

meanor, and shall, on conviction thereof, be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail, not less than ten days nor more than sixty days, for each offense.

District attorney to prosecute for violation.

SECTION 2. Upon complaint made, in writing, under oath, before any magistrate, or justice of the peace, charging the commission of an offense against the provisions of this act in his county, it shall be the duty of the district attorney to prosecute the offender, and in all such prosecutions the burden of proof shall be upon the defendant to establish his right to use such title, under the provisions of this act.

Penalty for violation.

SECTION 3. Any person prohibited by section one of this act from assuming the title of doctor, physician or surgeon, who shall practice, or pretend to practice, physic or surgery, or both, shall not be exempted from any, but shall be liable to all, of the legal penalties and liabilities of malpractice; and ignorance shall be no excuse for failing to perform, or for negligently or unskillfully performing or attempting to perform, any of the duties required by law, of practicing physicians or surgeons.

Diplomas to be exhibited.

SECTION 4. Every person pretending to practice physic, or surgery, or both, shall upon demand of any person, exhibit all diplomas or licenses that he may have to practice physic or surgery, or both, and if such person, upon demand, shall refuse to exhibit such diplomas or license, any suit instigated against him under this chapter, shall not be considered malicious.

SECTION 5. This act shall take effect from and after its passage and publication.

Approved March 30, 1881.

[No. 388, A.]

[Published April 7, 1881.]

CHAPTER 257.

AN ACT amendatory of sub-chapter six, chapter one hundred and eleven, of the private and local laws of 1867, relating to the charter of the city of Hudson.

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

Streets, bridges, alleys, etc.

SECTION 1. Sub-chapter six of chapter one hundred and eleven of the private and local laws of Wisconsin for 1867, is hereby amended to read as follows: Section 1. The common council shall have the care, supervision and control of all public high-

ways, bridges, streets, alleys, public squares and grounds within the limits of said city, and shall cause all streets which may have been opened and graded, to be kept open and in repair, and free from nuisances. No street or alley which shall hereafter be dedicated to public use by the proprietor or proprietors of grounds within said city, shall be recognized as a public street or alley of said city, unless the common council shall first approve the plat thereof, or accept such dedication, or afterwards confirm the same by an ordinance specially passed for such purpose.

SECTION 2. The common council shall have power to lay out public squares, grounds, streets and alleys, and widen the same, as follows; Whenever ten or more freeholders residing in any ward shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for the public use, for the purpose of laying out streets or alleys, or the enlarging of the same (the courses and distances, metes and bounds of the land, proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to such petitioners, to be set forth in said petition); the common council shall thereupon, if it deems it expedient, order the petition filed of record with the city clerk, and shall cause notice of such application to be served upon the resident owner or owners of such lands, and also upon the occupant or occupants of such land, if any there be; or if the owners of any portion of said lands shall be non-residents, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official paper four weeks successively, at least once in each week.

Petition of freeholders for laying out public squares, grounds, streets and alleys.

SECTION 3. Such notice shall state that on a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge, or a court commissioner for the county of St. Croix, for the appointment of twelve jurors to view said premises, and determine whether it will be necessary to take the same for the purpose specified in said petition; which notice shall be served by the sheriff of St. Croix county, a policeman or any constable, on the owner and occupants of each such parcel of land to be taken, if known, and a resident within the county; such service to be made in the

Service of notice of application.

manner prescribed for serving a summons in an action in the circuit court, and the return of the officer shall be conclusive evidence of the facts stated therein. If the notice cannot be so served as to all the parcels of lands, then the same shall be published, as specified in section two of this act, and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. If any person so served with notice be a minor or of unsound mind, the judge or court commissioner before proceeding, shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the court, and act for said ward.

Jury to view
lands.

