

SENATE BILL No. 406

May 3, 1989, Introduced by Senator NICHOLS and referred to the Committee on Judiciary.

A bill to amend sections 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 19, 21, 22, 27, 30, 32, and 33 of chapter XIII of Act No. 3 of the Public Acts of 1895, entitled as amended

"An act to provide for the incorporation of villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages; to define the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to define the application of this act and provide for its amendment by villages subject thereto; and to validate prior amendments and certain prior actions taken and bonds issued by villages,"

being sections 73.3, 73.4, 73.5, 73.6, 73.7, 73.8, 73.10, 73.11, 73.12, 73.13, 73.14, 73.19, 73.21, 73.22, 73.27, 73.30, 73.32, and 73.33 of the Michigan Compiled Laws; sections 8, 10, 11, and 14 of Act No. 5 of the Public Acts of the Extra Session of 1870, entitled

"An act to authorize the introduction of water into, and the construction or purchase of hydraulic works in the cities and villages in the state of Michigan,"

being sections 123.118, 123.120, 123.121, and 123.124 of the Michigan Compiled Laws; sections 4, 10, 13, and 14 of Act No. 272 of the Public Acts of 1909, entitled as amended

"An act to authorize the boards of trustees of the townships of this state to acquire and enlarge burying grounds and approaches to burying grounds in their respective townships and to provide the manner of acquiring private property for that purpose,"

being sections 128.154, 128.160, 128.163, and 128.164 of the Michigan Compiled Laws; section 27 of Act No. 352 of the Public Acts of 1925, entitled

"An act to provide for the purchase and condemnation of private property for public highway purposes,"

being section 213.197 of the Michigan Compiled Laws; section 5 of Act No. 192 of the Public Acts of 1929, entitled as amended

"An act to prescribe certain powers and duties of the director of conservation; to provide for the enforcement of the laws relative to the protection, propagation or preservation of wild birds, wild animals and fish; to provide for the enforcement of laws pertaining to the powers and duties of the director of conservation or the commission of conservation; to provide for the condemnation of property seized for violation of such statutes and laws; to declare as peace officers the director of the department of natural resources and any conservation officer appointed by him or her and to vest in the director and conservation officers all the powers, privileges, prerogatives, and immunities of peace officers under the general laws of the state; to provide for volunteer conservation officers and vest in them all the immunities of conservation officers under the general laws of the state; and to prescribe certain penalties,"

being section 300.15 of the Michigan Compiled Laws, to harmonize provisions of law relating to the abolished office of justice of the peace in regard to condemnation; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14,
2 19, 21, 22, 27, 30, 32, and 33 of chapter XIII of Act No. 3 of

1 the Public Acts of 1895, being sections 73.3, 73.4, 73.5, 73.6,
2 73.7, 73.8, 73.10, 73.11, 73.12, 73.13, 73.14, 73.19, 73.21,
3 73.22, 73.27, 73.30, 73.32, and 73.33 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 CHAPTER XIII

6 Sec. 3. Whenever the council of any such village shall have
7 declared a public improvement to be necessary in the village, and
8 shall have declared that they deem it necessary to take private
9 property, describing it, for such public improvement, designating
10 it, and that the improvement is for the use or benefit of the
11 public, they may by resolution, direct the village attorney to
12 commence the necessary proceedings in behalf of the village,
13 ~~before a justice of the peace of~~ IN THE CIRCUIT COURT FOR the
14 county in which such village is located. ~~, as they may desig-~~
15 ~~nate or they may by resolution direct that such proceedings be~~
16 ~~commenced in the circuit court of such county, to carry out the~~
17 ~~objects of the resolution in regard to taking private property by~~
18 ~~the village for such public use.~~

19 Sec. 4. ~~In case the council shall direct that such pro-~~
20 ~~ceedings be commenced before a justice of the peace, the~~ THE
21 village clerk shall make and deliver to ~~such~~ ITS attorney, as
22 soon as may be, a copy of such resolution certified under seal,
23 and it shall be the duty of such attorney to prepare and file
24 with ~~such justice~~ THE COURT, in the name of the village, a
25 petition signed by ~~him~~ THE ATTORNEY in his OR HER official
26 character and duly verified by him OR HER; to which petition a
27 certified copy of the resolution of the council shall be annexed,

1 which certified copy shall be prima facie evidence of the action
2 taken by the council, and of the passage of ~~said~~ THE
3 resolution. The petition shall state, among other things, that
4 it is made and filed as commencement of judicial proceedings by
5 the village in pursuance of this chapter, to acquire the right to
6 take private property for the use or benefit of the public, with-
7 out consent of the owners, for a public improvement, designating
8 it, for a just compensation to be made. A description of the
9 property to be taken shall be given and generally the nature and
10 extent of the use thereof that will be required in making and
11 maintaining the improvement shall be stated, and also the names
12 of the owners and others interested in the property, so far as
13 can be ascertained, including those in possession of the
14 premises. The petition shall also state that the council has
15 declared such public improvement to be necessary and that they
16 deem it necessary to take the private property described in that
17 behalf for such improvement for the use or benefit of the
18 public. The petition shall ask that a jury be summoned and
19 impaneled to ascertain and determine whether it is necessary to
20 make such public improvement, whether it is necessary to take
21 such private property as it is proposed to take for the use or
22 benefit of the public, and to ascertain and determine the just
23 compensation to be made therefor. The petition may state any
24 other pertinent matter or thing and may pray for any other or
25 further relief to which the village may be entitled within the
26 objects of this chapter.

