

CHAPTER 102.

[Published March 11, 1873.]

AN ACT to authorize the city of Boscobel to construct a toll bridge across the Wisconsin river.

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

May construct bridge and borrow money to pay for same.

Debt to be authorized by vote.

Dimensions of bridge.

When bonds to be payable and rate of interest.

May make rules and regulations

Rates of toll.

SECTION 1. The city of Boscobel is hereby authorized to construct and maintain a bridge across the Wisconsin river, on sections twenty-two (22), twenty-three (23) and twenty-seven (27), town eight (8), range three (3) west, in Grant and Crawford counties, and as near the line of the Wingville and Viroqua state road as practicable, and for that purpose to borrow money and issue the bonds of the said city for the payment of the same, to such an amount as may be necessary, not exceeding twenty-five thousand dollars: *provided*, this act shall be ratified by a majority vote of the electors of said city, at a special election to be held as hereinafter provided. Said bridge shall not be less than sixteen (16) feet wide, and shall have a draw of at least fifty feet across the most navigable channel of the river, so constructed as at all times to admit the free passage of rafts, boats and vessels navigating said river, without unnecessary delay.

SECTION 2. The city bonds issued in pursuance hereof shall be payable in not less than three years nor more than sixteen years from the date thereof, and shall bear interest annually not exceeding ten per cent. per annum, and said bonds shall not be negotiated at a less sum than ninety cents on the dollar.

SECTION 3. The said city is hereby authorized and empowered to make all needful rules and regulations about said bridge and the use of the same, and for the term of thirty years after the completion of said bridge, to demand and collect toll for crossing the same, at the following rates, or at such less rates as the mayor and common council of said city of Boscobel may designate or establish: for any vehicle drawn by one horse or other animal, twenty-five cents, and for each additional animal, ten cents; for any foot passenger, five cents; for every horse and rider, ten cents; for all animals in droves up to fifty head, two cents each, and for each animal over fifty, one cent each; and for hogs and sheep, there shall not be charged more than one cent per head.

SECTION 4. All funds arising from tolls or from the use of said bridge shall be paid over to the treasurer of the city of Boscobel at least once in each month, and shall be kept by him separate and apart from all other funds, and shall not be paid out except upon orders drawn on that specific fund. The funds arising from toll or the use of said bridge, after paying for the care and maintenance thereof, shall be applied as follows: First, to pay the yearly interest upon said city bonds, and thereafter, to redeem said bonds as fast as said funds will allow.

Application of funds arising from tolls.

SECTION 5. In case the revenue from the use of said bridge shall not be sufficient to pay the annual interest on said bonds, the mayor and common council of the city of Boscobel shall annually levy and collect a tax upon the taxable property of said city, in the same manner as other taxes are levied and collected, to pay said interest, or so much thereof as cannot be paid by the funds accruing from the use of said bridge, and the said mayor and common council of said city of Boscobel may levy taxes at such times as they may deem proper, in the same manner, to pay the principal of said bonds, that may not be realized from the revenue derivable from said bridge. The money thus raised shall be kept separate and apart from all other funds, and shall be applied for the purpose for which it was raised and no other.

If tolls not sufficient to pay interest, balance to be raised by tax.

SECTION 6. From and after the passage of this act, and until said bridge shall be fully completed and finished, it shall be placed under the control of three bridge commissioners, elected as hereinafter provided for, who shall have entire charge and superintendence of the work. It shall be their duty, as such bridge commissioners, to make all necessary contracts for the building of said bridge, and to see that such contracts are faithfully executed, to negotiate the sale of the bonds of the city of Boscobel on the best terms in their power, under the provisions of this act, and to apply the proceeds in paying the contractors upon said bridge, from time to time, according to the terms of said contract, and to make a report of their doings to the mayor and common council of said city once in each month or oftener, if required to do so by said mayor and common council. Said commissioners, before entering on their duties, shall give a bond to said city, with sufficient sureties, to be approved by the common council of said city, in a penalty at least equal to the amount of the bonds delivered to them, to secure the faithful performance of their duties. In case any of said com-

To be under control of bridge commissioners—their duties.

