

No. 131, S.]

[Published June 7, 1917.

CHAPTER 335

AN ACT to renumber and revise chapter 70 of the statutes of 1915 and the sections contained therein and to consolidate therewith certain other sections and parts of sections of the statutes, relating to navigable waters and navigation.

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

SECTION 1. The number and title of chapter 70 of the statutes of 1915 are revised to read:

CHAPTER 30.

NAVIGABLE WATERS AND NAVIGATION.

And said chapter shall contain the sections of the statutes designated in this act as sections 30.01, 30.02, 30.03, 30.04, 30.05, 30.06, 30.07, 30.08, 30.09, 30.10 and 30.11.

NAVIGABLE WATERS.

SECTION 2. Section 1607a of the statutes is renumbered to be subsection (1) of new section 30.01 and is amended to read:

30.01 DECLARATIONS OF NAVIGABILITY. (1) LAKES. * * * All lakes wholly or partly within this state which have been meandered and returned as navigable by the surveyors employed by the government of the United States, * * * and *all lakes which* are navigable in fact, *whether meandered or not meandered*, are hereby declared to be navigable and public waters, and all persons shall have the * * * *same rights therein and thereto that they have in and to* any other navigable or public waters. * * *

SECTION 3. A part of the first sentence of subsection 1 of section 1596 of the statutes is renumbered to be subsection 2 of new section 30.01 and is amended to read:

(30.01) (2) STREAMS. * * * All rivers and streams which have been meandered and returned as navigable by the surveyors employed by the government of the United States, and all rivers, * * * streams, *sloughs, bayous and marsh outlets, whether meandered* * * * *or nonmeandered* which are navigable in fact for any purpose whatsoever are hereby declared navigable to the extent that no dam, bridge, or other obstruction shall be made in or over the same without the permission of the legislature.

SECTION 4. A new subsection is added to the statutes to be subsection (3) of new section 30.01 and to read:

(30.01) (3) ENLARGEMENTS OR CREATIONS BY IMPROVEMENTS. All inner harbors, turning basins, waterways, slips, and canals created by any municipality to be used by the public for purposes of navigation, and all outer harbors connecting interior navigation with lake navigation, are declared navigable waters and shall be subject to the same control and regulation that navigable rivers are subjected to as regards improvement, use and bridging.

SECTION 5. The last part of the first sentence of subsection 1 of section 1596 is renumbered to be subsection (4) of new section 30.01, and revised to read:

(30.01) (4) INTERPRETATION OF SECTION. This section does not impair the powers granted by law to towns, counties or cities to construct bridges over rivers and streams.

SECTION 6. Section 1607 of the statutes is repealed.

SECTION 7. All of subsection 1 of section 1596 not embodied in section 30.01 is transferred to section 1.02 and made subsection (3) thereof and is amended to read:

(1.02) (3) * * * *To erect* thereon dams, abutments, locks, lock-keepers' dwellings, chutes, or other structures necessary or desirable in improving the navigation of the rivers or other waters within and on the borders of this state. * * *
IMPROVEMENT AND REGULATION OF NAVIGATION.

SECTION 8. Three new subsections of new section 30.02 are added to the statutes to read:

30.02 INNER HARBORS. (1) DOCK LINES. Every municipality, except every county wherein there is no incorporated city or village, may, by ordinance, resolution or by-law establish, and from time to time may change and reestablish, dock or wharf lines upon existing navigable waters, or upon such waters thereafter to be created, within their respective boundaries; but counties shall have power to alter or discontinue such dock or wharf lines only upon the petition of an owner or lessee of property fronting on such navigable waters and affected by such dock or wharf lines, and upon such notice by such petitioner as is required in vacating town, city or village plats in the circuit court.

(2) TURNING BASINS, SLIPS, CANALS, ETC. Every municipality having navigable waters within or adjoining its boundaries may by proper filling or excavation or dredging and docking create or improve any inner or outer harbor and such turning basins,

slips, canals and other waterways within its boundaries as it may determine are necessary, may keep the same in repair and may from time to time change, alter, extend, enlarge or discontinue any such improvement.