1 Sec. 5. Upon receiving ~~said~~ THE petition, it shall be the
2 duty of the ~~said justice~~ JUDGE to issue a summons signed by him
3 OR HER against the respondents named in ~~such~~ THE petition,
4 stating briefly the object of ~~said~~ THE petition, and commanding
5 them, in the name of the people of the state of Michigan, to
6 appear before ~~said justice~~ THE JUDGE at a time and place to be
7 named in ~~said~~ THE summons, not less than 20 nor more than 40
8 days from the date of the same, and show cause, if any they have,
9 why the prayer of ~~said~~ THE petition should not be granted.

10 Sec. 6. ~~Said~~ THE summons shall be served by the village
11 marshal or any constable of the county in which such village is
12 located, at least 5 days before the return day thereof, upon all
13 the respondents found within the county, by exhibiting the origi-
14 nal and delivering a copy to each of them. If any respondent who
15 is a resident of the county cannot be found, the summons shall be
16 served by leaving a copy thereof at his or her usual or last
17 place of abode, with some person of suitable age and discretion.
18 If any minor or person of unsound mind is interested in the
19 premises to be taken, service may be made on the guardian of such
20 person, if any, and if there is no guardian the ~~justice~~ JUDGE
21 may appoint some discreet and proper person to be guardian ad
22 litem of such person in such proceedings, and such guardian shall
23 have authority to represent such person in ~~said~~ THE
24 proceedings. The proceedings to appoint such guardian shall be
25 the same as in other cases provided by statute. And if it shall
26 appear on the return day of the summons that any respondent
27 cannot be found within the county and has not been served in the

1 manner provided, or is a ~~non-resident~~ NONRESIDENT and has not
2 voluntarily appeared, the court may make an order requiring such
3 respondent or respondents to appear and show cause why the prayer
4 of the petition should not be granted on a day to be named in the
5 order, not less than 30 days from the date thereof, and may
6 require that a certified copy of such order be personally served
7 on such respondents wherever found, if practicable, at least 6
8 days before the time named in the order for appearance, or the
9 court may make such order for appearance and require, as to any
10 or all such respondents who shall not have been personally served
11 and have not appeared, that service be made by publishing a cer-
12 tified copy of such order for 3 successive weeks, at least once
13 in each week, in at least 1 newspaper published within the vil-
14 lage, if there be one, and if not, then in some newspaper pub-
15 lished at the county seat of the county in which such village is
16 located, the last publication to be at least 6 days before the
17 day fixed in the order for appearance. Alias and pluries sum-
18 monses may be issued and the ~~justice~~ JUDGE may adjourn the pro-
19 ceedings from time to time as there shall be occasion. Service
20 of such order for appearance in either mode prescribed shall be
21 sufficient notice of the proceedings to bind the respondents and
22 the property represented by them. The return of the officer upon
23 the summons and an affidavit of the due service or the publica-
24 tion of the order for appearance, if any, shall be filed with
25 ~~such justice~~ THE JUDGE before a jury shall be ~~empaneled~~
26 IMPANELED and be sufficient evidence of service on the
27 respondents and of the manner of service.

1 Sec. 7. On the return day of the summons, or on some
2 subsequent day to which the proceedings are adjourned, if no suf-
3 ficient cause to the contrary has been shown, the ~~justice~~ JUDGE
4 shall make an order that a jury be ~~empaneled~~ IMPANELED in the
5 cause. Such jury shall be composed of 12 ~~freeholders~~ RESIDENTS
6 of the village residing in the vicinity of the property to be
7 taken described in the petition. The ~~said~~ jury shall be
8 selected and ~~empaneled~~ IMPANELED as follows: The village
9 marshal or any constable of the county shall on the same day, or
10 at an adjourned day, pursuant to the order of the ~~justice~~
11 JUDGE, make a list of 24 ~~of such freeholders~~ RESIDENTS, and the
12 village attorney and the respondents collectively shall each have
13 the right to strike 6 names from the list of persons written down
14 as aforesaid, and, subject to objection for cause, the 12 persons
15 whose names are left on the list shall compose the jury for the
16 trial of the cause, and shall be summoned to attend not less than
17 3 nor more than 10 days from the date of selecting such jury, by
18 a venire issued by the ~~justice~~ JUDGE and to be served by 1 of
19 the officers aforesaid. If the respondents neglect or refuse to
20 strike 6 names from ~~said~~ THE list, it shall be done by the
21 ~~justice~~ JUDGE, and in case any of the persons to be summoned
22 cannot be found by such officer in the county, or being summoned
23 do not attend, or shall be excused for cause, or otherwise,
24 talesmen possessing the necessary qualifications may be summoned
25 as jurors in the case by such officers, and the practice and pro-
26 ceedings under this chapter, except as herein otherwise provided,
27 relative to ~~empaneling~~ IMPANELING, summoning, and excusing

