

MAINE STATE LEGISLATURE

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Seventieth Legislature.

HOUSE.

No. 10

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ONE.

AN ACT to incorporate the West Branch Driving and Reservoir
Dam Company.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. Frederick H. Appleton, Joseph P. Bass, J. Fred
2 Webster, Fred A. Gilbert, A. Ledyard Smith, Jr., J. Sanford
3 Barnes, Jr., Payne Whitney, R. Somers Hayes, and Garret
4 Schneck, their associates, successors and assigns, are hereby
5 created a body politic and corporate by the name of the West
6 Branch Driving and Reservoir Dam Company.

Sect. 2. The capital stock of said company shall be fixed by
2 said company and shall not be less than one hundred thousand
3 dollars, and may be increased from time to time by a vote
4 representing a majority of the capital stock issued, but shall
5 not exceed five hundred thousand dollars.

Sect. 3. When this charter shall be accepted by the cor-
2 porators and said company shall have been organized and
3 subscriptions to the capital stock thereof to the amount at
4 least of one hundred thousand dollars shall have been made
5 in good faith, and fifty thousand dollars at least on such sub-
6 scriptions shall have been actually paid in cash to the treas-
7 ury of said company, said West Branch Driving and Reser-
8 voir Dam Company may then exercise the power of eminent
9 domain and thereunder may take and hold all the dams and
10 real estate, and all piers, booms, wing dams and side dams,
11 and all steamboats and all other property now owned by the
12 Penobscot Log Driving Company and hitherto used by it in
13 any way in its business under its charter.

Said West Branch Driving and Reservoir Dam Company
15 may serve a written notice upon the president, clerk or any
16 director of said Penobscot Log Driving Company of its desire
17 to exercise the said power of eminent domain, and thereupon
18 said dams, real estate, piers, booms, wing dams, side dams,
19 steamboats and other property shall be and become the pro-
20 perty of said West Branch Driving and Reservoir Dam Com-
21 pany, and all the franchises, rights and privileges of the
22 Penobscot Log Driving Company shall be and become the
23 franchises, rights and privileges of the West Branch Driving
24 and Reservoir Dam Company, and all the duties of said
25 Penobscot Log Driving Company shall be and become the
26 duties of said West Branch Driving and Reservoir Dam
27 Company which shall thereafter be holden to perform such
28 duties except as modified by the provisions of this act.

If the directors of said Penobscot Log Driving Company
30 and the directors of said West Branch Driving and Reser-
31 voir Dam Company shall agree upon the value of said dams,

32 real estate, piers, booms, wing dams, side dams, steamboats
33 and other property so taken by said West Branch Driving
34 and Reservoir Dam Company, said West Branch Driving and
35 Reservoir Dam Company shall thereupon pay to the Penob-
36 scot Log Driving Company such value, which shall be in full
37 satisfaction for the property so taken.

If said directors shall not agree upon the sum to be paid for
39 all of said property so taken, either corporation on petition to
40 the county commissioners of the respective counties where such
41 property is situated may have the damages assessed for the
42 taking of all such property situated in their respective counties,
43 and subsequent proceedings and right of appeal thereupon
44 shall be had in the same manner and under the same condi-
45 tions, restrictions and limitations as are by law prescribed in
46 the case of damages by the laying out of highways.

Upon the payment of the damages, however ascertained, for
48 such taking by said West Branch Driving and Reservoir Dam
49 Company to said Penobscot Log Driving Company, said last
50 named Company shall immediately proceed to close up its
51 affairs and pay its legal debts and dispose of its surplus assets
52 according to law, and when its assets have been so disposed of,
53 the existence of said Penobscot Log Driving Company
54 shall cease and determine. If any of such surplus assets shall
55 be paid into the State treasury, the State treasurer shall forth-
56 with pay such sum to said West Branch Driving and Reser-
57 voir Dam Company, to be expended upon the dams and
58 improvements in the river to facilitate the driving of logs.

