

No. 1015, A.]

[Published July 12, 1907.]

CHAPTER 549.

AN ACT to permit the Watertown Gas & Electric company, as successors of Calvin M. Bouton and Joseph Bouton, to raise the dam authorized to be constructed across Rock river by section 4 of a territorial act entitled "An act to authorize the construction of certain dams therein mentioned;" approved January 27, 1844.

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

Additional height; marks and monuments; sluiceways and gates. SECTION 1. The Watertown Gas & Electric company, its successors and assigns, as the successors of Calvin M. Bouton and Joseph Bouton and their associates, is hereby authorized to raise and maintain the dam across Rock river originally constructed pursuant to section 4 of a territorial act, entitled, "An act to authorize the construction of certain dams therein mentioned," approved January 27, 1844, three feet in height above the permanent structure of said dam heretofore constructed pursuant to said territorial act; said raise of three feet to be estimated from the crest of the permanent structure of the present dam as determined by the survey of L. S. Smith, consulting engineer for the city of Watertown, in the presence of the present mayor and city engineer of the city of Watertown, Wisconsin, on the 20th day of May, 1907. And the said Watertown Gas & Electric company, its successors and assigns, shall, within three months from the passage of this act pursuant to and under the direction of the city engineer of the city of Watertown, establish such permanent substantial bench marks and monuments, not subject to displacement by the action of frost, fixing the height to which said dam can be raised, pursuant to the terms of this act; provided, that said dam be constructed and provided with proper and modern sluiceways and gates and provided that the height at which the water may be maintained thereby shall not exceed the level of the top of such new dam.

City's approval prerequisite. SECTION 2. Before any right or power shall be exercised under this act, the owners

of said dam shall make and file in the office of the city clerk of the city of Watertown its plans and specifications for the proposed raise of said additional three feet of said dam and plans and specifications of all drains and catch basins proposed by the owners of said dam to be constructed for the drainage of any lands and cellars which may be in any way affected thereby, which plans and specifications shall be first approved by the city council of the city of Watertown, Wisconsin, before any rights shall be exercised under and by virtue of this act.

Settlement of private damages; arbitration. SECTION 3. The Watertown Gas & Electric company, its successors and assigns, before exercising any rights under this act, shall make full and complete settlement with all persons who shall have filed claims for damages to lands and property which may be caused by said proposed raise of said dam, with the secretary of the Watertown Gas & Electric company, its successors and assigns, within sixty days after the publication of this act; and in the event of a disagreement as to injury or damages, the same is to be finally determined by a board of arbitration consisting of three disinterested persons selected as follows: The claimants are to appoint and name one member of said board; the said company, its successors and assigns, is to appoint and name one member of said board, and the third member of said board is to be chosen mutually by the two so appointed; and said board shall hear and finally settle all matters in dispute submitted to it as aforesaid; and the said company is to pay whatever damages are awarded by such board within ten days before said dam is raised; and said company, its successors and assigns, is to pay expenses of arbitration. And provided further, that before any rights shall be exercised under this act, settlements shall be made with all persons damaged by said proposed raising of said dam, whether said claims are filed as provided above or not.

Settlement of city and town damages. SECTION 4. The Watertown Gas & Electric company, its successors and assigns, before exercising any rights under this act, shall make full and complete settlement with the city of Watertown and the town of Watertown for all damages which may be occasioned to either said city of Watertown or said town of Watertown, and to the streets, roads and bridges and approaches to bridges of said city of Watertown and said town of Watertown, by

said proposed increase in the height of said dam; and proof of said settlement shall be filed in the office of the city clerk of the city of Watertown before any rights whatsoever shall be exercised under this act; provided always, that before any settlement is made with said city of Watertown, pursuant to the foregoing provisions, proof shall be filed with the common council of said city, showing that all persons having damages have been settled with in full or that their claims have been disposed of in some lawful way, or by a board of arbitrators, as provided in section 3 hereof.

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

Time of beginning. 1. The construction or alteration of the dam herein authorized shall be commenced within two years from the date of the passage of this act.

Operation. 2. If so built, altered 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 any one time.

Law observance. 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 the United States.

Rentals. 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 owner 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 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.

Arbitration of rentals, pain of forfeiture. SECTION 6. 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 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.

No corporate powers. SECTION 7. No corporate powers are granted or intended to be granted by this act, and the same shall not be construed or deemed to grant such powers.

Amendment and repeal reserved. SECTION 8. The power to alter, amend or repeal this act is reserved.

Fulfillment first. SECTION 9. This act shall be construed to confer no authority upon the Watertown Gas & Electric company, its successors and assigns, to raise its said dam until after all the conditions herein shall have been fulfilled.

Conditioned on acceptance. 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 to whom the franchise is granted, of a written acceptance of the conditions herein contained.

Approved July 10, 1907.