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# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

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## CHAPTER XXXI.

## DAMS AND MILLS.

1 SECTION 1. When any person is desirous of erecting  
 2 and maintaining a mill dam upon his own land, across any  
 3 water course not navigable, and deems it necessary to raise  
 4 the water by means of such dam, or to occupy ground for  
 5 mill yard, so as to damage, by overflowing, or otherwise,  
 6 real estate not owned by him, he may obtain the right to  
 7 erect and maintain said dam by proceeding as in this chap-  
 8 ter provided. C. S. p. 847, Sect. 1. c 129

1 SECT. 2. He shall present to the judge of any court of  
 2 record in which jury trials are had in the county, or if there  
 3 is no such court in the county, then in the district in which  
 4 said dam or any part thereof is to be located, a petition set-  
 5 ting forth the place as near as may be where said dam is to  
 6 be located, the height to which it will be raised, the pur-  
 7 poses to which the water-power will be applied, and such  
 8 other facts as are necessary to show the objects of the pe-  
 9 tition. C. S. p. 847, Sect. 2. c 129

1 SECT. 3. Upon the presentation of such petition, the  
 2 judge shall appoint three disinterested residents of the  
 3 county in which said dam or a part of it is to be erected,  
 4 commissioners to meet at the place of its proposed erection,  
 6 on a day specified by such judge, and to inquire touching  
 7 the matters contained in said petition, and the judge shall  
 8 fix the fees of said commissioners. C. S. p. 847, Sect. 3. c 129

1 SECT. 4. Before entering upon their duties the commis-  
 2 sioners shall severally take and subscribe an oath before  
 3 some person qualified to administer oaths faithfully and im-  
 4 partially to discharge the duties of their appointment. C. S. p. 847, Sect. 4. c 129

1 SECT. 5. At the request of the petitioner the commis-  
 2 sioners shall give, or cause to be given, notice of the times,  
 3 place, and object of their meeting to every person named by  
 4 said petitioner. C. S. p. 847, Sect. 5. c 129

1 SECT. 6. At least five days' notice shall be given in all  
 2 cases, and in case of infants such notice shall be served on  
 3 their guardian, or on the person with whom they reside; in  
 4 case of idiots, or lunatics, on their guardian if they have  
C. S. p. 847, Sect. 6. Amended. c 129

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5 any, and if not, then on the person under whose care or  
6 charge they may be found; in case of femmes covert, on the  
7 husband as well as the femme covert, but notices to non-  
8 residents of the county or counties where said dam or a  
9 part of it is to be lacated, shall be published in some news-  
10 paper printed and published in the county aforesaid, or if  
11 there is none, then in a newspaper printed and published at  
12 the capital of the state, for three weeks in succession, pre-  
13 vious to the meeting of said commissioners.

c 129

1 SECT. 7. The commissioners shall meet at the time and  
2 place specified in the notice, and proceed to examine the  
3 point at which said dam is proposed to be erected, and the  
4 lands and real estate above and below, which will probably  
5 be injured by the erection of said dam; shall hear the alle-  
6 gations and testimony of all parties interested, and shall pro-  
7 ceed to make a separate assessment of damages which will  
8 result to any person by the erection of said mill-dam and  
9 its maintenance forever.

C. S. p. 847, Sect. 7.

c 129

1 SECT. 8. Within thirty days after completing their ex-  
2 amination, the commissioners shall file the petition, their  
3 appointments, jurats, and a report of their doings, in the  
4 office of the clerk of said court, and shall give notice of the  
5 filing of said report as of their meeting.

C. S. p. 847, Sect. 8.

c 129

1 SECT. 9. Upon the filing of said report the petitioners  
2 may make payment of the damages assessed to parties en-  
3 titled to the same in the manner following: first to parties  
4 laboring under no disability; second, to guardians of in-  
5 fants, husbands, or trustees of femes covert; third, to guar-  
6 dians of insane persons; and receipts for such payment filed  
7 in the office of the clerk aforesaid, shall estop the parties  
8 receipting from all further claim or proceeding in the  
9 premises. Payments to parties residing in the state, but  
10 not in the county or counties where said dam or part of it  
11 is to be erected, as well as to the infants who have no  
12 guardian, and insane persons who have no guardians, and  
13 payments to parties residing out of the state, and to per-  
14 sons whose names are unknown, and to persons who refuse  
15 to receive the payments when tendered, shall be made  
16 by depositing the money with the treasurer of the county  
17 aforesaid, who shall pay out the same upon the order of  
18 the commissioners or court, take receipts for all payments,  
19 and file the same with the order, in the office of the clerk  
20 of the court aforesaid, and such deposit shall have the same  
21 effect as the first mentioned receipts unless an appeal is  
22 taken by the party entitled thereto.

C. S. p. 847, Sect. 9.

1 SECT. 10. Appeals from the assessment made by the

2 commissioners may be taken and prosecuted in the court  
 3 aforesaid, by any party interested, (the petitioner except- C. S. p. 848, Sect. 10. c 129  
 4 ed) not under legal disability, by husbands or trustees of  
 5 femmes covert, guardians of infants, guardians of insane  
 6 persons; and in cases where infants or insane persons have  
 7 no guardians, appeals may be taken by the friend of such  
 8 parties, and a written notice of such appeal shall be served  
 9 upon the appellee as a summons in ordinary civil actions:  
 10 *provided*, that no appeal shall be taken after the expiration  
 11 of thirty days from the time of the notification of the filing  
 12 of the report aforesaid.

1 SECT. 11. The erection of said dam shall not be hinder- C. S. p. 848, Sect. 11. c 129  
 2 ed, delayed or prevented, by the prosecution of any appeal:  
 3 *provided*, the petitioner executes and files with the clerk of  
 4 the court in which the appeal is pending, a bond to be ap-  
 5 proved by said clerk with sureties, conditioned that the  
 6 person executing the same shall pay whatever amount may  
 7 be required by the judgment of the court, and abide any  
 8 rule or order of the court in relation to the matter in con-  
 9 troversy.

1 SECT. 12. The appellant shall file with the clerk afore- C. S. p. 848, Sect. 12. c 129  
 2 said a bond with security (to be approved by said clerk) in  
 3 double the amount of the assessment appealed from, paya-  
 4 ble to the state of Minnesota, for the use of all persons in-  
 5 terested, in which bond the proceeding appealed from shall  
 6 be recited, with condition for the due and speedy prose-  
 7 cution of the appeal, and that he or they will satisfy the  
 8 judgment that may be rendered in the premises and pay the  
 9 costs of the appeal, if adjudged to do so by the court in  
 10 reference to the matter in controversy.

1 SECT. 13. Appeals bring before the court the propriety C. S. p. 848, Sect. 13. c 129  
 2 of the amount of damages reported by the commissioners in  
 3 respect to the parties to the appeal, and unless the parties  
 4 otherwise agree, the matter shall be submitted to and tried  
 5 by a jury as other appeal cases, and the court or jury, as  
 6 the case may be, shall assess the damages aforesaid, making  
 7 the verdict conform to the question and the facts in the  
 8 case.

1 SECT. 14. No exemplary or vindictive damages shall be C. S. p. 848, Sect. 14. c 129  
 2 allowed by the commissioners, court or jury.

1 SECT. 15. Upon verdicts rendered by juries or an assess- C. S. p. 848, Sect. 15. c 129  
 2 ment by the court, judgment shall be entered, declaring  
 3 that upon payment of the damages assessed by the court or  
 4 jury, as the case may be, and costs, if any, the right to  
 5 erect and maintain the mill dam aforesaid, according to the

6 petition, shall, as against the parties interested in such ver-  
 7 dict or assessment, be, and remain in the petitioner, his  
 8 heirs and assigns forever, subject to be lost as hereinafter  
 9 provided, and payments of such judgments may be made as  
 10 payments of assessments by the commissioners as hereinbe-  
 11 fore provided.

c 129

C. S. p. 849, Sect. 16. 1 SECT. 16. No mill dam shall be erected or maintained.  
 2 under the provisions of this chapter, to the injury of any wa-  
 3 ter power previously improved.

c 129

C. S. p. 849, Sect. 17. 1 SECT. 17. No action for damages occasioned by the  
 2 erection and maintenance of a mill dam, shall be sustained  
 3 unless such action is brought within two years after the  
 4 erection of said dam; *provided*, that such limitation shall  
 5 not run against or apply to persons living on and holding  
 6 government land under the pre-emption laws, until a pat-  
 7 ent for the land damaged or overflowed is issued.

