

No. 53, A.]

[Published February 20, 1891.

CHAPTER 9.

AN ACT to amend chapter 383, of the laws of 1889, entitled, "An act to amend chapter 525 of the laws of 1887, entitled, An act to amend chapter 412 of the laws of 1885, entitled, An act to provide for the drainage and reclamation of certain lands in Dane county."

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

Amending chapter 383, laws of 1889, relating to drainage of lands in Dane county.

SECTION 1. Section 2, of chapter 383, of the laws of 1889, is hereby amended by striking out the words "in like manner," where the same occur in the twenty-third line of said section, and inserting after the word "judge," in the twenty-fourth line of said section, the words "on the verified petition of one of said commissioners, or the attorney of said commissioners, stating the existence of a vacancy, and the cause thereof, if known," and by striking out the words, "and removal of any commissioner from the county shall vacate his office," where the same occur in the twenty-fourth and twenty-fifth lines of said section, and by inserting in lieu thereof the words "death, removal from the county, or the resignation of any commissioner shall constitute a vacancy in said commission, provided said resignation shall be in writing and filed with the presiding judge of the circuit court for said Dane county," so that said section, when amended, shall read as follows: Section 2. Upon the filing of such petition the court or presiding judge thereof shall make an order prescribing the notice to be given of the time and place of hearing the said petition, which notice shall be given to all parties interested, by the publication of the same in one or more newspapers published in said county, for not less than once in each week, for four successive weeks before the date fixed for the hearing. On presenting such petition, with due proof of publication of the notice, as required by said order, the court or presiding judge shall make an order appointing three disinterested and

Notice of hearing of petition to be published once in each week for four successive weeks.

competent freeholders as commissioners, and the said court or judge shall then and there fix the time and place for the first meeting of the commissioners. The commissioners shall, before entering upon their duties, take and subscribe to an oath that they will faithfully support the constitution of the United States and the constitution of the state of Wisconsin, and faithfully discharge their duties as commissioners to the best of their abilities, and vacancies happening in the commission shall be filled by the said court or judge on the verified petition of one of said commissioners or the attorney of said commissioners, stating the existence of said vacancy and the cause thereof, if known; and the death, removal from the county, or the resignation of any commissioner, shall constitute a vacancy in said commission, provided said resignation shall be in writing and filed with the presiding judge of the circuit court for said Dane county; and each commissioner shall execute a bond before entering upon the duties of said office as such commissioner, to be filed with the county clerk as obligee for the benefit of all persons interested, in amount and with sureties to be approved by the court or presiding judge, conditioned to the faithful discharge of his duties as such commissioner, and the faithful accounting for an application of all moneys which shall come to his hand as such officer. The county clerk shall, upon due application of the commissioners, issue to them a certified copy of the order for their appointment.

Court shall appoint commissioners and fix time for their first meeting.

Commissioners to take oath and execute sufficient bond.

SECTION 2. Section 4 of chapter 383, of the laws of 1889, is hereby amended by striking out the words "thirty days," where the same occur in the thirty-fourth line of said section, and inserting in lieu thereof the words "a reasonable time," and by adding at the foot of said section the words following: "And shall within ten days after the filing of said award serve written notice of the same, and the filing thereof, on the owner or owners of the premises or property against which such award shall have been made, if to be found in said Dane county. If the owner or owners of such property be a corporation, then such notice shall be served upon an officer or agent of such corporation, if to be found within said county. If such owner or owners are not to be

Notice of filing of award to be served on owner.

found in said county, then such notice shall be served upon an agent, tenant or attorney of such owner or owners in possession of such premises or property, or if said premises be unoccupied, and such service cannot be made as hereinbefore provided, then the said commissioners shall give notice of such award and filing thereof, by the publication of the same in some newspaper published in said county once each week for three consecutive weeks, the first publication thereof to be made within ten days after the filing of said award, and such award shall be filed in the county court not less than twenty nor more than thirty days from the time it is so filed in the office of the county clerk," so that said section when amended, shall read as follows: Section 4. On the day fixed by such notice for the hearing of such petition, or on some other day to which such hearing may be adjourned, said board of commissioners, after hearing the parties interested in the same who shall appear, shall decide upon said petition, and if they shall be of the opinion that the public health or welfare will be thereby promoted, and shall decide favorably upon the intended work, they shall make an order therefor, and cause a further survey to be made, if necessary, and a map and plan, specifications and estimate thereof to be made, and shall cause such orders, plans, specifications and surveys to be filed with the county clerk of Dane county, who shall keep and file a complete record of all proceedings in each such case; and said lands affected by said system of drainage, shall be and constitute a district, to be called "The First Drainage District of Dane county," and the county clerk shall be the clerk of said drainage commissioners of said district. All damages for lands taken for the purposes of said drainage system and all damages to property of any kind in the reduction or removal of dams or waterpowers may be fixed by agreement, in writing, between the owner thereof and said board of commissioners, and shall be filed with the county clerk, which agreement shall forever preclude such owner, and all other persons claiming under him, from all further claim for damages. Said drainage commissioners shall make an award in writing, of damages to

Commissioners may hear petition and order work done.

