

employee continued in said employment with knowledge of such omission, shall not operate as a defense.

SECTION 2. This act shall take effect and be in force from and after September 1, 1905.

Approved June 5, 1905.

No. 420, A.]

[Published June 7, 1905.

CHAPTER 304.

AN ACT to amend chapter 319 of the laws of 1901 entitled "An act to amend section 1778 of the statutes of 1898, in relation to the construction of lines for the use of telegraph, telephone and power transmission companies," and the acts amendatory thereof.

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

Telegraph, telephone, power, heat and light corporations; rights, duties and liabilities; in cities and villages. SECTION 1. Section 1 of chapter 319 of the laws of 1901 is hereby amended so as to read as follows: Section 1.* Section 1778 of the statutes of 1898 is hereby amended so as to read as follows: *Any corporation formed under this chapter to build and operate telegraph, or telephone lines or systems for the transmission of heat, power or electric light for public purposes, or to conduct the business of telegraphing, telephoning or transmitting heat, power or electric light for public purposes may, subject to all reasonable requirements and regulations made by any city or village through, across or adjoining which said line, lines or systems may be proposed to be constructed, construct and maintain any such lines or systems with all necessary appurtenances, from point to point, upon, in, along, across or beneath the surface of any public road, highway or bridge or any stream or body of water, or upon the land of any owner consenting thereto, and from time to time to extend the same at pleasure and for such purposes may also acquire lands, or any interests therein in the manner provided in this act; and may connect and operate its lines or systems with the lines or systems of any*

*Entire section is rewritten.

person or corporation engaged in like business within or without this state, and charge reasonable rates for the transmission and delivery of messages or the furnishing of heat, power or electric light for public purposes. But no such telegraph or telephone line, or heating, power or electric line or system or any appurtenance thereto shall at any time obstruct or incommode the public use of any road, highway, bridge, stream or body of water. Whenever the use of any such line shall be abandoned or discontinued the proper corporation shall forthwith take down, dig up and remove all wires, posts, pipes, conduits or other articles; and on failure for three months after such abandonment or discontinuance so to do any person owning land near, over, through or upon which such line shall pass, may take down, dig up and remove the same, or any part thereof, for his own use. Any person, association or corporation owning or operating any telegraph, telephone or power transmission line or heat system for public purposes doing business in this state shall be liable for all damages occasioned by the failure or negligence of their operators, servants or employees in receiving, copying, transmitting or delivering dispatches, messages or the furnishing of power to its patrons for public purposes. Nothing contained in this act shall authorize or empower such telegraph, telephone, electric light, heat or power transmission company, or corporation, to in any manner destroy, trim or otherwise injure any shade or ornamental trees along any such lines or systems except by consent of the owner. Providing, however, that no corporation to build and operate electric light systems or systems for the transmission of steam or hot water for heat, shall have any right hereunder in any city or village until it has obtained a franchise from such city or village, as now provided by law.

Petition. SECTION 2. Section 2 of chapter 319 of the laws of 1901 is hereby amended so as to read as follows: Section 2. Condemnation proceedings may be instituted for the taking by such corporations of rights, easements or interests over bridges and streams, and in land on or within public highways, roads, streets and alleys, (and in the case of telegraph, telephone, heat and power transmission corporations in and on or within private alleys,) over, upon or beneath which the line or system is, or is to be constructed or located, either by the corporation or any person interested in the land. They shall be commenced by petition to the circuit court or a circuit judge of the county in which the land lies. The petition may be signed and veri-

fied in the same manner as pleadings in the circuit court, and shall contain the following in substance: *The highway, road, street or alley along, underneath or over which the line or system is to be or has been constructed, whether such line or system is to be or has been constructed by running wires and cables upon poles overhead, or by wires, cables or pipes in underground conduits, tunnels, or ways or otherwise; the terminus of the line or system on such property, if any, and on which side or part of the highway the line or system is or will be located: if made by the corporation; that it intends in good faith to use such real estate, and * * * it is required for its use; if made by another, that it is used or is designed by the corporation to be used, for telegraph, telephone purposes or for the transmission of power, heat or electric light for public purposes.*

Proceedings of commission. SECTION 3. Section 5 of chapter 319 of the laws of 1901 is hereby amended so as to read as follows: Section 5. The commissioners shall take an oath that they will support the constitution of the United States and of the state of Wisconsin, and faithfully discharge their duty as commissioners to the best of their ability. Upon request of the corporation or any person interested in the property described in the petition, and not otherwise, they shall proceed with the performance of their duties, and may adjourn the proceedings, but not more than twice nor more than sixty days in all as to any one case. They shall cause notice of the time and place of their meeting to consider the compensation to which the owner is entitled to be served personally on the owner or other person interested, or his agent, attorney or guardian ad litem, or by leaving the same at his residence, with a person of suitable age and discretion, at least ten days before such meeting. If such party be a non-resident, or his residence is unknown, and have no agent or attorney in the state known to the commissioners, the notice shall be served by publication, in such manner as the court or judge shall direct. Proof of the service of such notice, and the appearance of the parties, shall be filed in the clerk's office. No service of notice of any subsequent meeting, held pursuant to adjournment, shall be necessary. The commissioner or commissioners shall view such of the premises described in the petition as are described in such written request, and hear the allegations of the parties and appraise, ascertain and determine the value of the rights to be taken, and of each separate estate therein, and the damages sustained by the

owner by reason of the taking thereof, and fix the amount of such compensation to be made to each of such owners therefor; and in fixing the amount of such compensation said commissioner or commissioners shall include all damages for the erection, construction and maintenance of a telegraph, telephone, *electric light, power or heat transmission line or system* for public purposes over and along or *beneath* such public highways, roads, streets or alleys, or over such bridges or streams or *overhead or underground*, including such additional wires, *pipes or conduits* as may from time to time be placed on said line or *system* and of replacing the poles, *pipes, conduits or tunnels* from time to time as may be necessary. The commissioners may, in case of dispute, determine the places along said line in which the poles shall be set or *pipes or conduits laid*. And in no case, except where the owner consents thereto, shall poles be set in front of a building occupied for business or residence purposes, unless the commissioners shall find that the same is necessary, and in such case *the* poles shall be placed within four (4) feet of the boundary line or party wall of such building. After the condemnation proceedings have been completed the court may still determine as to whether such line or any pole or fixture thereof might be removed to some other point or place within such public road, street, highway, or alley, or over such bridge or stream, and determine the question as to whether the necessity exists that such pole or other fixture remain in the spot or place theretofore located. A majority of the commissioners, all being present, shall be competent to determine all matters before them. The commissioners shall, within twenty days after last viewing any of the property 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 property, making separate reports in relation to the property of each distinct owner and setting forth the award made to each owner or owners thereof. The commissioners shall be entitled to such compensation as the court may direct, which shall be paid by the corporation taking *any of the above enumerated rights and easements*. * * *

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved June 5, 1905.