

[No. 631, A.]

[Published April 3, 1889.]

CHAPTER 215.

AN ACT asserting the jurisdiction of the state of Wisconsin to and in the St. Croix river, and authorizing parties therein named to build and maintain a dam and certain booms upon said river, and to otherwise improve the navigation of the same, and of the lakes, ponds and sloughs adjacent thereto, and for such purpose to condemn and take private property, and to amend chapter 224, of the laws of 1832.

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

SECTION 1. The state of Wisconsin hereby asserts and exercises jurisdiction over the St. Croix river from the eastern shore thereof to the center or thread of said stream, hereby denying any exclusive jurisdiction of the state of Minnesota to authorize any person or corporation to obstruct the navigation of said river east of the center or thread thereof, or to enter upon the same and build piers, booms or other fixtures, or to occupy any part of said river east of the thread thereof, for the purpose of sorting or nolding logs, without the concurrent consent of the state of Wisconsin through its legislature.

Asserting jurisdiction of state over St. Croix river from eastern shore to thread of stream.

SECTION 2. For the purpose of improving and aiding the navigation of the St. Croix river, Amos E. Jefferson, James Thompson, S. W. Chinn, Edward B. Lewis, and Edward A. O'Brien, their heirs and assigns, are hereby authorized and empowered to construct, maintain and keep in good order and repair for the period of thirty years from and after the first day of March, A. D. 1890, such good and substantial boom or booms as they may deem necessary in order to enable them to carry out the provisions of this act, between a point on said river where the north line of section twenty-two in township thirty north, of range twenty west, intersects said river, and a point on said river where the west line of section eleven in township thirty-three north, of range nineteen west, intersects said

Conferring boomage rights upon Amos E. Jefferson et al.

How constructed.

river. Any such boom or booms shall be constructed with such convenient piers, piling, floats and other appurtenances as may be necessary to take charge of and expeditiously and properly assort and deliver to the owners thereof, at or near the point first hereinbefore mentioned, according to their respective marks, all logs or timber of any description which may float or be driven down the St. Croix river.

Duty imposed on grantees as to care of logs or timber floating or driven down the river.

SECTION 3. All logs or timber floating or driven down the said St. Croix river shall, for the purposes contemplated in this act, until the construction and completion of the dam hereinafter mentioned be deemed to be in the possession and under the control and direction of the said parties above named, their heirs or assigns, whenever the said logs or timber shall pass below the west line of said section eleven, township thirty-three north, of range nineteen west, and no person or persons shall pick up or interfere with any such logs or timber. And it shall be the duty of the said parties above named, their heirs or assigns, as fast as any logs or timber shall be driven or floated down to the point last aforesaid, to take charge of and collect the same, or drive the same into their said boom or booms, and to there assort the same according to their respective marks without any unnecessary delay, and to deliver the same when so assorted to the owner or owners of said logs, or his or their agents, duly authorized to receive the same, at or near the lowest point on said river hereinbefore mentioned. Said logs, when so assorted shall be secured and delivered in good rigging, the rigging to be used to be of a good quality of rope sufficient for the purpose. The said parties above named, their heirs or assigns, shall employ all the men and furnish all material necessary to assort, secure and deliver said logs, and shall use all reasonable exertion to effect such delivery as soon as possible, and shall, when practicable, notify the owner or owners of any such logs so made ready for delivery or his or their agent, of the time when such logs must be removed. The owner or owners of logs or timber, so assorted, secured and made ready for delivery as provided herein, shall receive and take away the same within thirty-six hours from the time such logs or timber

are so made ready for delivery. If the owner or owners of any two or more different marked logs shall consent thereto, the said parties above named, their heirs or assigns, may secure such marks in one brail and cause the same to be scaled under either mark so rafted together. And in such case said parties, their heirs or assigns, may demand and collect the boomage due on such logs or timber so rafted and scaled in the same manner in all respects as they might or could do, if the same had been rafted separately. Provided, however, that the parties above named, their heirs or assigns, whenever requested so to do by the owner or owners of any logs which shall come into their possession or under their control subject to the provisions of this act, who are owners of, or engaged in operating any saw-mills located at any point on said river, between the two points on said river hereinbefore mentioned shall sort and deliver at such mill all logs belonging to such owner or owners, which shall come into possession or control of said parties above named, their heirs or assigns, above such mill, and which can be so assorted with the exercise of reasonable diligence and deliver the same secured in rigging at such mill in the manner herein provided, for the assorting, securing and delivering of said logs out of said boom or booms.

