

SECTION 6. 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 given, of a written acceptance of the conditions herein contained.

Approved June 17, 1905.

No. 192, A.]

[Published June 21, 1905.

CHAPTER 400.

AN ACT to authorize Charles A. Gesell, his associates, successors, heirs and assigns to build and maintain a dam across the Flambeau river, Iron county.

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

Location of dam. SECTION 1. Charles A. Gesell, his associates, successors, heirs and assigns are hereby authorized and empowered to build, construct and maintain a dam across the Flambeau river on the west half of section four (4) in township forty-one (41) north in range two (2) east, Iron county, state of Wisconsin, for the purpose of improving the navigation of said Flambeau river above said dam and to use and appropriate the hydraulic power created thereby for the transmitting of electricity and for manufacturing and such other purposes as the same may be adapted.

Powers conferred. SECTION 2. Said Charles Gesell, his associates, successors, heirs and assigns, for the purpose of acquiring any flowage rights which may be necessary in carrying out the provisions of this act may exercise the powers granted to corporations by sections 1777a, 1777b, 1777c, 1777d of the statutes of 1898, and the several acts amendatory thereto or thereof enacted or to be enacted.

How constructed. SECTION 3. Said dam shall be constructed of either concrete or common rock laid in Portland cement with the object in view that any freshet or flood from

dams above there may not impair its strength or wash it out by overflowing.

Height limit. SECTION 4. Said dam shall not be built to exceed thirty-five feet in height from the bed of the stream.

Manner of construction. SECTION 5. Said Charles A. Gesell, his associates, successors, heirs and assigns shall build and maintain and keep in repair suitable slides and chutes in said dam for the running of logs and timber products over the same sufficient in capacity to accommodate all logs and timber products that may be floated down said river, and shall maintain a sufficient unobstructed channel for the free passage of logs and timber products through the pond created by said dam, and all logs and other timber products destined to other points below said dam shall be taken by the owners of said dam when they reach the flowage thereof or reach any jam that may be caused by stopping of logs by the works or pond of the owners of said dam and shall be driven free of charge and with reasonable dispatch through said flowage and pond and over said dam.

Floods, discharge of. SECTION 6. Said dam shall be so constructed and maintained as to be capable of permitting the free and uninterrupted passage through or over the same of any and all floods discharged by any flooding dam further up said river for the purpose of assisting in and facilitating the driving of logs and other timber products below the dam authorized by this act and the owners of said dam shall so maintain and operate them as to permit the free passage of all such floods without substantial impairment of their effectiveness in assisting in the driving of logs and timber products down said river and shall be liable to damages to any person or corporation injured by failure of compliance with this section.

Fishway. SECTION 7. 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) dollars, nor more than one hundred (100) dollars.

How construed. SECTION 8. No corporate powers are granted by this act, and it shall not be construed or deemed to confer or grant any such powers.

Legislative rights reserved. SECTION 9. The power to alter, amend or repeal this act is hereby reserved to the legislature.

Conditions of grant. SECTION 10. 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, when forfeit. SECTION 11. 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 com-

ply 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 be had, of such power or accumulation of water.

SECTION 12. 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 17, 1905.

No. 725, A.]

[Published June 21, 1905.

CHAPTER 401.

AN ACT to authorize P. M. Parker and Sewell A. Peterson, of the city of Rice Lake, Barron county, Wisconsin, their heirs and assigns to build and maintain a dam across the Red Cedar river, in Barron county, Wisconsin, for the purpose of improving the navigation of said river and creating hydraulic power for the operation of machinery and for other lawful purposes.

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

Location of dam. SECTION 1. For the purpose of improving the navigation of said river, and for the creation of water power for milling, manufacturing and hydraulic purposes, P. M. Parker and Sewell A. Peterson, their heirs and assigns, are hereby authorized to build and maintain a dam across Red Cedar river upon land owned by them, namely, the east half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of section 32, of township 35, north of range 11 west, in Barron county, Wisconsin, of the height of not more than fifteen feet above low water mark.