Shall give bonds.

How fill vacancies.

Term of office.

May appoint bridge commissioner and his duties.

Penalty for injury to bridge.

May acquire real estate.

Proceedings for the valuation of lands required for the purpose of building the bridge.

missioners die before the completion of said bridge, or should fail to give bonds as required in this act, or from any cause said commissioners should fail or neglect to act as such commissioners, it shall be the duty of the common council of the said city to elect by ballot a commissioner or commissioners to fill whatever vacancies may occur as aforesaid; and the term of office of said board of commissioners shall end with the completion of said bridge, and they shall have all the powers above specified in this section, and shall be subject to the requirements and liabilities herein named.

SECTION 7. The mayor and common council of the said city, after the completion of said bridge, shall appoint (and may at their pleasure remove), a bridge commissioner, who shall have the general care of said bridge and superintendence thereof, and of its use and repairs, under such rules and regulations as shall be fixed by ordinance of said city. He shall also be required to give bonds to said city in such sum as the mayor and common council may direct, for the faithful performance of his duty, and to pay over, as required by law or the ordinances of said city, all moneys coming into his hands as such commissioner, which bond shall be filed with the clerk of said city.

SECTION 8. Any person or persons who shall maliciously injure said bridge shall forfeit and pay to said city therefor a penalty not exceeding five hundred dollars, besides the actual damage done; and any person or persons who shall forcibly or fraudulently pass over said bridge without paying the legal toll, shall forfeit and pay a penalty to said city of the sum of five dollars, said penalties to be enforced and collected in the same manner as penalties for the violation of ordinances of said city.

SECTION 9. The said city shall have the right to acquire any real estate required for the purpose of constructing said bridge, and for the necessary right of way, toll houses, and also to remove and use any dirt, gravel, stone or other material from any real estate necessary to be used in the construction and repair of said bridge, and to acquire the title thereto.

SECTION 10. For the purposes of acquiring such title, the said city shall apply to the circuit judge of the circuit court of the fifth judicial circuit by petition, for the appointment of twelve jurors to view said premises, to determine whether it will be necessary to take the same for the purposes specified in said petition, and as hereinbefore provided; said petition shall be signed and verified by the mayor of said city, and shall con-

tain a description of the real estate or the land from which said dirt, stone, gravel or other material which said city seeks to acquire shall be taken, and that the same is necessary for the purposes of constructing, operating or repairing said bridge; the petition shall also state the names of the parties who are in possession of, or who own or have, or claim to own or have, an estate or interest of record in the said real estate. The petition shall be filed in the office of the clerk of the circuit court of the county in which the land is situated. A notice of the filing of such petition, and of the time when and place where the same will be presented, and application for the appointment of said jury made to said judge, referring by general description to the land to be taken, or from which the said dirt, gravel, stone or other material is to be taken, and addressed to the parties in possession, and the owners of said land as named in the petition, shall be personally served upon the said parties in possession and said owners, five days prior to the day of such application, and in case said owners cannot be found, the same shall be published in a newspaper published in the county where said land is situated, for one week prior to the day of such application.

SECTION 11. Upon presentation of said application and upon proof of publication or service of the notice hereinbefore required, the said judge shall thereupon appoint as jurors, twelve reputable freeholders, not residents of the said city, but residents of the county where said land is situated, and who are not interested in the result of said application. The said judge shall thereupon issue his precept directed to said jurors, requiring them within five days from the date thereof, to view said premises to be specified in said precept, and to make return to the common council whether in their judgment it is necessary to take said premises for the purposes specified in said application. If any juror so appointed shall be disqualified from acting or shall refuse to act at any time before the completion of their final award, the judge shall appoint others in their place, and a memorandum shall be endorsed on the precept.

Appointment of jurors to appraise value of lands.

SECTION 12. The said jurors, having first taken the oath hereinafter provided for, shall, at such times as they may agree upon, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors,

Shall view premises.

and either of the jurors shall be authorized to administer the necessary oath to witnesses.

Shall make report.