SECTION 4. At the time and place fixed for such hearing the application, accompanied by a copy of the resolution and petition, and by proof of the service of the notice as provided in the last section, shall be filed with the county judge or court commissioner, who shall thereupon make a list of twenty-four competent jurors, residents and freeholders of said city, but not residents of said ward, nor interested in said application. He shall hear and decide any challenges for cause or favor made by any one interested, and if sustained shall replace his name with an unobjectionable juror until the list shall be perfected. Thereupon, under the direction of said county judge or court commissioner, each party, the common council by the city attorney of said city on one side, and the owners of the land or their agents or representatives, or if none be present, or if they disagree, a disinterested person, appointed by the county judge or court commissioner, on the other, shall challenge six names, one at a time, alternately, the common council beginning. To the twelve jurors remaining, the county judge or court commissioner shall issue a precept, requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view said lands and determine the necessity for the taking thereof for the purposes specified in such petition, and at the same time shall publicly adjourn the proceedings to the time and place so named. Such precept shall be served by the sheriff, policeman or any constable of said city, at least one day before such appointed time, by reading the same to each such juror or by leaving a copy at his last and usual place of abode in presence of a member of his family.

SECTION 5. The jurors summoned shall appear at Oath of jurors. the time and place named, and if any be excused by the county judge or court commissioner, or fail to attend, he shall direct other qualified disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The county judge or court commissioner shall then administer to them an oath that they are resident freeholders of said city and not residents of said ward nor interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them, and will well and truly inquire into and determine the necessity for taking the lands mentioned in the said petition for the purposes therein mentioned.

SECTION 6. Under the direction of the county Duty of jury. judge or court commissioner, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party, and for such purpose the said county judge or court commissioner shall possess the same powers as a court in session with a jury, and, if there be necessity, may adjourn the sitting from day to day; and if such jury shall agree, it shall make immediate return of its determination by a verdict, in writing, showing whether or not in its judgment it is necessary to take said property for the purposes specified in said petition; and if such jury shall not agree, new precepts may be issued by said judge or court commissioner until a jury shall agree. The verdict of such jury, together with all papers in the proceeding, shall be certified immediately by such judge or commissioner to the common council.

SECTION 7. Should the jurors determine by said Appraisalment of costs, expenses and damages. verdict, that it is necessary to take such premises for the purposes specified in said petition, the common council shall make an order confirming the verdict of the jury, and shall, by order, immediately appoint three disinterested freeholders of the city, not residents of the ward in which said proposed improvements will be situated, as commissioners, whose duty it shall be, within thirty days from the date of said order, to view and examine the premises mentioned in said petition, and ascertain and appraise the cost and expenses and 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 assess and return within the time specified by the common council in said order, the amount of such damages and

benefits so assessed. Said commissioners, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer, that they are resident freeholders in the said city, and are not residents of the ward in which said proposed improvements are situated, nor interested in the premises to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

When lands
are occupied
by buildings.

SECTION 8. If there should be any building standing in whole or in part upon the lands so to be taken, the commissioners, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land and the injury to him in having such building taken from him, and secondly, the value of such building to remove.

Notice to
owner.

SECTION 9. At least ten days personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all parties interested shall be given by publication in the official paper or papers of said city, four successive weeks, once in each week; such notice shall specify the building and the award of commissioners. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the commissioners and allow such building to be taken with the land appropriated, or their intention to remove such building. He shall have such time for this purpose as the common council may allow.

When council
to sell building.

SECTION 10. If the owner shall refuse to take the building at the value to remove, or fail to give notice of his election, as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction, for cash, giving ten days notice of such sale. The proceeds shall be paid to the owner or deposited to his use.

Meeting to
hear proof, etc.

SECTION 11. The said commissioners, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. They shall give notice by at least two weeks' publication in the official paper of said city, of the time and place at which they will meet and hear proof, allegations, or the testimony of any person interested therein, and either of the commissioners shall be authorized

to administer the necessary oath to the witnesses; and they may adjourn from time to time as they may think reasonable, and within the time limited in their order of appointment. After hearing all such testimony as may be offered (which shall be reduced to writing by one of said commissioners) they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken, and the damages arising to them respectively, in consequence of the taking thereof, which shall be awarded to such owners, respectively, as compensation after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the land, the commissioners shall include the value of the building or buildings, if the property of the owner of such land, as estimated by them as aforesaid, 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.

