value of said lands so taken or required by said company, and all damages which the owner or owners thereof shall sustain by reason of the taking of the same for the construction and use of said canal, or works appertaining thereto, taking into consideration the advantages, as well as the disadvantages, by reason of the construction and operation of the canal, to the owner or owners. And when said commissioners are so appointed, they shall act in all cases arising in said county and requiring the action of commissioners, whenever said company shall not agree with the owner or owners of said land; but if, for any cause, any or all of said commissioners shall become disqualified to serve, or their place or places become vacant, such vacancy or vacancies may be filled in the same manner that the original appointment was made.

Notice of application to be given by company.

SECTION 4. And it shall be the duty of said company to give two weeks' notice of their application to a judge of the circuit court for the appointment of said commissioners, to be published for two successive weeks, at least once a week, in a newspaper published in the county in which the lands are situated, and the affidavit of the printer or publisher shall be legal evidence of such publication.

Commissioners to take oath.

SECTION 5. The persons so appointed as commissioners, before entering upon the discharge of their duties, shall take an oath before some notary public or justice of the peace or other person competent to administer oaths, that they will faithfully, and according to the best of their ability, examine the land or lands so taken or required by said company, and impartially estimate and appraise the value of the same, and the damages or injuries which the owner or owners of each piece or parcel thereof shall have sustained by the reason of the taking and using thereof by said company, over and above the benefits and advantages which said owner or owners of each piece or parcel derive from the construction and operation of said canal.

How commissioners to pro-

SECTION 6. When thus qualified, said commissioners shall proceed to examine the premises and ascertain the

value of such land and the amount of the damages, if any, over and above the advantages which may accrue to such owner or owners as aforesaid, and shall make a report to the clerk of court in writing, under their hands and seals of such valuation and damages, and shall deliver the same within fifteen days after their appraisal to the clerk of the circuit court where said commissioners were appointed, who shall file the same; and in case no appeal is made within twenty days after the filing of said report as hereinafter provided, then the said clerk shall proceed to record the same at the expense of said company, and judgment of said court shall be entered thereon for the amount of such valuation and damages, either in term time or vacation, on motion of either party; *provided*, that either party may appeal to the circuit court of the county in which said report shall have been filed, within twenty days after the filing of said report, and such appeal shall be tried in the same manner as other issues are tried in said court; and the jury empanelled to try the same shall find the value of said lands so taken or required by said company, and the damages which the owner or owners thereof shall have or may sustain by the taking of the same, over and above the benefits and advantages which will accrue to the owner or owners from the construction of such canal, and judgment of the court shall be entered accordingly.

ceed in view-
ing and appraising
lands.

Appeal to
circuit court.

SECTION 7. Such appeal shall be taken by giving notice thereof to the clerk of said court in writing, and thereupon he shall enter the same upon the docket of said court, setting down said canal company as defendant, and the claimant or claimants as plaintiffs; *provided*, that it shall not be lawful for the said commissioners or the said court to proceed in the assessment of the damages or valuation of the land or material, in the absence of the owner or owners thereof, his, her or their agents or attorneys, unless it shall be shown to them by competent proof that the said owner or owners are absent from the state of Wisconsin, or that at least five days notice, in writing, of the time and place where such assessment or valuation was to be made, was served personally on said owner or owners, or by leaving the same at the last and usual place of residence with some person of suitable age and discretion, and if said owner or owners shall be minors, or *non compos mentis*, the service of such notice may be made on their guardian or trustee, if there be any, or in such manner as the judge shall direct; and if said owner or

How appeal to
be taken.

When not law-
ful to proceed
in assessment.

How notice to
be served.

owners shall be non-residents or absent from the state, or his residence unknown, the service of such notice may be made by publishing the same in a newspaper published in said county for two successive weeks; *provided*, that upon the making and filing of any report as aforesaid, and the payment or legal tender of the amount of any valuation or damages specified therein, to the owner or owners of such lands, his, her or their legal representatives, or the payment of the amount as aforesaid to the clerk of said court, when any appeal under this act may have been taken, to abide the issue of such appeal, the said company, their agents or contractors, for making and repairing such canal, may immediately take and use the lands without awaiting the issue of any appeal brought thereon; and when such tender is not accepted, the said amount specified in the judgment or report, when not appealed from within the time limited, may be deposited with the clerk of said court, to be paid over on the order of the attorney of said company to the party rightfully entitled thereto, and thereupon said lands shall vest in said company in fee simple, and said company shall not be liable to any concerning the same.

Costs payable
by company.

SECTION 8. The costs of any proceeding and judgment specified in this act, shall be paid by said company, except when upon appeal the verdict of the jury shall be for the same amount, or less, than that reported by the commissioners.

SECTION 9. This act shall be in force from and after its passage.

Approved March 8, 1877.

[Published March 16, 1877.]

CHAPTER 252.

AN ACT to amend chapter 152, general laws of 1872, entitled "An act to authorize the county board of supervisors in the several counties of this state to levy a special tax for county road purposes," and to amend chapter 229, laws of 1874.

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

Amended.

SECTION 1. Section 1 of chapter 152 of the general laws of 1872, is hereby amended so as to read as fol-