

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

Approved February 9, 1877.

[Published February 17, 1877.]

CHAPTER 10.

AN ACT relating to and amendatory of chapter 16 of the private and local laws for the year 1872, entitled "An act to incorporate the city of Eau Claire."

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

SECTION 1. Section three of chapter one of said chapter 16, is hereby amended so as to read as follows:

Section 3. The first ward shall be all that portion of said city lying north of the Eau Claire river and east of the Chippewa river, and east of a line commencing at the Eau Claire river in the centre of Dewey street; thence northerly on Dewey street to the centre of Broadway; thence westerly on Broadway to the centre of Farwell street; thence northerly on the line of Farwell street to the east and west quarter line of section seventeen (17), town twenty-seven (27) north, range nine (9) west; thence east on said line to the centre of said section; thence north on the north and south centre line of said section to the Chippewa river. The second ward shall be all that portion of said city lying south of the Eau Claire river and east of the Chippewa river, and north of Jones street, together with lot six (6) of section sixteen (16), and lots one (1), two (2), three (3) and four (4) of section twenty-one (21), and lot five (5) of section twenty (20), of town twenty-seven (27), range nine (9) west. The third ward shall be all that portion of said city lying south of the second ward and east and south of the Chippewa river. The fourth ward shall be all that portion of said city lying north of the Chippewa river and south of the east and west quarter line running through section nineteen of town twenty-seven (27), range nine (9) west, and section twenty-four (24) of township twenty-seven (27), range ten (10) west, and west of the centre line of Ninth avenue, together with lots seven (7), eight (8) and nine (9) of section nineteen (19) aforesaid, according to government survey. The fifth ward shall be all that portion of said city lying north of the Chippewa river east

Amended.

Ward boundaries.

1878/5-00

Election of aldermen.

of the centre line Fifth avenue, and south of the centre line of State street. The sixth ward shall be all that portion of said city lying west of the Chippewa river and not included in the fourth, fifth and seventh wards. The seventh ward shall be all that portion of said city lying north of the Chippewa river, west of the centre of Fifth avenue, south of the centre of Huron and State streets, extended to Half Moon lake, and east of the centre of Ninth avenue. The eighth ward shall be all that portion of said city lying north of the Eau Claire river and east of the Chippewa river not included in the first ward. There shall be elected at the next charter election, two aldermen in each of the fifth and eighth wards, one of whom in each ward shall be elected for one year and one for two years, one of whom in each ward shall be designated as supervisor, and shall represent his ward in the county board of supervisors. Each of the present aldermen of said city whose residence is included in any of the wards hereby created, shall hold his office and represent such ward during the remainder of the term for which he was elected. The common council of said city shall apportion the ward funds belonging to all of the wards affected by the change of boundaries, upon the basis of the assessment for the year 1876. The common council shall, by resolution, appoint a polling place in each of the first, sixth, seventh and eighth wards, as hereby created, and make the same arrangements for holding elections in said wards at the next ensuing charter election as are now or may hereafter be made for holding elections in the other wards of said city.

Apportionment of ward funds.

Vacancies and resignations.

SECTION 2. Section three (3) of chapter two (2) of said chapter sixteen (16), is hereby amended so as to read as follows: Section 3. Any vacancy in the elective offices of said city shall be filled by the common council, and the person so appointed shall hold said office and discharge the duties thereof until his successor, who shall be elected at the next charter election, shall be qualified for said office. Resignations by all elective officers of said city shall be made in writing to the common council.

Powers and duties of mayor.

SECTION 4. Section two (2) of chapter three (3) of said chapter sixteen (16), is hereby amended so as to read as follows: Section 2. The mayor shall have power to administer oaths and affirmations, take acknowledgments of deeds and other instruments, and perform marriage ceremonies. He shall appoint a chief of police, and may appoint such further number

of policeman as the common council at any regular meeting may authorize, which appointments shall be approved by the common council before they shall enter upon the duties of their office, and the compensation of the chief of police shall not exceed two dollars and fifty cents per day, to be determined by the common council, and the said policemen shall be paid such salary, not exceeding two dollars per day, as the common council may determine. The mayor may also appoint as many special or temporary police on election days, or on other public or unusual occasions, as he may think proper, but no such special or temporary police shall be paid any compensation for his services out of the city treasury, unless otherwise ordered by a vote of three fourths of all the members of the common council. The common council may by ordinance prescribe the powers and duties of the police and other peace officers. The mayor shall communicate in writing to the common council, once a year, such information as he may deem necessary, and at all times give such information as the common council may require.

