

No. 562, S.]

[Published June 26, 1905.]

**CHAPTER 463.**

AN ACT to amend chapter 569 of the laws of 1901 entitled "An act to detach certain territory from the county of Chippewa and to create the county of Gates."

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

**Rusk county.** SECTION 1. Amend chapter 469 of the laws of 1901 by striking out the word "Gates" wherever the same occurs in said chapter and insert in lieu thereof the word "*Rusk*."

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

Approved June 19, 1905.

No. 144, S.]

[Published June 26, 1905.]

**CHAPTER 464.**

AN ACT to authorize the construction and maintenance of a dam across the Wisconsin river in section thirty (30), township thirty three (33) north, in range six (6) east, in Lincoln county.

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

**Powers granted.** SECTION 1. Power and authority are hereby granted unto E. T. Harmon, L. N. Anson, Ben Heineman and John O'Day, and their associates, heirs and assigns, for the purposes hereinafter stated, to build and maintain a dam across the Wisconsin river, not exceeding thirty-two (32) feet in height on any lands that they now own, possess or control, in government lots numbered two (2), three (3), six (6) and seven (7), in section thirty (30), township thirty-three (33) north, of

range six (6) east, in Lincoln county, Wisconsin, and also to erect and maintain booms, piers and other suitable booms, piers and other suitable structures for the sorting, holding and handling of logs and other floatables in said river, at and above said dam. They shall not, however, by said dam create any pond or flowage extending up said river further than the east line of section sixteen (16) in said township.

**Purpose.** SECTION 2. The said power and authority are granted for the purpose of enabling said grantees to improve the navigation of said Wisconsin river, and to provide for the driving, booming, storing and handling of logs and other floatables in said river, and to accomplish any other public purpose that may be thereby subserved. If any water power shall be created by said dam which may be used for hydraulic purposes, without hindering the accomplishment of the public purposes of this act, the same may be used for the purpose of carrying on any manufacturing or other business, or for the generation of electrical power, and for that purpose they may build such race ways, flumes, wheel pits, buildings and other structures as are necessary to develop and use such water power.

**Powers conferred.** SECTION 3. 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 section 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.

**Restrictions.** SECTION 4. Said dam shall be so constructed, maintained and operated as not to hinder, impede or obstruct the free navigation of the Wisconsin river. The said grantees shall build, maintain, and keep in repair suitable slides and chutes in said dam for the running of logs and other timber products over the same, sufficient in capacity to accommodate all such logs and products as may be floated down said river, and shall maintain a sufficient unobstructed channel for the passage of all logs and other floatables through the pond created by said dam, and all logs and other floatables destined to points below the said dam shall be taken by the owners of said dam when they reach the flowage of the pond created thereby, or reach any jam that may be caused by the stopping of logs or other floatables by the works or pond of such owners, and be

driven free of charge, and with reasonable dispatch, through said flowage and pond and over said dam. The provisions of section 1601 of the Wisconsin statutes shall not apply to said dam.

**Rights reserved; act construed.** SECTION 5. The improvement of navigation under this act shall not diminish the right of the Wisconsin River Improvement Company to collect tolls for the use of all improvements of the navigation of said river heretofore effected by said company, but said company shall not interfere with the erection and maintenance of said dam in accordance with this act, and this act shall be construed as amending all previous acts in conflict herewith.

**Fishways.** SECTION 6. The dam erected under the authority hereby granted shall be provided with a good and sufficient fishway to be approved by the state board of commissioners of fisheries, and said fishway shall, at all times, be kept in good repair and open for the free and easy passage of fish up and down said dam. In case the owners of said dam shall neglect or refuse to construct or keep in repair and maintain such fishway as required by this act, they shall, upon conviction thereof, be fined not less than twenty-five (25.00) dollars, nor more than one hundred (100.00) dollars.

**Legislative rights reserved.** SECTION 7. The right is hereby reserved to the legislature to repeal or amend this act at any time.

**Conditions of grant.** SECTION 8. 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 or rent, or furnish any hydraulic power or accumulation of water procured or created under this act, for public purposes or any lawful

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 owners 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 together shall constitute the 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 forfeit.** SECTION 9. The refusal of any owner 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 his failure to furnish such 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 his failure to comply with all the conditions of this act shall terminate and forfeit the franchise hereby granted, and the failure of the lessee of such hydraulic power or accumulation of water to submit the question of price to be paid for the same to arbitration, as herein provided, or after submission, to pay the price determined by said arbitrators shall work a forfeiture of his lease, if any he had, of such power or accumulation of water.

SECTION 10. 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 granted, of a written acceptance of the conditions herein contained.

Approved June 20, 1905.