

No. 353, A.]

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CHAPTER 383.

AN ACT to authorize and empower Charles E. Rollins, Jr., his associates, heirs and assigns, to erect and maintain a dam across the Peshtigo river in Marinette county.

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

Location of dam; purposes; land flowage. SECTION 1. Charles E. Rollins, Jr., his associates, heirs and assigns, are authorized and empowered to build, construct, maintain and keep a dam or dams across the Peshtigo river in Marinette county, Wisconsin, at a height not to exceed eighteen feet in lots 1, 2, 3 and 4 in section fifteen, township thirty-two, north of range nineteen east, for the purpose of producing and creating power, either hydraulic or otherwise, and to use the power so created as he or his assigns may see fit, and for improving the navigation of said river; provided, that said dam or dams shall be subject to all the provisions of the laws of Wisconsin, relating to the flowage of lands by the erection of dams.

Free passage of logs, etc. SECTION 2. Said Charles E. Rollins, Jr., 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.

Free flood passage. SECTION 3. 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.

Fishway. SECTION 4. 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.

Repeal and amendment reserved. SECTION 5. The right is hereby reserved to the legislature to repeal or amend this act at any time.

Express conditions. SECTION 6. This act is passed in consideration of, and upon the following expressed conditions:

Construction time. (1) The dam herein authorized shall be constructed within four years from the date of the passage of this act.

Operation. (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.

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 of 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 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.

Arbitration of rentals, pain of forfeiture. SECTION 7. 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 he had, of such power or accumulation of water.

Conditioned on filing acceptance. SECTION 8. 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 24, 1907.