

4. The chief of police, policemen, city marshal and his deputies shall possess all the powers and enjoy all the rights of a constable in either of the counties in which said city or any part of it is situated, and shall be subject to the same liabilities; he shall have power to serve and return summons, attachments, replevins, executions, warrants, commitments and all other writs issued by any justice of the peace in either of said counties, and his return, properly certified thereon, shall be evidence of the service thereof. And any process issued by any justice of the peace of either of said counties, directed to the sheriff or any constable of such county, may be served by said chief of police, policemen, city marshal or his deputies; and any such process properly served and returned by him under such directions shall be valid.

Peace officers—
service of
process.

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

Approved April 19, 1895.

No. 642, A.]

[Published April 30, 1895.

CHAPTER 321.

AN ACT to authorize counties containing over one hundred thousand inhabitants to acquire by gift, purchase or condemnation toll roads situated therein, and to issue bonds for that purpose.

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

SECTION 1. The county board of supervisors of any county containing over one hundred thousand inhabitants, by an affirmative vote of a majority of its qualified members, at any regu-

How a toll road
may be ob-
tained for use
as a common
public high-
way.

lar meeting, may acquire by gift, purchase or condemnation, as hereinafter provided, the whole, or any part of any toll road, situated within the limits of said county, whenever in their judgment they deem it necessary for the purpose of a common public highway.

County board to ascertain the terms upon which a toll road can be obtained.

SECTION 2. It shall be the duty of the board of supervisors of such county, containing over one hundred thousand inhabitants, immediately upon the passage of a resolution to acquire the whole or part of any toll road situated within its limits to ascertain if the same, or any part thereof, can be acquired from the owners thereof by dedication without compensation, and it is made the further duty of said board of supervisors also to enter into negotiations with the several owners of such toll road necessary to be acquired, for the purchase of the whole or part of such toll road, which cannot be acquired by gift. And the said board of supervisors and the proper county officers shall provide for the amount of money necessary for such purpose, and which shall be agreed upon by the said board of supervisors out of the funds hereinafter provided. And in the event that said board of supervisors cannot acquire such toll road by gift or purchase then said board of supervisors shall proceed to acquire such parts of said toll road by condemnation, which has not been acquired by gift or purchase, and shall proceed in that behalf as hereinafter provided.

Commissioners to be appointed to determine value of the toll road.

SECTION 3. For the purpose of acquiring such toll road not acquired by gift or purchase, the district attorney of such county shall file a petition in the circuit court of said county praying for the appointment of three commissioners, to determine the value of the whole or such part of such toll road not acquired by gift or purchase, and setting forth the names of the owners of such toll road and their address and residence. An order of hearing said petition shall thereupon be forthwith made by said circuit court, setting a date for the hearing of such petition at such time as said court may determine, but not

less than thirty nor more than ninety days from the time of such filing, which petition and order shall be served upon such owners of such toll road in the same manner as a summons in a civil action. Upon the hearing of said petition the said court shall thereupon appoint three competent and disinterested free-holders to be commissioners.

SECTION 4. Thereupon such persons so appointed shall take an oath faithfully and impartially to discharge their duties as such commissioners, and afterwards upon due notice to said parties shall publicly receive and hear their allegations, evidence and arguments, view and examine said whole or part of said road, to be acquired, appraised and determine the value of the same, and the damages sustained by the person, persons or company owning the same by reason of the taking thereof, fix and award the amount of compensation for said whole or part of said road, and the damages to be paid to said person, persons or company. And said commissioners before the expiration of sixty days after their appointment, shall also make, sign and file in the office of the clerk of the circuit court which appointed them, a report of their proceedings, setting forth a description of said whole or part of said road, determined to be taken and their award. Thereupon the clerk of said court shall record the report and award of said commissioners in the judgment book of said court. A majority of said commissioners, all being present, may determine all matters before them. Their compensation shall be fixed by the court and shall be paid equally by both parties.

Persons appointed to take oath and to give notice of hearing, appraise the value and assess damages.