(3) PROCEDURE, ACQUISITION OF LANDS, EXPENSE. In exercising the powers granted by this section, either in original construction or in repairs, changes, extensions, or discontinuance, every municipality may proceed and shall be governed by the law governing it in the laying out, improvement and repair of streets, so far as applicable, except that no petition of property owners for doing any such work shall be necessary. Any lands needed for any of the purposes specified in this chapter may be acquired by gift or purchase, or by condemnation in the manner provided by law for condemning lands for street purposes in such municipality. The expenses of any such work in a city may, in the discretion of the common council, be paid by the city in whole or in part out of any permanent harbor improvement fund of such city.

SECTION 9. Sections 959—90 and 959—91 of the statutes are renumbered to be respectively subsections (4) and (5) of new section 30.02 and are amended to read:

(30.02) (4) REMOVAL OF OBSTRUCTIONS. * * * The common council of every city, or board of trustees of every village, in this state, are hereby authorized to remove *to a convenient and safe place* any boat, water craft or float obstructing or interfering with the free * * * navigation of any river, canal, water channel or slip within its harbor after having given reasonable notice to the *master, the owner or his agent, if known and a resident of the state, or to the person in charge thereof*, to so remove such boat, water craft or float; and may by ordinance or resolution authorize and empower the harbor master, or other public officer * * * to remove such obstruction; * * * *may* designate and prescribe his duties, and the * * * *mode* of carrying into effect the powers hereby granted; and *may* * * * *prescribe* penalties * * * *violations of such ordinance or resolution.*

(5) LIEN ON BOAT; OWNER PERSONALLY LIABLE. * * * All costs, charges and expenses of * * * *such removal* shall be a *first lien* on said boat, water craft or float, * * * *which may be enforced* in the manner provided by law. The owner or owners of any such boat, water craft or float shall also be personally liable for such costs, charges and expenses, to be recovered by such city or village by a * * * *personal action*

SECTION 10. Sections 959—92, 959—93, and 959—94 of the statutes are consolidated, and renumbered to be section 30.03 and are amended to read:

30.03. SAFETY REGULATIONS (1) *Inspection* * * * *Every city, town and village* * * * is hereby empowered to * * * inspect at least once in every year the hull, boiler and machinery * * * of every vessel *propelled by steam, gasoline, naphtha, electricity or any other power other than hand power, which is* * * * used * * * *within its boundaries* upon inland waters of the state and is not * * * *subject to the laws of the United States.*

(2) MUNICIPAL ORDINANCES. * * * All cities, towns and villages of this state are hereby empowered to make * * * reasonable safety regulations * * * relating to * * * *such vessels and the equipment thereof and* * * * to provide and enforce proper and reasonable penalties for the violation or neglect of any such provisions or regulations or ordinances.

SECTION 11. Sections 926—108, 926—109, 926—110, 926—111, 926—112 and 926—113 of the statutes are consolidated and renumbered to be section 30.04 and amended to read:

30.04 GOVERNMENT AID TO IMPROVE INNER HARBORS. (1) PLAT. * * * Whenever the United States government * * * *indicates* its intention to aid in the improvement of any inner harbor, situated within the limits of any city, * * * the common council *thereof* * * * *shall cause to be* * * * *prepared* * * * a plat * * * *presenting* a complete system of waterways, canals, slips, revetments, docks and bridges intended to be constructed or improved, showing the exact location of all docks and bridges then built and encroachments upon the harbor lines, if any, and plainly indicating the changes and improvements which * * * *it deems necessary or advantageous in the interest of navigation or the community at large.*

(2) EXISTING LINES AND STRUCTURES TO BE CONSIDERED. * * * In preparing such plat and adopting such system due regard shall be paid to harbor lines * * * *previously established and to the location of turning basins recommended by the government;* * * * also to * * * *existing docks* * * * of modern construction and to all valuable improvements bordering on the waterways, * * * *which are not a serious impediment in straightening, regulating and establishing the channel at an approximately uniform width.* * * *

Such plat and such system shall contemplate and provide for adapting such inner harbor to modern demands, to dredging everywhere to a depth of not less than twenty-one feet and to the eventual substitution of lift bridges in place of the * * * bridges now in use.