Sect. 4. From and after the time said West Branch Driv-
2 ing and Reservoir Dam Company shall become possessed of
3 the property, franchises, rights and privileges of the Penob-
4 scot Log Driving Company in accordance with the provisions
5 of this act, said West Branch Driving and Reservoir Dam
6 Company shall drive all logs and other lumber that may be in

7 the West Branch of the Penobscot river between the head of
8 of Chesuncook Lake and the East Branch of said Penobscot
9 river to any place at or above the Penobscot Boom, where
10 logs are usually rafted, and the booms and piers at the head
11 of Chesuncook lake purchased by the Penobscot Log Driving
12 Company of the West Branch Chesuncook Boom Company
13 shall be within the chartered limits of this company.

Sect. 5. Said West Branch Driving and Reservoir Dam
2 Company shall make at least one drive each year from the
3 head of Chesuncook lake to Penobscot boom, if there shall be
4 enough water with which it can be made, and for that pur-
5 pose shall use, so far as may be necessary, all the water stored
6 in the dams acquired from the Penobscot Log Driving Com-
7 pany and any new dams to be built to take the place of all
8 or any of said dams of the Penobscot Log Driving Com-
9 pany, but the rear of said drive shall not be started from the
10 head of Chesuncook lake earlier than the first day of June in
11 each year, and may start as soon thereafter as said company
12 may see fit. Said company shall be under no obligation to
13 drive from the head of Chesuncook lake any logs which shall
14 not be there when the rear of said drive shall be started as
15 aforesaid, nor under any obligation to drive the same season
16 any logs which shall not be delivered to it before the rear of
17 said drive shall pass the point of attempted delivery.

Sect. 6. Said West Branch Driving and Reservoir Dam
2 Company shall receive for driving the logs as aforesaid into
3 the Penobscot boom, the following prices per thousand feet:
4 From the head of Chesuncook lake, one dollar and fifteen
5 cents; from the foot of Chesuncook lake, ninety-five cents;
6 from Sourdnehunk, ninety-two cents; from Ambajejus, sixty-
7 nine cents; from Pemadumcook, fifty-one and one-half cents;
8 from North Twin Dam, forty-six and one-half cents; from
9 Shad pond, forty cents; and from any other place within the

10 limits aforesaid to the Penobscot Boom the prices per thous-
11 and shall be in the same ratio as the above prices as near as
12 may be, and from any place to any place within the limits
13 aforesaid not specified above, the prices shall be as near as
14 may be in proportion to the above prices.

These prices shall continue in force until changed by the
16 Legislature.

Sect. 7. All owners of logs and other lumber which shall be
2 driven by said company shall pay the amount due for driving
3 their respective logs and lumber at the prices above set forth
4 as soon as such logs or other lumber shall pass from the control
5 of said company, and the number of feet driven shall be found
6 by using as a basis the boom scale of the Penobscot boom, or
7 what shall be equivalent to such scale. All strays and all logs
8 in the drive not marked shall become the property of said
9 company.

Sect. 8. The West Branch Driving and Reservoir Dam
2 Company is hereby given a lien on all logs and lumber which
3 it shall drive for the driving of the same, as provided in this
4 act; and said company is hereby given power and authority
5 by its attorneys, servants, or agents, to seize and take pos-
6 session of a sufficient quantity of any and all marks of logs
7 and other lumber upon which the charges for driving have
8 not been paid at said time, and may retain possession of the
9 same until disposed of as hereinafter provided, unless before
10 they are so disposed of, the charges for driving all the logs
11 and other lumber of the same owner and costs of seizure and
12 other charges incident thereto at the time of tender are tend-
13 ered to said company. Upon such tender being made said
14 company shall release said logs. All marks of logs and other
15 lumber on which said driving charges shall not have been
16 paid and which shall have been seized as aforesaid (no legal
17 tender of payment havng been made) said company may
18 cause to be advertised two weeks in succession in some news-

