

may be made of such state of facts by the oaths of its president and secretary, and thereupon, on the approval by the attorney general, the treasurer shall release and return to such association all securities remaining in his hands.

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

Approved April 27, 1897.

No. 87, A.]

[Published May 1, 1897.

CHAPTER 365.

AN ACT to provide for the condemnation of land for highway and boulevard purposes beyond the limits of incorporated cities, and for the assessment of benefits and damages for property so taken.

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

SECTION 1. Every city in this state which may now or hereafter own or possess land beyond the municipal limits for public park purposes, and having a board of park commissioners, shall have the power to condemn lands beyond such municipal limits for highway and boulevard purposes, to connect said public park with some street, highway or boulevard within the limits of such city, and to open, widen and extend any street or highway for such purposes, in the manner hereinafter provided.

Power to condemn lands granted.

SECTION 2. Whenever any such board of park commissioners shall, by unanimous vote, adopt a resolution declaring that it is necessary

Condemnation of land for park or boulevard purposes.

for the public interest to cause a boulevard or highway to be constructed to connect such public park lands with some street, highway or boulevard in the city limits, or to open, widen or extend any street or highway for such purposes, and to take lands therefor, they shall cause to be made a correct and particular description of the lots or parcels of land proposed to be taken, and a plat of the proposed highway or boulevard, and shall file a copy thereof, together with a copy of said resolution, with the register of deeds of the county in which said lands are situated.

Duty of city attorney to condemn land selected.

SECTION 3. It shall thereupon be the duty of the city attorney of such city to proceed to condemn the land described and mentioned in such resolutions, in the manner provided in sub-chapter 17, of chapter 40a, of the annotated statutes of Wisconsin, entitled, "Eminent domain." and all of the provisions of said sub-chapter 17 as to the duties of the city attorney, shall be deemed and shall be applicable to such condemnation proceedings.

Duty of the board to view and assess damages.

SECTION 4. Within six months after the judgment of condemnation shall have been entered, pursuant to the provisions of the preceding section, it shall be the duty of the said board of park commissioners and the town board of the town in which the lands condemned shall be situated, acting as a joint board for such purpose, to view the premises and determine the damage or damages and benefits which will accrue by reason of such condemnation, and thereupon proceed to assess such damages, or benefits and damages, as follows: Opposite each description of the land condemned the joint board shall set down in separate columns the damages sustained by the owner by reason of the taking of the land; the damages, if any, to the adjoining property of the same owner; the total damages, and in cases where benefits may be assessed, the benefits which will in their judgment accrue to lands in the vicinity of the condemned

land by reason of the condemnation in question; the excess of damages over benefits, and the excess of benefits over damages; each such sum being set opposite the proper description. Notice shall thereupon be given by said board of park commissioners by publication in the official newspapers of the said city, at least once in each week for two weeks successively, and by posting notices in three conspicuous places on the land condemned within five days after the date of such notice, that such assessment is open for review at their office and will be so continued for the space of twenty days after such date, and that on a day named therein, which shall be not more than three days after the expiration of said twenty days, said joint board will be in session to hear all objections that may be made to such assessment. No irregularity in the form of such assessment, nor of said notice, shall affect the validity of the same if it fairly contains the information required to be conveyed thereby. At the time specified for hearing objections to such assessment, said joint board shall hear the persons interested, who may appear before them for that purpose, and shall have power to review, modify or correct said assessment as they may deem just, and thereupon said assessment shall be signed by a majority of the members of said joint board, and shall be filed with the town clerk of the town in which the lands condemned shall be situated, and a copy thereof shall be filed with the city clerk of the said city.

SECTION 5. At the time of making out the tax roll, next after the filing of said assessment, said town clerk shall enter in said tax roll a list of special taxes on account of such assessment, which list shall have set opposite each description against which benefits not offset by damages, or an excess of benefits over damages, shall have been assessed, the amount of such benefits or excess, which amount shall be levied on the land described as a special tax and shall

Duty of town clerk to put said assessment on the tax roll.

be collected the same as other taxes. Such amounts when collected shall be paid over to the city treasurer of said city, to be applied in payment of any damages or excess of damages over benefits awarded by such assessment; and in case the amount of such special taxes shall be insufficient to pay all damages or excess of damages over benefits so awarded, then the difference shall be paid out of the park and boulevard fund of said city; provided, however, that any such damages or excess of damages over benefits may be paid out of such park and boulevard fund prior to the collection of such special taxes, to be reimbursed therefrom when collected.

Parties aggrieved may appeal to circuit court.

SECTION 6. Any party aggrieved by any such assessment of benefits or damages, or both, may appeal to the circuit court therefrom within twenty days after the filing of said assessment with said town clerk, by filing with the clerk of said circuit court his notice of appeal, setting forth therein his interests in the premises and the grounds of his appeal, together with a bond to said clerk in the penal sum of five hundred dollars, with two sufficient sureties, to be approved by the judge of said circuit court, conditioned for the payment of all costs that shall be adjudged against him in said appeal. 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. The appeal shall be tried as ordinary issues of fact 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 damages or benefits to become parties to such appeal, upon their petition stating the nature and extent of such interest. If on such trial the benefits assessed by the said joint board shall be diminished or the damages so assessed shall be increased, then and in either case the appellant shall recover costs of such appeal; otherwise the city

shall recover costs. When the jury shall by their verdict award damages to the owner of any land and judgment shall have been rendered on such verdict, the said city shall pay the amount of such judgment and the costs, if any, recovered therewith, or make provision 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 park and boulevard fund.

SECTION 7. The appeal given by the last section from the assessment of the said joint board shall be the only remedy of the owner of any parcel of land or of any person interested therein, affected by said condemnation, for the redress of any grievance which may be had by reason of the condemnation of said lands for the purposes herein provided.

Appeal shall be the only remedy.

SECTION 8. If any person not an owner of the lands condemned, shall have a lien thereon or a leasehold or other interest therein, such person shall receive a portion of the excess of damages over benefits awarded by reason of such condemnation for the lien or interest he may have had in the land condemned, to be ascertained upon the principles of equity.

Persons having a lien on land so taken to receive a share of damages.

SECTION 9. Whenever the damages awarded to the owner by said assessment shall have been paid or tendered to such owner, or his agent, or when sufficient money for that purpose shall be provided in the park and boulevard fund and ready to be paid over to such owner, and ten days' notice shall have been given by said board of park commissioners in the official papers of said city, said board of park commissioners may enter upon and appropriate the lands to the use for which the same were condemned.

Lands may be appropriated after tender made.

Cost to come
out of the gen-
eral fund.

SECTION 10. The cost of each condemnation proceeding shall be paid out of the park and boulevard fund, if any, and if not, then out of the general city fund.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved April 27, 1897.

No. 560, A.]

[Published May 6, 1897.

CHAPTER 366.

AN ACT to amend section 27, chapter 288, laws of 1893, as amended by section 1, chapter 322, laws of 1895, entitled, 'an act to consolidate and revise the statutes of the state relating to general elections, the canvass and returns of the same, and to secure the secrecy and purity of the ballot, and for other purposes.'

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

Relating to the
publication of
the election
notice.

SECTION 1. That section 27, chapter 288, laws of 1893, as amended by section 1, chapter 322, laws of 1895, be amended so as to read as follows: Section 27. In making the official publication of an election notice, the county or city clerk, as the case may be, shall precede the same with a statement which shall be substantially in the following form, to be modified or varied according to the nature of the election, the caption to which shall be conspicuously displayed: