

CHAPTER 119.

AN ACT to authorize the executive council to sell and convey a part of the lands purchased by the state for the use of the Iowa State Agricultural Society in Polk county, Iowa, under the provision of chapter 199 of the 20th General Assembly, and to purchase other lands for the use of said society. H. F. 191.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That the executive council be and is hereby authorized and empowered to sell and make conveyance to the purchaser thereof, not to exceed one hundred acres on the east part of the tract of land heretofore purchased by the state of Iowa for the use of the State Agricultural Society, in accordance with chapter 199 of the acts of the 20th General Assembly. Executive council authorized to sell part of land used by State Agricultural society.

SEC. 2. Said executive council are also authorized and empowered to purchase for the state of Iowa with the proceeds derived from the sale of any of the property above referred to not exceeding thirty acres of land, adjoining lands owned by the state and used by the Iowa State Agricultural Society. Such lands shall be purchased for the use of said agricultural society for the same purpose as those purchased under chapter 199 of the acts of the 20th General Assembly. Any balance of the proceeds arising from the sale of said lands remaining after paying for said purchased lands shall be turned into the state treasury. Council authorized to purchase other lands.

SEC. 3. This act being deemed of immediate importance shall take effect from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 4, 1896.

I hereby certify that the foregoing act was published in the Iowa State Register, April 9, and Des Moines Leader, April 11, 1896.

W. M. MCFARLAND,
Secretary of State.

CHAPTER 120.

AN ACT to declare Spirit, and the Okoboji lakes, in Dickinson county, S. F. 341. to be public, navigable waters, and to provide for their preservation and improvement for navigation, for the benefit of the public health, and for the culture of fish therein.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Spirit and the Okoboji lakes in Dickinson county are hereby declared to be public, navigable waters, and their preservation and improvement in the manner hereinafter provided for the purpose of navigation, for the benefit of the public health, and for the culture of fish. Lakes declared to be navigable and public for benefit of health, etc.

therein, are hereby declared to be matters of public concern and importance.

Fish commissioner authorized to erect a dam.

SEC. 2. For the purpose of improving and maintaining the waters in said lakes for the purposes aforesaid, the fish commissioner of the state is hereby authorized and directed, from funds appropriated or contributed for that purpose as herein authorized, to erect and maintain either within the limits of the public highway as now laid out and established along the southern boundary of the east Okoboji lake, and at the ring outlet of said lake, so-called, or at the outlet of Lake Minnewashta, or at the outlet of lower Gar lake, as said fish commissioner shall deem best and determine, a dam which will maintain the waters of said lakes at ordinary high water mark; and said fish commissioner is required and authorized to maintain upon the crest or top of such dam such screen or other appliance or device as shall prevent the escape of fish from the waters of said lakes through the said outlet thereof.

Screen to be on top of dam.

High water mark.

SEC. 3. Ordinary high water mark in said lakes for the purposes of this act is hereby defined to be the point along the shores and banks of said lakes up to which there has been occupation by said waters long enough to wrest said banks and shores from vegetation so far as to destroy their value for agriculture and to prevent the growing and harvesting of grass or other staple products of the country thereon.

Commissioner is authorized to expend additional sum.

SEC. 4. In addition to any sum or sums of money appropriated therefor by the state, the said fish commissioner is authorized to receive and expend any additional sum or sums that may be contributed by any person or persons to aid in defraying the expenses of the erection and maintenance of said dam, but neither the state nor any person or persons so contributing money therefor shall incur any liability for damages by reason of the erection and maintenance of said dam.

District court to pass on claims for damage.

SEC. 5. If any owner of real estate along the shores of said lakes or any of them, or upon the waters below the said outlet from said lakes, either above or below such dam, shall claim that his property is or will be injuriously affected by the said dam, he may apply by petition to the district court of Dickinson county, Iowa, for an order of said court to equitably control the erection or maintenance of said dam, which petition shall be entitled "In the matter of A. B. Petitioner, against dam at the Rings outlet, (or the Minnewashta outlet or at the outlet of Lower Gar lake as the case may be,) of Spirit and the Okoboji lakes;" and of which petition and proceeding the fish commissioner shall have the same notice as for other actions and proceedings in the district courts of the state, and in which proceeding the said fish commissioner may appear

Form of petition.

by counsel and represent and defend the interests of the state and the public.

