

CHAPTER 231.

[Published March 18, 1876.]

AN ACT to amend chapter 229, of the laws of 1873, relating to the establishment of a state road from Green Bay to Depere.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The act of which this is amendatory is hereby amended so as to read as follows: Section 1. G. S. Marsh, Vanden Winguard and Arnold Martins are hereby appointed commissioners, with full power and authority to lay out, establish and open a state road of eighty feet in width, from the south end of Webster street, in the city of Green Bay, in the county of Brown; thence to some suitable point in the village of Depere, in said county, to be determined by said commissioners: *provided*, that the road so laid out, established and opened may be extended by said commissioners at any time so as to embrace all that part of Webster street, in the city of Green Bay, lying southerly of the intersection of the middle line of private claim number nine with said Webster street, and the road so extended may be widened by said commissioners at any time to the width of one hundred feet, by annexing a strip twenty feet wide to the easterly side of said road as thus extended.

Amended.

Commissioners for laying out state road.

Provide.

SECTION 2. After said state road shall have been laid out and established and extended and widened as aforesaid, by said commissioners, and within ten days after such laying out and establishment and extension and widening, the said commissioners shall make out a correct map or plat of survey of said road and file the same in the office of the county clerk of Brown county.

Commissioners to make map of road.

SECTION 3. Immediately after the filing of said survey, the said commissioners shall cause notice of the laying out and establishment, or extension and widening (as the case may be) of said road to be given to all the occupants of the lands through which said road may pass, stating that said commissioners will meet at a certain place within the town of Allouez, in said county, at a time to be therein named, for the purpose of appraising the damages sustained by any person or persons through whose lands said road shall be laid out, or whose land shall be taken by

Notice of laying out or widening of said road to be given.

Notice to be served on occupants of lands to be taken.

such widening; such notice shall be served personally on all the occupants of said land, or by copy left with or at the usual place of abode of said occupants, at least five days before the time appointed for such meeting.

Damages to be ascertained by agreement between commissioners and owners of land.

SECTION 4. The damages sustained by any person or persons through whose land said road shall be laid out and established, or widened, may be ascertained by agreement between the said commissioners and such owner or owners; every such agreement shall be reduced to writing and signed by such owner and the said commissioners, and filed in the county clerk's office; and every such agreement and every release for damages given shall forever preclude such owner and all persons claiming under him from all further claim for damages. If there be any owner or owners of said lands who shall not agree with the commissioners as to the compensation they shall receive for damages sustained by them by reason of the laying out and establishment of said road, or its being widened, and who shall not previous to the meeting of said commissioners deliver to them a written release of all claims for damages sustained by them by reason thereof, said commissioners shall at the time and place of meeting appointed by them as aforesaid, assess the damages which such owner or owners will sustain by reason of the laying out of said road through their lands, or widening it so as to embrace their lands, and make an award in writing, specifying the sum awarded by them to each of said owners for their respective damages; and if the owner of any parcel of said land is unknown, the commissioners shall in their award specify the amount of damages awarded by them to such unknown owner. Said award shall be signed by the commissioners and filed in the county clerk's office, and on and after filing said award in the office of the said county clerk, the said road shall be a public highway and be deemed opened and established for highway purposes.

When commissioners and owners cannot agree, latter to assess damages.

Damages and expense—how paid.

SECTION 5. All damages and expenses necessarily occasioned by the laying out, establishment and opening said road, or extending and widening it as aforesaid, shall be paid by the city of Green Bay, the town of Allouez, and the village of Depere, and said commissioners shall each receive for their services in laying out and opening and extending and widening said road, two dollars and fifty cents per day for each day they are actually engaged thereon; and a major-

Compensation of commissioners.

ity of said commissioners shall have full power to do and perform any act or duty required by this act to be done or performed by said commissioners.

SECTION 6. Any party feeling himself aggrieved by the action of the said commissioners in awarding damages aforesaid, may appeal therefrom to the circuit court of Brown county by filing in the office of the clerk of said circuit court, a written notice of appeal within twenty days from and after the filing of the award of damages, and by executing to said city of Green Bay, town of Allouez, and village of Depere, and filing with said clerk of said circuit court, an undertaking with two sufficient surities, conditioned to pay all costs incurred by reason of said appeal if the damages finally recovered by said appellant shall not exceed the amount awarded by said commissioners; and upon the filing of said notice and undertaking, the clerk of said court shall enter such appeal on his docket, wherein the party appealing shall be plaintiff and the city of Green Bay, town of Allouez, and village of Depere, defendants; and such action shall be heard and determined as other issues of fact joined in said court.