SECTION 13. After viewing the premises, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for the public use; which said report, testimony and precept shall be returned to the common council within the time limited therein.

Shall again view premises to estimate damages.

SECTION 14. Should the jurors report that it is necessary to take such premises, the common council shall, if they approve such report, enter an order among their proceedings confirming said report, and directing the same jurors, within two days thereafter, or such further time as may be necessary, to again view said premises, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what premises will be benefited by such taking, and to assess and return, within the time limited, such damages and benefits to the common council.

How buildings estimated.

SECTION 15. If there should be any buildings standing in whole or in part upon the lands to be taken, the jurors, before proceeding to make their appraisal, shall first estimate and determine the whole value of the land, and secondly the value of such buildings to remove.

Notice to owners of buildings

SECTION 16. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given by publication in a newspaper published in the city, three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such buildings to be taken with the land appropriated, or of their intent to remove said buildings at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for this purpose as the common council may allow.

Sale of buildings, on notice.

SECTION 17. If the owner refuses to take the building at the value to remove, or fails to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of

such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the city treasurer for the use of the owner, and shall thereafter be paid out to the owner on his application therefor.

SECTION 18. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such other premises as will, in their judgment, be benefited thereby. After hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken, and the injury arising to them respectively, in consequence of the taking thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the land, the jurors shall include the value of the building or buildings, (if the property of the owner of such lands,) as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

Determination and appraisal of value of premises, and award of damages.

SECTION 19. If the damage to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the jurors shall strike a balance and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall in any case, be collected of them or payable to them.

Balance of damages and benefits.

SECTION 20. If the lands or buildings belong to different persons, or be subject to lease, judgment, mortgage or other incumbrance, or if there be any estate in it less than an estate in fee to such person or interest respectively, the injury done shall be awarded to the person entitled thereto, by the jurors, less the benefits resulting to such interest respectively for the proposed improvement.

Of different owners and of incumbrances.

SECTION 21. Having ascertained the damages and expense of the proposed improvement as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto, from the proposed improve-

Shall apportion and assess the damages and expenses.

ment, as nearly as may be, and shall describe the real estate upon which their assessments may be made, and state the amount assessed upon each separate tract. The award of the said jurors shall be signed by them and returned, together with the testimony taken, to the common council, within the time limited in their order of appointment, and shall be final, unless appealed from in the manner hereinafter provided.

Land not to be used till damages are paid.

SECTION 22. The land required to be taken for the purposes mentioned in this act shall not be appropriated until the damages awarded therefor to the parties interested shall be paid or tendered to them or their agents, or in case the said parties or agents cannot be found, or are unknown, deposited to their credit in some safe place of deposit to be determined by the common council, and then and not before, such lands may be taken and appropriated for the purpose required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out.

Covenants, contracts, etc. to be void.

SECTION 23. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance shall be taken by virtue of this act, all the covenants, contracts or liabilities relating to the same or any part thereof, shall, after the expiration of the time for appeal, as herein provided, respectively cease and be absolutely discharged.

When only part of lot is taken, covenants as to the part not taken to remain valid.

SECTION 24. When only a part of a lot or tract of land, or other premises so under lease or other contract or incumbrance, shall be taken for the purposes aforesaid, such covenants, contracts or incumbrances shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, liens and payments due from or on account shall be so apportioned that the part thereof justly [due] of the same and equitably payable for such residue and no more shall be paid or recoverable for, or in respect of the same.

Limit of time for payment of damages.

SECTION 25. The damages assessed on each separate lot or tract shall be paid or tendered or deposited as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case as to any lot or tract on which they are so paid, shall be void. The benefits so assessed from the expiration of the time for appeal shall become a lien upon the premises upon which they are assessed, and shall be collected therefrom as a special assessment, in the same

manner as other special assessments for city improvements are collected. The amount so collected shall be held by the city as a special fund for the payment of the damages aforesaid, and shall be paid out for that purpose and no other.

