

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1881.

[No. 61, A.]

[Published March 8, 1881.]

CHAPTER 43.

AN ACT to revive and keep in force for ten years chapter one hundred and twenty-eight of the private and local laws of 1870, entitled an act to authorize Olaf Swing, his heirs and assigns, to keep and maintain a ferry across the St. Croix river.

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

Re-enacted.

SECTION 1. That chapter one hundred and twenty-eight of the private and local laws of Wisconsin for 1870, is hereby revived, and to remain in force for ten years.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 4, 1881.

[No. 86, A.]

[Published March 8, 1881.]

CHAPTER 44.

AN ACT to amend chapter one hundred and sixty-five, of the laws of 1879, entitled: "an act to amend chapter one hundred and seventy, of the private and local laws of 1857, entitled: 'an act to incorporate the Yellow River Improvement Company, and chapter one hundred and sixteen, of the private and local laws of 1871, entitled: 'an act to amend chapter one hundred and eighty-six, of the private and local laws of 1868,' entitled: 'an act to amend chapter one hundred and seventy, of the private and local laws of 1857,' entitled: 'an act to incorporate the Yellow River Improvement Company, and the several acts amendatory thereto.' "

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

Location of improvements.

SECTION 1. Section one of chapter one hundred and sixty-five, of the laws of 1879, is hereby amended so as to be and read as follows: The said corporation shall have power, and is hereby authorized to make such improvements in the Yellow river and its tributaries (it being a tributary of the Wisconsin river), in the counties of Clark, Wood and Juneau, in this state, as shall tend to facilitate and render more secure the running and driving of lumber, timber, saw logs, shingles, lath and other materials floated in said streams, and for such purpose shall have power to remove all natural

Power of corporation.

and other obstructions in said streams, and to remove from the banks of the same any logs or leaning trees liable to be floated into said streams or undermined by high water; and shall have the right to straighten the channel of said streams in all places within said counties deemed necessary for the purposes hereinbefore mentioned; and shall have the right to close up all sloughs, side cuts and channels in said streams, and to erect and maintain on said streams, all dams, booms, piers, jetties and other improvements deemed necessary by said corporation, for the purposes contained in this act, and also to enter upon, take, hold and use all such lands and real estate and acquire the title thereto, as may be necessary for the use of said corporation for the purposes aforesaid: *provided*, that if said corporation shall at any time take, use or damage any property, or rights of any other person or persons, in taking or using property for the purposes aforesaid, it shall be liable to pay all damages occasioned thereby, to be ascertained and paid as hereinafter mentioned and provided for. That for the taking, using or damaging any property of any other persons, the said corporation shall have the power to purchase the same by private agreement with the owners thereof, or to settle and arrange for the damages sustained, or to be sustained by reason of such use, taking or damaging thereof. And in case the corporation and owners of such real estate cannot mutually agree for the purchase, lease, use or damages, then either party, the corporation or owner of such lands, or party entitled to damages in the premises, may apply to the circuit court for the county, where said lands are situated, for the appointment of three disinterested persons, residents and freeholders of said county, as commissioners to appraise the value of such lands so taken or flowed, and also the damages for the use or injury thereto, as the case may be, who shall be first duly sworn to discharge faithfully the duties of such appointment, and who shall personally view the lands and premises taken, used, damaged or injured, and who shall receive and hear such evidence as may be offered by either party in relation thereto, and shall make and sign their report and award of the damages in the premises, and file the same with the clerk of the court of the county wherein said lands are situated, within ten days after the hearing shall have terminated in each case. That the party applying for the appointment of such commissioners shall give no-

May take and
use real estate.

In case of fail-
ure to agree.

Commi-
sioners to give
parties ten days'
notice.

Non-residents,
etc.

Compensation.

Appeal.

tice to the adverse party of at least ten days, of such application, and shall therein give the time and place where the same shall be heard, and the circuit judge of the circuit in which such lands are situated, shall have jurisdiction to hear and determine such application either in term or vacation. That said commissioners when appointed shall give to each of the parties interested, at least ten days' notice of the time and place when and where they will meet to view the premises, and hear and determine the matters of damages or value of the premises, as the case may be. And in case that any of the owners or parties interested in such real estate desired to be used, taken, flooded or damaged, are non-residents of this state, or are infants, insane, or under other legal disability, such notice and proceeding shall be had in relation to them and their interests, as the circuit court or judge shall order and direct. That said commissioners shall each be entitled to three dollars per day for their services, to be paid by the parties or either party as the court shall direct. That when the report of the commissioners shall be returned to the clerk of said circuit court as aforesaid, either party may have the affirmation or rejection thereof, and for entry of judgment thereon, in case the same shall be affirmed, upon giving at least five days' notice to the opposite party of such application. And upon such hearing the said circuit court or judge shall render such judgment in the premises as he shall deem proper. And provided further, that either party may appeal from the determination and report of said commissioners to the circuit court of the county wherein said report is filed, within thirty days after such report may have been filed in the office of the clerk of said court, and such appeal shall be tried and determined the same as other issues arising in said court, and subject to the rights of appeal to the supreme court from said circuit court, the same as ordinary civil actions. And provided also, that upon payment, or tender of payment, of the sum specified in the report of said commissioners, to the owner or owners of such lands or materials, or a deposit of the same for their benefit, with the clerk of the circuit court of the county wherein said report is filed, the corporation may immediately take and use the same without waiting the issue of such appeal.

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