19 paper published in Bangor, Maine, the first publication to be
20 within at least one month of such seizure, and if within ten
21 days after the last publication, such driving charges, with the
22 necessary costs and expenses incident to such seizure and
23 publication shall not have been paid, the company may cause
24 such logs and lumber to be advertised at public auction by post-
25 ing up in some conspicuous place in Bangor and Old Town,
26 both in Penobscot county, notices of such sale with a list of
27 all the marks on said logs and lumber and the driving charges
28 due on each mark, ten days at least before the day of sale, and
29 unless said driving charges with said expenses shall be previ-
30 ously paid, said company may then cause to be sold to the
31 highest bidder a sufficient quantity of such logs or other lum-
32 ber of the different marks upon the list to pay the driving
33 charges and said expenses and the expenses of advertisement
34 and sale, upon the respective marks, selling each mark of logs
35 separately. The place of sale shall be in said Bangor, and the
36 proceeds of such sale shall belong to said corporation. The
37 lien hereby created shall have precedence of all other liens.
38 The lien given by this section is in addition to any other legal
39 remedy which this company may have to collect said driving
40 and other charges.

Sect. 9. Said company in any dam owned by it may store
2 water for the use of any mills or machinery which may use
3 West Branch water, subject to the provision that in times of
4 low water there shall be allowed to flow continually through
5 the West Branch into the main Penobscot river an amount of
6 water equal to the natural flow in said West Branch at such
7 times. Said company shall not unreasonably as to time or
8 quantity retain the water in its dams, or discharge it therefrom,
9 to wilfully injure others above or below on the same water.

Sect. 10. Said company in order to facilitate the driving of
2 logs and lumber, and to facilitate the storage of water for use

3 as aforesaid, may clear out and improve the navigation of said
4 West Branch above its junction with the East Branch, remove
5 obstructions, break jams and erect booms where the same may
6 lawfully be done.

Sect. 11. Said company is hereby given the power to
2 rebuild in such manner as it may see fit any dams which it
3 may acquire as aforesaid of the Penobscot Log Driving
4 Company, and may raise the height of the same, and for any
5 flowage caused by such increased height of any of said dams
6 said company shall be subject to the general laws in relation
7 to flowage the same as individuals.

Said company is hereby given the power to build new dams
9 to take the place of all or any of the present dams, and such
10 new dam or dams may be built at such a distance from the cor-
11 responding present dam, that such present dam may serve as
12 a coffer dam, and said company may increase the height of
13 such new dam or dams, and for any flowage caused by such
14 increased height of any such dams, said company shall be
15 subject to the general laws in relation to flowage the same as
16 individuals.

Sect. 12. Said company for the purpose of constructing
2 new dams as authorized in this act is hereby given the right
3 to take and hold any lands necessary for erecting and abut-
4 ting such dam or dams. Said company shall file in the reg-
5 istry of deeds office in the county where any land so taken
6 may be situated, plans of the location of all lands so taken in
7 such county, and no entry for the purpose of taking lands
8 shall be made on any lands owned by other persons except to
9 make surveys until the expiration of ten days from the time
10 of said filing, and with such plan, the company may file a
11 statement of the damages it is willing to pay to any person
12 for any property so taken, and if the amount finally awarded
13 does not exceed that sum, the company shall recover costs

14 against such person, otherwise such person shall recover
15 costs against the company. Said company shall be held
16 liable to pay all damages for the land so taken, and if any
17 person sustaining damage as foresaid shall not agree with
18 said company upon the sum to be paid therefor, either party
19 on petition to the county commissioners of the county where
20 such land is situated within twelve months after said plans are
21 filed, may have the damages assessed for the taking of said
22 land and subsequent proceedings and right of appeal there-
23 upon shall be had in the same manner and under the same
24 conditions, restrictions and limitations as are by law pre-
25 scribed in the case of damages by the laying out of highways,
26 failure to apply for such damages within said twelve months
27 shall be held to be a waiver of the same.

Sect. 13. The first meeting of said corporation shall be
2 called at Bangor, in the County of Penobscot, by a notice
3 signed by any two of the corporators named in section one,
4 setting forth the time, place and purposes of the meeting, and
5 such notice shall be mailed to each of the corporators, postage
6 paid, seven days, at least, before the day of such meeting.
7 Any corporator may be represented at said first meeting by
8 proxy.

Sect. 14. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,
AUGUSTA, January 22, 1901.

Tabled pending reference, by Mr. BEAL of Bangor, and ordered
printed.

W. S. COTTON, *Clerk.*