

MAINE STATE LEGISLATURE

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Seventy-first Legislature.

HOUSE.

No. 1

STATE OF MAINE.

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

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, J. Fred Webster, Fred
2 A. Gilbert, A. Ledyard Smith, J. Sanford Barnes, Jr., Payne
3 Whitney, R. Somers Hayes and Garret Schenck, their asso-
4 ciates, successors and assigns, are hereby created a body
5 politic and corporate by the name of the West Branch Driv-
6 ing and Reservoir Dam Company.

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

Sect. 3. When this charter shall have been accepted by
2 the corporators and said company shall have been organized

3 and subscriptions to the capital stock thereof to an amount
4 at least of two hundred thousand dollars shall have been
5 made in good faith, and fifty thousand dollars at least on
6 such subscriptions shall have been actually paid in cash into
7 the treasury of said company, said West Branch Driving and
8 Reservoir Dam Company may then exercise the power of
9 eminent domain and thereunder may take and hold all the
10 dams, real estate, piers, booms, wing dams, side dams and
11 steamboats now owned by the Penobscot Log Driving Com-
12 pany.

Said West Branch Driving and Reservoir Dam Company
14 may file in the registries of deeds in Penobscot and Piscata-
15 quis counties a written statement of its determination to exer-
16 cise said power of eminent domain, and thereupon said dams,
17 real estate, piers, booms, wing dams, side dams and steam-
18 boats shall be and become the property of said West Branch
19 Driving and Reservoir Dam Company, and all the powers,
20 rights and privileges of the Penobscot Log Driving Company
21 shall be and become the powers, rights and privileges of the
22 West Branch Driving and Reservoir Dam Company, and
23 all the duties of said Penobscot Log Driving Company shall
24 be and become the duties of said West Branch Driving and
25 Reservoir Dam Company which shall thereafter be holden to
26 perform such duties, except as modified by the provisions of
27 this act.

The value of said dams, real estate, piers, booms, wing
29 dams, side dams and steamboats so taken shall be determined
30 by a commission of three disinterested persons to be appointed
31 as follows: Either of said corporations may file in the clerk's
32 office of the supreme judicial court in and for the county of
33 Penobscot, either in term time or vacation, a petition to said
34 court for the appointment of such commission, to consist of
35 three disinterested persons, and upon such petition said court,
36 after such notice as said court may deem proper, shall appoint

37 such commission. Such commission shall as soon as may
38 be, but after reasonable notice, hear the parties, their proofs
39 and arguments and determine the value of said dams, real
40 estate, piers, booms, wing dams, side dams and steamboats.
41 The commission shall have power to compel the attendance
42 of witnesses and the production of books and papers perti-
43 nent to the issue, and may administer oaths, and any witness
44 or person in charge of such books or papers refusing to
45 attend or to produce the same shall be subject to the same
46 penalties and proceedings, so far as applicable, as witnesses
47 summoned to attend the supreme judicial court. The com-
48 mission, or a majority thereof, after such hearing, shall
49 report to the court in said county in term time what in its
50 judgment is a fair and just value of the dams, real estate,
51 piers, booms, wing dams, side dams and steamboats, which
52 it is directed to appraise and all other findings which it may
53 have been directed by the court to make, and return such
54 papers and proofs taken by it as the court has directed or may
55 from time to time direct it to return.

The court may confirm such report or reject it, or re-com-
57 mit the same, or subject the subject matter thereof to a new
58 commission.

All proceedings of the court with reference to any matter
60 herein raising a question of law shall be subject to excep-
61 tions. When all such exceptions, if any shall be taken, shall
62 be disposed of, and any such report shall have been accepted
63 and confirmed by said court, said court shall render judg-
64 ment in favor of said Penobscot Log Driving Company
65 against said West Branch Driving and Reservoir Dam Com-
66 pany for the amount finally determined in such report as
67 accepted and confirmed by said court.

Sect. 4. From and after the time when said West Branch
2 Driving and Reservoir Dam Company shall have filed in the
3 registries of deeds for Penobscot and Piscataquis counties a

4 written statement of its determination to exercise the power
5 of eminent domain, as provided in section 3 of this act, said
6 West Branch Driving and Reservoir Dam Company shall
7 drive all logs and other lumber that may be in the West
8 Branch of the Penobscot river between the head of Chesun-
9 cook Lake and the East Branch of said Penobscot river to
10 the Penobscot boom, except as otherwise provided by law,
11 and the booms and piers at the head of Chesuncook Lake
12 acquired by the Penobscot Log Driving Company from the
13 West Branch Chesuncook Boom Company shall be within
14 the chartered limits of this act.

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
4 be time enough after the starting of the drive and before the
5 close of the driving season and water enough with which it
6 can be made, and for that purpose shall use so far as may
7 be necessary all the water stored in the dams acquired from
8 the Penobscot Log Driving Company and any new dams to
9 be built to take the place of any of said dams of the Penob-
10 scot Log Driving Company.

