

1870, and all acts and parts of acts contravening the provisions of this act are hereby repealed.

SECTION 60. This act shall take effect and be in force from and after its passage and publication.

Approved March 19, 1873.

CHAPTER 291.

[Published March 24, 1873.]

AN ACT to amend chapter one hundred and nineteen of the general laws of 1872, entitled "an act in relation to railroads and the organization of railroad companies."

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

Amended—may
acquire prop-
erty for depots
and stations.

SECTION 1. The third subdivision of section eleven of chapter one hundred and nineteen of the general laws of 1872, entitled "an act in relation to railroads and the organization of railroad companies," is hereby amended so as to read as follows: 3d. To acquire under the provisions of this act or by purchase, all such real estate and other property as may be necessary for the construction, maintaining and operating its said railroad and the stations, depot grounds and other accommodations for accomplishing the object of its incorporation; to hold and use the same, and to sell, lease or otherwise dispose thereof, or any part or parcel thereof when the same shall be no longer necessary for its use.

Amended—
petition for ap-
pointment of
commissioners.

SECTION 2. Section fourteen of said chapter one hundred and nineteen is hereby amended so as to read as follows: "Section 14. For the purpose of acquiring such title, the said company may file a petition praying for the appointment of commissioners of appraisal by the circuit court or the judge thereof, of the county in which the real estate described in the petition is situated, which petition must be signed and verified by the attorney or some other authorized officer of the company. If such real estate is desired for station or building grounds or yards for said company, and not for a part of its main track, such petition shall state that the company is duly incorporated, a description of the real estate sought to be acquired, that the same is required for the purpose of operating such road, and

What petition
shall state, if
for stations.

that it is the intention of the company, in good faith, to use it therefor and therein, the names of the owners and parties interested therein, and such other facts touching the same as said company shall see fit to make. If such real estate is desired for the main line of the railroad of such company, or in part for the main line and in part for station or building grounds, yards or other purposes, said petition shall state that such company is duly incorporated, that it is the intention of the company, in good faith, to construct the road authorized by its charter, that said company has surveyed its route over the lands sought to be acquired for its main line, and has actually staked out the center line of its proposed road over the grounds desired for such main line, and shall contain a description of the lands across which said line shall have been so staked out by the subdivisions of the government survey, and in case a greater width than one hundred feet shall be desired to be taken across any tract, shall specify the width desired across said tract, and shall contain a description of the land sought to be acquired for depot, station or building grounds, and the other purposes of said company, that the route of said road has been located by its board of directors upon the line so staked out, and that the real estate so described is required for the purpose of constructing and operating the proposed railroad, the names of the parties who own and occupy said real estate, as near as may be, and if any of such persons are infants, their ages as nearly as may be, and if any are persons of unsound mind or unknown, these facts shall be stated, with such other facts as the company shall see fit to state; said company shall annex to such petition a map showing the route of its said road, and the lands desired to be taken for right of way, and for depots, stations, building grounds, yards and other grounds, and shall file the same in the office of the clerk of the circuit court of the county in which such real estate is situated. The filing of such petition shall be the commencement of a suit in said court. Upon the filing of such petition, the said court or judge thereof shall make an order, prescribing the notice to be given of the time and place of hearing said petition, which notice shall state the filing of such petition, the object thereof, and shall refer by general description to the lands described in the petition, and shall be addressed to the parties named in the said petition and to all persons interested in said lands, and may be served personally or at the last and usual abode of such owners

If for main line
in part.

Shall annex
map of route of
petition.

Notice of time
and place of
hearing.

and parties interested, not less than five days before such hearing, or by publication in some newspaper, to be designated by said court or judge not less than ten days before the date fixed for the hearing of such petition."

Amended—
commissioners'
report to be re-
corded.

May issue writ
of assistance.

In case of ap-
peal, how
money with-
drawn.

In case of de-
fect of title,
how rights of
parties deter-
mined.