(3) PLAT SUBMITTED TO UNITED STATES; FILING. * * * The plat thus prepared when favorably acted upon by the common council shall be forthwith submitted for approval or correction to the United States government and shall be open to changes and modifications as circumstances may require; but, when finally perfected and approved, the common council shall cause such plat to be filed in the office of the board of public works or other appropriate department and a duplicate shall also be recorded with the register of deeds of the county; and thereupon the common council shall promptly and permanently locate by ordinance all dock lines and revetments in conformity thereto.

(4) TURNING BASINS, WATERWAYS, CANALS AND SLIPS. * * * After the establishment of such a system * * * and the permanent location of dock lines as aforesaid, it shall be the duty of the city from time to time, and in the manner herein provided, to order the construction of the turning basins and the straightening, docking and dredging of the waterways, canals and slips as public interest may require.

(5) WORK SAME AS STREET IMPROVEMENT. * * * All work shall be ordered and done in substantially the * * * way * * * now provided by law in case of streets, * * * and all charter provisions whether general or special shall be applicable thereto, with the exception that a petition of property owners for doing any of such work is dispensed with, whenever the common council by resolution of two-thirds of its members declare that necessity requires the same to be done.

(6) ACQUISITION OF LANDS. * * * Any land needed for any of the purposes contemplated by this * * * section may be taken or acquired by gift, grant, purchase or condemnation * * * . The title to any lands thus taken or acquired by any * * * city * * * may be donated or transferred by such city to the government of the United States * * * for * * * use in improving the inner harbor of * * * such city * * * .

(7) SPECIAL PROVISIONS FOR FIRST CLASS CITIES. *The provisions of subsections (1), (2), (3), (4), (5) and (6) of this section shall not be mandatory upon cities of the first class, but*

such cities may also at all times exercise the powers specified in subsections (1), (2) and (3) of section 30.02.

SECTION 12. Section 959—78k, section 959—78L and section 959—78m of the statutes are withdrawn from the statutes without repealing chapter 762 of the laws of 1913 and without modification or amendment thereof, except that said chapter is amended by striking from the first line thereof the words “added to the statutes” and by inserting in place of said words, the word, “enacted”.

SECTION 13. Section 959—71, section 959—72, section 959—73, section 959—74, section 959—75, section 959—76, and section 959—77 of the statutes are consolidated and renumbered to be section 30.05 and are respectively revised or amended to read:

30.05 BREAKWATERS AND PROTECTION PIERS.

(1) IN ALL MUNICIPALITIES. * * * *Every municipality, except cities of the first class, may by ordinance or resolution * * * authorize the construction, maintenance or repair * * * of suitable breakwaters and protection piers along the shore of any lake or river adjoining or within the limits of such municipality, * * * and may locate such structures within or without * * * such limits.*

(2) PLANS AND SPECIFICATIONS. * * * *When it shall be deemed necessary to construct or repair any such breakwater or protection piers, a plan of such work with specifications and estimates of the costs of the work shall be prepared and presented to the county board of the county or the supervisors of the town, or trustees of the village or common council of the city, and when adopted shall, where required, be submitted to the proper * * * officer of the United States for consent to construct such protection. Every town and every village needing any such plans, specifications and estimates may, at its option, apply to the state chief engineer for them and it shall thereupon be his duty to supply them promptly and at the same cost that he furnishes similar work to state officers or departments. No work shall be done upon any such breakwater or pier except in pursuance of a plan and specifications prepared and approved as aforesaid.*

(3) ACQUISITION OF PROPERTY; CONDEMNATION. * * * *For the purpose of this section * * * each such municipality * * * may purchase or condemn lands within, and when necessary without, its * * * limits * * * in order to protect any property situated within such * * * limits * * * .*

(4) SPECIAL ASSESSMENT DISTRICT. * * * Before letting the contract for such improvement the * * * *municipality* shall, by ordinance * * * create a special assessment district containing all such parts or parcels of land as * * * *will*, in * * * *its* judgment, be benefited by the proposed improvement.

(5) SPECIAL ASSESSMENT. * * * After the adoption of * * * *such plans, specifications* * * * and * * * assessment district, the board of public works in cities having such a board, and where no such board exists, the officers performing the duties of such board, the county board of the county, supervisors of the town or village trustees, shall in the same manner and with like effect proceed to assess benefits and damages upon property in the assessment district as provided in sections 925—178 to 925—183, inclusive, so far as the same * * * *are* applicable, and the owner shall have the remedy provided for in sections 925—184 and 925—185.