1 jurors and talesmen, and imposing penalties or fines upon them
2 for ~~non-attendance~~ NONATTENDANCE, shall be the same as the
3 practice and proceedings of ~~justices' courts~~ THE CIRCUIT COURT
4 relative to jurors in civil cases in such courts, except that
5 peremptory challenges shall not be allowed.

6 Sec. 8. The jurors so impaneled shall be sworn or shall
7 affirm in substance as follows: "You do solemnly swear (or
8 affirm) that you will well and truly ascertain and determine
9 whether there is a public necessity for making the proposed
10 improvement and for taking for the use or benefit of the public
11 the private property which the petition describes and prays may
12 be taken, and if you shall determine that it is necessary to make
13 such improvement, and to take such property, that then you will
14 ascertain, determine, and award the just compensation to be made
15 therefor, and faithfully and impartially discharge all such other
16 duties as devolve upon you in this case, and unless discharged by
17 the court, a true verdict give, according to the law and evi-
18 dence, so help you God (or under the pains and penalties of
19 perjury)." The jury shall hear the proofs and allegations of the
20 parties, and shall go to the place of the intended improvement,
21 in the charge of an officer, and upon or as near as practicable
22 to the property proposed to be taken, and examine the premises.
23 They shall be instructed as to their duties and the law of the
24 case by the ~~justice~~ JUDGE, and shall retire under the charge of
25 an officer and render their verdict in the same manner as on the
26 trial of an ordinary civil case, but the same shall be in writing
27 and be signed by all the jurors.

7

8 We find that it is necessary
9 to take the private property described in the petition in this
0 cause, for the use and benefit of the public, for the proposed
1 public improvement.

12

13 The just compensation to be paid for such private property
14 we have ascertained and determined, and hereby award as follows:

15			
16	Description of	Owners,	
17	each of the	occupants	Compensation. To whom payable.
18	several parcels	and others	
19	of private	interested in	
20	property	each parcel.	
21	to be taken.		

26 The different descriptions of the property and the names of
27 the occupants, owners and others interested therein may be
28 inserted in ~~said~~ THE blank verdict, under the direction of the

1 ~~justice~~ JUDGE, before it is submitted to the jury, or it may be
2 done by the jury.

3 Sec. 11. Amendments either in form or substance may be
4 allowed by ~~the justice or by~~ the circuit court in any paper,
5 petition, process, record, or proceeding, or in the description
6 of property proposed to be taken, or the name of any person,
7 whether contained in a resolution passed by the council, or oth-
8 erwise, whenever the amendment will not interfere with the sub-
9 stantial rights of the parties. Any such amendment may be made
10 after as well as before judgment confirming the verdict of the
11 jury.

12 Sec. 12. Upon filing the verdict rendered by any jury, with
13 ~~said justice~~ THE JUDGE, he OR SHE shall enter the same upon the
14 docket of his OR HER proceedings, and a copy thereof may be taken
15 by the village attorney, for the use of the council and at any
16 time thereafter, and within 40 days after the rendition of such
17 verdict, the ~~justice~~ JUDGE, upon the application of the village
18 attorney shall enter judgment of confirmation of the determina-
19 tion and awards therein made. Unless such application and con-
20 firmation shall be made within ~~said~~ THE 40 days, all proceed-
21 ings upon that verdict and award shall be at an end, and a new
22 jury and new proceedings may be had, as in the case of a dis-
23 agreement of the jury. All parties interested in such verdict
24 shall take notice of the confirmation thereof. Any such judgment
25 of confirmation shall be final and conclusive as to all parties
26 not appealing therefrom, within the time hereinafter provided.

1 Sec. 13. If such jury should be unable to agree upon a
2 verdict, or for any cause should fail to render a verdict, ~~said~~
3 ~~justice~~ THE JUDGE shall, on the application of the village
4 attorney, designate some day and hour when another jury may be
5 ~~empaneled~~ IMPANELED; and such other jury shall be obtained,
6 drawn, summoned, returned, bound to attend and serve, have the
7 same qualifications, be sworn, and when sworn, have the same
8 powers and duties as the first jury. The same proceedings, after
9 they are sworn, shall be had by them, and by and before ~~said~~
10 ~~justice~~ THE CIRCUIT JUDGE, or some other ~~justice~~ CIRCUIT JUDGE
11 of the county in which such village is located as provided for
12 above after the first jury is sworn.

