

No. 372, A.]

[Published June 15, 1911.]

CHAPTER 332.

AN ACT to create sections 926 l, 926m, 926n, 926o, 926p, 926q, 926r and 926s of the statutes, providing a method of determining the necessity of taking lands for public purposes in cities in this state, operating under special charter.

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

SECTION 1. There are added to the statutes eight new sections to read: Section 926 l. Any city operating under special charter may proceed to determine the necessity of taking lands for public use in the manner hereinafter provided, as well as in the manner now provided by the charter of such city, or by any law applying to such city.

Section 926m. Whenever a petition for the condemnation of any lands, or any interest therein, for any public purpose, permitted by the charter of such city or by any law of this state applying to such city, shall have been filed in the form and manner prescribed by such special charter or such law, as the case may be, or whenever the common council of such city shall, in the manner prescribed by such charter or law, have declared by resolution, in the absence of the petition, that it is necessary to take any lands, or interest therein, for any such purpose, the common council may thereupon by resolution direct the city engineer, board of public works, or other officer, board or body charged by the city charter with such duty, or other appropriate officer, board or body, to make and file with the city clerk a survey and plat, together with a description of the lands proposed to be taken, and shall by the same resolution direct the city attorney to commence and prosecute proceedings for the taking of such lands, or interest therein.

Section 926n. It shall be the duty of the city attorney to prepare and present, within six months after the filing of such plat and description, or within such further time as the common council may from time to time grant, a petition to the circuit court of the county in which the land proposed to be taken, or some part of it, shall lie, for the condemnation of the land mentioned in the resolution for the purpose therein designated. Said petition shall be verified by said city attorney or his assistant, and shall set forth, among other things, a description of the lands proposed to be taken, the purpose for which said lands are sought to be taken, the proceedings theretofore had in the common council relative to said matter, and the names and resi-

dences of the persons supposed to be the owners or to have an interest therein, so far as they are known to said city attorney or can with reasonable diligence be ascertained by him. Said petition shall have annexed thereto copies of the original petition, if any, the resolution of the common council and the plat and description.

Section 9260. The city attorney shall thereupon prepare a notice substantially in the following form:

“State of Wisconsin, Circuit Court, _____
County,

In the matter of (here insert object of proceedings) in the city of _____.

To Whom It May Concern:

Notice is hereby given that a petition for the condemnation of the real estate described in Exhibit A, hereunto annexed, has been presented to said court in the above entitled matter by the city of _____, by its city attorney. All persons interested in said matter may answer said petition at any time within twenty days after service of this notice, exclusive of day of service.

Dated: _____.

(A. B.)

City Attorney.”

Such notice shall have annexed thereto a description of the land proposed to be taken and shall be served upon the owners of such land and all persons interested therein, in the same manner and by like persons as a summons in a civil action; provided, that service within the state may be made by any police officer of the city named in the petition instead of the sheriff of the proper county, and the return of such police officer may be made in like manner, and shall have the same force and effect as the return of the sheriff of the proper county. Service without the state or by publication may be had in like case and manner as in actions to exclude a person from an interest in real estate; and also in case it is necessary in said proceeding to serve a private corporation, organized under the laws of this state, the proper officers of which on whom to make service do not exist or cannot be found, service by publication may be had in the manner aforesaid, and for the purpose of such service, without the state or by publication, the notice and petition herein provided for, and the person owning or interested in the lands proposed to be taken, shall be deemed respectively the summons, complaint and defendants mentioned in the statutes relating to service by publication.

Section 926p. The filing of said petition shall be deemed the commencement of a suit. Within twenty days after service of such notice upon any party owning or being interested in any real estate proposed to be condemned, such person may serve an answer to such petition upon the city attorney and file the same as in case of answers in civil actions. When any such person is an infant or insane, or otherwise incompetent, he shall appear by guardian appointed in the same manner as in civil actions. In no case shall a notice of retainer or of appearance without an answer be of any avail. When the time for answering shall have expired the city attorney may bring up said matter for hearing upon a notice of three days, excluding the day of service and Sunday and legal holidays, and without notice to parties who have not answered, and such proceedings shall have precedence over all other matters not on trial. The court shall thereupon impanel a jury as in civil cases, and determine whether it is necessary to take such land for public use. Such jury shall view the premises in question in the same manner as in civil actions when a view is ordered by the court at the expense of the city, and shall return into court as in such cases; and if no answer shall have been served, the city attorney shall produce such evidence as he deems material as to the necessity for such condemnation, and if an answer or answers shall have been served, the issue shall be tried by the court and jury as other issues of fact, and in either case the court may instruct the jury as in civil actions. The jury shall thereupon retire and consider their verdict, which shall be either: "We, the jury, find that it is necessary to condemn the real estate sought to be condemned in this proceeding for the public use;" or, "We, the jury, find it is not necessary to condemn the real estate sought to be condemned in this proceeding for the public use."

Section 926q. Upon the coming in of the verdict, judgment shall be entered condemning said lands sought to be condemned for public use for the purpose set forth in the petition, or dismissing the petition as the verdict shall require. If the jury shall disagree, a new jury shall be immediately impaneled and proceedings shall immediately be had as before. If two juries shall disagree, the matter shall be continued until the next term of court, when it may again be brought up on three days' notice and like proceedings had thereon. If three juries shall disagree, the proceedings shall be dismissed. No appeal from the judgment shall be allowed, but the supreme court may re-

view the proceedings upon writ of certiorari sued out within thirty days after entry of judgment and not thereafter.

Section 926r. No costs shall be taxable in said proceedings except that in case the jury find it is not necessary to condemn the lands in question, or if prior to judgment the proceedings be abandoned, then each person who shall have answered may tax his actual and necessary disbursements, not exceeding ten dollars and costs not exceeding fifteen dollars, in like manner as in civil actions.

Section 926s. Upon the entry of such judgment, the city attorney shall report the same to the common council, and the said common council may proceed thereon in all respects as upon the report or verdict of a jury as now provided by its special charter, or by any law of this state applicable to such city relating to condemnation proceedings.

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

Approved June 14, 1911.

No. 54, A.]

[Published June 15, 1911.

CHAPTER 333.

AN ACT to repeal section 31 of the statutes, and to create a new section to be designated section 31, relating to nomination and election of judicial and school officers.

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

SECTION 1. Section 31 of the statutes is repealed.

SECTION 2. There is added to the statutes a new section to be designated and to read: Section 31. No candidate for any judicial or school office shall be nominated or elected upon any party ticket, nor shall any designation of party or principles represented be used in the nomination or election of any such candidate.

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

Approved June 14, 1911.