(6) BALANCE OF BENEFITS AND DAMAGES. * * * If the * * * *excess of benefits* * * * *over* damages accruing to property within such assessment district shall not be sufficient to pay the cost of the improvement, the balance shall be paid by the * * * *municipality* out of * * * *its* general fund or out of any special fund created for that purpose; and * * * *such municipality* * * * *may* issue its negotiable bonds to pay for such improvement in the * * * manner * * * provided * * * by * * * *sections 942 to 944*, inclusive * * *. The cost of protecting the ends of streets, roads and public highways or other public grounds or places shall be paid wholly out of the general or special funds of such municipality.

(7) COOPERATION OF MUNICIPALITIES. * * * The erection of such breakwater or protection piers * * * may be done by any county, town, village or city, separately, or by two or more acting together. When two or more municipalities propose so to * * * *cooperate*, their governing boards or bodies shall first meet and adopt a method of procedure and apportion to each its share or portion of the entire cost, which plan and apportionment shall be * * * embodied in a * * * resolution * * * adopted by the * * * joint board and * * * later such resolution shall be adopted by each board separately.

SECTION 14. Section 1636—59 of the statutes, except subsection 6 thereof, is renumbered to be section 30.06 and is amended to read:

30.06 SAFETY REGULATIONS FOR BOATS. (1) **Bow AND STERN LIGHTS.** * * * Every boat, launch, vessel or other water craft propelled in whole or in part by steam, gas, gasoline, petroleum, naphtha fluid, electricity, or by other engine power, * * * and operated upon any waters under the exclusive jurisdiction of the state of Wisconsin, shall, from one hour after sunset to one hour before sunrise, carry and keep continuously lighted the following lights: On the bow or fore part of such boat a red and a green light, * * * *so placed and screened that they will both be visible from a head-on view and * * * so that neither can * * * be seen across the bow * * * or from the rear*; and on the rear or stern of such boat, a white light.

(2) * * * **SEARCH LIGHTS.** All vessels * * * *described* in subsection (1) that travel at a speed in excess of fifteen miles an hour shall, in addition to the lights above prescribed carry a searchlight of sufficient candle power to * * * *make visible* an object the size of a rowboat or canoe at a distance of two hundred feet upon the water; * * * *and all boats may carry a searchlight on the bow thereof.*

(3) * * * **TURN TO THE RIGHT.** * * * *Each such vessel * * * shall pass to the right of * * * every other vessel whenever they are approaching; * * * and in immediate danger of collision. Vessels leaving or departing from a dock, pier, or wharf shall have the right of way over all other vessels approaching such dock, pier or wharf.*

(4) * * * **LIFE PRESERVERS.** All * * * *such boats carrying* passengers for hire, shall be equipped with one life preserver for each such passenger, and also provided with good and sufficient fire extinguishers.

(5) * * * **LIGHTS PROHIBITED, NEGLIGENCE.** No light * * * not authorized by this section, except cabin lights, *shall be carried on any such boat.* Nothing in this section shall excuse or exonerate any owner or pilot of any such boat from the consequences of any neglect or failure * * * to give the proper signals, or * * * to keep a proper lookout.

SECTION 15. Subsection 6 of section 1636—59 of the statutes is renumbered to be section 4570d and is amended by striking therefrom the word "this" which immediately precedes the word "section" and by inserting immediately after the word "section" the figures "30.06."

FLOATS.

SECTION 16. A part of section 1600, section 1600a and section 1600b of the statutes are consolidated and renumbered to be section 30.07 and are revised to read:

30.07 LODGMENT, REMOVAL. (1) LODGMENT. Whenever any logs, timber, boards, plank or other movable property which has been, or is being, floated upon navigable waters within or bordering the state, shall have drifted over and lodged upon any island within any waters of this state, or upon the shore or bank of any such waters, or upon any lands, adjacent to such shore or bank the removal and disposition thereof, if not effected by mutual agreement of the parties interested, may be effected as provided in this section.