May collect boomage due on logs.

SECTION 4. The said parties above named, their heirs or assigns, are hereby authorized and empowered to ask and collect the sum of fifty-five cents for each and every thousand feet board measure, of logs or timber, sorted, secured and made ready for delivery, at the lowest point hereinbefore mentioned in accordance with the provisions of this act; and for all logs so assorted and delivered the mill owners at or above Marine Mills, forty cents; and for all railroad ties so assorted and made ready for delivery the sum of two cents for each piece so assorted. Such boomage and all other charges fixed by this act shall become payable to said parties above named, their heirs or assigns, shall be deemed to be due whenever the logs or timber are made ready for delivery as provided herein. Provided, that if any owner or owners of logs coming into said boom which it is hereby made the duty of

May collect boomage, etc., for securing and sorting logs.

said parties above named, their heirs or assigns, to assort and secure in rigging, request said parties above named, their heirs or assigns, to assort the same and raft the same in brails, the said parties above named, their heirs or assigns, may, if they deem it advisable so to do, comply with such request; and for all logs so assorted and rafted said parties above named, their heirs or assigns, shall receive the sum of ninety cents per thousand feet. For the purpose of determining the amount of boomage due pursuant to the provision herein, said logs shall be scaled before the same are delivered to the owners by the lumber inspector of the fourth lumber district of the state of Wisconsin. The fees for such scaling shall not exceed the sum of two cents per thousand feet, which fees shall be paid by the parties above named, their heirs or assigns. The boomage above mentioned shall be full compensation to the said parties above named, their heirs or assigns for all services performed by them in taking charge of and driving said logs, and collecting, assorting, securing in rigging or rafting and delivering the same to the respective owners thereof pursuant to the terms hereof. Provided, that if any logs or timber shall not be taken away by the owners thereof, within thirty-six hours after the same are ready for delivery, pursuant to the provisions herein, then the said parties above named, their heirs or assigns, are hereby authorized and empowered to take away said logs or timber, and secure the same at some convenient point below the foot of the boom, where the same have been assorted and made ready for delivery pursuant to the terms hereof and may demand, receive and collect therefor the reasonable expense of removing and securing the same on all logs or timber so removed or secured. And on the first day of October in each year, if any such logs or timber should then remain in the possession of said parties above named, their heirs or assigns, then said parties, their heirs or assigns may proceed to sell the same, to recover the boomage and other charges lawfully due thereon, in the manner hereinafter provided. And the said parties above named, their heirs or assigns, shall have a complete lien upon and a special property in all logs or timber so driven, boomed,

May sell logs
for boomage
due.

sorted out, secured or rafted and made ready for delivery, for all boomage and charges that may be due to the said parties their heirs or assigns upon said logs or timber as herein provided. And the said parties above named, their heirs or assigns, are hereby authorized and empowered to retain possession of all logs or timber of any particular mark or marks, for boomage or other charges that may have accrued on said logs, and also all boomage and charges due said parties, their heirs or assigns, on logs or timber of the same mark or a different mark or marks belonging to the same original owner which may have been previously delivered, including cost of removal as herein provided. And the said parties above named, their heirs or assigns in the enforcement of said lien, may sell any of said logs or timber at public vendue at the place where the said logs may be, to the highest bidder for cash, having first given notice of the time and place of such sale, with a description of the mark or marks of logs, to be sold, and the quantity thereof, and the amount of boomage claimed to be due thereon in some newspaper published in the county of St. Croix and the state of Wisconsin, and in the county of Washington, in the state of Minnesota, and also by posting a written or printed copy of such notice in the office of the lumber inspector of the fourth lumber district of the state of Wisconsin and in the office of the surveyor of logs and lumber of the first lumber district of the state of Minnesota, each of which publication and the posting of said copy shall be made at least twenty days before. And if the residence of the owner of any logs or timber so advertised for sale shall be known then a copy of such notice shall be mailed to him at his place of residence at least twenty days before such sale. And if the owner of any such logs or timber shall apply to said parties above named, their heirs or assigns, to redeem such logs or timber before such sale, and shall pay all boomage and other charges due thereon, including the reasonable expense of giving such notice, then such logs or timber so redeemed, shall be delivered to such owner secured in rigging as hereinbefore provided. At any such sale, the parties above named, their heirs and assigns, may fairly and in good

How sold—
notice to be
given.

