

tising or publication of proceedings, for such cause, it shall thereupon be the duty of the said common council to direct said city clerk to re-advertise for proposals for such advertising or publication of proceedings, as the case may be, in the same manner as hereinbefore in this act provided, and the said clerk shall thereafter transmit to said common council the proposals so received by him, in the manner aforesaid. The said common council shall designate the English and the German newspaper receiving the contract for such advertising as the proper official newspaper of the said city.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.
Approved April 14, 1887.

[No. 255, S.]

[Published April 20, 1887.]

CHAPTER 524.

AN ACT to amend the charter of the city of Milwaukee.

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

SECTION 1. Chapter 6, of the charter of the city of Milwaukee is hereby amended so as to read as follows:

CHAPTER VI.

TAKING PROPERTY FOR STREETS AND OTHER PUBLIC PURPOSES.

SECTION 1. The common council shall have the power to lay out public squares, grounds, streets and alleys, and to extend, enlarge and widen or vacate the same as follows: Any ten or more freeholders residing in any ward may, by petition represent to the common council that it is necessary to take certain lands within the ward where such petitioners reside for public use, for the

Common council may lay out public squares, grounds, streets, etc.—petition may be presented for condemnation of lands to common council for public use, for the laying out, enlarging or widening public squares, streets or alleys by ten or more freeholders—what to contain.

purpose of laying out, extending, enlarging or widening a public square, ground, street or alley, setting forth in such petition the courses, distances metes and bounds of the lands proposed to be taken, together with the names and residences of the owner and occupants of such premises, so far as the same shall be known to the petitioners, and praying that such lands may be taken for such purpose according to law. Every person signing such petition shall write after his signature a brief description of his real estate which makes him such freeholder or of some part thereof, and of the place of his residence in the city, and shall make and annex to such petition his affidavit that he is a resident and freeholder in said ward, and that the names and residences of the owners of the lands proposed to be taken, so far as they are known to him are correctly set forth in such petition, and such signer making such affidavit shall thereupon be taken to be such resident and freeholder, and the names and residences of the owners of the lands proposed to be taken shall be deemed to be correctly stated in such petition, so far as the names and residences of such owners are known, and such petition shall be valid and effectual although it may afterward appear that such signers or some of them, were not such residents and freeholders, or that the names and residences of the owners and occupants of the lands proposed to be taken were not correctly stated in such petition, so far as known, or both. Persons in actual possession of real estate, under valid contracts for the purchase thereof, shall be deemed to be freeholders within the meaning and for the purposes of this section.

Common council may open public street or alley, or take land for public purpose—when.

SECTION 2. Whenever the said common council with the concurrence of three-fourths of the members elected thereto shall declare by their resolution that it is necessary for the public interest to open a public street or alley, or to take land for any public purpose authorized by this act, the said common council shall have power to open such public street or alley, or to take land for such public purpose, as the case may be, without any petition therefor, and to proceed thereafter in that behalf, as in cases of petition therefor duly made; provided, that in cases of streets and alleys such resolution shall also be approved

by both of the aldermen of the ward in which the land proposed to be taken may be situated. The resolution provided for in this section shall declare why it is necessary for the public interest so to proceed; and no such resolution shall be passed by the common council at the same meeting in which it is first considered, but the same shall lie over to a future meeting thereof. And the yeas and nays on the passage of such resolution shall be taken and duly entered in the journal of proceedings of the council.

SECTION 3. The common council shall thereupon, by resolution, direct the city engineer to make and file with the city clerk an accurate survey and plat of the proposed change or improvement and of the lands proposed to be taken therefor, defining separately each parcel and indicating upon such plat the location of any improvements upon said premises, and said city clerk shall return said plat and survey to the common council. The common council shall thereupon direct the city clerk to cause notice of such application or resolution to be given to owners and occupants of the lands proposed to be taken, which notice shall contain a description of the lands proposed to be taken, and shall state that at a certain time and place therein named, which time shall not be less than four weeks after the first publication thereof, application will be made to the circuit or superior court of Milwaukee county or to the judge of either of said courts for the selection of a jury to view said premises and to determine whether or not it is necessary to take said premises for the purposes specified in said petition or resolution. Such notice shall be published in the official papers of said city for four weeks, at least once in each week, prior to the time therein fixed for the appointment of jurors, and shall be served at least twenty days prior to the time therein fixed for the appointment of jurors, upon each of the owners and occupants of the land proposed to be taken, residing in the city of Milwaukee and known as it shall appear by the petition or resolution, personally by delivering to and leaving with him a copy of such notice if he can be found in the city of Milwaukee, and if he cannot be found in said city, then by leaving a copy of such notice at his usual place of abode with some member of

