

# MAINE STATE LEGISLATURE

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# Seventy-first Legislature.

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HOUSE.

No. 88

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## STATE OF MAINE.

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

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AN ACT to amend chapter four hundred seven of the  
Private and Special Laws of 1846, entitled "An Act to  
incorporate the Penobscot Log Driving Company."

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

Section 1. Section one of said chapter four hundred  
2 seven is hereby amended by striking out of said section  
3 everything between the comma in the eleventh line and  
4 the period in the eighteenth line, and inserting in place  
5 thereof the following: "and may purchase or otherwise  
6 obtain such real and personal property as may be neces-  
7 sary to carry into effect the purposes of the company, may  
8 grant and vote money, and may issue its bonds in such  
9 form and amount and on such time and rates as it may

10 deem expedient, but not exceeding two hundred thousand  
11 dollars, and secure the same by mortgage of its franchise  
12 and property. Said company shall drive all logs and  
13 other timber that may be in the West branch of the  
14 Penobscot river for that purpose between the head of  
15 Chesuncook lake and the East branch of said river to such  
16 place of destination on said river as may be designated by  
17 the owners of such logs and other timber or by the direc-  
18 tors of said company, such place not to be below the  
19 Penobscot boom where logs are usually sorted; provided,  
20 however, that said company shall be under no obligation  
21 to drive from the head of Chesuncook lake any logs which  
22 shall not be there when the rear of said drive shall be  
23 started, nor to drive the same season any logs which shall  
24 not be seasonably delivered to it before the rear of said  
25 drive shall pass the point of attempted delivery,' so that  
26 said section as amended shall read as follows :

‘Sect. 1. That Ira Wadleigh, Samuel P. Strickland,  
28 Hastings Strickland, Isaac Farrar, William Emerson,  
29 Amos M. Roberts, Leonard Jones, Franklin Adams,  
30 James Jenkins, Aaron Babb, and Cyrus S. Clark, their  
31 associates and successors, be, and they are hereby made  
32 and constituted a body politic and corporate, by the name  
33 and style of the Penobscot Log Driving Company, and by  
34 that name may sue and be sued, prosecute and defend, to  
35 final judgment and execution, both in law and in equity ;  
36 and may make and adopt all necessary regulations and  
37 by-laws not repugnant to the constitution and laws of this  
38 state, and may adopt a common seal, and the same may  
39 alter, break and renew at pleasure, and may purchase or  
40 otherwise obtain such real and personal property as may

41 be necessary to carry into effect the purposes of the com-  
42 pany, may grant and vote money, and may issue its bonds  
43 in such form and amount and on such time and rates as it  
44 may deem expedient, but not exceeding two hundred  
45 thousand dollars, and secure the same by mortgage of its  
46 franchise and property. Said company shall drive all  
47 logs and other timber that may be in the West branch of  
48 the Penobscot river for that purpose between the head of  
49 Chesuncook lake and the East branch of said river to such  
50 place of destination on said river as may be designated by  
51 the owners of such logs and other timber or by the direc-  
52 tors of said company, such place not to be below the  
53 Penobscot boom where logs are usually sorted; provided,  
54 however, that said company shall be under no obligation  
55 to drive from the head of Chesuncook lake any logs which  
56 shall not be there when the rear of said drive shall be  
57 started, nor to drive the same season any logs which shall  
58 not be seasonably delivered to it before the rear of said  
59 drive shall pass the point of attempted delivery. And  
60 said company may for the purpose aforesaid, clear out  
61 and improve the navigation of the river between the points  
62 aforesaid, remove obstructions, break jams and erect  
63 booms where the same may be lawfully done, and shall  
64 have all the powers and privileges and be subject to all  
65 the liabilities incident to corporations of a similar nature.'

Sect. 2. Said chapter four hundred seven is further  
2 amended by striking out all of section five and inserting in  
3 place thereof the following section:

'Sect. 5. The directors shall give the treasurer a list of  
5 the assessments made by them, with a warrant in due  
6 form under their hands, and owners of logs and other

7 timber shall be required to pay or satisfactorily secure the  
8 amount of their several assessments within thirty days  
9 from the date of such assessment, and said company shall  
10 have a lien on all logs and other timber by it driven for  
11 the expense of driving the same and for the other ex-  
12 penses of the company, which lien shall have precedence  
13 of all other claims, except laborers' liens, and shall con-  
14 tinue for ninety days after the logs or other timber shall  
15 arrive at their place of destination for sale or manufacture  
16 and may be enforced by attachment, but such lien may be  
17 discharged by a bond with sufficient sureties given to the  
18 company conditional that all such expenses shall be  
19 seasonably paid.'

