

Chap 62. An act to prevent obstructions of the Wisconsin river and its tributary streams.

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

How dams shall be constructed.

SECTION 1. That each and every dam constructed and maintained, or which may hereafter be constructed and maintained upon the Wisconsin river in this state, shall be furnished with and contain a slide or chute, for the passage of rafts and water crafts: said slide or chute shall be sixty feet in width, constructed of hewn timber, or timber and plank made tight and sunk at the upper end together with the dam adjoining, said upper end at least two feet lower [lower] than the balance of said dam: said slide or chute shall be of sufficient length to graduate, and shall graduate the descent from the top of the dam to the mean level of the water below, by a regular descent at the rate of three feet, in fifty feet of length of slide or chute: after the mean level of the water below shall have been reached by said slide or chute, an apron or addition shall be attached, constructed in the same manner and of the same width and material as the slide or chute, ten feet in length, which apron or addition shall regularly incline upward from its junction with the slide or chute, at the rate of one foot in ten of length: there shall be attached to each apron floating spars or fingers of a diameter not less than six inches at their junction with the apron, and not less than forty feet in length, said spars or fingers shall be placed at regular intervals of four feet, or fifteen to each slide: the place of every slide or chute upon the dam shall be plainly indicated by at least one buoy placed opposite the centre of the slide or chute, at the distance of twenty yards above the dam.

Dams on Wisconsin river.

SEC. 2. That every dam constructed and now maintained, or which may hereafter be constructed or maintained upon any of the tributary streams, declared or which shall hereafter be declared a common highway of the Wisconsin river, meandered or navigated by rafts, shall be furnished with a slide or chute, conforming in every respect to the requisitions of the first section of this act, except that the width of the slide or chute may be decreased to forty feet.

Dams without chute declared nuisances

SEC. 3. Every dam erected or maintained, or which may hereafter be erected or maintained upon the Wisconsin river, which shall not be furnished with a slide or chute, conforming in every respect to the requisitions of the first sections of this act, shall be and the same is hereby declared a public nuisance: and every dam erected and maintained, or which may hereafter be erected or maintained upon any of the tributary streams of the Wisconsin river, meandered or navigated by rafts, which shall not be furnished with a slide or chute so conforming to the requisitions of the second section of this act, shall be and the same is hereby declared to be a public nuisance.

Justice to try complaint.

SEC. 4. It shall be the duty of every justice of the peace, in the counties through which the said Wisconsin river or any of its tributary streams flows, upon complaint made before him in writing, verified by oath, of the existence within his county of any such dam

as is hereby declared to be a public nuisance, forthwith to issue a venire directed to the sheriff or any constable of his county, commanding such sheriff or constable forthwith to summon twelve good and lawful men to act as a jury and enquire into the truth of the complaint, and further commanding said sheriff or constable to notify the person or persons in immediate possession of said dam of the time and place where such inquiry will be had, and if upon such trial, such jury shall find that the complaint is true, it shall be the duty of the justice forthwith to issue a writ or precept, directed to the sheriff or any constable of his county, and commanding him forthwith to remove and abate such nuisance, taking with him if need be the force of the county.

May abate
nuisance.

SEC. 5. In all cases where the jury shall find the complaint mentioned in the preceding section of this act to be malicious or without foundation, the costs shall be paid by the complainant; if the complaint be found to be true the costs shall be paid by the person in possession of the premises complained of, if the same can be collected on execution against the property of such person: in all other cases, the costs shall be paid by the county in which the said premises may be situated.

Costs.

SEC. 6. Every dam and all mills with their appurtenances, and all other machinery erected upon or served with water by any dam which shall be suffered to become a nuisance under the provisions of this act, shall be liable for all damages produced by said dam, either from causing delay in the navigation of the stream from [upon] which the same may be erected, or otherwise; and all damages resulting to individuals from such nuisance, shall be and remain a lien upon said dam, mills, and other property; and said dam, mills, and other property may be sold to satisfy said lien on execution issued on a judgment for said damages obtained in any court of competent jurisdiction in an action on the case: the purchaser or purchasers at such sale shall acquire the right to maintain said dam and all other property, and to enjoy and use the same in all respects as the owner or owners of the same, at the time of the injury caused, or those claiming by, through, or under him or them, might or could have done.

Owners liable
in damages.

SEC. 7. Every person claiming the benefit of the lien established by this act, shall within sixty days after sustaining any injury from any dam suffered to become a nuisance under the provisions of this act, file in the office of the clerk of the circuit court of the county in which said dam may be situate, a brief statement in writing of the nature of the injury, and the amount of damages claimed, and shall commence an action or actions, in some court of competent jurisdiction for the recovery of said damage, within six months after the filing of said statement, and shall prosecute said action without unnecessary delay, and in case of non-compliance with the provisions of this section, the lien provided for by this act shall cease and determine.

Time to commence
prosecution limited

SEC. 8. Every person having control or possession of any saw mill erected upon the Wisconsin river or any of its tributaries, meandered or navigated by rafts, who shall cause or suffer any slabs, edgings, bark, or other drift wood to be thrown into the said Wiscon-

Obstruction
from drift
wood, &c.
how punished.

sin river, or tributary streams, with intention to let the said drift wood float at large, so as to become an obstruction to the passage of rafts or water craft, shall, upon conviction thereof before any justice of the peace of the proper county, be punished by fine not exceeding fifty dollars, to be paid into the county treasury of the county.

SEC. 9. All acts or parts of acts, conflicting with the provisions of this act, so far as the same conflict herewith, are hereby repealed.

Notice, &c.

SEC. 10. The notice of inquiry herein required to be given to the person in possession of the property complained of, may be served in the same manner as an ordinary summons.

SEC. 11. This act shall take effect and be in force from and after the first day of January, in the year of our Lord one thousand eight hundred and fifty.

SEC. 12. The provisions of this act shall extend, and the same are hereby extended to Black river in this state and the tributaries of said Black river, which are or may be meandered or navigated by rafts.

HARRISON C. HOBART,
Speaker of the Assembly.
MYRON B. WILLIAMS,
President of the Senate, pro tem.

Approved, March 2, 1849.

NELSON DEWEY.

Chap 63.

An act to authorize Thomas P. Williams and others to build a bridge.

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

Authorized to build.

SECTION 1. Thomas P. Williams, and such other persons as shall associate with him, shall be and are hereby authorized to construct a bridge across the Milwaukee river, in the city of Milwaukee, from the foot of main or Milwaukee street, in the third ward, to the foot of lake or some other street, in the fifth ward of said city.

To be free.

SEC. 2. Said bridge shall be built and kept in repair by said Thomas P. Williams, his associates, or assigns, and when completed shall be and remain forever free, and no toll shall be required from any person or persons crossing the same.

Not to obstruct navigation.

SEC. 3. Said bridge shall be so built as not to obstruct or encroach upon the channel of the Milwaukee river by any permanent obstruction, and shall have a convenient draw, (of a capacity not less than the draw of the Walker Point bridge from the foot of Water street, in the fifth ward of said city) capable of being so managed as to admit the passage of all boats, vessels, and water craft navigating, or which may hereafter navigate the Milwaukee river, without hindrance or unnecessary delay: and the owners of said bridge shall attend, or cause the same to be attended, so as to pass and repass all boats, vessels, and water crafts, at all times, free of expense and without unnecessary delay, or interruption.