(2) NOTICE AND REMOVAL BY LAND OWNER. The owner or occupant of the land upon which any such float shall have lodged, shall, within thirty days after he becomes aware of such lodgment, give to the owner of the float, if known, written notice of its location and contents, with a description of the marks thereon, if any; and if such owner is unknown the notice shall be published once each week for six successive weeks in some newspaper published in the county. At any time after the expiration of six months immediately following the delivery or the full publication of said notice, the owner or occupant aforesaid may remove the float to some other safe locality in his possession or under his control, if he desires to make use of the land then occupied by it.

(3) TEMPORARY HIGHWAY. A temporary highway may be laid out for such removal in the manner provided by section 1299i.

(4) LIEN. The owner or occupant of the land upon which any such float may be found shall have a first lien thereon to secure payment:

(a) Of all damages to the land caused by its lodgment thereon and all that have resulted or that will result from the removal thereof;

(b) Of the value of the use and occupation of land thereby until such float can be removed;

(c) Of the cost of all notices, advertising and other proceedings required by law; (d) And of the cost of removal when the owner or occupant of the land effects such removal.

Whenever a temporary highway is laid out damages to land

by the removal shall not be secured by such lien nor be recoverable by action, but shall be assessed by the supervisors laying out such highway.

(5) ACTION. Said lien may be enforced by an action at law to recover the damages aforesaid and to declare the lien, and by an execution sale of the property pursuant to the judgment. If the owner of the float be unknown, he may be proceeded against as the unknown owner of the property, describing it.

(6) TENDER OF DAMAGES. The owner of such float may at any time prior to the commencement of an action to enforce such lien tender to the owner or occupant of the land upon which it has become lodged such sum of lawful money as he believes will make full compensation and payment for all damages and demands secured by said lien; and, if the tender be not accepted, he may deposit the money tender with the clerk of the circuit court of the county in which such float is located, take duplicate receipts therefor stating the purposes of the deposit and the name of the person or party to whom the depositor desires the money to be paid, if such person or party will receive it, and deliver one of said duplicates to the person or party to whom the tender was made. Unless the party to whom such tender was made shall bring an action under this section to recover his damages and enforce his lien within twenty days after receiving such duplicate receipt he shall be deemed to have waived his lien and his right of action for damages and to have accepted the money deposited as aforesaid for his benefit.

(7) BOND IN LIEU OF LIEN. At any time after the commencement of such action the defendant may apply by motion to the court or to the judge thereof for leave to file a bond conditioned for the payment of any judgement that the plaintiff may recover in the action in lieu of said lien. Upon the hearing of such application the court or judge shall fix the amount or penal sum of the bond and determine the sufficiency of the sureties thereof. The filing of such a bond approved by the court or judge shall extinguish the lien, permit the immediate removal of the property affected thereby and entitle the defendant to withdraw any deposit he may have made under subsection (6).

(8) COMMISSIONERS TO ASSESS DAMAGES. The parties to any such action may stipulate in writing that in lieu of a trial and assessments of damages by a jury the court may by order appoint three commissioners to view the premises and property affected and appraise the damages recoverable in the action, and that judgment shall be entered for the recovery of the damages so assessed. Upon the filing of such a stipulation the court shall

make a list of nine competent and disinterested men, residents of the county, from which each party shall strike three and the remaining three shall be appointed commissioners to make the appraisal. The order shall require the commissioners to appear before the judge at a specified time and place to be sworn and within ten days thereafter to appraise the damages specified in the stipulation. Said order may be served by the sheriff or any constable of the county by reading the same to each of the commissioners. The appraisal shall have the same force and effect as the verdict of a jury and judgment shall be entered thereon accordingly.

(9) MISCELLANEOUS PROVISIONS. The action given by this section must be commenced before and not after the expiration of two years immediately following the acquisition by the plaintiff of knowledge that the lodgment of a float has given him the right to bring such action. Every tender made and deposited which shall not have been accepted by the party to whom it was made prior to the expiration of two years immediately following notice to him of the deposit of such tender, shall be restored to the depositor upon his application therefor. Costs in such actions shall be affected by tenders and deposits thereof as provided by section 4268. The owner or occupant of the land upon which any float is lodged shall become the owner of the float also at the expiration of two years immediately following its lodgment if in the meantime no proceedings have been had to remove the same or to appraise damages as provided in this section and no mutual agreements have been had respecting such float.