May direct survey and plat to be made and filed with clerk of city—notice of application to be given to owners of lands, how—jury to be selected to view premises and appraise damages; proceedings thereon.

his family of suitable age and discretion or if such place of abode shall be closed, or no person of suitable age and discretion found there, then by posting a copy of said notice on the principal outer door of such place of abode. Such service shall be made by the chief of police or some police officer of said city who shall make returns under oath in writing of the facts of such service, which return shall have the same effect as a sheriff's return of the service of summons in a civil action. As to unknown owners of such land proposed to be taken and owners not residing in the city of Milwaukee, such publication in the official papers shall be a sufficient service of such notice upon them. At the time and place fixed for such hearing and upon the presentation of such application or of such resolution, and upon proof of the publication and service of the notice hereinbefore required, the said court or the judge thereof, shall thereupon make a list of twenty-four reputable freeholders, residents of the city of Milwaukee, but not residents of the ward in which the premises proposed to be taken, may be situated, and not interested in the result of such taking. The said court or judge shall thereupon hear and decide any challenge for cause or favor made as to any of said freeholders and if sustained shall replace the name with an unobjectionable juror until the list shall be perfected. Thereupon, under the direction of such court or judge, each party, the city of Milwaukee, by its representatives, constituting one party, and the owners of land or their agents present, or if none be present or they disagree, a disinterested person appointed by the court or judge, constituting the other party, shall challenge six names, one at a time alternately, the city beginning. To the twelve jurors remaining such court or judge shall issue a precept requiring them at an hour and day named, not more than fifteen nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view lands, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the chief of police or any police officer of the city of Milwaukee at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy of such precept at his usual

place of abode in said city, in the presence of a member of his family. The jurors summoned shall appear at the time and place named, and if any be excused by the court or judge, or fail to attend, he shall publicly adjourn the proceedings to some time and place and name other disinterested freeholders, not residents of the ward in which the premises proposed to be taken or vacated are situated, in their stead to be forthwith in like manner summoned, and to appear at the time and place fixed by said adjournment until twelve jurors shall be obtained. The said jurors shall thereupon, before they proceed to view the premises proposed to be taken or vacated, severally take and subscribe an oath or affirmation before the court or judge, to the effect that they will faithfully and honestly discharge the duties imposed upon them, and determine whether or not it is necessary to take or to vacate the premises in question for the public use designated in the application or resolution. The court or judge shall then issue an order in writing, directed to said jurors, requiring them within thirty days from the date thereof, to view said premises, to be specified in such order, and to make return under their hand to the common council whether or not, in their judgment, it is necessary to take or to vacate said premises for the purposes specified in such application or resolution. It shall be the duty of every person appointed as such juror to act, unless excused for reasonable cause by the court or judge thereof appointing him and every person duly summoned or notified to act as required by this chapter, who shall, without being so excused, neglect or refuse to perform his duty as such juror shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars; and it shall be the duty of the city attorney to prosecute any person so offending.

Jurors to be sworn.

SECTION 4. The said jurors, when so selected and sworn, shall immediately proceed in a body to view the premises proposed to be taken or to be vacated, and the city engineer or his deputy shall, upon the request of the city attorney, proceed with said jury to said premises and point out to said jurors the several places where the lines

City attorney to prepare notice.

of the proposed improvement are located according to the survey hereinbefore directed to be made. The city attorney shall thereupon prepare a notice in the following or some equivalent form:

Form of.

In the matter of the application for the (opening, extension, enlarging or widening, as the case may be) of —, in the — — ward of the city of Milwaukee.

Notice is hereby given that the jurors lately appointed and summoned in the above matter, to pass upon the question of the necessity of taking the lands described in said application for the purposes therein prayed, have viewed said lands, and will meet at — on the — day of — A. D. —, at which time and place all persons having any interest in the lands proposed to be taken may be heard before such jurors, and all evidence proposed to be taken may be heard before such jurors, and all evidence produced before them upon said question will be considered.