County clerk of Dane county to keep and file record of all proceedings.

To be "the first drainage district of Dane county."

Damages may be agreed on.

every owner of lands so taken, which shall not have been so agreed upon, and file the same in the office of the county clerk within a reasonable time after the filing the order directing such system of drainage to be made, and shall within ten days after the filing of said award, serve written notice of the same and the filing thereof on the owner or owners of the premises or property against which such award shall have been made, if to be found in said Dane county. If the owner or owners of such property be a corporation then such notice shall be served upon an officer or agent of such corporation, if to be found within said county. If such owner or owners are not to be found in said county, then such notice shall be served upon an agent, tenant or attorney of such owner or owners in possession of such premises or property, or, if said premises be unoccupied, and such service cannot be made as heretofore provided, then the said commissioners shall give notice of such award and filing thereof by the publication of the same in some newspaper published in said county, once each week for three consecutive weeks, the first publication thereof to be made within ten days after the filing of said award, and such award shall be filed in the county court, not less than twenty nor more than thirty days from the time it is so filed in the office of the county clerk.

Award to be made and notice of the filing thereof to be given owner.

Notice to be published, when.

SECTION 3. The said commissioners are hereby authorized and empowered to borrow money and to such an amount as, in their judgment, shall be required to prosecute with all convenient speed, the work contemplated by said chapter 383 of the laws of 1889, provided that the amount so borrowed shall not exceed thirty per cent. of the estimated value of the benefits to accrue to the lands, streets, highways and property affected by said system of drainage. And the commissioners, to better secure the payment of such loans, may issue the bonds of the drainage district, bearing interest at a rate not to exceed six per cent. per annum, payable semi-annually and running as may be determined by said commissioners, not to exceed six years from date of issue, which bonds shall not be held to make the commissioners personally liable for the money borrowed, but shall constitute a lien upon all lands and property bene-

Commissioners may borrow money, and issue bonds for the payment of same.

Form of bond.
Rights of ri-
parian owner.

fited by the completion of said work, and upon which assessments for benefits are made as security for the payment of the principal and interest thereof. All bonds issued by said commissioners, by virtue of this act shall be signed by the commissioners and countersigned by the county clerk, who shall affix his seal thereto, and no bond shall be sold for less than its par value, and the money arising therefrom shall be used for no other purpose than the construction and the expense contemplated by said chapter 383 of the laws of 1889, and the treasurer of said commissioners shall be the custodian of said bonds until the same are disposed of.

SECTION 4. The title and ownership of all lands uncovered or left bare by the reliction of the waters of Lakes Mendota, Monona, Waubesa, Kegonsa, Wingra and Mud lake, or either of them, by the consummation of the system of drainage contemplated by said chapter 383 of the laws of 1889, shall be in the riparian owner, and the title and ownership of the said riparian owner to the said new made lands shall extend to low water mark on the new shore line.

Jurors to be
paid.

SECTION 5. Where it is not otherwise provided by chapter 383, of the laws of 1889, for the payment of jurors' fees, the said jurors shall receive the same compensation and be paid in like manner as jurors of the circuit court of Dane county are paid, providing each juror shall present with his claim for fees a certificate of the county judge of said county, certifying that he is entitled to the same and the amount thereof.

Compensation
of commission-
ers; majority
may decide
questions.

SECTION 6. Each of the commissioners provided for by chapter 383, of the laws of 1889, and this act, shall receive four dollars per day for the time necessarily employed in the discharge of the duties of his office, to be paid out of the funds of the district. A majority of said commissioners shall have power to act and decide upon all matters pertaining to said drainage proceeding. The treasurer and clerk shall receive for their services such sums as may be fixed by the commissioners not to exceed three hundred dollars (\$300) each for their services in any one year. All fees and allowances shall be paid out of the funds of the district.

SECTION 7. Section 11 of chapter 383, of the laws of 1889, is hereby amended by adding at the

foot of said section the following: "And all provisions of law relating to the change of venue in civil actions shall apply to such appeal, the same as if it was an action originally brought in said circuit court." Appeal to be governed by general law of appeals.

SECTION 8. Section 28 of chapter 383, of the laws of 1889, and all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SECTION 9. This act shall be in force and take effect from and after its passage and publication.

Approved February 19, 1891.

No. 48, A.]

[Published March 3, 1891.

CHAPTER 10.

AN ACT to amend chapter 73, of the laws of 1885, entitled "An act to incorporate the city of Augusta."

(See Vol. 2.)

No. 66, S.]

[Published March 5, 1891.

CHAPTER 11.

AN ACT to amend the charter of the city of Plymouth, and the acts amendatory thereof.

(See Vol. 2.)