

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 15, 1878.

[No. 250, S.]

[Published March 26, 1878.]

CHAPTER 207.

AN ACT to amend chapter four hundred and fifty-two of the private and local laws of Wisconsin for 1869, entitled an Act to incorporate the Nomakagon and Totogatic Dam Company, and the several acts amendatory thereof.

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

Amended.

Dams authorized to be constructed.

SECTION 1. Section eleven of chapter four hundred and fifty-two of the private and local laws of 1869, as amended by chapter one hundred and sixty-four of the private and local laws of 1870, and by chapter four hundred and five of the private and local laws of 1871, and by chapter four hundred and five of the laws of Wisconsin for 1876, and chapter one hundred and twenty-four of the laws of Wisconsin for 1877, is hereby amended so as to read as follows: Section 11. Said company, for the purpose of improving the several streams and rivers hereinafter mentioned, and the navigation thereof, is hereby authorized and empowered to construct three several dams across the Namakagon river as follows, to wit: One at such point as may be deemed necessary in town forty-three, range six; another at such point as may be deemed necessary in town forty-one, range eight; and another at such point as may be deemed necessary in town forty-one range ten; also a dam across the Totogatic river at such point as shall be deemed necessary in town forty-two or forty-three, range twelve; also a dam across the Eau Claire river at such point as shall be deemed necessary in town forty-four, range ten; also a dam across the St. Croix river at such point as shall be deemed necessary between the mouth of the Eau Claire river and the mouth of the Moose river; also four several dams across the Yellow river, as follows: One at such point as shall be deemed necessary in town forty, range sixteen; another at such point as shall be deemed necessary in town thirty-nine, range fourteen; another at such point as shall be deemed necessary in town

thirty-eight, range thirteen; another at such point as shall be deemed necessary in town thirty-nine, range twelve; also a dam across the Clam river at such point as shall be deemed necessary, in town thirty-nine, range sixteen; also to construct or purchase a dam across the Moose river in town forty-five, range thirteen; also, at the option of said company, to construct and maintain three or more dams at such points as shall be deemed necessary across the Sawyer Brook, in town thirty-eight, and to improve the channel of said Sawyer Brook, so as to make the same, with the aid of such dams, navigable for log driving purposes, for the purpose of driving logs and other timber on said rivers, and to keep and maintain said dams for the term of fifteen years: *provided*, said company shall keep the gates and sluiceways of each and all its said dams, except the said dam on the Eau Claire river and the dam on the Namakagon, in town forty-three, range six, open from the twentieth day of July until the fifteenth day of October of each year, so as to allow the free and unobstructed passage of the waters of each of said rivers, through the same, as fully and completely as though said dams and each of them had not been erected; and it shall be unlawful for said company to dam up or obstruct the free passage of the waters of either of said rivers, except the Eau Claire and Namakagon, during either of the said months; and in case of a violation of the provisions of this section, the person so offending shall be liable to pay a penalty of one hundred dollars, to be recovered in an action, in the name of the state, for each day during which the free passage of the waters of either of said rivers shall be so obstructed.

SECTION 2. Section thirteen of said chapter four hundred and fifty-two, as the same is amended by said chapter one hundred and sixty-four, and by said chapter four hundred and five, and by said chapter one hundred and twenty-four, is hereby amended to read as follows: Section 13. Whenever the waters retained by any or either of the dams hereby authorized to be constructed shall be needed or required by any person or persons to be used in sluicing or driving logs or timber down the river upon which the dam from which the water so required is situated, said company shall permit the use of so much thereof as the superintendent of such dam shall deem necessary: *provided*, the owner or owners of the logs so requiring such water,

Amended.

Use of water.

his, her or their agent thus driving said logs, shall give to the superintendent of such dam written notice of the want of such water three days prior to the time the same is required; *and provided, further*, that no owner or owners of logs, his, her or their agent, shall be entitled to give such notice and require such water until the rear of the drive of their said logs shall be within the flowage of said dam; *and provided, further*, that if, when the water so held by any or either of said dams is being used in the driving or sluicing of logs or timber, any other drive of logs or timber comes into the flowage of such dam, the superintendent of such dam shall have the right to shut the gates of such dam and retain the water running therein for such reasonable time as will enable the owner or owners of the drive so coming into such flowage, his, her or their agent, with due diligence, to get their logs or timber to said dam to be sluiced; but the superintendent of such dam shall not be required to close the gates thereof and hold the water therein, unless the drive so coming into such flowage shall contain at least 500,000 feet of logs or timber, if the drive or drives then using such water contains 2,000,000 feet of logs, or more; *and provided, further*, that no owner or owners of logs or timber, his, her or their agent, having logs in the flowage of any or either of said dams, that could, with reasonable diligence, have been sluiced or driven at any previous time in that or any previous year, shall have the right to demand or require the use of the water of any or either of said dams as hereinbefore provided, when the same is or may be required in the sluicing or driving of any other drive of logs, either above or below said dam, which could not, with reasonable diligence, have been sluiced or driven before: *and provided, further*, that the person or persons requiring the use of the water of any or either of said dams, shall, at their own expense, furnish help sufficient to raise or shut the gates of such dam, as the case may be; *and provided, further*, that no owner or owners of logs shall be entitled to the use of the water retained by any or either of said dams, to enable him or them to get any drive of logs or timber through any thoroughfare above such dam, when the use of such water for such purpose will, in the judgment of the superintendent of such dam, in any way interfere with the sluicing or driving of any other drive of logs or timber on said stream, either above or below said dam; and the said company, as compensation for the im-

