

[No. 165, S.]

[Published April 6, 1889.]

## CHAPTER 277.

AN ACT to amend section 3078, of the revised statutes, entitled, "of actions of ejectment."

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

Amending sec. 3078, R. S., when defendant entitled to have condemnation of lands, facts to be set up in answer. When allowed costs.

SECTION 1. Section 3078, of the revised statutes, entitled, "of actions of ejectment," is hereby amended by adding at the end thereof, the following: If the defendant is entitled to have the lands described in the complaint or any part thereof condemned for public use under the laws of this state, the defendant shall answer, setting forth the facts and the purpose for which said lands are required. If it shall be made to appear to the satisfaction of the court that no proceedings for the condemnation of said lands had been instituted when said action was commenced, and that the defendant is authorized by law to take such lands for public use, the court may order a stay of proceedings until such time as the defendant can, with due diligence, institute and complete condemnation proceedings in relation to said lands, and if it shall appear that the plaintiff is entitled to judgment, the defendant shall pay the costs in the original action.

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

Approved April 5, 1889.