SECTION 26. When any known owner of lands or tenements, affected by any proceedings under this act, shall be an infant, or labor under legal disability, the judge of the circuit court aforesaid may, upon the application of the common council, or such party by his next friend, appoint a guardian for such party; and all notices required by this act shall be served upon such guardian, in the same manner as if he were the party interested.

If lands are owned by infants, court may appoint guardians.

SECTION 27. The jurors mentioned in this act shall, before entering on the discharge of their duties, severally take an oath before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge shall have the power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Jurors shall take oath.

SECTION 28. The city council, or any party interested, may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of the county in which said land is situated from the decision of said jurors, so far as it affects the interests of said appellants; notice of such appeal shall be filed by the appellant with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court, in such manner as said court shall direct.

Any party in interest may appeal.

SECTION 29. In case the total amount of damages and costs awarded by the jurors, and which formed the basis of their assessment, shall be increased by any proceedings subsequent to the return of said assessment to the common council, and founded therein, such additional sum shall, as soon as such proceedings are finally determined, be assessed by the city clerk, under the direction of the mayor and common council, upon the land upon which the first assessment was made, in the same proportion as such first assessment, and shall be cancelled in the same manner.

If damages and costs are increased, a new assessment shall be made.

Special meeting may be held upon a written petition and notice.

How meeting conducted.

Form of ballot.

If majority is "for the bridge" special meeting for election of bridge commissioners may be called.

SECTION 30. A special meeting shall be held in said city for the purpose mentioned in section one of this act, upon a written petition to the clerk thereof, signed by five or more qualified electors of said city, which petition shall set forth the purposes for which said special meeting is asked by the petitioners, and it is hereby made the duty of said clerk, upon presentation to him of said petition, to cause a special meeting of the qualified electors of said city, by posting notices of the same in three or more public and conspicuous places in said city, stating the time when, and designating the hour and place where said meeting will be held, and the object of the same; which notice shall be so posted not less than five days previous to the time appointed for holding said special meeting. Said meeting shall be held at the place of holding the annual city elections in said city, and shall be opened and conducted in the manner provided in the charter of said city for holding annual city elections, and the vote shall be by ballot, upon which ballot shall be written or printed, "for the bridge," or "against the bridge," and if at such meeting, the greatest number of votes cast shall be "for the bridge," the rights and powers granted in and by this act to said city shall become absolute, and the said city shall be authorized and empowered to enforce the same.

SECTION 31. In case the greatest number of votes cast at the meeting hereinbefore provided for shall be "for the bridge," then a special meeting shall be held in said city for the purpose mentioned in section six of this act, upon a written petition to the clerk of said city signed by five or more qualified electors of said city, which petition shall set forth the purposes for which said special meeting is asked by the petitioners; and it is hereby made the duty of said clerk, upon presentation to him of said petition, to cause a special meeting of the qualified electors of said city, by posting notices of the same in three or more public and conspicuous places in said city, stating the time when, and designating the hour and place where said meeting will be held, and the object of the same; which notice shall be so posted not less than five days previous to the time appointed for holding said special meeting. Said meeting shall be held at the place of holding the annual city elections in said city, and shall be opened and conducted in the manner provided in the charter of said city for holding annual city elections.

SECTION 32. This act shall take effect and be in force from and after its passage.

Approved March 8, 1873.

CHAPTER 103.

[*Published March 11, 1873.*]

AN ACT to reduce the price of swamp and overflowed lands in Columbia county.

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

SECTION 1. The commissioners of the school and university lands are hereby authorized and required to reduce at once the price of all swamp and overflowed lands in the county of Columbia to the uniform price of fifty cents per acre: *provided*, the above reduction shall not apply to any of said lands now under contract, and which may hereafter become forfeited to the state, until the expiration of two years after such forfeiture.

Shall reduce price of swamp and overflowed lands.

SECTION 2. All swamp and overflowed lands in said county of Columbia, which shall remain unsold on the first day of July, 1873, shall be conveyed by the commissioners of school and university lands to the several towns in said county in which the lands lie, for the purpose of aiding such towns in the construction of roads and bridges.

Shall be conveyed to towns.

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

Approved March 11, 1873.