13 Sec. 14. If any juror, after being sworn, shall die or from
14 sickness or any other cause be unable to discharge his OR HER
15 duties as a juror, ~~said justice~~ THE JUDGE may cause to be drawn
16 another person to serve in his OR HER place, who shall be sworn,
17 and shall have the like qualifications, powers, and duties as
18 those already sworn.

19 Sec. 19. Upon receiving such petition, it shall be the duty
20 of the clerk of ~~said~~ THE court to issue a summons against the
21 respondents named in such petition, stating briefly the objects
22 of ~~said~~ THE petition and commanding them in the name of the
23 people of the state of Michigan to appear before ~~said~~ THE cir-
24 cuit court at a time and place to be named in ~~said~~ THE summons,
25 not less than 20 nor more than 40 days from the date of the same
26 and show cause, if any they have, why the prayer of ~~said~~ THE
27 petition should not be granted. Alias and pluries writs of

1 summons may be issued by ~~said~~ THE clerk under like
2 circumstances as provided in a case commenced before a ~~justice~~
3 DISTRICT COURT. All such writs shall be signed by the clerk and
4 his OR HER official seal shall be impressed thereon. The ~~said~~
5 clerk shall possess all the authority and discharge all the
6 duties in respect to such case as in an ordinary civil action at
7 law.

8 Sec. 21. On the return day of the summons in such case, or
9 on some subsequent day to which the proceedings are adjourned,
10 either by order of the circuit court or circuit judge, if no suf-
11 ficient cause to the contrary has been shown, the circuit court,
12 without reference to any term of court, shall proceed to try the
13 case, and thereupon the case shall be tried and the proceedings
14 had as are herein prescribed in respect to the trial of a case
15 before a jury ~~in a case appealed from a justice to~~ IN the cir-
16 cuit court.

17 Sec. 22. If, pursuant to the provisions of this chapter, a
18 jury trial in the circuit court becomes necessary, the circuit
19 judge or circuit court shall make an order that a jury be
20 ~~empaneled~~ IMPANELED to try the case. Such jury shall be com-
21 posed of 12 ~~freeholders~~ RESIDENTS of the village residing in
22 the vicinity of the property to be taken described in the
23 petition. ~~Said~~ THE jury shall be selected and ~~empaneled~~
24 IMPANELED as follows: The sheriff, undersheriff, or any deputy
25 sheriff of the county on the return day of the summons, ~~or if~~
26 ~~the case is one that has been appealed from justice's court, then~~
27 ~~on the day fixed for the trial and disposition thereof,~~ or at an

1 adjourned day shall, pursuant to the order of the judge or court,
2 make a list of 24 of such ~~freeholders~~ PERSONS and the village
3 attorney or his OR HER assistant and the respondents collectively
4 shall each have the right to strike 6 names from the list of per-
5 sons written down as aforesaid, and, subject to objection for
6 cause, the 12 persons whose names are left on the list, shall
7 compose the jury for the trial of the cause and shall be summoned
8 to attend at such trial as the judge or court shall direct by a
9 venire issued by the clerk of the court, and be served by 1 of
10 the officers aforesaid. If the respondents neglect or refuse to
11 strike 6 names from ~~said~~ THE list it shall be done by the judge
12 of the court and in case any of the persons to be summoned cannot
13 be found in the county or, being summoned, do not attend, or
14 shall be excused for cause or otherwise, talesmen possessing the
15 necessary qualifications may be summoned as jurors in the case by
16 such sheriff or sheriff's officer, and the practice and proceed-
17 ings under this chapter relative to ~~empaneling~~ IMPANELING, sum-
18 moning and excusing jurors and talesmen and imposing penalties or
19 fines upon them for ~~non-attendance~~ NONATTENDANCE, shall be the
20 same as the practice and proceedings of the circuit courts of the
21 state relative to petit jurors in civil cases in such courts,
22 except that peremptory challenges shall not be allowed, and
23 except as herein otherwise provided.

