

No. 102, A.]

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CHAPTER 177.

AN ACT to authorize Dan Graham, E. C. Allen and L. J. Cook, their associates, heirs and assigns, to build and maintain a dam, piers and booms in and across the Wisconsin river, in Oneida county, and to prohibit interference therewith.

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

SECTION 1. Daniel Graham, Edwin C. Allen and Lyman J. Cook, their associates, heirs and assigns, are hereby authorized and empowered to improve the navigation of the Wisconsin river and its tributaries upon Otter rapids, so called, and above the location of the dam, in this section named, to the north and east line of town forty north, of range ten east, and for that purpose they are hereby authorized and empowered to erect, keep up and maintain a dam not less than nine feet nor more than eleven feet in height above low water, to be used also for manufacturing, booming and flooding purposes, across the Wisconsin river in section thirty-six, township number forty north, of range nine east, in Oneida county, on lands now owned by them, or which they may hereafter acquire by purchase, lease or condemnation in the same manner as provided and set forth in section 1777, of the revised statutes, as amended by chapter 318 of the laws of 1882, which provisions are hereby made applicable for the purpose of acquiring said lands, and shall have the power to overflow such land as may be necessary for the improvement of said Wisconsin river and its tributaries.

SECTION 2. Said parties above named, their heirs or assigns, may obtain site for said dam, and all shore rights, real estate, or interests, or easements, therein necessary or convenient, for any boom or booms or other structures hereinbefore mentioned, and authorized for the flowage of said dam and for any other purpose necessary or convenient to enable said parties above named, their heirs or assigns, to carry out

Daniel Graham, et al., authorized to build dam across Wisconsin river, in Oneida county.

May exercise powers of eminent domain, when.

and perform the duties and enjoy the privileges imposed and conferred upon them by this act, by purchase, lease or other voluntary conveyance from or agreement with the owners. And if said parties above named, their heirs or assigns, shall be unable to procure or make such voluntary conveyance or agreement, from or with such owners, then they may acquire the property rights hereinbefore mentioned, by the exercise of the power of eminent domain, which is hereby conferred upon them and in the exercise of such powers they may proceed in the manner now prescribed in section 1777, of the revised statutes, as amended by chapter 318, of the laws of 1882, or other acts amendatory thereof. Before commencing the construction of said dam, and within thirty days after the passage and publication of this act, the said Graham, Allen and Cook, their associates, heirs or assigns, shall pay or tender to the Eagle dam company, the present owner of the dam erected and maintained across Eagle river in township number forty north, of range number 10 east, under and by authority of chapter 512, the laws of Wisconsin of 1887, entitled, "An act to authorize Leander Choate, his associates, heirs and assigns, to build and maintain a dam across Eagle river, in Oneida county, Wisconsin," approved April 14, 1887, as compensation for its said dam, which will be flooded and rendered valueless, by the dam and improvements authorized by this act, the sum of thirty-five hundred dollars, being the cost and estimated value of said dam, of said Eagle dam company.

Slides and chutes.

SECTION 3. Said dam shall be constructed with suitable slides or chutes therein for running logs and timber over the same, which slides and chutes shall be placed in the main channel of the river, and shall be so located, constructed, maintained and kept in repair as to allow logs and timber passing over the same to freely pass down the river, away from said slides and chutes, and the same shall be kept open at all times when there are logs or timber to run over the said dam.

May build piers and booms in river.

SECTION 4. Said Daniel Graham, Elwin C. Allen and Lyman J. Cook, their associates, heirs and assigns, are hereby further authorized to build, erect, keep up and maintain in connection with

said dam a system of piers and booms in, along, and across said river and its tributaries from the location of said dam to the north and east lines of township number forty north, of range ten east, and one mile in and above the mouth of Mud creek, and the same distance above the mouth of Rice creek, in and opposite to lands owned or acquired by them, for the purpose of assorting, dividing, booming, holding and handling and delivering logs, timber and lumber passing into the pond hereby authorized to be created; provided, that said booms and piers shall be so constructed and maintained as to leave a sufficient channel for the free passage of lumber, timber and logs through said pond. And all logs and timber destined to points on said Wisconsin river below said dam hereby authorized, shall be taken by the owners of said dam after the improvements hereby authorized shall have been completed, when they reach the flowage of said dam in the said Wisconsin river and its tributaries, other than the said Eagle river, and at the upper dividing works of the booms of the owners of said dam in said Eagle river, such dividing works to be located above the present bridge of the Milwaukee, Lake Shore & Western railroad company, across said Eagle river, or at the rear of any log jam, which may be caused by the stoppage of logs at the upper dividing works of said booms, in said rivers, or their tributaries, and shall be driven by said owners free of charge and with reasonable dispatch, through the pond and flowage created, by said dam and over said dam. Suitable and sufficient gates not less than nine feet in depth from the top of said dam and not less than fifty feet in aggregate width, shall be placed in said dam for the purpose of flooding said river below the same, to facilitate the running of logs down said river, and said gates shall be open whenever necessary for said purpose; but the height of said water in said pond created by said dam shall not for that purpose be reduced below six feet above low water mark. On or before the first day of March in each year the owners of said dam shall select one person, and the governor of the state of Wisconsin shall select another, and the two so selected shall, within ten days after receive notice of such se-

lection, select a third, or in case of any failure to so select as aforesaid, the governor of the state of Wisconsin on the application of any person or corporation interested, and upon previous notice of ten days in writing to the said owners of said dam, may fill the places of the persons not yet selected by the appointment of disinterested persons for that purpose, and the three persons so selected or appointed, or a majority of them, in case of any dispute or disagreement as to the time or times of opening or closing said gates, shall decide and determine when and how long said gates shall be opened or closed for flooding purposes; provided, that the said gates shall not be opened or remain open for flooding purposes when the height of the water in said pond shall not exceed six feet above low water mark. The persons so selected or appointed shall continue to act as such commissioners for one year, from the first day of March of the year in which they are appointed. The owners of said dam shall not be entitled to compensation for the use of said dam or the water of said pond for flooding purposes in the manner above provided.

Wisconsin River Improvement Co. not to interfere with dam or booms, piers, etc.

SECTION 5. The Wisconsin River Improvement company shall not in any manner hinder or obstruct, or interfere with the construction, maintenance, use or enjoyment of the dam hereby authorized, or the pond thereby created, or if any booms, piers or other structures which may be constructed or maintained in said pond, or in connection therewith, so long as said dam shall be maintained under the authority conferred by this act.

SECTION 6. The legislature may at any time amend or repeal this act.

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

Approved April 6, 1891.