

No. 505, S.]

[Published June 21, 1905.]

CHAPTER 409.

AN ACT to authorize the building of a dam across the Jump river in Gates county in section 26, township 33, range 5 west, by John T. Cosgriff, his successors and assigns.

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

Location of dam. SECTION 1. John T. Cosgriff, his successors and assigns, are hereby authorized to erect, construct and maintain a dam, of a height not exceeding 20 feet, across the Jump river in Gates county, in section 26, township 33, range 5 west.

Purpose for which authorized. SECTION 2. The said power and authority are granted for the purpose of enabling said grantees to help navigation by creating slack water above said dam, and to assist in the floating of ties, fence posts and other timber down said river. Any hydraulic power that may be incidentally created thereby not needed for the purposes stated may be used, leased or sold.

Powers conferred. SECTION 3. The power of condemnation of lands that may be needed for flowage or otherwise, for the carrying out of the provisions of this act, shall be those allowed by sections 1777, 1777a, 1777b, 1777c and 1777d of the statutes of 1898 and acts amendatory thereof.

How constructed. SECTION 4. 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.

Powers conferred. SECTION 5. 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, or more than one hundred (100) dollars.

Legislative right reserved. SECTION 6. The right is hereby reserved to the legislature to repeal or amend 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 for any lawful private purpose, they shall not charge or collect more than a reasonable rental therefor. In case the owner 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 he 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.