

## CHAPTER 240.

[Published April 8, 1876.]

AN ACT to authorize incorporated villages to lay out, open, change, extend, and widen public squares, grounds, highways, streets, and alleys.

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

Power of village authorities to lay out and change streets, public grounds, etc.

SECTION 1. The president and trustees of any incorporated village shall have power to lay out, open, change, extend and widen public squares, grounds, highways, streets and alleys, as follows: Whenever six or more freeholders, residing in said village, shall by petition represent to the board of trustees of said village, that it is necessary to take certain lands within said village for the public use, for the purpose of laying out, opening, changing, extending or widening public squares, grounds, highways, streets or alleys, and shall in such petition specify with reasonable certainty the lots, tracts or parcels of land necessary to be taken for the purposes mentioned in such petition, and the names and residences of the owner or owners thereof, so far as the same can be ascertained, the board of trustees may, if it shall appear to them that the public good will be promoted by granting such petition, and if they shall be unable to make any satisfactory arrangements with the owner or owners thereof for the taking of the same for public use, by resolution to be entered upon their journal, directing such person as may be designated by such resolution, to apply to the county judge, or a court commissioner of the county, for the appointment of a jury to ascertain and establish by their verdict the necessity for taking such lands for the purposes specified in such petition. Such resolution shall also designate the time when and place where such application will be made, and if the owner or owners of the whole or any portion of such lands are known and reside in such village or county, a copy of such resolution shall be served upon such owner or owners personally or by leaving a copy at the usual place of residence of such owner or owners with some person of suitable age and discretion, to whom the nature and contents of such resolution shall be explained, at least six days before the time of making such application. If such owner or owners are

When lands may be taken for public use.

Owners of lands to be notified.

not known, or, being known, do not reside in such village or county, and their post-office address can with reasonable diligence be ascertained, a copy of such resolution shall be deposited in the post-office, postage prepaid, and directed to such owner or owners and published in some newspaper published in such village once in each week for three successive weeks before such application shall be made.

SECTION 2. Upon presentation of such application and proof of the due service of such resolution as prescribed in the first section of this act, at the time and place appointed therein for that purpose, the said judge or commissioner, as the case may be, shall appoint twelve respectable and disinterested freeholders of such village, who shall constitute a jury to ascertain and establish the necessity for taking such lands for the purposes specified in such petition. The said judge or commissioner shall thereupon issue his precept, directed to the marshal of such village or to some constable, requiring him to summon said jurors to meet at a time and place to be specified in such precept, to be not more than five days from the date thereof, to view the lands proposed to be taken and to decide upon the necessity for taking them for such purposes, and to make due return of their verdict to the said board of trustees within three days from the time appointed for such meeting. Such precept shall be served by such marshal or constable on each of said jurors by reading the same to him at least two days before the time appointed for such meeting.

Appointment of jury to establish necessity for taking lands.

SECTION 3. In case any of the jurors shall fail to attend at the time and place appointed in the precept, the said judge or commissioner shall appoint other jurors, who are duly qualified as hereinbefore specified, in place of those so failing to attend, which appointment shall be annexed to or indorsed upon such precept. When such jurors are all present they shall be sworn or affirmed by said judge or commissioner, or some other person authorized to administer oaths, faithfully and honestly to discharge the duties required of them by such precept, and the officer administering the oath shall certify the fact, which certificate shall be indorsed upon or annexed to such precept.

When jurors fail to attend.

Jurors shall be sworn.

SECTION 4. After the jury are sworn, they shall proceed to examine the lands proposed to be taken, and to inquire into the necessity for taking the same for the purposes specified in the petition and shall

Jurors to examine lands and return verdict, which shall be laid before trustees.

When jury disagree another to be appointed.

Remuneration of officers.

When found necessary to take lands trustees shall proceed in laying out streets, etc., and cause benefits and damages to be assessed.

Assessment of benefits and damages.

return their verdict in writing, signed by each juror, to the marshal or constable by whom they were summoned, who shall immediately deliver the same, together with said precept and all the papers relating to such proceedings, to the village clerk and the same shall be laid by the clerk before the board of trustees at their next meeting. In case such jury fail to agree, they shall so report to the judge or commissioner by whom they were appointed, who shall thereupon appoint another jury, and such second jury shall be selected, summoned and sworn and proceed in the same manner above prescribed for the first jury. The county judge or commissioner shall be entitled to one dollar, the marshal or constable to two dollars, for each case, and each juror one dollar per day for all services rendered by them respectively in each of such proceedings under this act.

