

MAINE STATE LEGISLATURE

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NEW DRAFT.

* Seventy-first Legislature.

HOUSE.

No. 225

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

Sect. 3. When this charter shall have been accepted by the
2 corporators and said company shall have been organized and
3 subscriptions to the capital stock thereof to an amount at
4 least of two 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 into 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 thereunder to the extent that it may take and hold
10 all the dams, real estate, piers, booms, wing dams, side dams
11 and steamboats now owned by the Penobscot Log Driving
12 Company.

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
16 exercise said power of eminent domain, and thereupon said
17 dams, real estate, piers, booms, wing dams, side dams and
18 steamboats shall be and become the property of said West
19 Branch Driving and Reservoir Dam Company, and all the
20 powers, rights and privileges of the Penobscot Log Driving
21 Company shall be and become the powers, rights and privi-
22 leges of the West Branch Driving and Reservoir Dam Com-
23 pany, and all the duties of said Penobscot Log Driving Com-
24 pany shall be and become the duties of said West Branch
25 Driving and Reservoir Dam Company which shall thereafter
26 be holden to perform such duties, except as modified by the
27 provisions of this act.

The value of said dams, real estate, piers, booms, wing dams,
29 side dams and steamboats so taken shall be determined by a
30 commission of three disinterested persons to be appointed as
31 follows: Either of said corporations, or any person inter-
32 ested, may file in the clerk's office of the supreme judicial
33 court in and for the county of Penobscot, either in term time

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

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

The expenses of said commission shall be paid one-half by
60 each of said companies.

All proceedings of the court with reference to any matter
62 herein raising a question of law shall be subject to exceptions.
63 When all such exceptions, if any shall be taken, shall be dis-
64 posed of, and any such report shall have been accepted and
65 confirmed by said court, said court shall render judgment in
66 favor of said Penobscot Log Driving Company against said
67 West Branch Driving and Reservoir Dam Company for the

68 amount finally determined in such report as accepted and con-
69 firmed by said court.

Sect. 4. If the amount of said judgment with the amount
2 of all other assets of said Penobscot Log Driving Company
3 shall not be sufficient to pay in full all legal liabilities of said
4 Penobscot Log Driving Company, said West Branch Driving
5 and Reservoir Dam Company shall make good the deficiency
6 and be holden to guarantee the payment in full of all such
7 legal liabilities after all the assets of the Penobscot Log Driv-
8 ing Company shall have been reduced to money and applied
9 towards the payment of the legal liabilities, and by accepting
10 the charter hereby conferred said West Branch Driving and
11 Reservoir Dam Company shall be holden to have agreed to
12 make good any such deficiency and to so guarantee the pay-
13 ment of the legal liabilities of the Penobscot Log Driving
14 Company.

Said West Branch Driving and Reservoir Dam Company
16 may assume the defense of any claim which may be made
17 against the said Penobscot Log Driving Company, and prose-
18 cute, in the name of said Penobscot Log Driving Company,
19 any claim which it may have against other parties, and no
20 settlement of any claim belonging to said Penobscot Log
21 Driving Company or against it shall be made without the
22 consent of said West Branch Driving and Reservoir Dam
23 Company.

Sect. 5. 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 three of this act,
6 said West Branch Driving and Reservoir Dam Company
7 shall 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 the
10 Penobscot river, except as otherwise provided by law, and
11 the booms and piers at the head of Chesuncook lake acquired
12 by the Penobscot Log Driving Company from the West
13 Branch Chesuncook Boom Company shall be within the
14 chartered limits of this act.

Sect. 6. Said West Branch Driving and Reservoir Dam
2 Company shall make at least one drive each year, with due
3 diligence, from the head of Chesuncook lake to the Penob-
4 scot boom if there shall be time enough after the starting of
5 the drive and before the close of the driving season, and water
6 enough with which it can be made, and for that purpose shall
7 use so far as may be necessary all the water stored in any
8 and all dams which may be owned or controlled by it.

There shall be a commission of three persons appointed by
10 the chief justice of the supreme judicial court upon petition
11 of said company or any person interested, after such notice
12 as he shall order and hearing. The chief justice of the
13 supreme judicial court may at any time remove any member
14 of such commission upon petition of said company or any
15 person interested after such notice as he shall order and hear-
16 ing, if he shall determine that a change in such commission
17 ought to be made. Should any vacancy occur in such com-
18 mission by death, resignation or otherwise, it shall be filled by
19 the chief justice after such notice as he shall order and hear-
20 ing. The expenses of said commission shall be paid by said
21 West Branch Driving and Reservoir Dam Company.

Said commission may fix the time of starting the rear of the
23 drive from the head of Chesuncook lake in each year, and if
24 at any time during the progress of the drive in any year said
25 commission shall be of the opinion that the drive is not being
26 properly made and as expeditiously as practicable, it shall
27 have authority to give such directions as it may deem best as

28 to the employment of more men or as to the use of the water,
29 in excess of two thousand cubic feet per second, for making
30 the drive, and may direct said company to put on men to
31 hasten the sorting of logs at sorting gaps, as provided in the
32 acts establishing such sorting gaps, and said company shall
33 follow such directions as said commission may give, and if
34 it shall refuse to follow such directions, said commission may
35 assume the charge of the drive, and prosecute the same to
36 completion or so long as it may deem expedient, at the
37 expense of said company, and said company shall be entitled
38 to receive the prices for driving as if it had been in charge
39 of the drive throughout.