24 Sec. 27. Upon ~~dismissal of an appeal, or on~~ rendition of
25 verdict favorable to the village in any case after a trial in the
26 circuit court, ~~said~~ THE court shall enter judgment and confirm
27 the proceedings and rights of the village to take and appropriate

1 the lands ~~of the appellant~~ for the purpose mentioned in the
2 resolution of the council. ~~In cases appealed from a justice~~
3 ~~unless the appellant shall recover a verdict and judgment for at~~
4 ~~least 50 dollars more than the amount awarded to him before the~~
5 ~~justice, he shall pay costs to the village, otherwise the court~~
6 ~~shall award such costs to him or to the village as shall be~~
7 ~~just.~~ If the verdict or judgment rendered in any case tried in
8 the circuit court shall be against the village upon the question
9 of the necessity of taking the property described in the petition
10 for public use, or for the benefit of the public, or if for any
11 other reason the village council shall deem it best to discon-
12 tinue such cause and not to take further proceedings therein,
13 they may, by resolution so declare, and thereupon the village
14 clerk shall make and certify a copy of such resolution and
15 deliver the same to the village attorney, who shall file such
16 certified copy of resolution with the clerk of the circuit
17 court. Upon the same being so filed ~~said~~ THE cause shall be
18 deemed to be discontinued and no further proceedings therein
19 shall be taken, except that the village shall pay all costs
20 awarded against it by the court. The village council may insti-
21 tute new proceedings for the taking of such lands or any part
22 thereof at any time thereafter.

23 Sec. 30. If a verdict and judgment in such cause shall be
24 rendered in favor of the village, ~~either by a justice of the~~
25 ~~peace or in the circuit court and after the same shall become~~
26 ~~final unless the cause shall have been discontinued as~~
27 ~~hereinbefore provided,~~ it shall be the duty of the village clerk

1 to procure copies of the judgment of the circuit court ~~or of the~~
2 ~~justice of the peace~~ as well as of the verdict of the jury, and
3 the same shall be recorded in a book of records to be kept by him
4 OR HER, and the ~~docket of such justice, or the~~ judgment of
5 ~~said~~ THE circuit court, as well as the book of records of such
6 proceedings kept by ~~said~~ THE clerk, or certified copies there-
7 of, shall be presumptive evidence of the matters therein con-
8 tained, and of the regularity of all the proceedings to appropri-
9 ate the property sought to be acquired, and to confirm the same.

10 Sec. 32. Within 1 year after the judgment in ~~said~~ THE
11 cause shall become final the council shall set apart and cause to
12 be provided in the treasury, unless the cause shall have been
13 discontinued and unless already provided, the amount required to
14 make compensation to the owners and persons interested for the
15 private property taken as awarded by the jury, and shall in the
16 resolution setting apart and providing said sum if not already
17 provided, direct the village to pay to the persons respectively
18 entitled to the money so set apart and provided, to each his or
19 her proportion, as ascertained and awarded by ~~said~~ THE
20 verdict. And it shall be the duty of the treasurer to securely
21 hold such money in the treasury for the purpose of paying for the
22 property taken, and pay the same to the persons entitled thereto
23 according to the verdict of the jury, on demand, and not pay out
24 the money for any other purpose whatever. The council may pro-
25 vide the necessary amount by borrowing from any other money or
26 fund in the treasury and repay the same from money raised to pay
27 the compensation awarded by the jury, when collected, or

1 otherwise, as they may provide. Whenever the necessary sum is
2 actually in the treasury for such purpose, the treasurer shall
3 make and sign duplicate certificates verified by his OR HER oath,
4 showing that the amount of compensation awarded by the jury is
5 actually in the treasury for payment of the private property
6 taken in the case, giving the title of the case; he OR SHE shall
7 cause 1 of the certificates to be filed ~~in the office of the~~
8 ~~justice before whom such proceedings were had, or his successor,~~
9 ~~or~~ in the office of the clerk of the court in which the proceed-
10 ings were had, and the other to be filed with the village clerk,
11 which certificates shall be prima facie evidence of the matters
12 therein stated. Whenever the amount of such compensation is in
13 the treasury and thus secured to be paid, the council may enter
14 upon and take possession of and use such private property for the
15 purposes for which it was taken and may remove all buildings,
16 fences, and other obstructions therefrom. In case of resistance
17 or refusal on the part of ~~any one~~ ANYONE to the council, or
18 their agents and servants entering upon and taking possession of
19 such private property for the use and purpose for which it was
20 taken, at any time after the amount of the compensation aforesaid
21 is actually in the treasury ready to be paid to those entitled
22 thereto, the council, by the village attorney, may apply to the
23 ~~justice or other proper~~ court and shall be entitled, on making
24 a sufficient showing, to a writ of assistance to put them in pos-
25 session of the property.

26 Sec. 33. Officers and witnesses in any proceeding under
27 this chapter shall be entitled to receive the same fees and

1 compensation as are provided by law for similar services in an
2 ordinary action at law in the court where the case is tried.
3 ~~Persons summoned to serve as jurors before a justice shall be~~
4 ~~entitled to a fee of 2 dollars per day and also 10 cents per mile~~
5 ~~for each mile actually traveled in going to the place of trial.~~
6 ~~All said fees and mileage shall be paid by the village.~~ Persons.
7 summoned to serve as jurors in the circuit court shall be enti-
8 tled to receive the same per diem fee and the same mileage as is
9 allowed by law for jurors in the circuit court; such fees and
10 mileage of the persons so summoned as jurors shall be paid in the
11 first instance by the county, but shall be repaid to the county
12 by the village.