Owner may
redeem logs.

Who may pur-
chase at sale.

faith, purchase the whole or any part of said logs or timber, and shall, after deducting and retaining all boomage and charges which may be due as aforesaid, and the expense of such sale, pay the overplus, if any, to the party or parties lawfully entitled thereto.

Channel to be kept free for passage of steamboats, etc.

SECTION 5. The said parties above named, their heirs and assigns, shall at all times keep open and free, for the passage of steamboats, barges and other water craft which may be engaged in navigating the said St. Croix river, a good and sufficient navigable channel, so that said boats, barges and water craft may pass up and down said river freely and without any unnecessary hindrance or delay. Provided, that if said parties above named, their heirs or assigns, shall use all reasonable precautions and exertions to carry out and perform the provisions of this section and shall be prevented from doing so by an unusual or unexpected press or jam of logs, which shall not be caused by any negligent act of the parties above named, their heirs or assigns, or by any other act in their power to prevent, then said parties above named, their heirs or assigns, shall remove such jam and clear such channel with all reasonable diligence, but shall not be liable for such obstruction.

Booms, when to be ready for operation.

SECTION 6. The said parties above named, their heirs or assigns, shall construct and have ready for operation all booms and other structures hereinafore authorized which, in their judgment, shall be necessary in order to enable them to carry out and perform their duties pursuant to the provisions of this act, on or before the first day of March, A. D. 1891, or as soon thereafter as possible with the exercise of reasonable diligence. And said parties above named, their heirs or assigns, shall not be required to take charge or drive, assort, secure, raft or deliver any logs or timber until said booms are completed.

Liability of grantees for neglect.

SECTION 7. Whenever any unreasonable delay in delivering logs or timber, as herein provided, shall be caused by the neglect of said parties above named, their heirs or assigns, to employ sufficient men or to furnish necessary material or tools to secure or raft and deliver such logs or timber, or if such delay shall be caused by any defect in the construction of any boom authorized by the provisions of this act, or by any fail-

ure to construct or keep in good repair any such boom or booms, or from any cause within the power of the said parties above named, their heirs and assigns, to prevent or remove, then and in such case said parties above named, their heirs or assigns, shall be liable to the owner of such logs or timber so detained or delayed for the damage caused by such delay; and for any such damage, or for any damage caused by any failure or neglect on the part of said parties above named, their heirs or assigns, to comply with the provisions of this act, the said parties above named, their heirs or assigns, shall be liable to any person sustaining such damage, and such damage may be collected by action in any court of competent jurisdiction; provided, said parties above named, their heirs or assigns, shall not be liable for any delay in assorting, securing or rifting or delivering logs or timber caused by low water or by an unusual or extraordinary press or jam of logs or timber not caused by any act within the power of said parties above named, their heirs or assigns, to prevent, within the limits herein mentioned, if said parties above named, their heirs or assigns, shall use all reasonable and timely efforts to prevent or shorten the period of such delay.

How collected.

SECTION 8. All the said parties hereinbefore mentioned, their heirs or assigns, are hereby authorized and empowered, for the purpose of making such boom or booms effectual, to extend any part of said boom or booms, as occasion may require, along the course of said river to the thread or channel thereof, and to take absolute and entire control and possession of said river, to the exclusion of all other parties or person, to the thread or channel thereof, such possession and use to be subject to the requirements herein made; that such parties shall keep a channel open and free for the navigation of boats, barges and vessels, and may so occupy said river and control the same beyond the thread or channel thereof to the west side of said river, so far as the state of Wisconsin has jurisdiction thereof. And the said parties above named, their heirs or assigns, may also enter upon any lakes, ponds or sloughs adjacent to said river, and may drive such piles, construct piers, hang booms, dig ca-

May extend booms along course of river to channel, if necessary.

May enter upon lakes, ponds or sloughs adjacent to river, drive piles, construct piers, etc., necessary to secure logs, etc.

nals and construct wing dams and such other works as to them may seem necessary to carry out the purposes of this act, and hang such shear and wing and other booms in said river, or in ponds, lakes and sloughs adjoining the same or upon the shores thereof, as they may deem necessary and convenient, in order to catch, hold, safely secure, separate and deliver the logs or timber coming or running down said river. To that end and purpose the said parties above named, their heirs or assigns, may remove any booms or piers, or other structure or obstruction that they may deem necessary to the carrying out of the duties herein imposed upon them, and to that end and purpose the said parties above mentioned, their heirs or assigns, may exercise the power of eminent domain as hereinafter provided.

May exercise power of eminent domain.

May construct dams.

SECTION 9. For the purpose of further improving the said St. Croix river, the parties above named, their heirs or assigns, are hereby authorized and empowered to construct and maintain for and during the period of thirty years, from and after the first day of March, A. D. 1900, a good and sufficient dam upon said river at some point between the south line of township thirty-five (35) north, of range nineteen (19) west, and the north line of township thirty-six (36) north, of range twenty (20) west, in Polk county, Wisconsin. The said dam hereby authorized shall be so constructed as to enable said parties above named, their heirs or assigns, to store and hold within the flowage thereof, all logs or timber that may be floated or driven down to such flowage until such time as such logs can be permitted to float down said river without creating any obstruction to the navigation of said river, and shall be maintained with suitable gates and sluices for the passage of all such logs through the same, under the management and control of said parties above named, their heirs or assigns, and said dam with its gates, sluices and all improvements, erected and maintained upon said river by the said parties above named, their heirs or assigns, under the provisions of this act, shall at all times be under the exclusive control of said parties above named, their heirs or assigns, and so controlled and man-

How constructed.

aged as in their judgment shall be subservient to the interests of the parties engaged in driving logs or timber down said river and the navigation thereof. And for the purpose of aiding in the navigation of said St. Croix river, the said parties above named, their heirs or assigns, may between the points last above named, erect any piers, booms, wing dams or other improvements as they may deem necessary to carry out and accomplish the purposes for which said dam is authorized as provided for in this act.

SECTION 10. It shall be the duty of the parties above named, their heirs or assigns, upon the building of said dam, and they are hereby authorized and empowered to take possession of all the logs coming into the flowage of such dam; and thereafter to sluice such logs through said dam and drive the same down to the west line of said section eleven (11), township thirty-three (33), range nineteen (19). Provided that said parties above named, their heirs or assigns, after the erection and completion of the dam or dams herein authorized, shall, upon being requested so to do by the owner or owners of any saw mill or saw mills, which may hereafter be erected at the village of St. Croix Falls, and which shall be furnished with their motive power by the water collected by means of any substantial dam, which may be erected at said St. Croix Falls, for manufacturing purposes, assort out of the general mass of logs coming down said river, at some point or points above such saw mill or saw mills, such logs or timber belonging to the owner or owners of such saw mills, and which are destined to be manufactured at such mill or mills as said parties above named, their heirs or assigns, can so assort with the exercise of reasonable diligence and without delaying any other logs or timber destined to points below said St. Croix Falls. And the logs or timber so assorted shall be secured in such manner as said parties above named, their heirs or assigns, shall deem most practicable, and shall be delivered to such saw mill owner or owners as soon as practicable, without delaying the main drives of logs and timber destined to points on said river, below said St. Croix Falls, and for the purpose of enabling said parties, their heirs or assigns, to so

To take possession of logs coming into flowage of dam.

To sort logs—when.

