

until their successors are elected and qualified; and the common council may make appointments of school commissioners to fill vacancies which may occur from any cause.

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

Approved March 7, 1874.

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## CHAPTER 164.

[*Published March 21, 1874.*]

AN ACT to amend subdivision four and to repeal subdivision five of chapter 92 of the revised statutes, entitled of "real property by descent."

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

SECTION 1. Subdivision four of section one of chapter 92 of the revised statutes is hereby amended to read as follows: 4th. If he shall leave no issue, nor widow, nor father nor mother, his estate shall descend in equal shares to his brothers and sisters and to the children of any deceased brother or sister, by right of representation. Right of descent.

SECTION 2. Subdivision five of said section one is hereby repealed.

SECTION 8. This act shall take effect and be in force from and after its passage and publication.

Approved March 7, 1874.

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## CHAPTER 165.

[*Published March 21, 1874.*]

AN ACT to secure the safe navigation of the Wisconsin river.

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

SECTION 1. Every person or persons, or corporations, municipal or private, who now control or maintain any dam or bridge across the Wisconsin river, shall, within nine months from and after the publication of this act, construct at one side of the slide over such Guide booms to be erected within nine months.

dam, and at each end of the span of such bridge extended over the channel of said river, guide boom or booms and extend the same up and diagonally across the river towards the banks thereof, in such a manner and of sufficient length to secure the safe passage of all lumber and crafts over the slide of such dams and through the channel span of bridges, and each boom shall be attached securely to a pier at the upper end thereof, or to some other firm structure.

SECTION 2. All dams and bridges hereafter built across said river shall have constructed therewith at the time of their erection, the guide booms provided for in the first section of this act.

Penalty for neglect.

SECTION 3. Any person maintaining or controlling any dam or bridge across said river, or who may hereafter build, either under any contract, lease, or as tenant in common or any occupancy by which such person is liable to account in any manner for the value of the use thereof, shall in case the owner neglects or refuses for nine months after the publication of this act to construct such piers and booms, build them himself, and the cost and expense thereof shall constitute a set-off against any claim for rent or claim for the use thereof, and such occupant may also recover the same by action against the owner.

Proceeding to recover damages to property.

SECTION 4. In all cases of injury to property by reason of neglect or refusal to make the piers and booms as herein provided, or in case such piers and booms shall be so built as not to afford the safety and protection intended hereby, and injury to property thereby ensue, the owner of such property may recover treble damages therefor against the owner and occupant of such dam or bridge, jointly or severally, as he may elect, and such judgment may be enforced as a personal judgment, and shall also, when docketed in the proper county, constitute and be a lien upon the whole of such dam, including its abutments and shore line and upon the mill and fixtures situate therewith, and upon such bridge and its approaches, whenever owned by a person or a private corporation, and such judgment may be enforced against such dam or bridge by sale thereof as is provided by law for the sale of real estate.

Damages to person.

SECTION 5. In all cases where injury to person, loss of limb or life occurs, caused by the neglect or refusal to provide such piers and guide booms, or by the insufficient or defective construction thereof, such person or his heirs or widow, may maintain an action against the owner and occupant thereof, in the same

manner and with the same remedies both as to the action and to enforcing the judgment as is provided in this act for injury to personal property.

SECTION 6. This act shall not in any manner be construed so as to discharge or affect the liability of persons owning or controlling any dam, bridge, or other structure in or across said river, for damages, as now determined by law, in respect to matters not herein provided for, nor shall the provisions of this act apply to any bridge upon said river below Portage City, until channel span has been established by the government engineer who may have control of the improvement of said river. Miscellaneous.

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

Approved March 7, 1874.

## CHAPTER 166.

[Published March 21, 1874.]

AN ACT to repeal chapter two hundred and seven of the laws of 1873, entitled "an act to repeal section five of chapter seventy-six, of the private and local laws of 1869, entitled 'an act to incorporate the Embarrass River Improvement Company,'" and to restore said section five of said chapter seventy-six.

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

SECTION 1. Chapter two hundred and seven (207) of the laws of 1873, of the state of Wisconsin, entitled "an act to repeal section five of chapter seventy-six, of the private and local laws of 1869, entitled 'an act to incorporate the Embarrass River Improvement Company,'" is hereby repealed, and said section five, of said chapter seventy-six, of the private and local laws of 1869, entitled "an act to incorporate the Embarrass River Improvement Company," is hereby re-enacted and declared to be in full force and effect; *provided*, that not more than fifteen cents per thousand feet shall be collected for any logs or timber run out of said streams, so that said section five chapter seventy-six, private and local laws of 1869, when re-enacted, shall read as follows: The said company shall be entitled to collect and receive from all persons or corporations running logs or timber down any portion of Repealing act repealed.

Tolls authorized.