SECTION 3. Section eighteen of said chapter one hundred and nineteen is amended to read as follows: "The report of the commissioners shall be recorded by the clerk of the court, in whose office the same is filed in the judgment book of such court, and at any time after the making of such award, the railroad company may pay to the owner or owners of the lands so taken, or to the clerk of said court for the use of such owner or owners the amounts awarded by the commissioners, and thereupon, may enter upon, take and use the land for the purposes for which it was condemned, and may move said court or judge upon twenty-four hours' notice, that a writ of assistance may be issued to put the railroad company into possession of the same, and said court or judge shall, upon the company's giving security in such additional amount as the court or judge shall require, to pay any judgment which shall be recovered against it, on appeal, award such writ. If such railroad company be in possession or put in possession of such land pending an appeal, the owners or parties entitled thereto shall be entitled to receive the money paid into court on account of the award appealed from, without prejudice to the appeal taken, but if the railroad company shall have appealed, such money shall only be so withdrawn upon filing a bond in such sum and with such surety as shall be approved by the court or judge, to repay the amount by which such award shall be abated on such appeal with costs. If the said company shall omit for the space of sixty days to pay the amount so awarded into court, or to pay into court the amount of any final judgment which shall be rendered upon any appeal from such award, the party interested in such award or judgment may have execution upon said judgment, or for the amount of such award upon motion. If any defect of title to or incumbrance 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 decisions of the court, and appeal to the supreme court, in like manner as in actions. Either court may award costs to the prevailing party, and under [render] judgment therefor against the other party.

Either party:
may appeal.

SECTION 4. Section twenty-two of said chapter one hundred and nineteen is hereby amended so as to read as follows: In any case when a railroad or railway company shall not have acquired title to the lands upon which they shall have constructed their road bed or track, or any part thereof, or if at any time after an attempt to acquire title by purchase, appraisal or otherwise, it shall be found that the title thereby acquired is defective, the company may proceed to acquire or perfect such title, in the manner provided in this act, and at any stage of such proceedings, the court in which the same shall be pending, or the judge thereof, may authorize such company, if in possession, to continue in possession, and if not in possession, to take possession and use such lands during the pendency of such proceedings, and may stay all actions or proceedings against such company on account thereof, on such company paying into court a sufficient sum, or giving such security as such court or judge may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such lands may institute and conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same at the cost and expense of the company, but no injunction to restrain the completion or operation of the road shall be granted, until such compensation has been fixed and determined, and in case such company or the person or corporation through or under which they claim title, shall have paid to the owner of such lands, or to any former owner thereof or to any other person or persons having any mortgage or other lien thereon, any sum or sums of money on account of such lands; such sum or sums, with interest thereon from the date of such payment, at the rate of seven per centum per annum shall be deducted from the award made by said commissioners to such owner or other person or persons. In case there shall be a disagreement between such company and the owner of such land, in relation to the payment of any sum or sums as aforesaid, or the amount or date of any payment that may have been made, the court or judge thereof shall, at the request of either party, award an issue which shall be tried in the same manner as issues of fact in said court, and an appeal from the decision of judgment thereon may be

Amended—
in case of defect of title company may perfect the same, and retain possession.

Party interested may institute proceedings.

In case of disagreement, how issue is to be made and determined.

taken to the supreme court in the same manner as upon the trial of issues of fact.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved March 19, 1873.

CHAPTER 292.

[Published March 27, 1873.]

AN ACT to provide for a complete geological survey of Wisconsin, and to repeal chapter one hundred and thirty-seven of the general laws of 1870, entitled "an act to provide for the survey of the lead district, making maps and collecting statistics from the same," and chapter one hundred and thirty-six of the general laws of 1872, amendatory thereof.

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

Shall appoint chief and assistant geologists.

Their duties.

Objects of the survey—examination of geological structure.

SECTION 1. The governor is hereby required to appoint, by and with the advice and consent of the senate, a chief geologist, who shall be a person of known integrity, thorough, practical and scientific knowledge of the sciences of geology and minerology, and, upon recommendation of said chief geologist, the governor shall appoint one or more assistants, not exceeding in number four, one of whom shall be a skillful, analytical chemist and assayer; the said chief geologist and his assistants to constitute a geological corps, whose duty it shall be to make a thorough and complete geological, mineralogical and agricultural survey of the state, and topographical surveys of such portions as may be deemed by the corps to need them for the thorough completion of the work: *provided*, that if the appointment of chief geologist be made during the recess of the senate, such appointment may be confirmed at the next session thereof.

SECTION 2. The survey shall have for its objects:
1st. An examination of the geological structure of the state, including the dip, number, magnitude, order and relative position of the various strata; their richness in minerals, metallic ores, clays, mineral waters, fertilizers, building stones, and other useful materials, the value of such materials for economic purposes, and their accessibility for mining and manufacture.