

No. 358, A.]

[Published June 27, 1907.]

CHAPTER 416.

AN ACT to authorize F. M. Moffatt and J. C. Kinsman, their heirs executors administrators, associates or assigns, to erect and maintain a dam across the Little Wolf river in Waupaca county.

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

Height, location and use. SECTION 1. F. M. Moffatt and J. C. Kinsman, their heirs, executors, administrators, associates or assigns, are authorized to build and maintain a dam not to exceed fifteen feet in height above low water mark, across the Little Wolf river in Waupaca county, on the southeast quarter of the southwest quarter of section twenty-two, town twenty-five north of range twelve east, for the purpose of improving the navigation of the Little Wolf river above said dam; and the said F. M. Moffatt and J. C. Kinsman, their heirs, executors, administrators, associates or assigns, are authorized to use the hydraulic power created by said dam for manufacturing purposes.

Free passage for logs, etc. SECTION 2. Said dam shall be so constructed as not to retard the driving of logs and timber down said river and over and through said dam, and a passageway for such logs and timber shall be kept open and free of charge whenever there shall be logs and timber to pass down said river.

Fishway. SECTION 3. The dam shall be provided with a good and sufficient fishway to be approved by the state board of commissioners of fisheries, and said fishway shall at all times be kept in good repair and open for the free and easy passage of fish.

Flowage remedies and liabilities. SECTION 4. In case it shall be necessary to take, flow or injure any lands and property or either thereof, for the purpose or purposes of the construction or use of the dam hereby authorized, F. M. Moffatt and J. C. Kinsman, their heirs, executors, administrators, as-

sociates or assigns, shall be subject to all of the provisions, remedies and liabilities in that behalf, and entitled to all the benefits, privileges, remedies and provisions of chapter 146 of the statutes, entitled "Of Mills and Mill Dams," as applicable and not inconsistent with this act; but nothing contained in this section shall be taken to preclude said grantees, their heirs, executors, administrators, associates or assigns, from acquiring title to, or the right to use, any and all such lands and property or of either thereof, or any part thereof, by purchase, lease, license or any usual method or means of acquisition of title by act of parties.

Condemnation proceedings. SECTION 5. Also, for the purpose of acquiring the necessary lands or rights, easements or privileges in lands necessary for flowage, so that the complete construction of said dam and improvement of navigation under this act, or any law heretofore passed, may be successfully carried out, said parties, their heirs, executors, administrators, associates or assigns, may enjoy the rights granted to and conferred upon corporations by sections 1777 to 1777e, both inclusive, of the statutes, and such amendment or amendments thereto as may have been or may be made, and also enjoy the rights granted to and conferred upon corporations by sections 1850 to 1857, both inclusive, of the statutes, and such amendment or amendments as may have been or may be made thereto.

Express conditions. SECTION 6. This act is passed in consideration of and upon the following expressed conditions:

Beginning. 1. The construction of the dam herein authorized shall be commenced within two years from the date of the passage of this act.

Operation. 2. If so built and constructed, it must be maintained and operated continuously and its maintenance and operation must not be discontinued or cease for any length of time exceeding two years at any time.

Law observance. 3. The water power acquired under and by virtue of this act shall not be operated or its operation suspended pursuant to any contract, agreement or understanding, expressed or implied, in violation of any law of this state or of the United States.

Rentals. 4. In case the owners thereof desire to let, lease or rent, or furnish any hydraulic power or accumulation of water procured or created under this act, for public purposes or any lawful private purpose, they shall not charge or collect more than a reasonable rental therefor. In case the owner of such dam and the lessee of any part of said hydraulic power or accumulation of water shall be unable to agree upon the price to be paid for the use of the same, they shall submit the matter to arbitration, and for this purpose the owner of such power or accumulation of water, shall select an expert engineer, the lessee shall select another expert engineer, and the two engineers so chosen shall select a third, who together shall constitute the arbitrators, and have full authority to determine the price that shall be paid for the use of such power or accumulation of water. Their decision shall be reduced to writing and signed by a majority of such arbitrators, and shall be final and conclusive upon the parties in interest.

Arbitration of rentals, pain of forfeiture. SECTION 7. The refusal of any owner to submit to arbitration as herein provided, the question of the price at which hydraulic power or accumulation of water shall be rented as herein provided, or his failure to furnish such power or accumulation of water at the price fixed by said arbitrators as hereinbefore provided if such power or accumulation of water is not needed for other use, or his failure to comply with all the conditions of this act, shall terminate and forfeit the franchise hereby granted; and the failure of the lessee of such hydraulic power or accumulation of water to submit the question of price to be paid for the same to arbitration as herein provided, or, after submission, to pay the price determined by said arbitrators, shall work a forfeiture of his lease, if any he had, of such power or accumulation of water.

No corporate powers. SECTION 8. No corporate powers are granted or intended to be granted by this act, and the same shall not be construed or deemed to grant such powers.

Repeal and amendment reserved. SECTION 9. The power to alter, amend or repeal this act is reserved.

Conditioned on acceptance. SECTION 10. This act shall take effect and be in force from and after its passage and pub-

location and the filing in the office of the secretary of state by the person to whom the franchise is granted, of a written acceptance of the conditions herein contained. ,

Approved June 26, 1907.

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CHAPTER 417.

AN ACT to authorize Paul Miethke, Henry J. Wachsmuth and W. H. Weber, their associates and assigns, to pick up and secure lost logs, timber or lumber from certain streams and waters in Bayfield, Ashland and Iron counties, and bordering thereon, and to charge tolls therefor and enforce the same by lien.

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

Purposes of franchise. SECTION 1. For the purpose of picking up and securing lost or stray logs, timber or lumber lying along the shores or banks of any waters of Lake Superior or any arm or bay thereof in that part of Bayfield county and the islands thereof included in and lying easterly of Bark bay or bordering thereon, and in Ashland county and the islands thereof, and in that part of Iron county, in this state included in and lying west of the center line of the Montreal river, upon which waters there is during the open season of each year an existing commerce carried on by boats, vessels and other water craft drawing eight feet or more, and facilitating the driving and handling of logs, timber, lumber and other floatables and the recovery of lost logs therein, and in consideration of the improvement to navigation and the benefits to trade and commerce to be derived therefrom, Paul Miethke, Henry J. Wachsmuth and W. H. Weber, all of Bayfield county, Wisconsin, their associates and assigns, are hereby authorized and empowered to enter upon and improve such waters not occupied for a like purpose by any corporation, or any part thereof, by erecting and constructing storage booms therein and such other appliances as may be necessary to carry out the provisions of