Dated at Milwaukee, the — day of — A. D.

— — —, City Attorney.

Notice, how published and served.

Such notice shall be published once in the official papers of the city and shall be served upon the owners and occupants of the lands proposed to be taken, and known, the same as the notice provided for in section 2, of this chapter, and shall be returned in like manner as said notice is therein required to be returned, all of which shall be done prior to the day fixed in said notice for the meeting of the jurors, and publication of said notice shall be sufficient service thereof upon owners of lands proposed to be taken, not known, or not residing in the city of Milwaukee. At the time and place designated in said notice for that purpose, the said jurors shall meet and shall hear all persons interested in the lands proposed to be taken, and shall hear all evidence that shall be produced before them upon the subject of the necessity of taking the land described in the order for the purpose therein stated, and may at the instance of any one or more of their number, summon and examine witnesses upon the same question, and for that purpose either of said jurors may issue a subpoena, and either of the jurors or the city attorney may administer the proper oath to

Jurors to meet and make examination.

any witness produced before said jury. Said jurors may, if necessary, adjourn such hearing from day to day. If any such jurors shall be absent at the time set for such hearing, and for one hour thereafter, the jurors present shall have power to publicly adjourn their proceedings to the same place, for a period not exceeding twenty-four hours, and the city attorney shall report the names of such absent jurors to the chief of police or to any of the police officers of the city, together with the place and hour to which such jury has adjourned, and the said chief of police or police officer shall thereupon notify such absent juror or jurors of such adjournment and direct them to be present at the time and place fixed by such adjournment. It shall not be necessary for said jurors to reduce the evidence produced before them to writing, nor to return the same with their report. Said jurors shall make a report of their proceedings to the common council within the time limited in the precept, which report shall be signed by them respectively, and shall state whether or not, in their judgment, it is necessary to take the premises in question for the public use proposed in the petition or resolution; provided further, that in all cases where lands shall be condemned without a petition, the city attorney shall prepare a list of the owners and occupants of property to be taken, so far as the same are known, and shall certify the same to be correct, to the best of his knowledge; and notice of the selection of the jury and of the meeting of the jury shall be given, as in the case of condemnation proceedings upon petition; provided, further, that no resolution shall be passed or petition granted in any case for the condemnation of land in said city without the affirmative vote of both the aldermen of the ward in which the land proposed to be taken shall be situated.

SECTION 5. Should the jury report that it is necessary to take such premises, the common council shall enter an order among their proceedings confirming the whole of said report or any part thereof; and the common council shall direct the board of public works, within one month thereafter, or such further time as may be deemed proper, to view said premises at such time as the board may agree upon, of which at least

Proceedings of council when jury report that premises are necessary to be taken.

three days' notice shall be given by publication in the official papers, 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 lands or premises will be benefited by such taking, and to make report of their assessment of such damages and benefits to the common council. Said board may obtain the testimony of witnesses as to the facts in the case, in the same manner as provided in section 4, of this chapter, and shall hear such testimony as may be offered by any party interested which testimony shall be reduced to writing by one of the members of said board; and said board shall determine and assess, and return such damages and benefits in the manner hereinafter directed. In case either member of said board of public works shall be interested in the premises, or in any property affected by such proceedings, it shall be the duty of the common council to appoint some disinterested person to act in his stead.

On confirmation of report by council, board of public works may determine whether whole cost of improvement should be chargeable to lots and lands subject to special assessments therefor, or whether any and what portion of such cash should be payable out of ward fund.

SECTION 6. Whenever it shall have been determined by the report of the jury that it is necessary to take certain lands for public use, for the purpose of laying out public squares, grounds streets, or alleys, or of enlarging or widening the same, and such report or any part thereof shall have been confirmed by the common council and referred to the board of public works, the board of public works shall have power, in their own discretion, or upon written request of the aldermen of the ward in which such lands so to be taken are situated, to view the premises with such aldermen, and together with such aldermen, to determine whether the whole cost thereof should be chargeable as benefits to the lots and lands subject to special assessment therefor, or whether any, and what portion of such cost should be chargeable to and paid out of the ward fund of the ward in which such lots or lands are situated; and if the said board of public works and the said aldermen shall determine that any proportion of such cost should be paid out of such ward fund, they shall so report in writing to the common council, stating in their report what proportion should be so paid; and thereupon the common council shall have power, by resolution, duly

passed by an affirmative vote of two-thirds of the members thereof, to order the proportion of such cost so reported by the said board of public works and the said aldermen, or any greater or less proportion thereof, to be charged to the ward fund of the proper ward, which shall accordingly be done; and thereafter the lots or lands benefited shall not be assessed for more than the remaining proportion of such cost; provided, nevertheless, that no such resolution shall be passed or have any effect so as to charge the ward fund of any ward, unless both of the aldermen of such ward shall sign such report as aforesaid.

