

No. 332, A.]

[Published June 8, 1907.]

**CHAPTER 189.**

AN ACT to authorize J. S. Tripp, Robert Buerki, M. A. Devitt and Magnus Swenson, their and each of their heirs, executors, administrators and assigns, to build and maintain a dam across, and to improve the navigation of the Wisconsin river above the same, and for the purpose of creating hydraulic power.

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

**Location of dam; height; fishways.** SECTION 1. J. S. Tripp, Robert Buerki, M. A. Devitt and Magnus Swenson, their and each of their heirs, executors, administrators and assigns are hereby authorized to build and maintain a dam across the Wisconsin river, the west end thereof to abut on section twenty-five, township ten north of range six east, in the town of Prairie du Sac, county of Sauk, Wisconsin, and the east end thereof to abut on fractional section twenty-five, township ten north of range six east, in the town of West Point, county of Columbia, Wisconsin, of the height of not to exceed eighteen feet, to improve the navigation of the Wisconsin river above said dam and for the purpose of creating hydraulic power, and they and their and each of their heirs, executors, administrators and assigns are hereby authorized to use such hydraulic power for public purposes or any lawful private purpose. Such dam shall be constructed with suitable fishways therein, so as to admit of the free passage of fish.

**Lands; flowage and acquisition.** SECTION 2. In case it shall be necessary to take, flow or injure any lands and property, or either thereof, for the purpose or purposes of the construction or use of the dam hereby authorized, or for the purposes of such improvement of navigation under this act or any law heretofore passed, and in behalf thereof, the said J. S. Tripp, Robert Buerki, M. A. Devitt and Magnus Swenson, their and each of their heirs, executors, administrators and assigns, shall be subject to all of the provisions, remedies and liabilities in that behalf, and entitled to all the benefits, privileges, remedies and provisions of chapter 146 of the statutes of 1898, en-

titled "Of Mills and Mill Dams," as applicable and not inconsistent with this act, but nothing contained in this section shall be taken to preclude said grantees, their and each of their heirs, executors, administrators and assigns from acquiring title to, or the right to use any and all such lands and property, or of either thereof, by purchase, lease, license, or any usual method or means of acquisition of title by act of parties.

**Log driving; tools; flowage; stream improvement; eminent domain.** SECTION 3. Also for the purpose of acquiring the necessary lands or rights, easements or privileges in lands necessary for flowage so that the complete construction of said dam and improvement of navigation under this act, or any law heretofore passed, may be successfully carried out, said parties, their and each of their heirs, executors, administrators and assigns, may enjoy the rights granted to and conferred upon corporations by sections 1777 to 1777e, both inclusive, of the statutes of 1898, and such amendment, or amendments thereto as may have been or may be made, and also may enjoy the rights granted to and conferred upon corporations by sections 1850 to 1857, both inclusive, of the statutes of 1898, and such amendment, or amendments, as may have been or may be made thereto.

**Corporate powers not granted.** SECTION 4. No corporate powers are granted or intended to be granted by this act, and the same shall not be construed or deemed to grant such powers.

**Repeal reserved.** SECTION 5. The power to alter, amend or repeal this act is hereby reserved.

**Construction of dam; operation; arbitration of rentals.** SECTION 6. This act is passed in consideration of, and upon the following expressed conditions:

1. The construction of this dam shall be commenced in good faith 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.

**Forfeiture of franchise and leases.** SECTION 7. 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 such 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 8. 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 7, 1907.