Appeal from award of commissioners.

SECTION 7. The mayor of the city of Green Bay, the chairman of the town of Allouez, and the president of the village of Depere, are hereby constituted a board for the purpose of auditing all accounts and claims arising under the provisions of this act, and upon the certificate of a majority of said board, filed with the clerk of each of said municipalities, on or before the first day of October in each year, setting forth the amount of expense necessarily and properly to be incurred for the improving and maintaining of said road during the year, commencing at said date, the clerk of each of the municipalities aforesaid shall, in making up the tax-roll for each year, include therein and carry out in the column of state and cash taxes the amount of tax chargeable, as appears by such certificate, against the city, town or village, as the case may be, on account of said road, which amount shall be thus ascertained, viz: by calculation of the relative value of the taxable property of each of said municipalities as the same shall have been fixed by the last previous board of county equalization, and by assignment of the proportion of said tax according to the ratio which the taxable property of each of said municipalities bears to the aggregate value of the taxable property according to said equalization of said city, town

Auditing board.

Expenses to be included in tax roll.

and village taken together. The said board shall elect one of their number as chairman and the clerk of the city [of] Green Bay shall be *ex-officio* the secretary of the board.

Act of March 5, 1869, declared to be in force.

SECTION 8. The act entitled "an act to authorize the laying out of a state road from Green Bay to Depere," approved March 5, 1869, and the amendments thereto, are hereby declared to be in force, except when the provisions thereof conflict or are inconsistent with the provisions of this act, and in which latter case all of such conflicting or inconsistent provisions are hereby repealed.

County superintendent of highways to report to auditing board.

SECTION 9. The county superintendent of highways shall, as soon as practicable after said highways shall have been opened and established, or extended and widened, in accordance with section four (4) of this act, and annually thereafter, on or before the first day of June, report to the said auditing board upon the condition of said highway the amount and character of the work necessary or proper to be done thereon during the ensuing year and furnish them with a specific estimate of the cost thereof, and for such services shall be entitled to receive five dollars per diem for all the time necessarily employed therein.

Board to procure work required.

SECTION 10. The said board shall have authority to procure the performance of the work required upon said highway either by contract or otherwise.

State road tax to be paid over to county treasurer.

SECTION 11. The treasurer of the said city of Green Bay, town of Allouez, and village of Depere, shall annually, within thirty days after the expiration of the time for the collection of taxes, pay over to the county treasurer of Brown county the sums collected by them on account of said state road tax, and the said sums so paid over shall be held by said county treasurer as a separate fund, to be called "the state road fund." Payments from such fund shall only be made upon the order of the chairman of said auditing board, which order shall be countersigned by the secretary thereof.

Payments from state road fund.

Notice for removal of fences to be given.

SECTION 12. In case the commissioners shall have laid out and opened or widened said road through any enclosed, improved or cultivated lands, and their determination shall not have been appealed from, they shall give the owner or occupant of such lands notice in writing to remove his fences within such time as they shall deem reasonable, not less than thirty days, after giving such notice; and if such

owner or occupant shall not remove his fences within the time required in such notice, the said superintendent of county highways shall cause such fences to be removed; but if the determination of the commissioners shall have been appealed from, then such notice shall be given after the final decision of such appeal.

SECTION 13. The certificates which shall be filed by said board (in accordance with section seven of this act), on or before the first day of October in any year, shall include also a certificate of the expense incurred and to be incurred for laying out and opening and extending and widening said road, as well as for maintaining and improving the same, either previous to or during the year succeeding said date.

SECTION 14. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1875.

Certificate of expense incurred to be filed.

CHAPTER 232.

[Published March 19, 1875.]

AN ACT to amend chapter 445, of the laws of 1864, entitled, "An act to guard against the abuse of the elective franchise, and to preserve the purity of elections by a registration of electors," and all acts amendatory thereof and supplementary thereto.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The provisions of chapter four hundred and forty-five (445), of the laws of 1864, entitled, "An act to guard against the abuse of the elective franchise, and to preserve the purity of elections by registration of electors," and all acts amendatory thereof and supplementary thereto, shall hereafter be applicable only to incorporated villages and cities.

Amended.

Chap. 445. laws of 1864 only applicable to the incorporated villages and cities.

SECTION 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect from and after its passage and publication.

Conflicting acts repealed.

Approved March 4, 1875.