13 Section 2. Sections 15, 16, and 17 of Act No. 3 of the
14 Public Acts of 1895, being sections 73.15, 73.16, and 73.17 of
15 the Michigan Compiled Laws, are repealed.

16 Section 3. Sections 8, 10, 11, and 14 of Act No. 5 of the
17 Public Acts of the Extra Session of 1870, being sections 123.118,
18 123.120, 123.121, and 123.124 of the Michigan Compiled Laws, are
19 amended to read as follows:

20 Sec. 8. For the purpose of acquiring such title or right of
21 way, such commission or board shall give notice to the claimant
22 or owners of ~~said~~ SUCH land, or of any interest therein, that
23 at a time and place therein mentioned proceedings will be taken
24 for the purpose of acquiring such title or right of way, ~~before~~
25 ~~some justice of the peace or other judicial officer residing in~~
26 ~~such city or village or in the township~~ IN THE CIRCUIT COURT FOR
27 THE COUNTY in which such lands are situate; and that ~~said~~ THE

1 claimants or owners of ~~said~~ THE land or any interest therein,
2 may appear before ~~such officer~~ THE COURT at such time and place
3 to have their claims and interests adjusted and the compensation
4 to be paid by such city or village for such land or interest
5 therein, fixed and determined, which ~~said~~ notice shall also
6 contain a description of the lands to be taken, and the particu-
7 lar use or purposes for which such lands are desired.

8 Sec. 10. At least 5 days before the time fixed in such
9 notice for such hearing, such commission or board shall present
10 to the ~~justice or other officer mentioned in such notice~~ COURT
11 a report, setting forth a description of the lands in such
12 notice, the necessity for using the same, and the particular use
13 or purpose for which such lands are desired, and whether desired
14 in fee or otherwise, that such commission or board have been
15 unable to agree with the owner or person interested in such land,
16 and the time and manner of giving such notice, and attach thereto
17 a copy of such notice, which report shall be signed by the presi-
18 dent or secretary, together with an affidavit of service or pub-
19 lication of such notice attached thereto. And thereupon it shall
20 be the duty of ~~such justice or other officer~~ THE JUDGE to issue
21 a venire facias directed to the marshal or any constable of such
22 city, village, or township, commanding him OR HER to summon 12
23 disinterested ~~freeholders~~ RESIDENTS of the county to appear as
24 jurors before such officer at the time and place mentioned in
25 such notice. And it shall be the duty of the marshal or consta-
26 ble to whom such venire is delivered to summon such jurors
27 personally at least 24 hours before the time when they are by

1 ~~said~~ THE venire required to appear, and to return the same on
2 or before the day of such hearing with his OR HER doings thereon,
3 and the names of the persons summoned and the time and manner of
4 summoning them. If, for any reason any juror so summoned shall
5 not appear and his OR HER attendance cannot be procured or if any
6 juror or jurors appearing in obedience to such venire shall be
7 found incompetent or unfit, in the discretion of ~~such justice~~
8 THE JUDGE or other officer before whom the proceedings are had,
9 to serve as such juror, or has any sufficient excuse for not so
10 serving, ~~said justice~~ THE JUDGE or other officer shall direct
11 the marshal or constable to forthwith summon a sufficient number
12 of disinterested ~~freeholders~~ RESIDENTS of ~~said~~ THE county as
13 talesmen to complete the number of 12 jurors, and such jury
14 having been first duly sworn may examine the premises and shall
15 proceed to ascertain and determine the necessity for taking or
16 using the land described in the ~~said~~ notice, and to fix and
17 determine the title or rights which said city or village shall
18 have to such lands. And such jury shall have full power to hear,
19 examine, and determine of and concerning the rights, interest,
20 and title of all and any of the claimants of ~~said~~ THE land, and
21 also to assess the value thereof and fix the compensation, after
22 deducting the benefits which such claimant or owners may derive
23 therefrom, to be paid by such city or village therefor as fully
24 and efficiently as if all the power necessary for the purposes
25 aforesaid were herein specifically enumerated in this act, and
26 the decision of such jury shall be final and conclusive in the
27 premises, unless an appeal from their decision shall be taken as

