

chief probation officer or his substitute may be removed by the judges of the courts of record of such county for incompetency, or wilful or habitual neglect to perform the duties of his office. In the trials under this act of any dependent or delinquent child, any person interested therein may demand a jury of six, or the judge of his own motion may order a jury of the same number to try the case. Such jury when demanded or ordered shall be obtained in the manner provided in chapter 194 of the statutes of 1898, and the provisions of sections 4750 to 4758, both inclusive, of said chapter 194, shall be applicable to all such trials.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved June 20, 1905.

No. 786, A.]

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CHAPTER 497.

AN ACT to amend section 1863a of the statutes of 1898, as amended by chapter 465 of the laws of 1901, as amended by chapter 266 of the laws 1905, relating to condemnation proceedings by street and electric railway companies.

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

Condemnation. SECTION 1. Section 1863a of the statutes of 1898, as amended by chapter 465 of the laws of 1901, as amended by chapter 266 of the laws of 1905, is hereby amended so as to read as follows: Section 1863a. Any street or electric railway corporation shall have the power to lay out its right of way not exceeding 100 feet in width and acquire the same by condemnation and to construct its railway thereon; *provided, that wherever such corporation has constructed its railway on any street or highway under a franchise granted to it by any town or village board or city council, such corporation shall not, dur-*

ing the term of such franchise, abandon or discontinue any part of such railway on a public street or highway within any town, village or city without the consent of the proper town or village board or city council. For the purpose of cuttings and embankments and of obtaining gravel or other material such railway may take as much more land as may be necessary for the proper construction, operation and security of the road and cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in chapter 87 of the statutes of 1898, for lands taken by railroad companies, and any such street or electric railway corporation may acquire by purchase, grant or condemnation and may hold or use such real estate or other real or personal property as may be necessary for the construction, maintenance and operation of its railroad and of the stations, depot grounds and other accommodations reasonably necessary to accomplish the objects of incorporation; and when reasonably necessary may take and acquire by condemnation or otherwise the right to run its cars over any bridge owned by any city of the second, third and fourth classes, towns and villages, and the approaches thereto on the rails of any other street or electric railway which it may meet, join, intersect or cross. All the provisions of subdivision 6 of section 1828 of these statutes, relative to railroad crossings, shall apply to street and electric railways. The commissioners therein named shall have power to determine the place at, and manner in which grade or other crossings shall be made, and on an appeal from the determination and award of such commissioners to the circuit court as provided by this chapter, in condemnation proceedings, such court shall have power to review, reverse, modify or affirm such award, both as to the amount of compensation therein provided, and as to the manner of making such crossing, and may make such reasonable provisions as it shall deem necessary for public safety; provided the provisions of section 1808 of the statutes of 1898, shall not apply to trains operated by steam at crossings of such electric railways; and provided further that the appeal herein authorized, shall not prevent the construction of such crossing in the manner determined by the commissioners, and the use of the same by the petitioner upon the filing of such determination and award, with the clerk of the circuit court and the payment of the amount of compensation awarded to the railroad company, or to the clerk of the court for its benefit; but the circuit court may in its discretion require the petitioning company to maintain a flagman or other safeguard

at such crossing pending the determination of such appeal. And such railways shall have the power to cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route, and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damage which shall be done thereto. All the provisions of these statutes relating to the exercise of eminent domain by railroad companies, shall apply to street and electric railway corporations, provided that nothing herein shall apply to any park or boulevard in any city or village, nor to any street, alley, bridge or viaduct therein, unless the use of such park, boulevard, street, alley, bridge or viaduct shall first be granted to such street or electric railway company by a franchise duly passed by the board of trustees or common council of such village or city; and provided, further, that nothing herein shall apply to the right of the public or the title of any city or village, in and to any park, boulevard, street, alley, bridge or viaduct within its limits. Provided, further, that as far as applicable the provisions of sections 1810, 1811, 1812, 1813 and 1814 of the statutes of 1893, relating to the construction and maintenance of fences and cattle guards by railroad companies, shall apply to street and electric railways.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 20, 1905.