

No. 275, A.]

[Published April 7, 1891.]

CHAPTER 122.

AN ACT providing for issuing bonds and for constructing a viaduct across Menominee valley and river in the city of Milwaukee, and for the condemnation of lands therefor.

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

Common council to acquire certain land.

City engineer to make survey.

SECTION 1. It is hereby made the duty of the common council of the city of Milwaukee and the officers of said city, immediately upon the passage and publication of this act, to acquire by dedication, purchase, or condemnation, a strip of land extending from the intersection of Eleventh avenue with Pierce street in said city, in a northerly direction, to the intersection of Sixteenth and Fowler streets in said city, to be seventy feet wide, and of uniform width. And it is hereby made the duty of the city engineer of said city, immediately upon the passage and publication of this act, to cause a survey of the same to be made, and to file said survey in the office of the board of public works of said city, and he shall also file therewith a description of the several parcels of land contained therein, and also a map or plat thereof, showing the location of the same. It is hereby made the duty of the board of public works of said city of Milwaukee, immediately upon the filing of the said plat, and description of said strip of land and said survey to ascertain if the same or any part thereof can be acquired from the owners thereof, by dedication without compensation, and it is made the further duty of said board of public works also to enter into negotiations with the several owners of the lands necessary to be acquired, for the purchase of the fee simple, of all the lands described in said survey, which cannot be acquired by gift. And it is further made the duty of the common council, and the proper city officers to provide for the payment of the amounts necessary for such purpose and which shall be agreed upon by the said board of public works out of the fund here-

inafter to be provided. It is hereby made the duty of the said board of public works within sixty days after the filing of said survey and plat, to report to the common council a list of all the lands set off in said survey and plat, which they have been unable to acquire by gift, and of all lands for which they have entered into negotiations with the owners to be acquired by purchase, together with the various sums and amounts for which the tracts and parcels of land can be acquired. And the common council may, by resolution, authorize the board of public works to purchase any of such lands at the prices proposed, or may reject any or all of the proposals as they may deem proper. And the common council shall thereupon proceed to acquire the several parcels described in the report of the said board of public works by condemnation which have not been acquired by gift or the proposals for the purchase which have not been accepted, and shall proceed in that behalf as provided in the charter of said city for the condemnation and taking of lands for streets and other public use, and without petition therefor. All provisions of the charter of the city of Milwaukee and the several acts amendatory thereof, in relation to the condemnation of lands for highway and public purposes and the assessment of benefits and damages arising therefrom and the time for appealing and the manner of appeal of any person who shall feel aggrieved on account of such assessment, shall apply to the proceedings for the taking or condemnation of the lands which shall be taken by proceedings for condemnation under and by virtue of the provisions of this act. The damages in all cases shall be paid out of the fund herein to be provided as aforesaid. And it is further provided that whenever the common council shall have confirmed the assessment of benefits and damages in said condemnation proceedings, and shall have advertised for six days in the official newspaper of said city that the amount awarded to the owners of said lands, respectively, has been provided in the hands of the city treasurer, and is ready to be paid over to such several owners, the said city of Milwaukee shall have full power and authority to enter upon, and appropriate the property so taken and condemned

and the same shall thereafter be subject to the provisions of this act, and to all the laws and ordinances of the city of Milwaukee applicable thereto. And it is further provided that if any person shall appeal from said assessment of benefits and damages in the manner provided by said charter, that such appeal shall not prevent the city of Milwaukee from entering upon possession of said lands as hereinbefore provided, and the owners of said lands so appealing may receive and accept the amount so awarded to them without any prejudice whatever to said appeal, and if a greater sum than the amount awarded shall be recovered in any case, the same with costs shall be paid out of said fund hereinafter to be provided, and if a less sum be recovered the appellant shall pay the costs. In all other respects said proceedings shall be governed by the provisions of said charter relating to the taking of lands for public use.

May use lands for all public purposes.

SECTION 2. The said city of Milwaukee is authorized and empowered to use the lands so acquired for all public purposes of whatever kind and may construct, erect and maintain thereon any public bridge or bridges, viaducts, abutments, piers or other thing, and improve the same or any portion thereof, as a public street or walk, and construct therein any sewer, water main, and use the same for all other public purposes or uses, as the common council of said city of Milwaukee may from time to time prescribe.

May build a viaduct.

SECTION 3. The common council of the city of Milwaukee is hereby authorized to cause to be built with all reasonable despatch after procuring the right of way as hereinbefore provided, a suitable viaduct from the intersection of Eleventh avenue and Pierce street, in said city, and extending as nearly as practicable on the level across the Menominee valley in a northerly direction to the intersection of Sixteenth and Fowler streets in the Sixteenth ward of the city of Milwaukee.

Viaduct, how to be constructed.

SECTION 4. Said viaduct shall be constructed in a substantial manner of iron (except the floor and floor beams). It shall rest upon iron columns of suitable size and dimensions set upon stone foundations and shall be of a uniform width of not less than sixty feet, and at least nineteen feet above and clear of railway tracks. Wherever necessary, draw-bridges shall be pro-

vided as well as suitable approaches at both termini of said viaduct and such intermediate points as may be necessary for safe and convenient access thereto. All abutments that may be needed shall be constructed of masonry in a solid manner.

SECTION 5. The common council shall cause to be made a plan and detail specification for doing of said work, and the estimate of the cost thereof, and as soon thereafter as practicable, the city shall enter upon the construction of said viaduct, bridges, and approaches in conformity thereto. The city of Milwaukee is hereby authorized to enter into a negotiation with the Chicago, Milwaukee and St. Paul railway company for the payment of such a portion of the expense of the construction of said viaduct by the said railway company, as shall be agreed upon in consideration of any agreement which shall be made by said railway company in regard thereto, to vacate such portions of Muskego avenue as are occupied by the tracks and right of way of said railway company as shall be desired by said railway company and agreed upon by said city and railway company, after said viaduct shall be completed and the said railway company shall have paid its portion of the expense and cost of the same which may have been agreed upon.