Sect. 3. Said chapter shall be further amended by  
2 adding thereto the following sections :

‘Sect. 6. Every person or corporation owning timber-  
4 land or engaged in lumber operations on the West branch  
5 of the Penobscot river or its tributaries, and every manu-  
6 facturer of lumber, or the products of lumber, cut upon  
7 said West branch or its tributaries, shall be and become  
8 members of this company. Each of said timberland own-  
9 ers and manufacturers shall be entitled to one vote, and  
10 every such operator shall be entitled to one vote for every  
11 ten miles, or a fraction of ten miles in excess of five miles,  
12 each million feet, or a fraction of a million feet, of logs or  
13 other timber cut by him upon said West branch or its  
14 tributaries are driven or are intended to be driven down  
15 the Penobscot river between the head of Chesuncook  
16 lake and the Penobscot boom. Any member of the com-  
17 pany who ceases to own timberlands, carry on logging  
18 operations or manufacture lumber as aforesaid shall  
19 cease to be a member of the company.

‘Sect. 7. In addition to the rights it now possesses, 21 said Company, in any dam owned by it, may store water 22 for the use of any mills or machinery which may use West 23 branch water; subject to the provision that at the begin- 24 ning of the freshet season each year North Twin lake and 25 said Chesuncook lake shall be comparatively empty in 26 order that, so far as practicable, the increased flow of water 27 at such times may be held back by the dams at the foot of 28 said lakes; and subject to the further provision that after 29 the drive in any year shall arrive at the Penobscot boom, 30 the water so stored shall be allowed to flow so that the 31 volume and flow of water down said West branch shall be 32 as nearly as possible equal and continuous for the whole 33 twenty-four hours of each and every day thereafter until 34 the beginning of the next driving season.

‘Sect. 8. Said company for the purpose of facilitating 36 the driving of logs and other timber, and the storage of 37 water for use as aforesaid, is hereby given the power to 38 rebuild in such manner as it may see fit any dam which it 39 now owns, and may increase the height of the same, and 40 may increase the height of the dam between North Twin 41 lake and Millinocket lake to retain the stored water in said 42 North Twin lake, and may build new dams to take the 43 place of all or any of the present dams, such new dams 44 may be built at such a distance from the corresponding 45 present dams that such present dams may serve as coffer- 46 dams, and said company may erect and maintain dams 47 across said West branch of the Penobscot river in the 48 vicinity of Sourdnhunc falls, and across said West branch 49 in the vicinity of Ambejjus falls, with suitable sluiceways 50 for the passage of logs and other lumber, and damages for 51 flowage caused by rebuilding or increasing the height of

52 any dams now in existence, or by any new dams hereafter  
53 built in accordance with the provisions of this act, shall be  
54 recovered in accordance with the provisions of chapter  
55 ninety-two of the Revised Statutes. The rights herein  
56 granted said company to build and maintain dams at  
57 Sourdnhunc falls and at Ambejijus falls shall not be so  
58 exercised as to deprive the owners of land on which said  
59 dams are built of the right at any time to use said falls for  
60 the purpose of developing the water power and using,  
61 selling or leasing the same for manufacturing or mechan-  
62 ical purposes.

‘Sect. 9. Said company for the purpose of rebuilding,  
64 constructing or maintaining dams as authorized in this  
65 act, is hereby given the right to take and hold any lands  
66 necessary for erecting and abutting such dam or dams.  
67 Said company shall file in the registry of deeds office in  
68 the county where any land so taken may be situated, plans  
69 of the location of all land so taken in such county, and  
70 no entry for the purpose of taking lands shall be made on  
71 any lands owned by other persons except to make surveys  
72 until the expiration of ten days from the time of said fil-  
73 ing, and with such plan, the company may file a statement  
74 of the damages it is willing to pay to any person for any  
75 property so taken, and if the amount finally awarded does  
76 not exceed that sum, the company shall recover costs  
77 against such person, otherwise such person shall recover  
78 costs against the company. Said company shall be held  
79 liable to pay all damages for the land so taken, and if any  
80 person sustaining damages as aforesaid shall not agree  
81 with said company upon the sum to be paid therefor,  
82 either party on petition to the county commissioners of  
83 the county where such land is situated within twelve

84 months after said plans are filed, may have the damages  
85 assessed for the taking of said land and subsequent pro-  
86 ceedings and right of appeal thereupon shall be had in  
87 the same manner and under the same conditions, restric-  
88 tions and limitations as are by law prescribed in the case  
89 of damages by the laying out of highways, failure to  
90 apply for such damages within said twelve months shall  
91 be held to be a waiver of the same.