Thereupon a trial shall be had by and to the court without the intervention of a jury as in equitable proceedings under the provisions of the Code of 1873, and the court shall thereupon make and enter such order and decree as is just and equitable and as will enforce and protect the rights of all parties in the premises. From such decree an appeal shall be allowed to the supreme court by either party as in other cases. But no person or party shall be entitled to any relief in such proceeding, if it shall be shown that the said dam has been erected and maintained within the limits of the authority conferred by this act, and that the shores and banks of said lakes are not affected by said dam otherwise than authorized by this act. If the petitioner therein shall be successful, the costs of such proceeding shall be paid by the county, but if the petitioner shall be unsuccessful judgment shall be rendered against him for the costs.

Trial by court.

When petitioner is successful.

SEC. 6. The said fish commissioner is also authorized to open and maintain a passage between Spirit Lake and Little Spirit Lake through and across the highway now laid out and extending between said lakes, at such point as shall be deemed judicious by him, to the end that the waters of the said Little Spirit Lake may be accessible as spawning ground for the fish in said Spirit Lake and for the purpose of maintaining a better supply of food fishes in the said lakes.

May open and maintain passage from Spirit lake and Little Spirit lake.

SEC. 7. Said fish commissioner is authorized to use the waters of said lakes for the increase, growth, and propagation therein of food fish of such varieties as he shall find best adapted thereto, and he is authorized at all times in his judgment and discretion to take fish by seine or otherwise from the waters of said lakes for the purpose of maintaining the propagation of fish in the state hatcheries under his control, and of stocking from said hatcheries the rivers, streams, and other waters of the state with food fish, and of increasing the supply of such fish in its said waters.

Commissioner may stock other waters with fish.

SEC. 8. If any person shall destroy, tear down, either in whole or in part, or injure the said dam or appliances, or fill up or destroy the said passage between Spirit Lake and Little Spirit Lake, whether under a claim of right or otherwise, except under the judicial proceedings hereinbefore authorized, he shall be guilty of the crime of malicious mischief and shall be punished as provided in section 3978 of the Code of 1873.

Penalty for injury to dam by any one.

SEC. 9. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of one thousand dollars to be expended by and under the direction of said fish commissioner in and about the

Money that is appropriated.

erection and maintenance of said dam and other improvements hereby authorized.

SEC. 10. This act, being deemed of immediate importance, shall take effect from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 17, 1896.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader, May 1, 1896.

W. M. MCFARLAND,
Secretary of State.

CHAPTER 121.

H. F. 251.

AN ACT creating the Twentieth judicial district of the state of Iowa and providing for the appointment of one judge and the election of two judges therein; and also providing for an election of four judges in the Second and three judges in the Sixth judicial districts, defining the jurisdiction of said courts therein and for holding terms of court in said districts.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That the counties of Des Moines, Henry, and Louisa shall hereafter constitute the Twentieth judicial district of the state of Iowa and shall be entitled to two judges.

SEC. 2. That the county of Lee shall hereafter constitute the First judicial district of the state of Iowa and shall have one judge.

SEC. 3. That the counties of Lucas, Monroe, Wapello, Jefferson, Davis, Van Buren, and Appanoose shall hereafter constitute the Second judicial district of the state of Iowa and shall have four judges.

SEC. 4. That the counties of Jasper, Poweshiek, Mahaska, Keokuk, and Washington shall hereafter constitute the Sixth judicial district of the state of Iowa, and shall have three judges.

Election in
1899 and every
four years
thereafter.

SEC. 5. That there shall be elected by the qualified electors of the First judicial district as defined in this act at the general election in the year 1899, and every four years thereafter one district judge, who shall receive the same compensation as other district judges, and said district judge shall enter upon the discharge of the duties of his office on the first day of January 1900, and shall hold his office until his successor is elected and qualified.

Election in
1898 and every
four years
thereafter.

SEC. 6. That there shall be elected by the qualified electors of the Second judicial district as defined in this act at the general election in the year 1898 and every four years thereafter four district judges, who shall receive the same compensation as other district judges, and they shall enter upon the discharge of the duties of the office on the first day of January, 1899, and shall hold said office for four years and until their successors are elected and qualified.