c 129

C. S. p. 849, Sect. 20. 1 SECT. 18. Any person may obtain a right to maintain  
 2 or raise a dam heretofore erected upon his own land, across  
 3 any water course not navigable, by complying, with the  
 4 provisions of this chapter, adapting his petition to the na-  
 5 ture of the case.

c 129

C. S. p. 849, Sect. 21. 1 SECT. 19. Upon evidence of the commencement of pro-  
 2 ceedings as provided in the second and eighteenth sections  
 3 of this chapter, the court before which any action for dama-  
 4 ges occasioned by such mill dam, shall be instituted after  
 5 the commencement aforesaid, has power to suspend any  
 6 such action until the result of said proceedings is known.

c 129

C. S. p. 849, Sect. 22. 1 SECT. 20. The costs of all proceedings under this  
 2 chapter, except such as arise or grow out of appeals shall  
 3 be paid by the petitioner, and costs of appeal shall be paid  
 4 as the court directs.

c 129

C. S. p. 849, Sect. 23. 1 SECT. 21. For the purpose of making surveys and ex-  
 2 aminations relating to any proceedings under the provisions  
 3 of this chapter, it shall be lawful to enter upon any land,  
 4 doing no unnecessary injury.

c 129

C. S. p. 849, Sect. 24. 1 SECT. 22. Any person having obtained right to erect  
 2 and maintain, or to maintain or raise any dam under the  
 3 provisions of this chapter, who shall not within one year  
 4 thereafter begin to build (if he has not previously built)  
 5 said dam and finish the same, and apply the water power  
 6 thereby created to the purposes stated in his petition with-  
 7 in three years; or in case the said dam and mills connected  
 8 therewith are destroyed, shall not begin to rebuild in one

9 year after such destruction and finish in three years, or hav-  
 10 ing erected such mills fails to keep them in operation for  
 11 one year at any one time, shall forfeit all rights acquired by  
 12 virtue of the provisions of this chapter, unless at the time of  
 13 such destruction, the owner is an infant or otherwise disa-  
 14 bled in law, in which case the same time shall be allowed  
 15 after the removal of such disability.

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## CHAPTER XXXII.

### LOGS AND LUMBER.

#### TITLE I.

##### RIVERS, DAMS AND BOOMS.

1 SECTION 1. All rivers within this state of sufficient size  
 2 for floating or driving logs, timber or lumber, and which C. S. p. 827, Sect. 14. *a 122*  
 3 may be used for that purpose, are hereby declared to be  
 4 public highways, so far as to prevent obstructions to the  
 5 free passage of logs, timber or lumber down said streams,  
 6 or either of them.

1 SECT. 2. No dam or boom shall be constructed or per- C. S. p. 827, Sect. 15. *c 122*  
 2 mitted on any river, as herein specified, unless said dam or  
 3 boom has connected therewith a sluiceway, lock or other  
 4 fixture, sufficient and so arranged, as to permit logs, timber  
 5 and lumber to pass around, through or over said dam or  
 6 boom, without unreasonable delay or hindrance.

1 SECT. 3. Any boom or wear now in or on any river, as  
 2 aforesaid, that is so constructed as to prevent the free pas-  
 3 sage of logs or lumber, is declared a public nuisance, which C. S. p. 827, Sect. 16.  
Amended. *c 122*  
 4 shall be abated unless a suitable sluiceway, lock or passage  
 5 as above provided is made thereon as aforesaid, within thir-  
 6 ty days after written notice given by any person interested ;  
 7 and any person so owning, holding or occupying said boom  
 8 or wear, shall be liable to pay five dollars for every day the  
 9 same is permitted to remain in or on said river, after having  
 10 had thirty days' notice to remove said nuisance, which may  
 11 be recovered before any justice of the peace having juris-  
 12 diction ; and the amount so recovered shall be collected by  
 13 said justice, and paid into the township treasury of the  
 14 proper township, for the use of common schools ; and said  
 15 person shall also be liable for any damages sustained by in-  
 16 dividuals by reason of said nuisance.