1 provided in this act; and their verdict when determined on, shall
2 be reduced to writing and subscribed by each of said jurors, and
3 ~~said~~ THE jury shall thereupon be discharged, Provided, That in
4 cases where 2 or more claimants claim conflicting titles or
5 interests in ~~said~~ THE lands, the amount awarded by the jury
6 shall be paid into the circuit court of the county in which such
7 lands are situate and the same shall afterwards be paid to the
8 party or parties establishing their title thereto in proportion
9 to their interests in ~~said~~ THE lands: And provided further,
10 That ~~said~~ THE city or village and ~~said~~ THE claimant or claim-
11 ants, in cases of more than 1 claimant, shall have the right to a
12 challenge in writing, to the array, for cause, and 2 peremptory
13 challenges, besides the right of challenge to the polls for
14 cause, and such officer shall supply the place thereof by tales-
15 men summoned as aforesaid. Said jurors shall each be allowed 2
16 dollars per day for their services, and mileage as in other
17 cases, which shall be paid by such city or village. ~~And such~~
18 ~~justice or other officer shall receive the same fees as are~~
19 ~~allowed for like services in justice courts and for the purpose~~
20 ~~of summoning and empaneling~~ IMPANELING the jury, compelling the
21 attendance of witnesses, or during adjournment and all other pro-
22 ceedings necessary for successfully carrying out the foregoing
23 provision. The officer before whom the proceedings are had shall
24 have and exercise all the powers usually exercised by justices of
25 the peace in the conduct and trial of suits at law: Provided
26 however, That there THERE shall not be more than 2 adjournments
27 and no adjournment shall be for a period exceeding 10 days.

1 Sec. 11. Either party to the proceedings who ~~shall~~
2 ~~consider himself~~ IS aggrieved by the determination of the jury
3 as to the amount of damages so awarded, may appeal therefrom to
4 the circuit court of the same county in the manner hereinafter
5 provided. The party desiring to appeal, his OR HER agent or
6 attorney, shall, within 5 days after the final determination of
7 the jury, make and file with the ~~officer~~ COURT before whom the
8 proceedings were had, an affidavit that such determination is not
9 in accordance with the rights of the party as the deponent verily
10 believes, and showing the interest which the party claiming an
11 appeal has or claims to have in the premises. And the party so
12 appealing shall, within the same time, execute and deliver to
13 ~~such officer~~ THE COURT a bond, with 2 or more sufficient sure-
14 ties to be approved by such ~~officer~~ COURT in writing indorsed
15 on ~~said~~ THE bond, in a penalty to be fixed by such ~~justice~~
16 JUDGE or other officer, and not less than 100 dollars, condi-
17 tioned that the appellant shall prosecute his ~~said~~ OR HER
18 appeal with all due diligence to a decision in the circuit court,
19 and if the determination of the jury is affirmed or if the appeal
20 is dismissed or discontinued that such appellant will pay all
21 costs that may be adjudged against him OR HER or them by such
22 circuit court. Within 5 days after the filing of such bond and
23 affidavit, the ~~officer before whom the proceedings were had~~
24 COURT shall make a duplicate of the return which ~~he~~ is required
25 by this act to ~~file~~ BE FILED with the clerk of the common coun-
26 cil of the city or corporate authorities of the village, as the
27 case may be, and attach to such duplicate the bond and affidavit,

1 and file the same with the clerk of such circuit court; and for
 2 making and filing such duplicate, such ~~officer~~ COURT shall be
 3 entitled to a fee of 3 dollars, to be paid in the first instance
 4 by the party appealing. Upon the filing of such duplicate return
 5 as aforesaid, the same proceedings shall be thereupon had as in
 6 other appeal cases from ~~justice's~~ DISTRICT court. And such
 7 case shall be determined with all convenient speed. ~~, and either~~
 8 ~~party may remove said cause to the supreme court as in other~~
 9 ~~cases.~~

10 Sec. 14. It shall be the duty of the recorder or clerk of
 11 such city or village, upon the filing of such papers and proceed-
 12 ings with him OR HER by ~~said justice~~ THE COURT, in case there
 13 is no appeal, and of the clerk of the circuit court in case of an
 14 appeal, upon the final determination thereof, to make a certified
 15 copy of all the papers and proceedings filed with him OR HER, and
 16 in ~~said~~ THE cause, under the seal of ~~said~~ THE court, or under
 17 the corporate seal of ~~said~~ THE city or village, as the case may
 18 be, and deliver the same to the register of deeds of the county,
 19 who shall record the same in the record of deeds kept in his OR
 20 HER office, and who shall receive 10 cents per folio for record-
 21 ing the same.