The time of starting the rear of said drive from the head
12 of Chesuncook Lake shall be fixed by a commission, to be
13 appointed by the chief justice of the supreme judicial court
14 upon petition of said company or any person interested, after
15 such notice as he shall order, and hearing. The chief jus-
16 tice of the supreme judicial court may at any time remove
17 any member of said commission upon petition by said com-
18 pany or any person interested after such notice as he shall
19 order and hearing, if he shall determine that a change in said
20 commission ought to be made. Should any vacancy occur
21 in such commission by death, resignation or otherwise, it
22 shall be filled by the chief justice after such notice as he shall
23 order, and hearing. The expenses of said commission shall

24 be paid by said West Branch Driving and Reservoir Dam
25 Company.

Said company shall be under no obligation to drive from
27 the head of Chesuncook Lake any logs which shall not be
28 there when the rear of said drive shall be started as afore-
29 said, nor under any obligation to drive the same season any
30 logs which shall not be delivered to it before the rear of said
31 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 to
3 the Penobscot boom the following prices per thousand feet
4 board measure :

5 From the head of Chesuncook Lake, one dollar and one
6 cent.

7 From the foot of Chesuncook Lake, eighty-four cents.

8 From Sourdnahunc, eighty-one cents.

9 From the head of Ambejjus Lake, sixty-one cents.

10 From the foot of Pemadumcook Lake, forty-six and one-
11 quarter cents.

12 From North Twin Dam, forty-two cents.

13 From Shad Pond, thirty-one and one-half cents.

14 And for logs driven to the sorting booms of the Great
15 Northern Paper Company, or the Twin Lakes Lumber
16 Company :

17 From the head of Chesuncook Lake, seventy-six cents.

18 From the foot of Chesuncook Lake, fifty-nine cents.

19 From Sourdnahunc, fifty-nine cents.

And from any place to any place within the limits afore-
21 said not specified above, the prices shall be as near as may be
22 in proportion to the above prices.

These prices shall continue in force until changed by the
24 legislature.

Sect. 7. All owners of logs and other lumber which shall
2 be driven by said company shall pay the amount due for

3 driving their respective logs and lumber at the prices above
4 set forth as soon as such logs or other lumber shall pass from
5 the control of said company. And the number of feet driven
6 shall be found by using as a basis the boom scale of the
7 Penobscot boom, or what shall be equivalent to such scale.

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, which lien shall have precedence of all other claims
5 except liens reserved to the State and laborers' liens. Such
6 lien shall continue for three months after the logs or lumber
7 shall arrive at the place of destination for sale or manu-
8 facture and may be enforced by attachment.

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 after the
4 drive in any year shall arrive at Penobscot boom the water
5 so stored shall be allowed to flow so that the volume and flow
6 of water down the West Branch shall be as nearly as practi-
7 cable equal and continuous for the whole twenty-four hours
8 of each and every day thereafter until the beginning of the
9 next driving season.

Sect. 10. Said company in order to facilitate the driving
2 of logs and lumber, and to facilitate the storage of water for
3 use as aforesaid, may clear out and improve the navigation
4 of said West Branch above its junction with the East Branch,
5 remove obstructions, break jams and erect booms where the
6 same may 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 may
5 raise the dam between North Twin and Millinoeket Lakes
6 to retain the stored water in North Twin Lake, and damages

7 for any flowage caused by such increased height of any of
8 said dams may be recovered in accordance with the provisions
9 of chapter 92 of the Revised Statutes.

Said company is hereby given the power to build new
11 dams to take the place of all or any of the present dams and
12 such new dam or dams may be built at such a distance from
13 the corresponding present dam that such present dam may
14 serve as a coffer dam, and said company may increase the
15 height of such new dam or dams, and damages for any flow-
16 age caused by such increased height of any such dams may
17 be recovered in accordance with the provisions of chapter 92
18 of the Revised Statutes.

Sect. 12. Said company is hereby authorized to erect and
2 maintain a dam across the West Branch of Penobscot river
3 in the vicinity of Sourdnahunc Falls, and another dam across
4 said West Branch in the vicinity of Ambejijus Falls, and
5 damages for any flowage caused by such dams may be recov-
6 ered in accordance with the provisions of chapter 92 of the
7 Revised Statutes.

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

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

Sect. 14. The first meeting of said corporation shall be called
2 at Bangor, in the county of Penobscot, by a notice signed
3 by any two of the corporators named in section 1, setting forth
4 the time, place and purposes of the meeting, and such notice
5 shall be mailed to each of the corporators, postage paid,
6 seven days at least before the day of such meeting. Any
7 corporator may be represented at said first meeting by proxy.

Sect. 15. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,
AUGUSTA, January 15, 1903.

Tabled pending reference in concurrence to Committee on Interior
Waters, by Mr. DREW of Portland, and ordered printed.

W. S. COTTON, *Clerk.*