SECTION 5. If the verdict of the jury shall be that it is necessary to take the said lands, or any part thereof, for the purposes specified in such petition, the said board of trustees shall proceed to lay out, open, change, extend or widen such public squares, grounds, highways, streets or alleys, and cause the damages and benefits resulting from the same to be assessed, collected and paid, and said public squares, grounds, highways, streets or alleys, to be widened, opened, laid out or extended in the manner prescribed by this act, they shall cause an accurate survey thereof to be made, when necessary, and shall cause an order containing their decision upon the petition and survey, to be entered in their journal, and shall cause a copy of such order, and a plat of the street or alley, to be filed in the office of the register of deeds of the county.

SECTION 6. The assessment of all benefits and damages which may arise or accrue from laying out, opening, changing, extending or widening any public squares, grounds, highways, streets or alleys, under the provisions of this act, shall be made by the board of trustees of such village. It shall be their duty the same as follows: To each lot or tract injured thereby, or of which the whole or any part thereof must be taken therefor, the board shall assess so much of the damages as they shall deem just; to each lot or tract which will be benefited thereby, they shall assess the amount of such benefit, and shall determine what portion of such damages shall be paid by the village at large, from the general fund of the corpora-

tion. Their assessment and determination shall be in writing, signed by them, or a majority of them, and filed with the village clerk. The assessment of benefits as made by the trustees, or in case of appeals as hereinafter provided, by the verdict of a jury, shall be a lien upon the several lots or tracts upon which they may be assessed, from the time of the filing thereof, and the collection thereof shall be enforced in the same manner as other taxes assessed against such lands.

Assessment to be lien against property.

SECTION 7. Any person whose property is taken, or against whose property an assessment of benefits is made, as hereinbefore provided, may within ten days, and not afterwards, appeal from such assessment of damages or benefits to the circuit court of the county by filing a notice of such appeal, with his reasons therefor, with the village clerk. Such appeal shall be tried by the court and jury as in ordinary cases, upon receiving notice of such appeal. The village clerk shall transmit to the clerk of the circuit court, a certified copy of all the proceedings relating to the matter in controversy. The verdict of the jury, when rendered, shall be certified by the clerk of the circuit court to the village clerk, together with a statement of the costs on appeal in the appellate court; if the appellant gain nothing in increase of damages or reduction of benefits by the verdict of the jury on appeal, he shall pay the costs of appeal, and judgment shall be entered against him for such costs; otherwise the costs shall be paid by the village, and judgment shall be entered against the village therefor.

Appeal from assessment to circuit court.

Payment of costs.

SECTION 8. No public grounds, squares, highways, streets or alleys laid out, widened or extended under the provisions of this act, shall be opened, widened or extended until the damages for taking the lands therefor as assessed by the trustees, or in cases of appeal by the verdict of the jury, shall have been paid or tendered to the owner or owners, or his or their agent, or in case the owner or agent cannot be found or is unknown, deposited to his credit in some safe and convenient place of deposit. After such payment, tender or deposit, such grounds, square, highway, street or alley, shall be subject to all laws and ordinances of the village in like manner as public grounds, squares, highways, streets and alleys, theretofore laid out and opened. If such payment, tender or deposit shall not be made as aforesaid to all the owners whose lands are required to be taken in the laying out,

Lands not to be taken until payment therefor has been tendered or paid.

When payment not made within one year, proceedings to be void.

widening or extending of any public grounds, square, highway, street or alley, within one year after the assessment of damages as hereinbefore provided, the proceedings in laying out, widening or extending such public grounds, square, highway, street or alley and all assessments thereon shall be void, and any moneys paid into the treasury on account of benefits to any lot or tract of land assessed in such proceedings, shall be refunded to the persons entitled thereto.

Repeal of conflicting acts.

SECTION 9. Chapter two hundred and seventy-eight, of the general laws of 1873, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

SECTION 10. This act shall take effect and be in force from and after its passage and publication.

Approved March 10, 1876.

## CHAPTER 241.

[Published April 8, 1876.]

AN ACT to attach Lincoln county to the Eighth congressional district, [circuit] and to organize and define the boundaries of certain towns therein.

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

County of Lincoln attached to eighth judicial circuit.

SECTION 1. The county of Lincoln is hereby attached to and shall hereafter form a part of the Eighth congressional district [circuit.]

Organization of town of Corn- ing.

SECTION 2. All that territory embraced within the following limits, to-wit: Commencing at the southwest corner of township number thirty-one (31), north of range four (4) east, thence running east to the southwest corner of township thirty-one (31), north of range six (6) east, thence north on the range line between ranges five (5) and six (6), to the northwest corner of township thirty-three (33), north of range six (6) east, thence west to the northwest corner of township number thirty-three (33), north of range four (4) east, thence south to the place of beginning, shall constitute and be known as the town of Corn- ing.