22 Section 4. Sections 4, 10, 13, and 14 of Act No. 272 of the
 23 Public Acts of 1909, being sections 128.154, 128.160, 128.163,
 24 and 128.164 of the Michigan Compiled Laws, are amended to read as
 25 follows:

26 Sec. 4. It shall be the duty of such judge, ~~commissioner,~~
 27 ~~or justice, and of~~ the persons summoned as jurors, as

1 hereinbefore provided, and ~~of~~ the sheriff or constable
2 summoning them, to attend at the time and place specified in such
3 summons or venire; and the officer who summoned the jury shall
4 return such summons or venire to the officer who issued the same,
5 with the names of the persons summoned by him OR HER as jurors,
6 and shall certify the manner of notifying the owner or owners of
7 such real estate, if he OR SHE was found; and if he OR SHE could
8 not be found in said county, ~~he~~ THE PERSON WHO SUMMONED THE
9 JURY shall certify that fact. Either party may challenge any of
10 the ~~said~~ jurors for the same causes as in civil action. If
11 more than 12 of ~~said~~ THE jurors in attendance shall be found
12 qualified to serve as jurors, the officer in attendance, and who
13 issued the summons or venire for such jury, shall strike from the
14 list of jurors a number sufficient to reduce the number of jurors
15 in attendance to 12; and in case less than 12 of the number so
16 summoned as jurors shall attend, the sheriff or constable shall
17 summon a sufficient number of ~~freeholders~~ RESIDENTS to make up
18 the number of 12; and the officer issuing the summons or venire
19 for such jury, may issue an attachment for any person summoned as
20 a juror who shall fail to attend, and may enforce obedience of
21 such summons, venire, or attachment, as courts of record ~~, or~~
22 ~~justices' courts~~ are authorized to do in civil cases.

23 Sec. 10. In case the jury hereinbefore provided for shall
24 not agree, another jury may be summoned in the same manner, and
25 the same proceedings may be had, except that no further notice of
26 the proceedings shall be necessary; but instead of such notice,
27 the judge ~~, commissioner, or justice~~ may adjourn the

1 proceedings to such times as he OR SHE shall think reasonable,
2 not exceeding 30 days, and shall make the process to summon a
3 jury returnable at such time and place as the ~~said~~ proceedings
4 shall be adjourned to. Such proceedings may be adjourned from
5 time to time by the ~~said~~ judge, ~~or commissioner, or justice,~~
6 on the application of either party, and for good cause, to be
7 shown by the party applying for such adjournment unless the other
8 party shall consent to such adjournment; but such adjournments
9 shall not in all exceed 3 months.

10 Sec. 13. In case any circuit judge ~~, circuit court commis-~~
11 ~~sioner, or justice of the peace,~~ who shall issue a summons or
12 venire for a jury ~~,~~ shall be unable to attend to any of the
13 subsequent proceedings in such case, any other circuit court
14 ~~commissioner or justice of the peace~~ JUDGE may attend and
15 finish ~~said~~ THE proceedings.

16 Sec. 14. Circuit judges, ~~circuit court commissioners, and~~
17 ~~justices of the peace,~~ for any services rendered under the pro-
18 visions of this act, shall be entitled to the same fees and com-
19 pensation as for similar services in other special proceedings.
20 Jurors, constables, and sheriffs shall be entitled to the same
21 fees as for like services in civil cases in circuit court.

22 Section 5. Section 27 of Act No. 352 of the Public Acts of
23 1925, being section 213.197 of the Michigan Compiled Laws, is
24 amended to read as follows:

25 Sec. 27. Any proceeding taken under the provisions of this
26 act shall be subject to review upon certiorari. The procedure
27 therefor shall be the same as is required in case of certiorari

1 to review judgments rendered by judges of the circuit courts:
2 Provided, That the application for certiorari must be filed
3 within 20 days after the report of the court ~~commissioners shall~~
4 ~~have~~ HAS been confirmed: And provided further, That the deter-
5 mination of necessity provided in section 4 of this act may be
6 reviewed by certiorari only within 10 days after such determina-
7 tion of necessity. ~~and the procedure shall be the same as review~~
8 ~~of judgments rendered by a justice of the peace, except that~~
9 ~~such~~ SUCH certiorari may be heard by the court during term or at
10 chambers upon 5 days' notice given to the opposing party.

11 Section 6. Section 5 of Act No. 192 of the Public Acts of
12 1929, being section 300.15 of the Michigan Compiled Laws, is
13 amended to read as follows:

14 Sec. 5. The proceedings for the condemnation and confisca-
15 tion of any property under the provisions of this act shall be
16 subject to review or certiorari as herein provided. A writ of
17 certiorari may be issued within 10 days after final judgment and
18 determination in any condemnation proceeding for the purpose of
19 reviewing any error in such proceeding. Notice of such certio-
20 rari shall be served upon the director of ~~conservation~~ THE
21 DEPARTMENT OF NATURAL RESOURCES within 10 days after the date of
22 issue, in the same manner as notice is required to be given of
23 certiorari for reviewing judgments rendered by ~~a justice of the~~
24 ~~peace~~ THE DISTRICT COURT, and the writ shall be issued and
25 served and bond given and approved in the same manner as is
26 required for reviewing judgments by ~~justices of the peace~~ THE
27 DISTRICT COURT.

1 Section 7. Sections 18 and 20 of chapter XIII of Act No. 3
2 of the Public Acts of 1895, being sections 73.18 and 73.20 of the
3 Michigan Compiled Laws, are repealed.