

No. 527, S.]

[Published June 21, 1905.]

CHAPTER 408.

AN ACT to authorize the Stolle--Barndt Lumber Company, its successors and assigns to build and maintain a dam across the Big Somo river in Lincoln county.

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

Location of dam. SECTION 1. The Stolle-Barndt Lumber Company, its successors and assigns, is hereby authorized and empowered to build and maintain a dam not exceeding 9 feet in height across the Big Somo river in section four, township thirty-five north, range four east in Lincoln county.

Purpose of construction. SECTION 2. The said Stolle-Barndt Lumber Company may construct such dam for the purpose of driving, booming and storing logs and timber, for the creation and use of hydraulic power, and for the improvement of the navigation of said river. The said company, its successors and assigns shall have the right to use, lease and dispose of all surplus water power in conducting and carrying on any manufacturing business and for that purpose may build race ways and flumes and all other equipment necessary to develop and use the surplus power for such purposes.

Powers conferred. SECTION 3. Said grantees, their associates, heirs and assigns, for the purpose of acquiring any flowage rights which may be necessary for the accomplishment of the public purposes hereinbefore specified, may exercise all powers granted to corporations by sections 1777a to 1777d inclusive of the statutes of 1898, and such amendments thereto as may have been, or may be made.

Fishway. SECTION 4. The dam so erected shall be provided with a good and sufficient fishway, to be approved by the state 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 owner, or owners, of said dam shall neglect or refuse to construct or keep in repair or keep open such fishway, as required by the provisions of this

act, they shall, upon conviction thereof be fined not less than twenty-five dollars nor more than one hundred dollars.

How constructed. SECTION 5. The said grantees shall build, maintain and keep in repair suitable slides and chutes in said dam for the running of logs and other timber products over the same, sufficient in capacity to accommodate all such logs and products as may be floated down said river, and shall maintain a sufficient, unobstructed channel for the passage of all logs and other floatables through the pond created by said dam, and all logs and other floatables destined to points below the said dam shall be taken by the owners of said dam when they reach the flowage of the pond created thereby, or reach any jam that may be caused by the stopping of logs or other floatables by the works or pond of such owners and be driven free of charge, and with reasonable dispatch, through said flowage and pond and over said dam. The provisions of section 1601 of the statutes of 1898 shall not apply to said dam.

Legislative power reserved. SECTION 6. The right is reserved to the legislature to repeal or modify this act at any time.

Conditions of grant. SECTION 7. 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 8. 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 9. 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.