SECTION 5. Section seven (7) of chapter three (3) of ^{Chief of police.} said chapter sixteen (16), as amended by chapter four (4) of chapter one hundred and six (106) of the laws of Wisconsin for the year 1874, is hereby amended so as to read as follows: Section 7. The chief of police shall perform such duties as shall be provided by ordinance for the preservation of the public peace, and the collection of fines and license moneys. In all criminal and *quasi* criminal matters, he shall possess the powers of a constable at common law or by the laws of the state, and shall receive like fees, and may serve civil process in all cases where the city is a party, but shall receive no fees from said city for any such services. And he shall not make any arrest or serve any process outside of said city, unless the cause for making such arrest or for issuing such process in fact arose or be alleged on oath to have arisen within said city. The policemen of said city shall be under the control and direction of the mayor and chief of police, and shall have the same powers in making arrests, preserving the peace and serving process as are herein conferred on the chief of police, and shall receive in like cases the same fees.

SECTION 6. Section four (4) of chapter four (4) of ^{Amended.} said chapter sixteen (16) is hereby amended by inserting the word "or" between the words "money" and "whereby," in the 9th line thereof, and by striking out

Duty of mayor
in disapproving
ordinances, etc.

the words "eight aldermen" where they occur in the 16th line thereof, and inserting in lieu thereof the words "three-fourths of all the members of the council," and inserting after the word "mayor," in the 19th line of said section, the following words: *provided, further,* that whenever the mayor shall disapprove of any resolution, ordinance or measure requiring his approval, he shall within twenty (20) days after the passage thereof by the council, file such resolution, ordinance or measure, together with his disapproval thereof and his reasons therefor in writing, in the office of the city clerk, who shall lay the same before the council at its next stated meeting thereafter; and in case of failure to file the same within the time aforesaid, such resolution, ordinance or measure shall be in force without his approval.

Taking of prop-
erty for public
use.

SECTION 7. Section first of chapter five of an act entitled "An act to incorporate the city of Eau Claire," approved March 2, 1872, is amended so as to read as follows: Section 1. The common council shall have power to take for the use of the city, in the manner hereinafter provided, any lots or any land for public squares, grounds, streets and alleys, and to widen or straighten the same, or for the purpose of erecting a public hall, market house, fire engine house, or any building in the construction of water works, or for flowing the same, for supplying the city with water, or any other lawful municipal purpose, or for erecting hospitals or pest houses for the prevention of contagious or infectious diseases within the city, or for any needful or convenient purpose in connection with or to execute and accomplish any other power, right or privilege conferred on or granted to the city by its charter, or any act amendatory thereof, or by any act of the legislature; and may take the same, and whether within or without the city, by conveyance from the owner upon a bargain and sale, or upon a donation thereof, or in manner as follows: Whenever it shall, in the opinion of the common council, be necessary, said council shall declare, by resolution, that it is necessary to take any such lots or lands for any of the purposes above set forth, giving description of the premises, defining separately each parcel thereof separately owned, and the purpose for which they are to be taken. The common council shall thereupon cause a written notice, as prescribed in the next section, to be served upon the occupant, or occupants, of such lands, and the owner or owners of the same, if the place of residence of such owner or

Notice to be
served.

owners is known, or can be ascertained by reasonable diligence, when such residence is within this state, and in case such owner or owners are nonresidents of the state, or their place of residence, after due diligence by the city attorney of said city, cannot be ascertained, which fact shall be made to appear by his affidavit, then the common council shall cause service of such notice to be made on such nonresident owner or owners, or the owner or owners the residence of whom cannot be ascertained, by causing the same to be published for six weeks in the official paper of the city, at least once in each week, and by causing such notice to be mailed, post paid, to the address of such owners within five days from the time of the first publication of such notice, when the post office address of such owner is known.

SECTION 8. Section second of said chapter five is hereby amended so as to read as follows: Section 2. Such notice shall be signed by the city clerk or city attorney, and shall state the adoption of the resolution and embrace a copy thereof, and further, that at a time and place therein named, not less than ten days after the service of such notice, or the expiration of such publication, as the case may be, application will be made to the judge of the circuit court for said county of Eau Claire, for a jury to inquire and determine whether it is necessary to take the lands or any part thereof, described in such resolution for the purposes therein specified. Such notice shall further state the time and place at which such jury will be applied for to meet to discharge such duty; and the judge aforesaid shall fix the time and place so named in the precept hereafter mentioned, and no other notice thereof shall be necessary.

What notice to contain.