provement of said several streams and rivers, herein mentioned, and of the navigation thereof, in the manner herein provided are hereby authorized and empowered to demand, receive, levy sue for, recover and collect tolls at the following rates, to wit: On all logs or timber hauled into the St. Croix river or coming into the same from any of its tributaries, between east line of range seventeen, and the points on said river where the range line, between ranges thirteen and fourteen, crosses said river, after the building of the dam on said St. Croix river first specified herein, fifteen cents per thousand feet, board measure, in addition to any toll or tolls hereinafter provided for, as compensation for the use of the dams upon such tributaries, and on the logs or timber hauled into said St. Croix, or coming into the same from any of its tributaries above said last mentioned point, after the building of said last mentioned dam, the sum of twenty cents per thousand feet, board measure, excepting the logs coming into said St. Croix river out of the Eau Claire river; and upon all logs or timber coming into said St. Croix river out of the Eau Claire river, after the building of said last mentioned dam, the sum of forty cents per thousand feet, board measure; on all logs or timber hauled into the Totogatic or coming into the same from any of its tributaries, after the building of the dam on said river, as herein provided, twenty cents per thousand feet board measure, on all logs or timber hauled into the Namakagon river or coming into the same above where the range line between ranges eight and nine crosses said river after the building of the dams on said streams as herein provided, twenty-eight cents per thousand feet, board measure; and for all logs hauled into said river or coming into the same from any of its tributaries below said last mentioned point, after the building of said dams, twenty-two cents per thousand feet, board measure; on all logs hauled into the Yellow river or coming into the same from any of its tributaries, after the building of the four several dams herein specified, as follows: Upon all logs so coming into said river between its mouth and the point where the section line between sections twenty-six and twenty-seven, in town thirty-nine, range fourteen, crosses said river, twenty cents per thousand feet; upon all logs so coming into said river between the last mentioned line and the point on said river where the west line of section ten in town thirty-eight, range thirteen, crosses said river, thirty cents per thousand

feet, board measure; upon all logs or timber so coming into said river, above the last mentioned line, forty cents per thousand feet; on all logs hauled into Clam river or coming into the same from any of its tributaries, after the building of the dam on said streams herein specified, the sum of twenty cents per thousand feet, board measure; upon all logs or timber hauled into said Moose river or coming into the same from any of its tributaries, after the building or purchase of the dam upon said river herein provided for, the sum of fifteen cents per thousand feet, board measure, and upon all logs or timber coming into or hauled into said Sawyer brook after the building of the dams thereon and the improvement of the channel thereof, as herein provided, the sum of thirty cents per thousand feet, board measure, in addition to any toll hereinbefore provided for, upon logs coming into the Yellow river out of said Sawyer brook. And the said company is hereby authorized and empowered to demand and receive the said tolls before it shall be required to permit the use of the water retained by any or either of said dams for the purpose of sluicing or driving any logs or timber on any of said rivers, and in case any logs or timber is sluiced or driven down said rivers, or any or either of them, with the consent of said company, or otherwise, without the toll thereon having first been paid, the said tolls shall be and remain a lien upon all said logs or timber, bearing the same mark, until the said toll is paid, which said lien shall take precedence of any and all other liens upon said logs, except liens for labor, and the said company is hereby authorized to seize and take possession of said logs or timber wherever the same may be, and in whosoever possession the same may be, and to sell at public vendue, in the county where the same are seized, sufficient thereof to pay said tolls and the costs and expenses of such seizure and sale. At least two weeks' notice of such sale shall be given by publishing the same for two weeks in some newspaper published in said county, or, if no newspaper be published therein, by posting such notice in three public places in said county, and by mailing a copy of said notice to the person or persons in whose name the marks upon said logs is recorded, in the office of the inspector of the fourth lumber district, directed to him or them, at his or their place of residence, if known, and if not known, then by depositing said notice with the inspector of said district, which mailing or depositing shall be done at

Lien.

least two weeks before such sale; said notice shall state the marks upon said logs, the amount of toll due thereon, and the time and place of sale. The lien hereby given may also be enforced in the same manner and with like effect as liens for labor upon logs, as provided in chapter one hundred and fifty-four of the general laws of 1862, and the acts amendatory thereof, which said law and the several acts amendatory thereof, are hereby made applicable hereto, except that the statement of the debt or demand therein required to be filed in the office of the clerk of the circuit court, may be filed at any time prior to the first day of October, in the year in which the last sluicing or driving of said logs or timber shall have been done. The owner or owners of any logs or timber sluiced or driven down any of the rivers mentioned herein, shall be liable for the toll thereon, and any person having a mortgage upon any such logs at the time the same are sluiced or driven, who shall afterwards sell or take possession of said logs by virtue of said mortgage, shall thereby become liable for the toll due thereon, and said company is hereby authorized to sue for and recover the same from such mortgagee.

SECTION 3. Section fifteen of chapter four hundred and fifty-two, of the private laws of 1869, is hereby amended by inserting after the word "court," in the sixty-eighth line of said section, the words "or the circuit judge of said circuit." Amended.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved March 15, 1878.

[No. 84, S.]

[Published March 27, 1878.]

CHAPTER 208.

AN ACT relating to booms on the Wisconsin river.

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

SECTION 1. All persons, companies, associations and corporations owning, operating or maintaining any boom or booms on the Wisconsin river, in this state, are hereby required to keep open through such boom, in the main or other suitable channel of said river, a free passage in conformity to the law authorizing such Free channel.