SECTION 17. All parts of section 1600 of the statutes not incorporated in new section 30.07 are renumbered to be section 30.08 and are revised to read:

30.08 WRONGFUL CONVERSION, SALVAGE. Whoever shall convert to his own use, without the consent of the owner thereof, the whole or any part of any float, shall be liable to such owner in treble the amount of damages caused thereby; and whoever shall rescue any float from danger of loss or destruction and restore or offer to restore the same to its owner shall be entitled to full compensation for his services in that behalf, not exceeding in amount the value of the float, and shall have a lien thereon enforceable in the manner provided in subsection (5) of section 30.07 to secure such compensation.

CORPORATIONS TO IMPROVE NAVIGATION.

SECTION 18. Sections 1786g to 1786k of the statutes are renumbered as follows:

Section 1786g is renumbered to be subsection (1) of section 30.09.

Section 1786h is renumbered to be subsection (2) of section 30.09.

Section 1786i is renumbered to be subsection (3) of section 30.09.

Section 1786j is renumbered to be subsection (4) of section 30.09.

Section 1786k is renumbered to be subsection (5) of section 30.09.

SECTION 19. Section 1299i of the statutes is amended to read:

HOW LAID; EXPENSE AND LIABILITY. Section 1299i.

(1) Whenever * * * *the owner of any timber land, or the owner of any logs or other movable property which have drifted over and lodged upon any island within any waters of this state, or upon the shore or bank of any such waters or upon any lands adjacent to such shore or bank,* shall present to the supervisors of the proper town a written petition for the laying out of a temporary highway to give * * * *him access to such land or, as the case may be, to such logs and other movable property, or access therefrom to a stream, or railroad, or permanent highway,* and describe in such petition * * * *such timbered land, or as the case may be, the location of the logs or other movable property owned by him* * * * *and also* * * * *the land over which* * * * *he desires such temporary highway laid, such supervisors shall proceed to lay out such highway in the manner in which public highways are laid out except as otherwise provided* * * * *in this section.*

(2) * * * *Such supervisors shall thereupon view the premises described, or the location of the logs and other movable property, as the case may require, and determine the necessity for laying out such highway for the purpose of removing saw logs, timber,* * * * *lumber, or other movable property from the land, or from the location described in the petition, and the length of time such highway will be required, which time shall be stated in their order, and at the expiration thereof the highway shall cease.*

(3) *Such highways shall be public highways and all the expense of laying them out, including all damages which may be awarded on account of taking land therefor, shall be paid*

to the supervisors by such petitioner * * * and shall be by * * * them paid to the person *or persons* in whose favor the award *or awards were* * * * made. Upon such payment being made the petitioner * * * may enter upon, open and work such highway * * * at * * * *his* own expense and construct logging railroads thereon, subject to such restrictions and regulations as shall be made in writing by the supervisors, but no tree shall be cut thereon except such as it shall be necessary to remove to make a track or tracks. The petitioner * * * for such highway * * * shall be liable in damages for any injury resulting to persons or property on account of defects therein in the manner and to the extent that towns are liable for injuries caused by defective highways; *and* such liability shall follow the ownership of the lands *or movable property* for the benefit of which the highway was laid and the town in which it was situated shall not be liable on account thereof.

INTERPRETATION.

SECTION 20. Section 1597 of the statutes is renumbered to be section 30.10.

SECTION 21. A new section is added to the statutes to read: 30.11. DEFINITION. The word "municipality" wherever used in this chapter means any town, village, city or county in the state.

SECTION 22. This act shall take effect upon passage and publication.

Approved June 4, 1917.

No. 1, S.]

[Published June 7, 1917.

CHAPTER 336

AN ACT to renumber chapter 20 of Wisconsin Statutes and to renumber and amend or revise the sections of said chapter, and to renumber certain other chapters of the statutes.

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

SECTION 1. Chapter 20 of Wisconsin Statutes is renumbered to be chapter 35 of said statutes.

SECTION 2. Section 20.01 of the statutes is renumbered to be section 35.01 and is amended to read: