

sluices or gates for the passage of lumber, and that said corporation when said raft shall be removed, and said improvement made so as to admit the passage of logs or lumber between said Knife Falls and said boom, at Thomson, may charge and receive ten cents per thousand feet for sluicing such logs as may pass within the limits aforesaid, and shall have a lien upon the logs so sluiced or run between said points for the compensation aforesaid; *provided*, that the legislature may, at any time, regulate such rates of charges by reducing or increasing the same, as may be deemed just and reasonable.

SEC. 2. That said company may acquire by purchase or donations, from time to time, such real estate or other property as may be convenient or necessary for the purpose of making and maintaining said improvements, or the conduct of its business, and may sell and convey the same at pleasure.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 29, 1872.

Authority to
acquire real
estate.

When act to
take effect.

CHAPTER CVI.

February 29,
1872.

*An Act Relating to the Knife Falls Boom Corporation,
in Carleton County.*

- SECTION 1. Powers of the corporation.
2. Required to construct booms.
 3. Logs and lumber to be scaled.
 4. Compensation for boomage.
 5. Provisions to secure pay for boomage.
 6. Penalty for injuring booms.
 7. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. The Knife Falls boom corporation, organized and existing under the laws of this state, shall have power

to acquire by purchase or otherwise, title to any lands situate in township forty-nine (49) and fifty (50), range seventeen (17), in Carlton county, that may be deemed necessary for the conduct of its business or leasehold, or other lessor estate therein, and to sell and convey the same or such portions thereof as may not be necessary for the conduct of its business, and that in case any part or parcel [of] land not so purchased or leased, situate within said towns and abutting on the St. Louis river, shall be necessary for the conduct of the business of said corporation, the said corporation shall have the right to enter upon and occupy such lands for the purpose of conducting its business as in this act and its articles of association contemplated, upon proceeding in the manner and making compensation therefor as follows: Said corporation may apply to the district court of the county in which such lands lie, in session, or to the judge thereof in vacation, for the appointment of three (3) commissioners to make an appraisal and award of the value of any and all lands which are the private property of any person, which shall be designated in such application, and which said corporation shall have entered upon, possessed, occupied or used, or which it may thereafter enter upon, take, possess, occupy or use for any of the purposes for which, by this act, the said corporation is authorized to enter upon, take, possess, occupy or use lands. Said corporation shall give notice of its intention to apply for the appointment of such commissioners by publishing the same at least ten (10) days before the time for hearing such application, in at least one newspaper published in the county in which such land lies, but in case no newspaper be published in such county then a newspaper published in the county of St. Louis, and upon an affidavit of publications of the same, the court or judge to whom the application shall be made, shall appoint three commissioners, who shall have cognizance of all cases arising within the limits hereinbefore mentioned, within which said company is authorized to construct and maintain its booms, which shall be designated by said company in such application, and they shall proceed to examine the premises in each case separately, having first given such notice as they may deem reasonable to such owner, guardian or husband, and at least five days personal notice to such owners if resident in the county, and whenever it shall appear to said company or its officers that the title of such land is in dispute, or that several parties claim interest therein on account of tax sales, incumbrances of any kind, or otherwise, the said commissioners shall, upon request of said company, give notice to all persons claiming

Powers of the corporation.

Powers of the
corporation.

any interest in such land, whether as owners, incumbrances or otherwise, and when the person to be notified has no known residence in this state within the knowledge of such commissioners, the notice may be by publication in a newspaper for such length of time as the commissioners shall deem reasonable, and after making such examination said commissioners or a majority of them, in each case separately, shall make an appraisal and award of the value of the land so entered upon, taken, possessed, occupied or used by said company for any of the purposes aforesaid, at the time when the same was entered upon and taken, and shall deliver one copy of their award in each case to said company, and shall file the other in the office of the clerk of the district court of the county in which said lands shall lie, with the costs of the award taxed upon each of said copies, and if neither party shall appeal from said award in the manner hereafter provided, the said district court, on motion of the party in whose favor any award shall be made for such value as aforesaid, unless such award shall have been previously paid, shall enter up judgment in conformity with such award, and in case either of said commissioners shall die, resign, or decline to act, said court or judge shall appoint another in his stead, and the said company or any party receiving notice from said commissioners as aforesaid, may, within thirty days after such award shall have been filed with the clerk aforesaid, appeal from the same to said district court, by filing with the clerk thereof a written notice of such appeal, and upon receiving such notice, the said clerk shall enter the appeal as a case, upon the docket of said court, setting down the owner or owners and person or persons claiming any interest in said land, embracing all persons so having received such notice from said commissioners as plaintiffs, and the said company as defendant, and the said court shall proceed to hear and determine such case in the same manner that other cases are heard and determined in such court, and all issues of fact arising therein, shall be tried by a jury unless a jury shall be expressly waived by both parties, but the appellant shall not be entitled to have the case tried at any term of court unless he shall have given notice to the appellee or his attorney at least ten days before the first day of the term that he will demand a trial at such term, but in case the appellee has no known residence in this state or attorney of record residing therein, no such notice need be given, but in all cases the appellee may waive such notice. In which case the same rule for trial shall apply to it as to other cases in said court. After hearing of such case the jury, or if a jury trial be waived the court, shall assess the

value of the land so entered upon, taken, possessed, occupied and used by said company at the time when the same was entered upon and taken, and after such assessment the court shall proceed to render judgment against said company for the amount of said assessment in favor of the plaintiff or plaintiffs in such case, and if the amount so assessed in favor of said plaintiff shall exceed the amount awarded by said commissioners, with interest at the rate of seven per cent. per annum from the time of such award to the time of such assessment by the jury or court, then judgment shall be rendered against said company for costs, and, when the appeal shall be taken by the claimant and it shall not exceed such amount and interest as aforesaid, then judgment shall be rendered in favor of said company for costs, and against the plaintiff or plaintiffs, and execution may issue accordingly.

Powers of the
corporation.

Either party shall be entitled to a change of venue for the trial of such cause as in other cases pending in said court. The judgment of the said court may be reviewed on writ of error as in other cases at law. Whenever the commissioners shall make an award as aforesaid and no appeal shall be taken from the same, or whenever, in case of appeal, a final judgment shall be rendered, it shall be the duty of the company and not before, to pay to the party entitled to the same the amount of the said award or judgment; and in any case where there shall be any lien, incumbrance, tax sale, tax title, or equitable claim to or upon the land or any part thereof, which is the subject matter of such award or judgment, or when more than one person shall be entitled to or shall set up any claim to such award or judgment or any part of it, or when the person entitled to receive the same shall not have any known residence within this state, the said company may deposit the amount of such award, where there is no appeal, with the clerk of the court with whom the award in the case shall have been filed, and in case of an appeal and judgment thereon, the company may deposit the amount of such judgment with the clerk of the court in which such judgment shall have been rendered, and the money so deposited in either case shall be paid over by order of the court to the person or persons who shall be adjudged by the court to be entitled to receive the same, and whenever the amount of such award or judgment shall have been paid or tendered, or deposited as aforesaid, an absolute estate in fee simple in such lands, shall be and become vested in the said company as against all persons so receiving notice from the said commissioners as aforesaid, and all

such persons shall be forever barred and excluded from questioning such title so acquired by said company, and the said company shall have full power and authority after entering upon and taking any such lands, to have, hold, possess, occupy, use and enjoy the same for any of the lawful purposes of said company, from the time of such entry until the proceedings contemplated by this act shall have been finally determined and until said company shall have refused after demand made to pay the value thereof so ascertained as aforesaid.

And it shall not during such time nor until such refusal, be disturbed in such possession, occupancy, use or enjoyment by any proceedings either in law or equity.

Required to
construct
booms.

SEC. 2. That said corporation is authorized and required to construct, maintain and keep in reasonable repair, such booms in and upon the St. Louis River, within said towns 49 and 50, of range 17 aforesaid, at such points as it may deem advisable and sufficient to secure, receive, scale and deliver all logs that may from time to time come or be driven within the limits of the town aforesaid, and the said corporation is hereby authorized and required to receive and take the entire control and possession of all logs and timber which may be run, come, or be driven within the limits aforesaid, and boom, scale and deliver the same as hereafter provided. That all logs and timber which shall be floated or run down the St. Louis River or the tributaries thereof from points above said town, be in the possession of and under the control of said corporation, for the purpose of securing, scaling and delivering the same, as in its acts providing. *Provided, however,* That all vessels or crafts navigating said River St. Louis, and all rafts of logs or timber made up at points above the limits of town 50 aforesaid and destined for points south of town 49 aforesaid, shall be allowed free passage upon said river, and the said corporation shall not be allowed to obstruct the channel of said river so as to interfere with the free navigation thereof as aforesaid.

Logs and lum-
ber to be scaled

SEC. 3. That all logs or lumber coming within the limits aforesaid, before the delivery thereof to the owners, shall be scaled by the surveyor general of the lumber district in which said booms are situated, or his deputy, the expenses thereof not exceeding two cents per thousand feet, to be paid by said corporation.

That scale bills of each separate mark shall from time to time be made out by said surveyor general or his deputy, as logs are required to be delivered, and when so assorted and

scaled, secured in strings, brills, or otherwise, as may be by said surveyor general deemed proper, the same shall be delivered to the proper owner upon reasonable request, upon paying to said corporation the amount of boomage and other charges authorized by this act. *Provided, however,* That when the water in said river shall be so low that logs can not be turned out of said booms or rafted in consequence of such low stage of water, the said corporation shall not be required or held accountable for the non-delivery of any logs that may, during such time, be in such booms or either of them, until there shall be sufficient water to enable said company to raft, turn out or deliver the same, and provided also, the said company shall not be liable for any damage caused by an extraordinary rise of water or freshets.

SEC. 4. The said corporation is entitled to the following compensation for boomage, which also includes the scaling, assorting and delivery of logs, to-wit: thirty (30) cents per thousand feet for the first five years and until the legislature shall alter or change the same thereafter, computed from the scale bills so required to be made by the surveyor general or his deputy, which scale bills shall be conclusive proof of the quantity therein stated. That all logs required by the owners thereof to be turned over the "Knife Falls" below said boom, shall be so turned over said falls by said corporation upon the payment by the owners thereof, if the compensation per thousand feet above provided and no additional charge shall be made therefor.

Compensation.

SEC. 5. That the amount of boomage and compensation above authorized shall be due and payable whenever the logs or other timber are scaled and ready for delivery as above specified, and said corporation shall have a lien upon and property in the same so far as to enable it to take, scale and retain a sufficient number or quantity of logs or other timber to pay the boomage and charges due on the same, and also all charges and boomage due on logs and timber of the same mark that may have been previously delivered. That it shall be the duty of said company, upon the request of parties having logs in said boom to put them under warp and wedge, and said company may charge therefor the sum of twenty-five (25) cents per thousand feet. And in case any of such logs or timber shall not be removed and the boomage and other charges paid thereon as in this act provided, previous to the first day of October next succeeding the reception into said booms of such logs or timber, then the said corporation is authorized to advertise and sell said logs or timber upon which boomage and charges are

Payment for boomage.

due and unpaid, at public sale at said boom upon notice of time and place, if such sale published for three successive weeks in some newspaper published in the county of St. Louis, to the highest bidder therefor, and said corporation may, in good faith, by its agent or proper officer, bid upon and purchase any such logs or timber so to be sold in case it shall be the highest bidder therefor, and out of the proceeds, or price bidden at such sales, receive and retain the amount of such lien upon the property so sold, together with the costs and actual expenses of such sale, and pay over on demand to the owner or person entitled the residue of such proceeds, and the purchasers at such sales shall acquire the right of title of the owners or holders of the marks upon the logs or property so sold.

Penalty for in-
juring boom.

SEC. 6. Any person other than the authorized agent of said corporation, who shall open, cut, destroy or injure any of the booms of said corporation, or turn loose or adrift any logs or timber therein, or who shall obstruct the free passage of logs into said booms, by placing any obstruction across the channel of said river and above said booms, and shall be convicted thereof, be punished by a fine not exceeding one thousand (\$1000) dollars, or imprisonment in the county jail not exceeding six months, or both, at the discretion of the court.

SEC. 7. This act shall take effect and be in force from and after its passage.

When act to
take effect.

Approved February 29, 1872