

divorce shall be null and void. *Providing that the circuit judge who granted the divorce, upon application of both parties to any divorce action, may, in his discretion, by order, authorize the remarriage of such divorced persons to each other within the year.*

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

Approved June 19, 1905.

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No. 367, S.]

[Published June 24, 1905.

## CHAPTER 457.

AN ACT to authorize E. H. Van Ostrand, T. J. Roberts and M. J. Wallrich, their heirs, associates and assigns, to build and maintain a dam across the Wolf river on the east half of the southwest quarter of section ten (10), in township thirty-one (31) north of range fourteen (14) east, in Langlade county, Wisconsin, for the purpose of improving the navigation of said river and of creating hydraulic power and using the same.

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

**Location of dam.** SECTION 1. E. H. Van Ostrand, T. J. Roberts and M. J. Wallrich, their heirs, associates and assigns, are hereby authorized to build and maintain a dam, not exceeding twenty-six (26) feet in height, across the Wolf river on any lands that they may own, possess or control on the east half of the southwest quarter of section ten (10) in township thirty-one (31) north of range fourteen (14) east, in Langlade county, Wisconsin.

**Purposes for which granted.** SECTION 2. They may use such dam for the purpose of driving, booming and storing of logs and timber and improving the navigation of said river. If any water power shall be created by said dam, not necessary for the purpose of driving of logs and timber or the improvement of the

navigation of said river, the said E. H. Van Ostrand, T. J. Roberts and M. J. Wallrich, their heirs, associates and assigns, shall have the right to use, lease and dispose of such surplus water power in conducting and carrying on any manufacturing business, and for that purpose may build raceways and flumes and all other equipment necessary to develop and use such surplus power for such purposes.

**Powers conferred.** SECTION 3. In order to build and maintain said dam and use the same for the purposes herein specified, the said E. H. Van Ostrand, T. J. Roberts and M. J. Wallrich, their heirs, associates and assigns, shall have the right to take and overflow and use any lands or riparian rights not owned or controlled by them, and may acquire title to any such lands or riparian rights and the right to control and use the same for said purposes by and through proceedings of condemnation under the power of eminent domain as provided in sections 1777a, 1777b, 1777c, 1777d and 1777e of the statutes of 1898, and said statutes and acts amendatory thereof are hereby made applicable to said dam and the acquisition of the title or right to use any lands or riparian rights for the purpose of building, maintaining and using said dam for the purposes hereinbefore specified.

**How constructed.** SECTION 4. Said dam shall be so constructed and maintained as not to hinder, impede or obstruct the free navigation of the Wolf river. And said E. H. Van Ostrand, T. J. Roberts and M. J. Wallrich, their heirs, associates and assigns, shall build, 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 timber products destined to 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 stopping 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.

**Floods, discharge of.** SECTION 5. 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 or

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 said dam authorized by this act, and the owners of said dam shall so maintain and operate it as to permit the free passage of all such floods without substantial impairment of their effectiveness, in assisting in the driving of logs and timber products down said river, and shall be liable in damages to any person or corporation injured by failure to comply with this section.

**Fishway.** SECTION 6. The dam so erected 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 stream. In case the owner or owners of said dam shall neglect or refuse to keep in repair or to 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 (\$25) nor more than one hundred dollars (\$100).

**Legislative rights reserved.** SECTION 7. The right is hereby reserved to the legislature to repeal or modify this act at any time.

**Conditions of grant.** SECTION 8. 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 9. 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 hereby 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 10. 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 19, 1905.