SECTION 6. The said viaduct and approaches thereto shall forever remain under the absolute control and management of the city of Milwaukee and no exclusive rights or franchises for purposes of horse railway communication, the lighting of streets, highways or the like, or any other exclusive franchises, privileges or immunities shall ever be granted over the same or any part thereof by said city, to any person or corporation whatever.

SECTION 7. The mayor and common council of the city of Milwaukee are hereby authorized to issue the corporate bonds of said city to an amount not exceeding three hundred thousand dollars, to be issued as follows: Fifty thousand dollars after the first of July, 1891; one hundred and fifty thousand dollars after the first of July, 1892; one hundred thousand dollars after the first of July, 1893. The proceeds of said bonds to be applied to the building of said viaduct and the procurement of the right of way and the payment of

Plans for same.

Viaduct to be under control of city.

May issue bonds, and proceeds thereof, how to be used.

all damages that may be assessed or allowed to the owners of property which shall be purchased or condemned for the uses and purposes in this act provided; and such bonds shall be payable at such time or times as the common council by ordinance may see fit and determine, with interest not exceeding five per centum per annum. Said council may also levy such tax or taxes upon all the taxable property of the city of Milwaukee as may be found necessary from time to time to pay the balances of the expenses or cost of such construction, and right of way if such there should be. The provisions of chapter 465, of the laws of 1885, as to form of bonds, the issue and sale thereof, the levy of taxes creating a sinking fund, and all other details not inconsistent herewith, are made applicable to the bonds herein provided for, to be issued for the purposes named in this act. Provided, that the common council of said city upon the recommendation of the commissioners of public debt may elect and specify by ordinance what particular bonds issued hereunder shall expire and be retired in each year, not less than five per centum of the whole issue, and said common council is hereby authorized to so elect.

C. M. & St. P.
Ry Co. to pay
portion of ex-
pense of con-
structing via-
duct.

SECTION 8. In case the Chicago, Milwaukee & St. Paul Railway Company shall pay a just and fair proportion of the expenses of constructing the said viaduct, and of the right of way, which shall be agreed upon between the city of Milwaukee and the said railway company, the city of Milwaukee shall institute proceedings to vacate so much of Muskego avenue as shall be occupied by the tracts and right of way of the said railway company; and the said railway company shall be freed and discharged from any obligation to build or construct any viaduct, cause-way or passage way, for public use over any part of Muskego avenue, although its tracks may be multiplied and extended, or additional territory in the future be occupied by the railway for its purposes. But nothing herein contained shall be construed so as to lessen or impair the right of the city of Milwaukee to require or compel the said railway company to construct cause-ways, bridges or viaducts over any other street in said city. And in case the Chicago, Milwaukee &

St. Paul Railway company and the city of Milwaukee shall fail, neglect or refuse to make and enter into the agreement above named, then and in such case the right and power of the city to require and compel the railway company to construct a bridge, causeway or viaduct over any part of Muskego avenue, shall in nowise be lessened, abridged or impaired.

SECTION 9. Chapter 476, of the laws of 1887, and chapter 231, of the laws of 1889, and all other acts and parts of acts contravening the provisions of this act are hereby repealed.

Repeals chapter 476, laws of 1887, and chapter 231, laws of 1889.

SECTION 10. The board of public works shall have power and authority by and under the direction of the common council, to enter into contract or contracts for doing all the work of erecting and constructing viaduct and approaches herein provided for without any other appropriation for doing such work than is herein provided, and in advance of and prior to the issuance and disposal of the bonds herein authorized to be issued and disposed of during the year 1892. The common council shall, from time to time, during the progress of said work in the erection and construction of said building, appropriate out of the funds realized from the proceeds of the sale of the bonds, as herein provided, such sum or sums of money as may become necessary and required for defraying the cost of the erection of said building, not exceeding in any one year the amount realized from the sale of said bonds.

Board of public works may make contracts for building viaduct.

SECTION 11. It shall be the duty of the comptroller to countersign any contract or contracts for doing the work of erecting and constructing the said viaduct and approaches herein provided for, which shall be made and entered into by the said board of public works, as aforesaid; provided, however, that the amount of money to be expended and the liability to be incurred by such contract or contracts shall not exceed the amount of bonds authorized to be issued for the purpose of such contract or contracts, and the amount of the fund to be realized from the sale of such bonds.

Duty of comptroller.

SECTION 12. The provisions of sections 14 and 15, of chapter 5, of the charter of the city of Milwaukee, as revised and amended, and any other provision or provisions of said charter which are

Sections 14 and 15 of chapter 5 of Milwaukee charter if inconsistent with this act not to apply.

inconsistent with the provisions of this act, shall not apply to the contract or contracts to be made and entered into for the purposes and under the provisions of this act.

SECTION 13. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1891.

No. 244, S.]

[Published April 7, 1891.]

CHAPTER 123.

AN ACT to revise, consolidate and amend chapter 127 of the laws of the state of Wisconsin for the year 1874, entitled, "An act to incorporate the city of Menasha, and acts amendatory thereof."

(See Vol. 2.)

No. 591, A.]

[Published April 2, 1891.]

CHAPTER 124.

AN ACT to revise, consolidate and amend chapter 152, of the laws of 1889, entitled, "An act to incorporate the city of Superior."

(See Vol. 2.)