SECTION 5. Within thirty days after the filing of the report of said commissioners in the office of the clerk of said circuit court, either party may appeal from the award of said commissioners to said circuit court by filing in the office of said clerk a written notice of appeal and serving the same upon the other party. Thereupon said appeal shall be an action pending in said court, and shall be entered upon the records of said court as an action wherein said per-

How appeal can be made.

son, persons or company owning said whole or part of said road determined to be acquired shall be plaintiff, and said county in which said whole or part of said road shall lie shall be defendant. Such action shall be tried by jury unless trial by jury be waived by both parties, and shall be subject to change of place of trial and to appeal to the supreme court, like other actions. Costs shall be allowed to the successful party upon appeal. If in favor of the plaintiff, they shall be added to the amount of the verdict, but if in favor of the defendant, they shall be deducted therefrom.

Costs to be allowed to successful party.

Payment to be made within two years after filing report.

SECTION 6. Within two years after the filing of the report of said commissioners, said county, within which said whole or part of said road determined to be acquired shall lie shall pay to the person, persons or company owning said whole or part of said road, or to the clerk of said circuit court, which appointed said commissioners for the use of said person, persons or company the amount of compensation awarded by said commissioners; and after making such payment, said county may enter upon, take and use said whole or part of said road for the purpose of a common public highway; and upon twenty-four hours' notice, may move said court or a judge thereof to issue a writ of assistance to put such county into possession of said whole or part of said road.

Money paid pending an appeal may be received without prejudice.

SECTION 7. Whenever any county, in which said whole or part of said road determined to be acquired shall lie, shall be in possession or be put into possession of said whole or part of said road, pending an appeal from the award of said commissioners, the person, persons or company entitled to receive the money or any part of the money paid into court on account of the award appealed from, may receive such money without prejudice to such appeal. The amount of such award or in case of an appeal, then the amount of the final judgment rendered on such appeal, shall be collected as judgments against counties are collected, under section 661, of the annotated statutes of Wisconsin.

SECTION 8. When no appeal shall have been taken from the award of said commissioners within thirty days from the filing thereof, and said county, in which the said whole or part of said road determined to be acquired shall lie, shall have paid the amount of said award into court, or shall have filed in the office of the clerk of said court a receipt for the amount of said award executed by the person, persons or company owning said whole or part of said road and acknowledged before an officer authorized to take acknowledgments of deeds, or when, after the determination of an appeal from said award, said county shall have paid into court the amount of the judgment rendered thereon, or shall have filed a receipt for said amount executed and acknowledged as aforesaid, the clerk of said 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 said commissioners in the judgment book of said court; and thereupon title to said whole or part of said road determined to be acquired shall vest in said county, its successors and assigns, for the purpose of a common public highway, without any further or other act, deed or conveyance, and said record or a certified copy thereof, shall be presumptive evidence of such title in all courts and places.

Title to vest in the county within thirty days after filing of the award if no appeal be taken.

SECTION 9. The board of supervisors of such county containing more than one hundred thousand inhabitants is hereby authorized to issue for the purpose of this act, the bonds of such county, in an amount not exceeding fifty thousand dollars, to be issued as follows, to-wit: Twenty-five thousand dollars after July 1st, 1895, and twenty-five thousand dollars after July 1st, 1896. The proceeds of such bonds shall be applied for the payment of all damages that may be allowed to the owners of such toll roads or property which shall be purchased or condemned for the uses and purposes in this act provided. And such bonds shall be payable at such times and be of such form as the said board of supervisors shall, by resolution deter-

\$50,000 in bonds may be issued to pay for toll roads.

mine, and shall bear interest not exceeding five per cent. per annum. The said board of supervisors may also levy such taxes upon all taxable property in said county, as may be necessary from time to time to pay for and redeem such bonds.

SECTION 10. This act shall take effect and be in force from and after its passage and publication.

Approved April 19, 1895.

No. 31, A.]

[Published May 1, 1895.

CHAPTER 322.

AN ACT to amend section 27, chapter 288, laws of 1893, entitled "An act to consolidate and revise the statutes of the state relating to general elections, the canvass and returns of the same, and to secure the secrecy and purity of the ballot, and for other purposes."

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

Form of election notice.

SECTION 1. That section 27, chapter 288, laws of 1893, be hereby amended so as to read as follows: Section 27. In making an official publication of an election notice the county or city clerk, as the case may be, shall precede the same with a statement which shall be substantially in the following form (to be modified or varied according to the nature of the election), the caption to which shall be conspicuously displayed: