

county clerk the time within which an appeal may be taken from such disallowance or an action commenced shall not begin to run.

District attorney to bring action. SECTION 2. There is hereby added to the statutes of 1898, a new section to be numbered 1512a, and which said section shall read as follows: Section 1512a. Upon receipt of notice of the disallowance of the claim of any county, the county clerk receiving such notice shall forthwith notify the district attorney of his county, who shall be authorized and empowered to institute an action or take an appeal in the name of the county, as the case may require, for the recovery of so much of said claim as shall be disallowed, and for the purposes hereof no county shall be required to give bond for the faithful prosecution of such action or appeal or payment of costs adjudged therein.

SECTION 3. All acts or parts of acts in conflict herewith are repealed.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved June 17, 1905.

No. 293, S.]

[Published June 21, 1905.

CHAPTER 415.

AN ACT to authorize E. W. Hopkins, his heirs or assigns, to erect and maintain a dam across the Pine river in Florence county.

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

Location of dam. SECTION 1. E. W. Hopkins, his heirs and assigns, are hereby authorized to build and maintain a dam across the Pine river in section twenty-eight of township thirty-nine north of range eighteen east, in Florence county, Wisconsin, for the purpose of improving the navigation of said river; and the said E. W. Hopkins, his heirs and assigns, are hereby

authorized to use the hydraulic power created by said dam for manufacturing purposes.

Height. SECTION 2. Said dam shall not be built or maintained of a height greater than shall be sufficient to raise the water of said river to a height more than thirty-two feet above its normal level at the west line of said section twenty-eight.

Powers conferred. SECTION 3. For the purpose of acquiring the necessary lands, or rights, easements and privileges in lands necessary for flowage, so that the complete construction of said dam and improvement under this act, may be successfully carried out, the said E. W. Hopkins, his heirs and assigns, may have and enjoy all the rights granted to and conferred upon corporations by sections 1777a, 1777b, 1777c and 1777d of the statutes of 1898.

How constructed. SECTION 4. Said E. W. Hopkins, his heirs, associates 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 the stoppage of logs by the works or pond of the owners of said dam, and shall be driven by such owners free of charge and with reasonable dispatch through said flowage and pond and over said dam.

Floods, discharge of. SECTION 5. 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 it and operate it as to permit the free passage of all such floods without substantial impairing 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.

No corporate powers. SECTION 6. No corporate powers are granted by this act and the same shall not be construed or deemed to grant such powers.

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.

Legislative rights reserved. SECTION 8. The right is hereby reserved to the legislature to repeal or amend this act at any time.

Conditions of grant. SECTION 9. 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 ar-

bitrators, 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 10. 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 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 be had, of such power or accumulation of water.

SECTION 11. 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.