SECTION 7. The board of public works within the time limited by the common council, shall view and examine the premises proposed to be taken, and all such other premises as will in their judgment be injured or benefited thereby and after hearing such testimony as they may obtain or as may be offered by any party interested, they shall proceed to make their assessment and to determine and appraise the value of the real estate so proposed to be taken, and the injury arising to the owners thereof, respectively in consequence of the taking thereof, taking into consideration the value of any building situated in whole or in part thereon, less the value to the owner of such building to remove. The amount of said appraisal of real estate and injury to real estate and buildings, so determined, 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.

Board of public works to examine premises and make assessment.

SECTION 8. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages; in either case the board 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.

Board may strike balance as to difference between benefits and damages to owner.

SECTION 9. Whenever there is any building upon the land proposed to be taken, and the land and the building belong to different persons, or if the land be subject to lease, judgment, mortgage or other lien, or if there be any estate in it

Same where there is building upon land.

less than an estate in fee, the injury done to such persons or interests respectively may be awarded to them by the board, less the benefits resulting to them respectively from the proposed improvement.

To apportion and assess damages and expense chargeable to lots or lands as provided in section 6.

SECTION 10. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the board shall thereupon apportion and assess the same, or such portion thereof as shall have been determined to be chargeable to the lots and lands benefited in accordance with the provisions of section 6, of this chapter, 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 improvement, as nearly as may be, and shall describe the real estate upon which their assessments may be made.

To give public notice of assessment before making report to council.

SECTION 11. It shall be the duty of the board of public works, after such assessments shall be made, and before the same shall be reported by the board to the common council, to give public notice of not less than six days in the official papers of the city, that such assessment has been made, and that the same will be open for review and correction by the board of public works, at the office of the board, for not less than ten days after the first publication of such notice, during certain hours, and not less than two hours of each lay day, and that all persons will be heard by the said board of public works in objection to such assessments, and generally in the matter of such review and correction. It shall be sufficient to state in such notice in brief what such assessment has been made for, and in what locality.

May review, modify and correct assessment.

SECTION 12. During the time specified in the notice mentioned in the last preceding section, it shall be the duty of the board of public works to hear all persons interested in the property assessed, or otherwise personally interested in such assessment, in making objection to any part of such assessment, and to hear all evidence which may be produced in support of such objections; and the board shall thereupon have power to review, modify and correct such assessment in such manner as they shall deem just, at any time during such review and for three days thereafter; and thereupon, it shall be the duty of said board

to make report of such assessment in writing, signed by them, together with the testimony taken, to the common council within the time limited by said council. Should the time originally limited for making such report prove insufficient, the common council may, in their discretion, from time to time, enlarge or extend the same.

SECTION 13. The assessment so reported shall be laid before the common council when in session, and the fact of its presentation shall be entered upon the journal and mentioned in the published proceedings of such session, with a statement in brief for what purpose and in what locality such assessment has been made but the common council shall not have power to act finally upon such report until at least one week from the date of the session at which it was so presented. At or after the expiration of such period of one week last mentioned the common council may, in their discretion, revise and correct the assessment, and shall confirm the same as corrected by them or without correction, or refer it back to the said board for revision and correction. If said assessment shall be so referred back, the said board of public works shall proceed to review, correct and report the same in like manner and upon like notice as herein required in relation to the first assessment, and all parties interested shall have the like rights, and the board of public works and the common council respectively, shall perform like duties and have like powers in relation to any such subsequent assessment as are hereby given in relation to the first.

Assessment to be laid before common council.

