

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

**A. D. 1833.**

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**STATE OF MAINE.**

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND THIRTY-THREE.

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**AN ACT** to incorporate the Bangor and Pushaw  
Pond Canal Company.

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**SEC. 1.** *Be it enacted by the Senate and*  
*2 House of Representatives, in Legislature as-*  
*3 sembled,* That Mark Trafton, Amos M. Rob-  
*4 erts, Hermon Fisher, J. M. Woodman, Elias*  
*5 T. Aldrich, Joseph Treat, John Bright, Daniel*  
*6 W. Bradley, Peter H. Hesseltine, Isaac Hods-*  
*7 don, Levi Bradley, John Hodgdon, E. G.*  
*8 Rawson, Seth Emery, John Berry, John E.*  
*9 Hesseltine, John Trafton, David Nye, with*  
*10 their associates, and successors, be and they are*  
*11 incorporated into a body politic by the name of*  
*12 the Pushaw Canal Company with power to sue*  
*13 and be sued; to have a common seal and to*

14 change the same; to make any by-laws for the  
 15 management of their affairs, not repugnant to  
 16 the Laws of this State.

SEC. 2. *Be it further enacted,* That said  
 2 Corporation shall have power to survey, lay out  
 3 and make a canal from the waters of the Pushaw  
 4 Pond to Penobscot River, or the tide waters  
 5 thereof, with a suitable number of locks or  
 6 sluices, to commence at such points on said Pond,  
 7 pass in such direction and terminate at such  
 8 place or places on said river, or tide waters as  
 9 they may designate; and they shall have power  
 10 to take and use such land along the course of  
 11 said canal as shall be necessary for the purposes  
 12 aforesaid, not exceeding ten rods in width, and  
 13 said corporation may purchase and hold other  
 14 land and buildings not exceeding two hundred  
 15 thousand dollars in value, and any personal es-  
 16 tate not exceeding three hundred thousand dol-  
 17 lars in value, and the said real or personal estate,  
 18 or any part thereof they may sell and transfer.

SEC. 3. *Be it further enacted,* That for the  
 2 purposes aforesaid the said Corporation shall  
 3 have power to take and use the waters of Pu-  
 4 shaw Pond and of any convenient stream on the

5 route of said canal. And they may use the  
6 waters of said pond for mills, factories and other  
7 machinery; and may erect any dams, sluices or  
8 other works that may be necessary—and they  
9 may erect and keep a dam on Pushaw stream,  
10 at such places as they may deem necessary for  
11 the purpose of reserving the water in said pond;  
12 *provided* that the said Corporation shall not take  
13 the water of any stream for the use of their  
14 mills or other purposes to the detriment of any  
15 water privileges belonging to any other person  
16 or persons: and *provided* that such dam on  
17 Pushaw stream shall be so constructed as not to  
18 obstruct the passage of logs or other lumber  
19 down the same: and *provided* that said Corpo-  
20 ration shall not draw water from said pond for  
21 the use of mills or other purposes to the injury of  
22 mills and other machinery which are or may be  
23 built on the Still-water stream at Orono—that is  
24 to say, they shall not draw water for the use of  
25 mills, machinery or other purposes so as to re-  
26 duce the level of the water in said pond lower  
27 than the pitch at which it will barely run over  
28 the dam built by John Bennock and Asa W.  
29 Babcock and others at the lower Still-water when

30 all the mills and other machinery which are or  
31 may be built on said dam are in operation : and  
32 the said level may be ascertained by the board  
33 of Selectmen of Orono at a suitable time in the  
34 course of the summer of 1833, and they shall  
35 cause some permanent mark to be made on the  
36 margin of said pond to designate said level. And  
37 the level may be ascertained in the same way,  
38 at any time afterwards, should the state of the  
39 water in said pond be changed by any new dam  
40 or dams. And when the waters in said pond  
41 shall be reduced to such level, the gate at the  
42 head of the canal shall be kept shut, and the  
43 gate in the dam at Pushaw stream kept open,  
44 except that said Corporation shall have leave to  
45 draw two hundred thousand cubic feet of water  
46 at the upper lock in a week for the purpose of  
47 canaling, the quantity of water to be estimated  
48 by the size of said lock, and the owners of said  
49 mills at Still-water may draw off the surplus  
50 water above said level equally with said Corpo-  
51 ration by a gate of equal size.

