

No. 456, A.]

[Published May 1, 1899.]

CHAPTER 288.

AN ACT providing for the organization of corporations for the improvement of streams, and the construction of canals for navigation purposes, and granting to such corporations additional powers to those granted by chapter 85 of the Wisconsin statutes of 1898.

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

Formation of canal companies, how effected.

SECTION 1. Any number of adult residents of the state of Wisconsin, not less than five, may form a corporation in the manner provided in chapter 86 of the Wisconsin statutes of 1898, for the improvement, for purposes of navigation, of any stream in this state not used for logging purposes, and connecting two navigable water-ways lying wholly within the state, and not navigable throughout the distance to be improved during the season of navigation prior to the organization of such corporation, by machinery propelled water craft at least thirty feet in length, with at least seven feet beam, and having a draft of at least thirty inches; and for the construction of any canal, as a part of the improvement of such stream, or as connecting such stream with a navigable water-way, or as connecting two navigable water-ways lying wholly within the state; together with such other improvements as may be necessary to render such improvement or canal available for navigation in conjunction with such available water-ways by water craft of the dimensions and draft hereinbefore designated.

Additional powers granted.

SECTION 2. Every corporation formed as provided in the preceding section, shall in addition to the powers conferred on corporations by chap-

ter 85 of the Wisconsin statutes of 1898, have power:

1. To cause such examination and surveys for its proposed improvement of any stream or canal to be made as may be necessary to the selection of the most advantageous route, and for such purposes by its officers or agents and servants to enter upon the lands and waters of any person, but subject to responsibility for all damage which shall be done thereto.

Entry on lands in surveying.

2. To take and hold such voluntary grants of real estate and other property as may be made to it, to aid in the construction, maintenance and accommodation of its improvement of any stream or any canal. But the real estate received by voluntary grant shall be held and used for such purposes only.

Grants of real estate.

3. To acquire by purchase or condemnation proceedings, such real estate and water-ways not navigable as hereinbefore designated, and such other property as may be necessary, for the construction, maintenance and operation of such improvement or such canal, and of the locks, dams, spill-ways, buildings and other fixtures reasonably necessary to accomplish the objects of its incorporation. The right to acquire property by condemnation proceedings, shall be exercised in the same manner and by like special proceedings as are now or hereafter may be prescribed by law for so acquiring real estate by railroad corporations; provided that such corporation shall not acquire any property by condemnation proceedings until at least three-fourths of the owners of the property over which such right-of-way is proposed to be located, shall have consented, in writing, to the location and construction of such improvement or canal; and provided that no such improvement or canal shall be so constructed as to separate the buildings on any farm, or separate such buildings from the nearest highway, except with the consent of the owner of such farm, or unless such improvement follows the course of the stream to be improved.

Must acquire three-fourths of right of way before property can be secured by condemnation.

May purchase
state lands.

4. The commissioners of public lands may grant to any such corporation, any land owned by the state which may be necessary for the purpose of such improvement or canal upon such terms and for such compensation as they may fix.

Dimensions of
right of way
and canal.

5. To lay out its right-of-way or route for such improvement or canal, not exceeding one hundred feet in width, and to locate such improvement or canal upon such right-of-way or route as it may deem most convenient and advantageous in the construction, maintenance and operation thereof; and to deepen, straighten and enlarge such stream, and to excavate and construct such improvement or canal, not less than twenty-five feet wide at the water level, with such alignment and graduation as such corporation shall think proper, and to construct all necessary locks, dams, spill-ways, roadways, docks, piers, wharves, buildings and other fixtures and appurtenances thereto for the purpose of constructing, maintaining and operating such improvement or canal.

Entry on
lands.

6. To enter upon lands immediately adjacent to such right-of-way, when necessary for the purpose of giving such direction to rivulets, water courses and drains running into such improvement or canal, as will protect such improvement or canal, subject to responsibility for all damage done thereby.

Lowering of
lakes and flow-
age of lands.

7. To confine the waters of such streams to the channel of such improvement and to construct such dams, locks and spill-ways as may be necessary to maintain the proper stage of water in such improved stream or canal, provided that any such lock, dam or spill-way shall be so constructed, that the water in such lake or pond shall not be varied more than twelve inches from the mean annual level of such lake or pond. Any person whose land may be overflowed or otherwise injured from the construction and maintenance of any such dam and spill-way, may obtain compensation for such damage in a civil action

as provided in chapter 146 of the Wisconsin statutes of 1898 for the recovery of damages for land overflowed or otherwise injured by any mill dam.

8. To construct such improvement or canal across or under any highway which its route shall intersect, provided that such corporation shall construct, at the place of crossing such highway, a suitable bridge over such improvement or canal, with safe and suitable approaches to such bridge on a grade not exceeding a three per cent. grade. Such bridge to be constructed with suitable stone abutments and with metal girders, and to be constructed as a stationary span bridge, unless it is agreed between such corporation and the public officers having charge of the highway so intersected, that it shall be constructed as a draw bridge. And upon the construction of such bridge and approaches, the same shall become the property of the town or village wherein said bridge is located. But said corporation shall thereafter be charged with the maintenance of said bridge and the approaches thereto, and if said bridge is constructed as a draw bridge, said corporation shall furnish proper bridge tenders through the season of navigation, and pay all the expense of operating such bridge. Such corporation shall also construct and maintain a suitable bridge for the use of any owner of property through which such improvement or canal shall be constructed, whenever the construction of such improvement or canal through any person's land shall interfere with the customary use of such land by the owner. Whenever required by the owner of lands adjacent to such right-of-way, such corporation shall build and maintain a line fence between such right-of-way and such adjacent property, such line fence to be so constructed as to be a legal fence within the requirements of the laws of the state.

Construction and maintenance of bridges over canal.

9. To have full power to control and regulate the use of said canal, to prescribe rules and regulations determining the style of the craft, and

Company's power over canal, rates of toll.

May license
boats for
transporta-
tion purposes.

Persons may
use canal on
payment of
toll.

Company may
revoke license.

the speed, load and draft of all craft passing over or through said improvement, canal or locks connected therewith; to impose such rules, regulations and restrictions as may be necessary for the safe passage of craft thereon; and for the protection of its improvement, canals, locks, dams, spill-ways, wharves, piers and other property; to demand and receive toll not exceeding the following rates: For passing through any lock, for any rowboat, twenty-five cents and for each person thereon, five cents; for any boat propelled by sails or machinery, fifty cents, and for each person thereon, five cents. To take and convey persons or property over or through such improvement or canal, or locks connected therewith, by means of any power, which such corporation may deem best adapted to such purpose, and to receive compensation therefor. And such corporation shall have full power to license boats for the transportation of passengers or freight for hire over or through such improvement, canal or locks connected therewith. But no person or corporation, other than the corporation controlling such improvement or canal, or persons or corporations licensed by such corporation shall have the right to transport passengers or freight for hire over or through such improvement, canal or any locks connected therewith; and such corporation may close the said improvement, canals and locks against and detain and prevent from passing through such improvement, canal or locks connected therewith, any and all persons refusing or neglecting to comply with the regulations so imposed, or to pay the tolls as established by said corporation.

10. Every person shall have the right to use such improvement or canal for himself and his family, subject only to the payment of such reasonable toll, and such reasonable rules and regulations as may be prescribed as hereinbefore provided.

11. To revoke the license of any person or corporation licensed by such corporation to trans-

port passengers or freight for hire, over or through such improvement, canal or locks connected therewith, whenever the person or corporation so licensed shall refuse or neglect to obey the rules, regulations and restrictions prescribed by such corporation.

SECTION 2. No person shall under any pretense or authority whatever, except with permission in writing, from the board of directors of such corporation, dig or construct, or cause to be dug or constructed, any drain, or remove or deposit or cause to be removed or deposited, earth, sand gravel or other material so that the effect of such drain or the removal of such earth, sand, gravel or other material as aforesaid will be to cause earth, sand, gravel or other material to be washed into any improvement, canal or slack water pool, or the right-of-way belonging to such corporation.

Digging of ditches from canal. —

SECTION 4. Whenever such corporation shall have procured all the lands necessary to be used for the construction of its improvement or canal or canals in any town, it shall cause an accurate survey of such improvement or canal to be made and certified to as a correct and accurate survey by the engineer making the survey, showing the exact location, the courses and directions of the stream to be improved, and the depth of such unimproved stream, and the courses and directions of the proposed improvement, and the proposed canal or canals and showing the boundaries of the right-of-way so secured by said corporation, to be signed by its president and secretary, and acknowledged by them as conveyances of real estate are required to be acknowledged and recorded in the office of the register of deeds of such county. And such survey shall be received in evidence without further proof thereof, as presumptive evidence of the facts therein stated.

Survey when filed to be presumptive evidence of facts contained therein.

SECTION 5. If any person shall unlawfully or knowingly injure or destroy any part or portion of the said improvement or canal, or any works, buildings or machinery attached to or in use

Penalty for injuring or destroying canal property.

upon the same belonging to said corporation, or shall unlawfully and maliciously place any obstruction or thing in the channel or way of such improvement or canal, such person or persons so offending shall, each of them, for every offense, forfeit and pay to such corporation the sum of twenty-five dollars, and in addition to such forfeit, such person or persons shall, each of them, for each and every such offense, forfeit and pay to such corporation, the amount of damages caused by such offense, which may be recovered in any court of competent jurisdiction.

Life imprisonment, when.

SECTION 6. Any person who shall unlawfully and maliciously place any obstruction in the channel of any stream or canal, improved or constructed for navigation purposes, whereby the death of any person shall be caused, shall be punished by imprisonment in the state prison during life.

SECTION 7. This act shall take effect and be in force, from and after its passage and publication.

Approved April 28, 1899.

No. 527, A.]

[Published May 1, 1899.]

CHAPTER 289.

AN ACT to amend section 1409g, of the Wisconsin statutes of 1898, relating to the sale of drugs etc. by unlicensed persons.

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

“Usual domestic remedies” construed.

SECTION 1. Section 1409g, of the Wisconsin statutes of 1898, is hereby amended by adding at the end of said section the following: “The term ‘usual domestic remedies,’ referred to in said sec-