SECTION 14. Any person or persons, owning or having any interest in any property affected by such assessment, may, within twenty days after the confirmation of such assessment by the common council, appeal therefrom to the circuit court of Milwaukee county, by filing with the clerk of said circuit court his notice of appeal, setting forth therein his interest in the premises and the grounds of his appeal, together with a bond to the city of Milwaukee in the penal sum of five hundred dollars, conditioned for the payment of all costs that shall be adjudged against him on such appeal, which bond shall be signed by at least two sufficient sureties, each of whom shall make

Persons owning or having any interest in property affected by assessment may appeal to circuit court within twenty days after confirmation by council.

affidavit endorsed upon such bond that he is worth five hundred dollars over and above all his debts, in property not exempt from execution; and said bond and sureties, if objected to by the city attorney, shall also be approved by the judge of the said court. Such appeal shall be ineffectual unless the appellant shall also, within said twenty days, serve a copy of his notice of appeal and bond upon the city attorney. In case of any appeal under the provisions of this section, the city clerk shall send to the clerk of said circuit court a certified copy of the assessment of damages and benefits made and reported by the said board of public works, as confirmed by the common council, and of all the proceedings of the common council in relation thereto. The appeal shall be tried as ordinary issues of facts are tried in said circuit court; the form of the issue shall be subject to the direction of the court; and the court shall permit any person or persons interested in such damages or benefits to become parties to such appeal, upon their petition setting forth the nature and extent of such interest. If on such trial the benefits assessed by the said board of public works shall be diminished, or the damages so assessed shall be increased, then and in either case the appellant shall recover costs on such appeal, otherwise the city shall recover costs. When the jury shall, by their verdict, award damages to the owner of any lot or part of a lot, and judgment shall have been rendered upon such verdict, the said city shall pay the amount of such judgment, and the costs, if any, recovered therewith, or make provisions for the payment thereof, within one year after the same shall have been rendered; provided, that in case of an appeal from such judgment to the supreme court, the time of the pendency of such appeal shall not form any part of such year. And in case the appellant shall succeed, the difference between the amount assessed and the amount finally adjudged shall be chargeable to and paid out of the proper ward fund.

Appeal the only remedy for damages sustained.

SECTION 15. An appeal to the circuit court as provided in and by the foregoing section, shall be the only remedy for damages sustained by the acts or proceedings of the said city or its officers in the matter to which such assessments relate;

and no action at law or in equity shall be had or maintained for such injuries or on account of such acts and proceedings.

SECTION 16. Whenever the damages awarded to the owner by the report of the board of public works, as confirmed by the common council, for any property condemned by said city for public use, shall have been paid or tendered to such owner or his agent, or when sufficient money for that purpose shall be provided in the hands of the city treasurer, and ready to be paid over to such owner, and ten days' notice thereof shall have been given by the board of public works, in the official papers, the city may enter upon and appropriate such property to the use for which the same was condemned; and the same shall thereafter be subject to all the laws and ordinances of the city, to the same extent as streets, alleys and public grounds heretofore opened or laid out. The claimant of such damages shall, in all cases furnish an abstract of title, showing himself entitled to the same before they shall be paid to him. If in any case there shall be any doubt as to who is entitled to the damages for land taken, the city may require of the claimant a bond with good and sufficient sureties to hold said city harmless from all loss, costs and expenses in case any other person should claim such damages. The damages assessed by the board of public works or awarded by the verdict of the jury and judgment rendered thereon in case of appeal, shall be paid or tendered, or provided in the hands of the city treasurer and ready to be paid over to the person or persons entitled thereto, and notice thereof given in the official papers as herein provided, within twelve months after the rendering of such judgment, or after the confirmation of such assessment by the common council, in case no appeal shall have been taken; and if not so paid or tendered or provided in the hands of the city treasurer, all the proceedings in any such case shall be void; provided, that such period of twelve months shall be exclusive of the time any such judgment may be pending in the supreme court on appeal; and provided also, that of the common council of said city shall, at any time before the city has actually entered upon and appropriated the property to the use for

When city
may enter
upon and
appropriate
property
condemned.