Booms or piers not to interfere with improvement of water power.

drive or assort such logs or timber between the points last aforesaid, said parties, their heirs or assigns may erect such booms and piers, and remove such natural obstructions in said river as them may deem necessary; provided that no such booms, piers or improvements shall be so erected, made or maintained as to interfere with the improvement of the water power at St. Croix Falls for manufacturing purposes. And as further compensation for the improvement of said river as aforesaid, and the sluicing of said logs or timber through said dam, and the driving of the same down to the point last aforesaid, as herein provided, the parties above named, their heirs or assigns, shall be entitled, and they are hereby authorized and empowered to ask, demand, receive, sue for and collect as toll, the sum of ten cents per thousand feet, board measure, for all logs or timber sluiced through the said dam and driven to the point last aforesaid, and for assorting and delivering the logs belonging to owners of saw-mills, situated at St. Croix Falls, as hereinbefore provided, a sum not to exceed thirty cents per thousand feet, board measure. The amount of such logs so assorted for such saw-mill owner or owners to be determined by the scale thereof, in the mill booms of such saw-mill or mills by the lumber inspector of the fourth lumber district, and the amount so due for said sluicing and driving of said logs or timber as aforesaid, or for assorting and delivering logs to saw-mills at St. Croix Falls, as hereinbefore provided, shall be and remain a lien upon said logs or timber, and the parties above named, their heirs or assigns, shall have a lien upon and special property in said logs or timber so sluiced and driven or assorted as aforesaid for all the said charges that may be due according to the provisions of this act and may enforce the same in the same manner and at the same time that the lien hereby created for boomage shall or may be enforced. The dam hereinbefore authorized shall be erected and completed by said parties above named, their heirs or assigns, on or before the first day of March, A. D. 1891; provided, that said parties above named, their heirs or assigns, shall not be required to build or maintain any booms or assorting works, for the pur-

Tolls may be collected.

Dam, when to be completed.

pose of assorting logs, for saw-mills at St. Croix Falls, as hereinbefore provided, until six months after some such saw-mill as is hereinbefore described, shall be erected at said St. Croix Falls.

SECTION 11. Said parties above named, their heirs or assigns, may obtain a 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 and for the flowage of said dam, or for any other purposes necessary or convenient to enable said parties above named, their heirs or assigns, to carry out 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 owner. 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 owner, then they may acquire the property rights and interests hereinbefore mentioned by the exercise of the power of eminent domain which is hereby conferred upon them. And in the exercise of such power they may proceed in the manner now prescribed by section 1777, of the revised statutes of 1878, and the several acts amendatory thereof.

Right of eminent domain may be exercised.

SECTION 12. It is hereby declared to be the purpose of this act to secure, through the said parties above named, their heirs and assigns, and the proper officers of this state, the free navigation of said river for all parties engaged in navigating the same with as little hindrance and delay as possible, having due regard for the rights and interests involved. And to assert and maintain the jurisdiction of the state of Wisconsin over the said river so far as the jurisdiction of the state may extend. And to that end and purpose it is hereby made the duty of the attorney-general and all officers of the state of Wisconsin so far as they may lawfully act in the premises, to assert and maintain the jurisdiction of said state over said river, so far as said jurisdiction may lawfully extend, and to prevent the intrusion upon such jurisdiction of all parties, persons or corporations claiming the right to obstruct the navigation of said river.

Purpose of act declared.

Repeal.

SECTION 13. All acts or parts of acts in conflict with the provision of this act are hereby repealed; and all charters or privileges heretofore granted for the booming, assorting, driving or storing of logs upon the said St. Croix river, or for the erection of any dam or dams within the limits mentioned in section 9, of this act are hereby revoked and repealed; provided, that this act shall not repeal the right to maintain a dam across said St. Croix river, granted by chapter 224, of the laws of 1882, so far as said chapter grants any rights to maintain such dam at St. Croix Falls, or within one mile of said falls for manufacturing purposes. But no toll shall be collected for the passing of logs over or through any dam erected under the provisions of said chapter.

SECTION 14. The right to alter, amend or repeal this act is hereby reserved.

SECTION 15. This act shall take effect and be in force from and after its passage and publication.

Approved April 1, 1889.

[No. 318, S.]

[Published April 2, 1889.]

CHAPTER 216.

AN ACT to incorporate the city of Dodgeville.

(See Vol. 2.)

[No. 109, S.]

[Published April 3, 1889.]

CHAPTER 217.

AN ACT to amend section 4942, of the revised statutes, relating to good conduct of convicts and compensation.

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

Amending sec.
4942, R. S.

SECTION 1. Said section 4942, of the revised statutes, be and the same is hereby amended by adding at the end thereof, the following, to-wit: