

CHAPTER 358.

[Published April 28, 1860.]

AN ACT to amend an act entitled "An act to define, confirm, and legalize the acts of a Fish Inspector in the city of Milwaukee."

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

SECTION 1. Section two, of the act entitled "An act to define, confirm, and legalize the acts of a fish inspector in the city of Milwaukee," approved March 17, 1859, is hereby amended by adding thereto, at the end thereof, the following words: "Any owner, agent, or consignee of any fresh water fish, or any other person who shall sell, or offer for sale, in the city of Milwaukee, any fresh water fish in barrels, half barrels, quarter barrels, or other packages, without having such fish first inspected by the fish inspector of said city of Milwaukee, or one of his assistants, duly appointed and qualified, as hereinafter provided, shall forfeit and pay a fine, not less than ten dollars, nor more than fifty dollars, for each and every such offence, besides the costs of prosecution. Such fine to be sued for and collected in the same manner as fines are sued for and collected under the ordinances of said city."

Fresh water fish in barrels, &c, not to be sold in Milwaukee without inspection

Penalty.

How collected

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

Approved April 2, 1860.

CHAPTER 359.

[Published April 30, 1860.]

AN ACT relative to persons mining for lead ore or other minerals.

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

SECTION 1. Every corporation, company, or other party, now engaged in mining for lead ore, or other minerals, or may hereafter be engaged in operating or mining for lead ore, or other minerals, may, whenever it is necessary for the purpose of prosecuting their work in mining, conduct or convey the water from their shafts, levels, or

Persons engaged in mining shall have authority drain over other lands.

land, occupied by them for mining purposes, have the right and privilege to conduct or convey the water therefrom, upon, over, or below the surface of the lands of any owner or owners of lands, adjoining the ground so worked, or to be used for mining purposes, by such corporation, company, or other party, in pipes, ditches, water race or tunnels, thereby doing as little damage or injury to the owner or owners of adjoining land, or the improvements thereon, as the same will admit of, upon complying with the provisions of this act.

Proceedings in case of disagreement between owner of land and persons desirous to drain across said land.

SEC. 2. Whenever such corporation, company or other party, cannot agree with the owner or owners of such adjoining lands, upon the amount of damages for the right and privilege of conveying the water from any shaft, level, or mining land, aforesaid, such corporation, company, or other party, may apply to the judge of the county court of the county where the land is situated, for the appointment of three commissioners to assess such damage; the judge of said county court, upon such application being made, shall appoint three disinterested freeholders, residents of his county, to act as commissioners, who, after being duly sworn for that purpose, shall proceed to make an examination of all the lands necessary and proper to be used by such corporation, company, or other party, in conducting or conveying the water from such shaft, level, or mineral land, and also such lands as may be overflowed, or liable to be overflowed, by reason of the erecting, constructing and maintaining, or the keeping up and maintaining such pipes, ditches, tunnels, or water race, upon said lands, and make an award in writing, in which they shall award to the owner or owners of such lands the amount of damages to which such owner or owners of said land or lands shall be entitled, by reason of the erection, construction and maintaining such pipes, ditches, tunnels, or water race, or that may be erected and maintained for the purpose of conveying the water from the same.

Commissioners appointed—when to meet, and proceedings.

SEC. 3. Said commissioners shall meet within fifteen days from the time of their appointment, to make their examination and award, by virtue of this act; and the owner or owners of such land shall be notified to appear before them, at the time and place of such meeting, and shall be entitled to be heard before said commissioners, in regard to the amount of damages by them sustained, or liable to be injured, in consequence of the erecting, making and maintaining, or the keeping up for the erec-

tion and construction of such pipes, ditches, tunnels or water race. Such notice shall, at least six days before such meeting, be served personally, or by leaving a copy thereof at the residence of the owner or owners of such lands aforesaid: *Providing* [*Provided*], said owner or owners reside in the county where said land is situated; and in case such owner or owners are non-residents of the county, then such notice shall be served upon their attorney or agent, if they have any in such county; and if there is no such attorney or agent in the county, then said notice shall be published in a newspaper printed in said county, for at least, three weeks before the meeting of said commissioners.

In case of non-residents.

SEC. 4. The decision and award of said commissioners shall be final, unless appealed from, as provided for in this act; and the said award, together with due proof of the service of the notice or notices, upon the owner or owners of said land, or upon their attorney or agent, as provided for in this act, shall be filed in the office of the clerk of the circuit court of the county wherein the award is made, and shall be *prima facie* evidence of the regularity of said proceedings; and at the next term of the circuit court of the proper county, upon motion made by any party interested therein, a judgment may be entered up and execution issued to the same effect, and in the same manner, as judgments are entered and executions issued upon actions of civil nature, commenced and tried in the circuit court.

Award final unless appealed from.

Notice to be filed.

Judgment and execution.

SEC. 5. Any corporation, company, or other party, considering itself or himself aggrieved by the award of said commissioners, may appeal therefrom, within twenty days from the time of filing such award, to the circuit court of the proper county, in the same manner as is provided by law for appeals from judgments of a justice of the peace. Said commissioners shall be entitled to receive one dollar per day each, for their services as such commissioners, which shall be paid by such corporation, company, or party.

Appeal from award.

SEC. 6. This act shall take effect and be in force from and after its passage and publication.

Approved April 2, 1860.