which it is proposed to be taken, by resolution, determine and declare that the cost of the property proposed to be taken, whether ascertained by the board of public works or by the court on appeal in any case from the decision of said board, is unreasonably great or so large as to be burdensome and injurious to the owners of the property assessed for benefits thereby, or that for any reason the taking of any property so proposed to be taken for public use is inexpedient it shall be lawful for the common council to direct that the proceedings for taking any or all such property be abandoned, and thereupon and thereafter such property, or the part thereof for the taking of which the proceedings are so abandoned, shall be and remain private property the same as if no such proceedings had been instituted for the purpose of taking the same for public use, and the expense of such proceeding so abandoned shall be paid by the said city, out of the fund of the ward or of the wards in which such property is situated; and provided further, that no such abandonment of any proceedings shall in any way hinder or prevent other and subsequent proceedings to take the same property, or any part of it, for the same or any other public use for which it may be taken by law. The benefits assessed and reported by the board of public works, from the confirmation of such report by the common council, shall be and remain a lien upon the premises so determined by the board of public works to be benefited by the taking and appropriation of lands to the public use as proposed. Whenever the owner of any building situated in the whole or in part upon land proposed to be taken for the public use, as in this act provided, shall not have removed the same from such land before the city shall desire to enter upon and appropriate the property to the use for which it is taken, the common council of said city may direct that notice be given to such owner requiring him to remove the same from the premises so taken for the public use within a reasonable time, not less than thirty days to be specified in such notice; and in case such owner shall neglect to remove such building within the time specified in such notice, the said board of public works shall report the facts to the common council, and said

common council, in their discretion, shall have power to sell or direct the sale of such building at public auction for cash, giving ten days' public notice of such sale in the official papers of said city, and the purchaser of such building at such sale shall be authorized to enter upon the said premises upon which such building is situated adjacent to the land so taken for public use and to remove such building therefrom, and he shall not thereby incur any liability to the owner of such premises as a trespasser thereon. In case of such sale, the proceeds shall be paid by such city to the owner of such building or deposited in the treasury of said city to his use.

SECTION 17. When the whole of any lot or tract of land or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same, or any part thereof shall upon confirmation of such report, respectively cease and be absolutely discharged. When only part of a lot or tract of land, or other premises, so under lease or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the part so taken, upon confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved payable and to be paid for or in respect to the same, shall be so apportioned, that part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

Where condemned property subject to lease or other contract, such lease or contract to cease and be absolutely discharged on confirmation of report.

SECTION 18. When any known owner of lands or tenements affected by any proceedings under this chapter shall be an infant, or labor under legal disability, the judge of the circuit court of Milwaukee county, or in his absence, the judge of any court of record in said county, may upon the application of the city attorney, or of such party or his next friend, appoint a guardian for such party and all notices required by this chapter shall be served upon such guardian.

Notices, how served on infants or persons laboring under legal disability.

SECTION 19. Whenever any public ground, street or alley, or any river, canal or water-way

Surveys and plats to be made and filed in office of city engineer by board of public works.

shall be laid out, widened or enlarged, under the provisions of this chapter the board of public works shall cause an accurate survey, plat and profile thereof to be made, and filed in the office of the city engineer.

Condemnation proceedings had previous to this act to be governed by it.

SECTION 20. In all cases where the report or verdict of a jury may have established the necessity of taking private property for any authorized public use in said city, previous to the passage of this act, the damages and benefits arising therefrom may be assessed as required by this act, and all proceedings subsequent to such report or verdict, may be had and continued to final completion, in the same manner as if such proceedings had been originally instituted under this act.

Directions only directory.

SECTION 21. All the foregoing directions given in this chapter, shall be deemed only directory; and no error, irregularity or informality in any of the proceedings under the provisions of this chapter, not affecting substantial justice, shall in any way affect the validity of the proceedings.

Common council may vacate highways, streets, alleys and public walks when required.

SECTION 22. The common council shall have the power, and are hereby authorized to vacate, in whole or in part, such highways, streets, alleys and public walks within the corporate limits of the city, as in their opinion the public interest may require to be vacated, or such as in their opinion are of no public utility; provided, however, the necessity of vacating such highway, street, alley or public walk, or any part thereof or their want of public utility shall first be established by a verdict or report of a jury in like manner as is provided for laying out public squares, grounds and streets in this chapter.

May change the location or direction of any highway, street, alley or public walk within corporate limits of city.