SECTION 9. Section three of said chapter five is amended so that the same shall read as follows: Section 3. At the time fixed in said notice for the appointment of such jurors, the judge named in said notice, upon proof of the service of the same on the owner or owners of the premises described in such notice, which proof shall be made in the same manner as is now required to make proof of the service of a summons in civil actions in courts of record in this state, shall appoint twelve competent persons, having the qualification of jurors in and for the county of Eau Claire, and not residents of the ward in which such premises are situated, nor interested in such application, but residents of the city shall not be disqualified: *provided,*

Appointment of jurors to view premises.

that if the owner of the lands sought to be taken shall, before said judge shall appoint such persons, demand in writing that the jury be taken from any other county in such judicial circuit, then said judge shall appoint such jury from persons having the qualifications of jurors in such other county in the circuit as shall be designated by such landowner in his demand for the enquiry to be made respecting his lands. The same rights of challenge peremptorily, or for favor, or cause, may be exercised by the city attorney, and by such landowner whose land is sought to be taken, or by his agent or attorney, as a party to a civil action in the circuit court is entitled to have, and the judge shall decide the same in like manner, and replace the name of any juror successfully challenged by the name of some other competent person until a jury of twelve shall be chosen. The said judge shall thereupon issue his precept directed to such jurors, requiring them and each of them to appear before him, on the day named in the notice for such jurors to meet, for the discharge of their duties under such appointment. The precept so issued may be served by the sheriff of said county, or by any public officer of said city. The jurors so chosen shall before entering upon the performance of their duty, take an oath before such judge faithfully and impartially to discharge their duty as such jurors and a true verdict give, whether it is necessary to take such land or any part thereof mentioned in such resolution for the purpose therein specified.

Precept to be issued by judge.

Amended.

SECTION 10. That section five of said chapter five be amended by striking out the words "at such time as they may agree upon, shall," in the first and second lines, and insert the words "shall forthwith, under direction of said judge" strike out "by one of the jurors," in fifth line, and insert "by said judge."

Verdict of jury.

SECTION 11. Section six of said chapter five is amended so as to read as follows: Section 6. After having made such view and heard such testimony as shall have been produced, the said jury shall, under direction of said judge, deliberate apart and return their unanimous verdict in writing, signed by them, in which they shall find and state whether it is necessary to take the whole of the lands described in such resolution for the purpose therein specified, or any part thereof, describing particularly the part to be taken, if they find only a part thereof so necessary. Such verdict, with all the papers, proceedings and testimony had before him and said jury, shall then be forthwith

filed by said judge with the clerk of the circuit court for Eau Claire county, together with a certificate by said judge that the same are the originals and the whole thereof. The clerk shall, on application, furnish a certified copy of the same or any part thereof, which shall have the same force and effect as the originals. In case any jury called under the provisions of this charter shall disagree, another jury shall be forthwith selected in like manner, and all the like proceedings thereafter had as hereinbefore provided for the first jury, except that the said judge shall fix a reasonable time for the assembling of such jury in the precept therefor, but no other notice thereof shall be necessary to any party; and the like steps shall be taken in case of any further disagreement, until a verdict shall be found.

When jury disagree.

SECTION 12. That section seven of said chapter five be amended so that the same shall read: Section 7. Should the necessity for the taking of the premises, or any part thereof mentioned in the resolution of the council, be so established by the verdict of a jury, then the common council may enter an order directing the city attorney to proceed to procure to be assessed and appraised the damages to the owner or owners of the premises so found necessary to be taken by reason of the taking of the same for the purpose specified. The city attorney shall thereupon make application to the judge of the circuit court or judge of the county court for Eau Claire county, briefly setting forth the fact that the necessity for taking such premises has been so established by the verdict of a jury, and praying the appointment of three commissioners to appraise the damages of each and all of the several owners of such lands, and showing the amount of land, giving the metes and bounds thereof, the purpose for which the same is to be taken, and the names of the several owners so far as the same are known to the city attorney. Five days' notice of the time and place when such application will be presented to such judge, accompanied with a copy of such application, shall then be served on each owner in the cases when required and in the manner provided in section one of this chapter five. At the time and place designated, such judge shall hear all parties interested who appear, and shall appoint three disinterested and reputable freeholders of said county as such commissioners, by his order in writing, to ascertain and appraise the compensation to be made to the owners of or persons interested in the land so

City attorney to have premises appraised.

found necessary to be taken, and fix the time and place for the first meeting of such commissioners.

Amended.

SECTION 13. Sections eight, nine and ten of said chapter five are amended by striking out the word "jurors" in each and every place where the same occurs therein, and inserting instead the word "commissioners."

How commissioners to proceed.

SECTION 14. Section eleven of said chapter five is amended so as to read as follows: Section 11. The commissioners shall take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution, before entering on the discharge of their duties. A majority of them may adjourn the proceedings before them from time to time, in their discretion. They shall cause notice to be given to each party interested, of the time when and the place where they will meet to consider the amount of compensation to which he is entitled, which notice shall be personally served on such party, or his authorized agent or attorney, or by leaving the same at his residence or place of business, with a person of suitable age and discretion, at least six days before the time of such meeting. If such party is a non-resident of this state, or his residence is unknown, and he has no authorized agent or attorney in this state, such notice shall be published in a newspaper as aforesaid, for such length of time as the court or judge appointing said commissioners shall direct. The commissioners shall file proof of such notices, or of the appearance of such parties before them, either personally or by attorney, with their report. But it shall not be necessary to serve or publish notice of any subsequent meeting held pursuant to adjournment.

To view premises and determine value.

SECTION 15. Section twelve of said chapter five is amended so as to read as follows: Section 12. The commissioners shall view the premises described in the petition, and hear the allegations of the parties, and shall appraise, ascertain and determine the value of each tract or parcel of land proposed to be taken, with the improvements thereon, and of each separate estate therein, and the damages sustained by the owner by reason of the taking thereof, and fix the amount of compensation to be made to each of such owners therefor; and in fixing the amount of such compensation, said commissioners shall not make any allowance or deduction from the value of the real estate taken on account of any real or supposed benefits which the parties in interest may derive from the construction of

the proposed improvement, for which such real estate may be taken; but special benefits to the real estate adjoining the lands so taken, shall be allowed in deduction of any damages sustained by the owner to such adjoining real estate. In case of any building on the land, and proceedings shall have been taken as provided in sections eight, nine and ten, the said commissioners shall include the value of such building as estimated by them, 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. A majority of the commissioners, all being present, shall be competent to determine all matters before them. The commissioners shall, within twenty days after viewing any of the lands so taken, make and file in the office of the clerk of the circuit court of such county, a report of their proceedings concerning such lands, setting forth the award made for each tract or parcel thereof, or separate estate therein, to the owner or owners thereof. The commissioners shall be entitled to such compensation as the court may direct, which shall be paid by the city.

SECTION 16. Section thirteen of said chapter five is amended by striking out the word "jurors" therein, and inserting instead "commissioners." Amended.

SECTION 17. Section fourteen of said chapter five is amended so as to read as follows: Section 14. Whenever the commissioners shall have completed their duties and filed the report of their proceedings and determination as before provided, the common council may, if they shall deem it expedient, by resolution or ordinance, order such improvement to be made, and the land which has been so found necessary to be taken therefor to be taken and used; and in such case the city shall be absolutely liable to the owner or owners, or parties entitled thereto, for all compensation that may be established against said city therefor; and the council may also in that case make an assessment of the compensation to be paid therefor with the costs of proceedings, or such part thereof as they shall determine to be just, upon the lands found by them to be directly benefited by such improvement in such proportion to the benefits enjoyed as they shall determine. If the council shall not deem it expedient to make such improvement, they may, by resolution, order all further proceedings to be discontinued. Common council may order improvement made and land to be taken.

SECTION 18. Section fifteen of said chapter five is Appeal may

made to circuit
court.

amended so as to read as follows: Section 15. Within ten days after the filing of the report of the commissioners in the office of the clerk of the circuit court, any party may appeal to the circuit court of Eau Claire county from any award made by the commissioners, by filing in the office of said clerk a written notice of appeal. Upon receiving such notice, the appeal shall be considered an action pending in court, for trial there as other actions, and shall be entered by the clerk upon the records of the court by setting down the owner or owners of the land for which such award was made, and who are parties to the appeal as plaintiffs, and the city as defendant. Such appeal shall be tried by jury, unless a trial by jury is waived by both parties; costs shall be allowed to the successful party on such appeal, and if in favor of the plaintiff, be added to the amount of the verdict; if in favor of the defendant, be deducted therefrom; and judgment shall be rendered thereon according to the rights of the parties.

Report of com-
mission to be
recorded.

SECTION 19. Section sixteen of said chapter five is amended so as to read as follows: Section 16. 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 city may set apart in its treasury, to the order of the owner or owners of the lands so taken, or pay the same to such owner or owners, 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 obtain from either of said judges, upon twenty-four hours' notice, a writ of assistance to put its officers or agents into possession of the same. If such city 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 or set apart in the city treasury on account of the award appealed from, without prejudice to the appeal taken, but if the city shall have appealed, such money shall only be so withdrawn by leave of court, 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 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 to the said court, set-

ting 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 right 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 render judgment therefor against the other party.

Court to hear and determine right of parties.

SECTION 20. Section nineteen of said chapter five is amended so as to read as follows: Section 19. When any known owner of lands or tenements affected by any proceedings under this charter shall be an infant, or labor under any disability, the judge before whom the proceedings are pending, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, in the same manner as in a civil action in a court of record, and all notices required by this charter shall be served on such guardian.

When owner of property is an infant or under legal disabilities.

SECTION 21. Section twenty of said chapter five is amended so as to read as follows: Section 20. The judge or court before whom proceedings are pending, shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as he deems proper, and also to appoint other commissioners in place of any who shall die, or refuse or neglect to serve, or be incapable of serving.

Power of court to amend defects.

SECTION 22. Section twenty-one of said chapter five is hereby amended so as to read as follows: Section 21. Whenever any improvement chargeable to the property adjacent thereto shall have been determined upon, the proportion of the costs properly chargeable to each lot, part of lot or parcel of land subject to contribute to the payment of the same, shall be ascertained by the council, and the city clerk shall forthwith issue to each person occupying such premises liable to contribute, a certificate stating the amount assessed and chargeable to the premises occupied by such person, and the amount so chargeable to any particular lot or parcel of land shall be, from the time it is so ascertained, a lien and charge thereon, and upon no other property; and the said amount shall be entered against such lot or lots in the tax warrant for the year in which the assess-

When improvement chargeable to adjacent property.

ment is made, and collected in the same manner as other taxes.

Forfeitures and penalties to be paid into city treasury.

SECTION 23. Section three (3) of chapter seven (7) of said chapter sixteen (16), is hereby amended so as to read as follows: Section 3. All forfeitures and penalties accruing to the city for any violation of this act or of any of the ordinances, by-laws, rules or regulations of the city, and all fines recovered for any cause in any criminal proceeding before any justice of the peace in said city or in the municipal court of said city, shall be paid into the city treasury by the justice of the peace or municipal judge before whom the same are recovered, and shall become a part of the general fund; and all moneys received for licenses shall be paid into the city treasury and become a part of the general fund, except as otherwise provided by this act.

Commencement of fiscal year.

SECTION 24. Section five (5) of chapter seven (7) of said chapter sixteen (16), as amended by section eight (8) of chapter one hundred and six (106) of the laws of Wisconsin for the year 1874, so as to read as follows: Section 5. The fiscal year of the city of Eau Claire shall commence on the first day of September, on which day, or within thirty days thereafter, the common council shall, by resolution, determine what amount of money, exclusive of the estimated resources of the city not derived from direct taxation, will be required for the next ensuing year for general city purposes; and the common council shall thereupon be empowered to levy, and shall by resolution, levy a tax for general city purposes, not exceeding in amount one per centum of the assessed value of real and personal property of the city for that year. The common council shall, in the month of September of each and every year, determine and levy the amount of highway tax in each ward of said city for the ensuing year, according to the necessities of each of the wards respectively, for the purpose of constructing and repairing streets, highways and bridges in said city, which amount shall not in any ward exceed four mills on the dollar upon all taxable property in said ward, as the same shall appear by the last assessment roll, which shall be collected in the same manner and at the same time as the general taxes of said city. The city treasurer shall credit each ward in the city with the amount of highway tax collected by him therein, and the same shall be expended on the streets, highways and bridges in the wards where collected, under the supervision of the street commissioner. The common council shall have the power to

When and how taxes levied and collected.

levy a tax upon the taxable property of said city, equal in amount to the interest for one year, not otherwise provided for, upon all bonds lawfully issued by the city of Eau Claire; and such special tax shall not be used or applied for any other purpose whatever. No city order of any kind shall be received in payment of school or school house tax, but the same shall be paid in money, and shall be paid over by the city treasurer to the treasurer of the school boards, upon the order of the director and clerk thereof. All resolutions for the purpose of levying a tax shall require for their passage the affirmative vote of two-thirds of all the members of the common council.

Approved, February 13, 1877.

[Published February 19, 1877.]

CHAPTER 11.

AN ACT to reduce the rate of interest on bonds hereafter issued by the city of Milwaukee, under section 23, chapter 311, laws of 1876.

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

SECTION 1. All bonds hereafter issued by the city of Milwaukee, under and in pursuance of section 23 of chapter 311 of the laws of 1876, shall bear interest not exceeding the rate of 6 per cent. per annum, payable semi-annually. Bonds to bear six per cent. interest.

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

Approved February 13, 1877.

[Published February 19, 1877.]

CHAPTER 12.

AN ACT to enable the county of Jackson to compromise its bonded indebtedness.

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

SECTION 1. For the purpose of compromising and settling the railroad bonded indebtedness of the county County board authorized to compromise