SECTION 12. If the damage to any person be greater than the benefit, or if the benefit be greater than the damages, in either case the commissioners shall strike a balance, and carry the difference forward to two separate columns, so that the assessment will show what amount is to be received from or paid to such owner or owners respectively, and the difference only shall in any case be collected of them or payable to them.

Damages and benefits.

SECTION 13. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively shall be awarded to them by the commissioners.

When property belongs to different persons.

SECTION 14. Having ascertained the damages and expenses of the proposed improvement aforesaid, the commissioners shall thereupon apportion and assess the same, 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 assessments may be made and which said assessment shall be entered by the city clerk in the next tax roll. The award of said commissioners shall be signed by them and returned, together with the testimony taken, with all pa-

Apportionment of expenses and damages.

pers relating to the improvement, to the common council, within the time limited in its order of appointment.

Appeal.

SECTION 15. Any person whose property is taken, or against whom any assessment is made, may, within ten days from the filing of the report of the commissioners to the common council with the city clerk, appeal from said assessment of damages to the circuit court of St. Croix county, by causing a written notice with such appeal to be served on the clerk of said city, and such appeal shall be tried by the court and jury as in ordinary cases. The common council shall also have the right to appeal by filing with the clerk a notice thereof within ten days as aforesaid.

Land not to be taken unless damages are paid or tendered.

SECTION 16. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or agent, or in case the said owner or agent cannot be found, or is unknown, deposited to his or their credit in some safe place of deposit, and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city in the same manner as streets, alleys, or public grounds opened or laid out.

Damages to be paid or tendered within one year.

SECTION 17. The damages assessed shall be paid or tendered, or deposited as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such cases shall be void.

Order of council to take lands

SECTION 18. The city may pay or tender, or deposit as herein required at any time within one year from the confirmation of such assessment and report, the damages assessed in any such case; and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order among its proceedings, to take and appropriate such lands for the purposes required.

When contracts between landlord and tenant to be discharged.

SECTION 19. When the whole of any tract or lot or other premises under lease or other contract, shall be taken by virtue of this act, all covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same, or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

When only a part of lot or tract of land is taken.

SECTION 20. When only a 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 same, upon the confirmation of the report, shall be absolutely discharged, as to the part thereof taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable and to be paid for, in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or reserved for or in respect to the same.

SECTION 21. Whenever any public grounds, streets or alley, shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey thereof, to be made and filed in the office of the city clerk and register of deeds, and shall, by resolution, order the same opened. Survey to be made.

SECTION 22. All acts and parts of acts in conflict with the provisions of this act, are hereby repealed. Repealed.

SECTION 23. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1881.

[No. 476, A.]

[Published April 5, 1881.]

CHAPTER 258.

AN ACT for the distribution and sale of blue books in the possession of the superintendent of public property, under chapter thirty-three, laws of 1881.

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

SECTION 1. The superintendent of public property shall distribute blue books in his possession, under chapter thirty-three, laws of 1881, as follows: ten copies each to the governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, railroad commissioner, insurance commissioner, superintendent of public property, members of the senate and assembly, five copies each to the chief clerk, and sergeant-at-arms, three copies to each of the postmasters, assistant clerks and book-keepers; and one copy to each of the clerks and employes, including the extra employes, in the senate and assembly, except messenger boys; one copy to each of the reporters who have been regularly employed for the session in reporting legislative proceedings for daily papers. The balance of said books shall be kept by the superintendent of public property for sale at ninety cents per copy, as provided by chapter thirty-three, laws of 1881. Manner of distribution.