SECTION 23. Whenever it shall be necessary to change the location or direction of any highways, streets, alleys or public walks within the corporate limits of the city of Milwaukee, and it shall for that purpose be necessary to take lands and to vacate parts of any such highway, street, alley or public walk, such taking of lands and vacating of such parts of such highway, street, alley or public walk may be done by one proceeding, and the jury in such case shall determine the necessity of taking such lands proposed to be taken and the necessity of vacating such parts of such highway, street, alley or public walk proposed to be vacated for such purpose, and the board of

public works in making the assessment of benefits and damages in such case shall make but one assessment and assess the benefits and damages on account of the change in the location or direction of such highway, street, alley or public walk, and the provisions of this chapter in respect to the proceedings for taking lands and for vacating highways, streets, alleys and public walks shall in all respects govern such case.

SECTION 24. All provisions of this act relating to the taking of land by said city for public purposes, shall apply to lands required for the sites of public school buildings, engine houses and other public city buildings, and for the premises attached to such buildings, and for enlarging the site of such buildings, except that the common council shall not order, and the board of public works shall not make an assessment of benefits, nor shall the cost of such land, or the damages arising by reason of the taking of such lands, or any portion of such cost or damage be chargeable to or paid out of the ward fund of any ward, but any and all damages awarded to the owner by the board of public works, as confirmed by the common council for any property condemned by said city for the purposes mentioned in this section, shall be chargeable to and payable out of the general city fund.

Provisions of this act to apply to proceedings for condemnation of lands for school sites, engine houses and other public buildings, or for their enlargement.

SECTION 25. Whenever any property shall be condemned for any of the purposes mentioned in this act, and after the assessment of benefits and damages shall have been made by the board of public works, and confirmed by the common council, as provided in this chapter, the common council shall have power, with the concurrence of the aldermen of the wards, to advance by appropriation from the ward fund of the ward in which the premises to be taken are situated, the amount required to pay the damages so assessed and confirmed, for the purpose of paying or tendering the same to the owner or owners of property so taken as provided in section sixteen of this chapter; and in case such advance shall have been made the special tax collected from the property benefited, under such assessment, shall be credited to said ward fund, to reimburse said fund, the amount so advanced.

Funds may be advanced from ward funds to pay appropriation.

Lands may be taken and acquired for purpose of extending water pipe, supply tunnels, etc.

SECTION 26. Whenever the common council of the city of Milwaukee shall, with the concurrence of three-fourths of the members elected thereto, declare by resolution that it is necessary for the public interest to extend any water pipe or make or extend any supply tunnel or any sewer below the surface of the ground, upon, along or through any lands either within or without the limits of said city, the said common council shall have the authority to take and acquire the use of such lands for such purposes or for either such purposes, by proceeding in all respects, in relation to such taking and acquiring for such use as is provided in this chapter in reference to the taking of lands for public use without petition, except in those respects in which a different provision is specially made in the next two sections.

Board of public works to determine injury to property owners in consequence of taking and acquiring lands for such use.

SECTION 37. The board of public works in making its award to the owners of the property, in which such use as is herein named, shall be acquired, shall determine the injury arising to the owners thereof respectively, in consequence of the taking and acquiring of such use, but it shall not be necessary to make any estimate of benefits from such use either to such owner or to other lands.

When lands may be used.

SECTION 28. Whenever the damages awarded to the owners of any lands, the use of which for the purposes specified in this act or for either of such purposes, is sought to be taken and acquired by said city, shall have been paid or tendered to such owner or when sufficient money for that purpose shall have been provided in the hands of the city treasurer, and shall be ready to be paid over to such owner, and ten days notice thereof shall have been given by the board of public works, in the official papers, the said city shall thereupon and thereby acquire and have the right to the use of such lands for such purpose forever and its proper officer and any contractor or other person acting under the authority of said city, or of its proper officers, shall have the right to lay and construct sewers or water-pipes, or both, in through and along such lands and may lawfully enter upon the same with men and teams, as may be necessary or convenient for doing such work, and may dig upon and otherwise prepare

such lands for the use for which they are so taken and acquired, doing no unnecessary damage thereby, and may place, lay and maintain water-pipes, or sewers or both therein, and may at any and all times enter upon said lands, with men and teams as may be necessary and convenient, for the purpose of taking up, relaying, repairing, removing or in any way modifying such water pipes or sewers, or both, doing no unnecessary damage thereby; provided, that it shall be the duty of said city or its officers, or any contractor or other person doing any work on lands under the provisions of this act upon the completion of such work, to restore such lands to the same condition in which they were before such work was done, as nearly as it is practicable to do so; provided further, that no sewer shall be extended into or through any ward from any other portion of said city, by virtue of this act without the previous consent of the aldermen of said ward in writing, filed in the office of the board of public works.