‘Sect. 10. After said Penobscot Log Driving Company  
93 shall have accepted this amendment, and shall have  
94 organized in accordance with its provision, said Company  
95 is hereby authorized and empowered to assign and con-  
96 vey by a proper conveyance duly executed by its presi-  
97 dent for the time being, subject to the conditions herein-  
98 after set forth, all dams now owned by it, its rights to  
99 repair, rebuild and increase the height of any such dam,  
100 and its right to build new dams, together with its right  
101 to store water for manufacturing and driving purposes,  
102 to the Great Northern Paper Company, and to make and  
103 enter into the necessary contracts with said Great North-  
104 ern Paper Company for the purpose of conveying such  
105 dams and rights, and said Great Northern Paper Com-  
106 pany is hereby authorized to take and hold the same by  
107 virtue of such conveyance, subject to the conditions  
108 hereinafter set forth, paying such compensation therefor  
109 as shall be agreed upon by said companies, and from the  
110 date of the execution and delivery of such conveyance  
111 said Great Northern Paper Company shall exercise the  
112 rights and powers of said Penobscot Log Driving Com-  
113 pany so far as such company possesses rights and powers  
114 to store and hold water for manufacturing and driving  
115 purposes ; provided, however, that said Penobscot Log



116 Driving Company shall have the use of the stored water  
117 in the lakes above the dam at the foot of North Twin  
118 lake for the purpose of driving logs to and by the stone  
119 dam below Quakish lake recently built by the Great  
120 Northern Paper Company; and provided further that,  
121 from the time the rear of any drive of logs leaves said  
122 stone dam below Quakish lake, said Great Northern Paper  
123 Company shall allow to flow through the dam at the foot  
124 of said North Twin lake for the use of the Penobscot  
125 Log Driving Company, in such quantities as said Penob-  
126 scot Log Driving Company shall direct, for the purpose  
127 of driving and rafting logs, what is equal to a fifteen-foot  
128 head of water upon said North Twin lake as held by the  
129 present dam, or so much thereof as said Penobscot Log  
130 Company shall deem necessary for the purpose of driving  
131 and rafting logs; and the aforesaid conveyance from  
132 said Penobscot Log Driving Company to said Great  
133 Northern Paper Company shall be given upon the above  
134 conditions or provisions, and such conditions or provisions  
135 shall be fully incorporated into such conveyance.

•Sect. 11. If said companies shall not agree upon the  
137 compensation to be paid for such dams and other rights,  
138 or upon some other method of determining such compen-  
139 sation, within thirty days from the acceptance of this act  
140 by said Penobscot Log Driving Company, then either of  
141 said companies may file in the clerk's office of the  
142 supreme judicial court in and for the county of Penob-  
143 scot, either in term time or vacation, a petition asking  
144 said court for the appointment of a commission to consist  
145 of three disinterested persons, and upon such petition  
146 said court, after such notice as said court may deem  
147 proper, shall appoint such commission. Such commis-

148 sion shall, as soon as may be, but after reasonable  
149 notice, hear the parties, their proofs and arguments and  
150 determine the value of said dams and rights possessed  
151 by said Penobscot Log Driving Company. The com-  
152 mission shall have the power to compel the attendance of  
153 witnesses and may administer oaths, and any witness  
154 refusing to attend and testify shall be subject to the same  
155 penalties and proceedings, so far as applicable, as wit-  
156 nesses summoned to attend the supreme judicial court.  
157 The commission, or a majority thereof, after such hear-  
158 ing, shall report to the court in said county, in term  
159 time, what, in its judgment, is a fair and just value of  
160 such dams and other rights which it is directed to  
161 appraise, and return such papers and proofs taken by it  
162 as the court has directed or may from time to time direct  
163 it to return. The court may confirm such report or  
164 reject it, or recommit the same, or submit the subject-  
165 matter thereof to a new commission. When such report  
166 shall have been accepted and confirmed by said court,  
167 the amount fixed in said report as the value of said dams  
168 and other rights shall be the compensation to be paid by  
169 said Great Northern Paper Company to said Penobscot  
170 Log Driving Company for such dams and other rights.  
171 The fees and expenses of such commission shall be paid  
172 one-half by the Great Northern Paper Company, and  
173 one-half by the Penobscot Log Driving Company. If  
174 said Great Northern Paper Company shall refuse to pay  
175 the amount fixed by said commission as the value of said  
176 dams and other rights within thirty days from date of the  
177 confirmation of such report as aforesaid, and upon tender  
178 to it of a proper conveyance of said dams and other

179 rights by said Penobscot Log Driving Company, then  
180 this section shall be void, but all other sections of this  
181 act shall have the same effect as though this section did  
182 not exist.'

Sect. 4. All amounts received by said Penobscot Log  
2 Driving Company as compensation for the sale and convey-  
3 ance of its rights as herein provided shall be used so far as  
4 necessary for the payment of the present indebtedness of  
5 said company.

Sect. 5. All acts, or parts of acts, inconsistent here-  
2 with are hereby repealed.

Sect. 6. This act shall take effect when approved.



STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 11, 1903.

Tabled pending reference in concurrence to the Committee on Interior Waters, by Mr. ROSS of Bangor, and ordered printed.

W. S. COTTON, *Clerk.*