Said company shall be under no obligation to drive from the
41 head of Chesuncook lake any logs which shall not be there
42 when the rear of said drive shall be started as aforesaid, nor
43 under any obligation to drive the same season any logs which
44 shall not be delivered to it before the rear of said drive shall
45 pass the point of attempted delivery.

Sect. 7. Said West Branch Driving and Reservoir Dam
2 Company shall receive for driving the logs as aforesaid to the
3 Penobscot boom the following prices per thousand feet board
4 measure:

- 5 From the head of Chesuncook lake one dollar and one cent.
- 6 From the foot of Chesuncook lake eighty-four cents.
- 7 From Sourdnahunc eighty-one cents.
- 8 From the head of Ambejijus lake sixty-one cents.
- 9 From the foot of Pemadumcook lake forty-six and one-
- 10 quarter cents.
- 11 From North Twin dam forty-two cents.
- 12 From Shad pond thirty-one and one-half cents.

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

16 From the head of Chesuncook lake seventy-six cents.

17 From the foot of Chesuncook lake fifty-nine cents.

18 From Sourdnahunc fifty-nine cents.

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

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

Sect: 8. All owners of logs and other lumber which shall
2 be driven by said company shall pay three-quarters of the
3 amount due for driving their respective logs and lumber at
4 the prices above set forth as soon as such logs or other lum-
5 ber shall arrive at their respective places of destination, and
6 shall pay the balance of said amount as soon as such logs
7 or other lumber shall be scaled after arriving at their respec-
8 tive places of destination, but at all events within three
9 months from the time when such logs or other lumber shall
10 pass from the control of said company. And the number of
11 feet driven shall be found by using as a basis the boom scale
12 of the Penobscot boom, or what shall be equivalent to such
13 scale.

Sect. 9. 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 six 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. 10. Said company in any and all dams which may
2 be owned or controlled by it may store water for the use of
3 any mills or machinery which may use West Branch water,
4 subject to the provision that throughout the year the flow of
5 water down the West Branch, so long as there shall be any

6 stored water shall not be less than two thousand cubic feet
7 per second, measured in the canal and at the stone dam of
8 the Great Northern Paper Company at Millinocket, and
9 subject to the farther provision that in the spring of each
10 year in advance of the freshet season the water shall be drawn
11 down in all the dams which may be owned or controlled by
12 the company, in accordance with any directions which the
13 commission to be appointed under the provision of section
14 six may give. The supreme judicial court, or any justice
15 thereof, sitting in equity, in term time or vacation, may sum-
16 marily enforce the specific performance of any of the pro-
17 visions of this section.

Sect. 11. 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. 12. 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 Millinocket lakes to
6 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 ninety-two of the Revised Statutes.

Sect. 13. 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 Ambejjus falls, and
5 damages for any flowage caused by such dams may be recov-
6 ered in accordance with the provisions of chapter ninety-two
7 of the Revised Statutes.

Sect. 14. Said company for the purpose of rebuilding, constructing or maintaining dams as authorized in this act is hereby given the right to take and hold any lands necessary for erecting and abutting such dam or dams. Said company shall file in the registry of deeds office in the county where any land so taken may be situated, plans of the location of all land so taken in such county, and no entry for the purpose of taking lands shall be made on any lands owned by other persons except to make surveys until the expiration of ten days from the time of said filing. Said company shall also publish in some newspaper published in the city of Bangor, Maine, within ten days after such plans shall be filed, a statement that it has filed in the registry of deeds office plans of the location of all lands so taken in such county. Said company shall be held liable to pay all damages for the land so taken, and if any person sustaining damage as aforesaid shall not agree with said company upon the sum to be paid therefor, either party on petition to the county commissioners of the county where such land is situated may have the damages assessed for the taking of said land and subsequent proceedings and right of appeal thereupon shall be had in the same manner and under the same conditions, restrictions and limitations as are by law prescribed in the case of damages by the laying out of highways.

Sect. 15. The first meeting of said corporation shall be called at Bangor, in the county of Penobscot, by a notice signed by any two of the corporators named in section one, setting forth the time, place and purposes of the meeting, and such notice shall be mailed to each of the corporators, postage paid, seven days at least before the day of such meeting. Any corporator may be represented at said first meeting by proxy.

Sect. 16. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

February 27, 1903.

Ordered, That one thousand copies of bill in new draft, An Act to incorporate the West Branch Driving and Reservoir Dam Company, be printed for the use of this Legislature.

IN HOUSE OF REPRESENTATIVES,

February 27, 1903.

Read and passed,

Sent up for concurrence.

W. S. COTTON, *Clerk*.

IN SENATE, March 3, 1903.

Read and passed in concurrence.

KENDALL M. DUNBAR, *Secretary*.