SECTION 29. In addition to the power to acquire the use of the lands for the purpose named in this act, by condemnation, as hereinbefore provided, the city of Milwaukee is hereby empowered and authorized to acquire such use of any lands either within or without the city limits of said city, by grant or conveyance by deed, in all cases where the terms of a purchase shall be agreed upon between the city and the owners of any such lands.

Lands outside the limits of city may be used and acquired.

SECTION 30. In case it shall be necessary to take any property for the purpose of opening and constructing the canals, water channels and slips, or any part thereof, laid out and established in the valley of the Menomonee river, under and in pursuance of chapter 91, of the local laws of 1869, or to take any property for the purpose of opening and constructing the water channel of the Kinnickinnick river, when the same shall be adopted and established, recorded and filed, as provided by section 20, of chapter 129, of the laws of 1873, the same proceedings shall be had as are in this chapter prescribed for the taking of property for public squares, grounds, streets and alleys; the common council shall have power to vacate any canal or slip or any part thereof for the same reasons and upon the

Lands may be taken for the purpose of opening and constructing canals, water channels and slips established in valley of Menomonee river, or for opening and constructing water channel of Kinnickinnick river.

same proceedings being had that are prescribed in this chapter for vacating streets in said city, and the said common council is hereby authorized and empowered to change the location and direction of any canal, water channel or slip and the location and direction of any river within the corporate limits of said city, upon the same proceedings being had as are prescribed in this chapter for changing the location or direction of any street in said city, and all the provisions of this chapter relating to assessments of damages and benefits, appeals and compensation to owners, shall be applicable to cases arising under this section.

Where here-
after lands are
sub divided
into lots and
blocks, the
streets and
alleys of such
plat must
correspond in
width and
general direc-
tion with those
adjacent—map
of plat to be
submitted to
common coun-
cil for ap-
proval.

SECTION 31. In all cases where lands in the city shall hereafter be subdivided into lots and blocks, or where streets, alleys or public grounds shall be donated or granted to the public, the owner or owners thereof shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city adjacent to the lot or tract so platted, and shall submit such maps or plats thereof to the board of public works, and to the common council of said city, for their approval; and if such map or plat shall be approved by said board of public works and by the common council, it shall be lawful for the party or parties making such plat to record the same, and the evidence of such approval, in the manner prescribed in the revised statutes of the state concerning town plats; but except such plat shall be approved by writing, endorsed thereon and subscribed by said board of public works and by resolution adopted by said common council, a copy of which duly certified by the city clerk, shall be affixed to said plat, it shall not be lawful for the register of deeds of Milwaukee county to receive such plat or map for record, or to record the same, and the same shall have no validity; and the person or persons neglecting or refusing to comply with the requirements of this section, shall forfeit and pay a sum not less than one hundred dollars, nor more than one thousand dollars; and the register of deeds who shall record such plat without such approval of the board of public works endorsed thereon or without such copy of a resolution of the common council thereto at-

tached approving the same, shall forfeit and pay a sum not less than fifty dollars, nor more than one hundred dollars. All forfeitures and liabilities which may be incurred and arise under and by virtue of this section shall be prosecuted for and recovered in the name of the city of Milwaukee, and paid into the city treasury, for the use and benefit of said city.

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

Approved April 14, 1887.

[No. 899, A.]

[Published April 27, 1887.]

CHAPTER 533.

AN ACT to amend section 36, of chapter 32, of the laws of 1885, entitled, "an act to revise chapter 5, of the general laws of 1883, entitled, an act to incorporate the city of Merrill.

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

SECTION 1. Section 36, of chapter 32, of the laws of 1885, is hereby amended by adding to the end of said section a 34th subdivision, to read as follows: 34th. To provide for a system of water-works, and to grant franchises to any person or corporation to build, construct, maintain and extend a system of water-works in said city upon such conditions and restrictions as may be prescribed, and to regulate the same by ordinance.

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

Approved April 14, 1887.

Amending section 36, chapter 32, laws 1885, — Merrill charter authorizing water-works.