

instituted under the provisions of this act, and the question of title shall in no case under this act arrest such justice of jurisdiction: *provided*, that either party shall have the right of appeal as in other cases tried before justices of the peace.

SECTION 4. This act shall not be so construed as to prevent any county in this state from maintaining an action in its corporate capacity for the recovery of any damage such county may sustain by reason of any trespass upon any lands owned by such county.

Act not to prevent actions by counties.

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

Approved March 3, 1869.

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CHAPTER 59.

[Published March 3, 1869.]

AN ACT relating to tunnels under the highway.

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

SECTION 1. Any person owning lands lying on both sides of any highway in this state is hereby authorized to construct a tunnel under such highway, also the necessary fences for the passage of stock, and other purposes across the same, in such manner as will not interfere with or endanger travel on such highway.

Owners of land may construct tunnels under highways.

SECTION 2. All tunnels which may be constructed under authority given by this act shall not be less than twenty feet in length, and shall be maintained by the person constructing the same, and the owner of such property shall be liable for all damage which may be occasioned by reason of the failure to keep the same in repair.

Dimensions of tunnels.

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

Approved March 3, 1869.