SEC. 4. *Be it further enacted,* That if any  
2 person or persons shall suffer damage by the  
3 exercise of the power herein granted to said

4 corporation, and the amount or mode of ascer-  
5 taining the amount cannot be agreed upon by  
6 the parties, the Court of Common Pleas for the  
7 County of Penobscot shall on petition by the  
8 party aggrieved, which petition shall be served  
9 on said corporation thirty days at least before  
10 the sitting of said Court by leaving an attested  
11 copy thereof with the President or Secretary of  
12 said corporation, cause said damages to be as-  
13 certained by a committee of three disinterested  
14 freeholders of the same County. *Provided,*  
15 however, that if either party be dissatisfied with  
16 the award of said Committee and shall at the  
17 term when said award is presented apply to said  
18 Court for a trial by jury in the manner other  
19 like cases are determined, the Court shall by  
20 jury determine the amount of such damages ac-  
21 cordingly. And if the verdict do not give the  
22 party applying for the jury greater damages than  
23 were awarded by the Committee, judgment  
24 shall be rendered against the applicants for the  
25 costs accruing after said application. And if  
26 the verdict be more favorable to the party ap-  
27 plying for a jury than was awarded by the Com-  
28 mittee, the applicant shall recover the costs ac-

29 cruising after such application, and execution shall  
30 in either case issue upon the judgement.

SEC. 5. *Be it further enacted,* That if any  
2 person or persons shall wilfully or maliciously  
3 take up, remove, or injure any part of said canal,  
4 dams, locks, sluices, mills or other works or ap-  
5 pendages thereof, such person or persons, for  
6 every such offence, shall forfeit and pay to said  
7 corporation treble damages; to be sued for and  
8 recovered in any court competent to try the  
9 same: and such offender or offenders shall fur-  
10 ther be liable to indictment for such trespass or  
11 trespasses, and on conviction thereof before the  
12 Supreme Court or Court of Common Pleas,  
13 shall be sentenced to fine or imprisonment at the  
14 discretion of the Court.

SEC. 6. *Be it further enacted,* That a toll  
2 shall be and hereby is granted and established  
3 for the benefit of said corporation, according to  
4 the rates following, viz: For all planks, boards,  
5 joist or other sawed lumber, floated in rafts or  
6 otherwise through said canal, fifteen cents per  
7 mile for each thousand feet, board measure; for  
8 clapboards, twenty cents per thousand for each  
9 mile; shingles, three cents per thousand for each



10 mile; staves, twenty cents per thousand for each  
11 mile; cord wood and bark, thirteen cents per  
12 cord for each mile; for all timber, masts, logs  
13 and spars, eight cents per ton for each mile; and  
14 for all other lumber, in proportion to the above  
15 rates, per quantity or bulk; for all kinds of  
16 country produce, provisions, goods or merchan-  
17 dise, ten cents per ton for each mile; for all boats  
18 or rafts, ten cents for each lock the same may  
19 pass, in addition to the toll aforesaid, which toll  
20 shall commence and be payable when any part  
21 of said canal, locks or sluices shall be passable  
22 for any of the articles aforesaid: and the said  
23 corporation shall have a lien upon the same arti-  
24 cles, and shall have the power to detain the  
25 same for the toll aforesaid, until the same be  
26 paid; and at the expiration of ten days from the  
27 time said tolls become due, may raise the same  
28 by public or private sale of so much of said arti-  
29 cles as will pay the amount due for toll and the  
30 expenses for collecting the same, or the said corpo-  
31 ration may sue for and recover the same, by an ac-  
32 tion of debt, in any court proper to try the same.

SEC. 7. *Be it further enacted,* That this  
2 Act, in all legal proceedings, shall be deemed

3 and taken to be a public Act; *provided*, if said  
4 corporation shall not make and complete said  
5 canal, locks or sluices within ten years from the  
6 passing of this Act, then this Act shall be  
7 void; *provided*, also, that said corporation  
8 shall, within two years from the passage of this  
9 Act, determine upon and locate the route of said  
10 canal and enter the same upon their records and  
11 shall be bound by such location; and also *pro-*  
12 *vided*, that if said route, so to be located, shall  
13 not follow the general course of Meadow-brook,  
14 so called, and join the Kenduskeag stream near  
15 the mouth of said brook, the Legislature may  
16 hereafter grant to other persons, on equitable  
17 terms, the right to make a branch to the canal  
18 herein granted, running from the mouth of said  
19 brook, and in the general direction of the same,  
20 in the best direction to strike the canal to be lo-  
21 cated by virtue of this Act, or in want thereof  
22 to strike said Pushaw Pond.

SEC. 8. *Be it further enacted*, That any  
2 three or more of the persons named in this Act  
3 may call the first meeting of those incorporated,  
4 by causing notice to be given of the time, place  
5 and purpose thereof, in any newspaper printed

6 in Bangor, ten days previous to said meeting;  
7 and at said meeting may proceed to organize  
8 said corporation; may make and adopt by-laws,  
9 designate and choose its officers, determine their  
10 qualifications, and define their powers and duties;  
11 may fix on the mode of calling future meetings,  
12 and the manner of voting at said meetings; may  
13 agree upon the number of shares into which the  
14 capital stock shall be divided, the evidence of  
15 ownership thereof, and the manner of transfer-  
16 ring the same; may make assessments, and do  
17 all other things that may be necessary for the  
18 management of the concerns of said corporation.

STATE OF MAINE.

IN SENATE, January 29, 1833.

ORDERED, That three hundred copies of the foregoing Report be printed.

[Extract from the Journal.]

Attest,

T. J. CARTER, *Secretary*.