

No. 494, S.]

[Published June 21, 1905.]

CHAPTER 410.

AN ACT to authorize J. B. Mathews, L. F. Mathews, G. O. Mathews and S. E. Mathews, of Ashland, Ashland county, Wisconsin, their heirs, associates and assigns to build and maintain a dam across the White river in Bayfield county, Wisconsin, for the purpose of improving the navigation of said river and creating hydraulic power for the operation of machinery, and for other lawful purposes.

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

Location of dam. SECTION 1. J. B. Mathews, L. F. Mathews, G. O. Mathews and S. E. Mathews of Ashland, Ashland county Wisconsin, their heirs, associates and assigns, are hereby authorized to build and maintain a dam across White river, in Bayfield county, Wisconsin, at any point they may select, on land owned by them, in section one, in township forty-six (46), North of range five (5) west, of the height of not more than forty-five (45) feet above low water mark, for the purpose of improving the navigation of said river, and for the creation of hydraulic power for the operation of machinery of all kinds which they may see fit to use; and they may sell or lease or otherwise encumber the water power created by said dam, to any person or persons whomsoever.

Fishway. SECTION 2. The dam so erected shall be provided with a good and sufficient fishway, to be approved by the state board of commissioners of fisheries, and the fishway shall at all times be kept in good repair and open for the free and easy passage of fish up and down the river.

Powers conferred. SECTION 3. Said J. B. Mathews, L. F. Mathews, G. O. Mathews and S. E. Mathews, the heirs, associates and assigns, for the purpose of acquiring any flowage rights which may be necessary in carrying out the provisions of this act, may exercise the powers granted to corporations by sections 1777a, 1777b, 1777c and 1777d of the statutes of 1898 and the several acts amendatory thereof enacted or to be enacted.

No corporate powers. SECTION 4. No corporate powers or privileges are granted or intended to be granted by this act, and the same shall not be construed or deemed to grant any such powers or privileges.

Conditions of grant. SECTION 5. This act is passed in consideration of and upon the following expressed conditions:

1. The dam herein authorized shall be constructed within four years from the date of the passage of this act.

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 one time.

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.

4. In case the owners thereof desire to let, lease, rent or furnish and hydraulic power or accumulation of water procured or created under this act, for public purposes or for any unlawful private purpose, they shall not charge or collect more than a reasonable rental therefor. In case the owners 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 shall constitute 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.

Franchise, when forfeit. SECTION 6. The refusal of the owners 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 their failure to furnish such hydraulic power or accumulation of water at the price fixed by the said arbitrators, as hereinbefore provided, if such power or accumulation of water is not needed for other use, or their failure to comply with all the conditions of this act, shall terminate or forfeit the franchise hereby granted, and the

failure of the lessee or lessees of such hydraulic power or accumulation of water to submit the question of price to be paid for the same to arbitrators, as herein provided, or after submission to pay the price determined by such arbitrators, shall work a forfeiture of his lease or leases, if any he or they had, of such power or accumulation of water.

SECTION 7. This act shall take effect and be in force from and after its passage and publication, and the filing in the office of the secretary of state, by the person or persons to whom the franchise is hereby given, of a written acceptance of the conditions herein contained.

Approved June 17, 1905.

No. 490, S.]

[Published June 21, 1905.

CHAPTER 411.

AN ACT to authorize G. E. Newman to construct a dam across Main creek in Gates county.

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

Location of dam. SECTION 1. G. E. Newman, his associates, heirs and assigns, are hereby authorized and empowered to erect, construct and maintain a dam of a height not to exceed fifteen feet, across Main creek in section 31, in township 34, north, of range 5 west, for improving the navigation of the river and for other purposes.

Powers conferred. SECTION 2. Said grantees, their associates, heirs and assigns, for the purpose of acquiring any flowage rights which may be necessary for the accomplishment of the public purposes hereinbefore specified, may exercise all powers granted to corporations by sections 1777a to 1777d inclusive of the statutes of the state of Wisconsin of 1898, and such amendments thereto as may have been or may be made.