

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventy-first Legislature.

SENATE.

No. 196

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, J. Sanford Barnes, Jr., Payne Whitney, R. Somers
3 Hayes and Garret Schenck, their associates, successors and
4 assigns, are hereby created a body politic and corporate by
5 the name of the West Branch Driving and Reservoir Dam
6 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 to the extent that thereunder 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 except the dam at the outlet of Millinocket lake
13 which is to be and remain the property of the Penobscot Log
14 Driving Company.

Said West Branch Driving and Reservoir Dam Company
16 may file in the registries of deeds in Penobscot and Piscata-
17 quis counties a written statement of its determination to
18 exercise said power to eminent domain and thereupon said
19 dams, real estate, piers, booms, wing dams, side dams and
20 steamboats shall be and become the property of said West
21 Branch Driving and Reservoir Dam Company and all the
22 powers, rights and privileges of the Penobscot Log Driving
23 Company pertaining to the driving of logs and the improving
24 of the west branch of the Penobscot river above the head of
25 Shad pond on said west branch but not below the head of said
26 Shad pond shall be and become the powers, rights and privi-
27 leges of the West Branch Driving and Reservoir Dam Com-
28 pany, and all the duties of said Penobscot Log Driving Com-
29 pany pertaining to the driving of logs between the head of
30 Chesuncook lake and the head of Shad pond shall be and
31 become the duties of said West Branch Driving and Reservoir
32 Dam Company which shall thereafter be holden to perform
33 said duties except as modified by the provisions of this act.

The value of said dams, real estate, piers, booms, wing dams, side dams and steamboats so taken shall be determined by agreement between said companies or if said companies shall fail to agree then by a commission of three disinterested persons to be appointed as follows: Either of said corporations, or any person interested, may file in the clerk's office of the supreme judicial court in and for the county of Penobscot, either in term time or vacation, a petition to said court for the appointment of such commission, to consist of three disinterested persons, and upon such petition said court, after such notice as said court may deem proper, shall appoint such commission. Such commission shall as soon as may be, but after reasonable notice, hear the parties, their proofs and arguments and determine the value of said dams, real estate, piers, booms, wing dams, side dams and steamboats. The commission shall have power to compel the attendance of witnesses and the production of books and papers pertinent to the issue, and may administer oaths, and any witness or person in charge of such books or papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the supreme judicial court. The commission, or a majority thereof, after such hearing, shall report to the court in said county in term time what in its judgment is a fair and just value of the dams, real estate, piers, booms, wing dams, side dams and steamboats, which it is directed to appraise and all other findings which it may have been directed by the court to make, and return such papers and proofs taken by it as the 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 the same, or submit the subject matter thereof to a new commission.

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

All proceedings of the court with reference to any matter
70 herein raising a question of law shall be subject to exceptions.
71 When all such exceptions, if any shall be taken, shall be dis-
72 posed of, and any such report shall have been accepted and
73 confirmed by said court, said court shall render judgment
74 against said West Branch Driving and Reservoir Dam Com-
75 pany for the amount finally determined in such report as
76 accepted and confirmed 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 not including said Millinocket dam and not including the
4 franchise of said Penobscot Log Driving Company, shall not
5 be sufficient to pay in full all outstanding notes and other legal
6 liabilities of said Penobscot Log Driving Company said West
7 Branch Driving and Reservoir Dam Company shall make
8 good the deficiency and be holden to guarantee the payment
9 in full of all such notes and other legal liabilities after all
10 said assets of the Penobscot Log Driving Company shall have
11 been reduced to money and applied towards the payment of
12 the said notes and other legal liabilities, and by accepting the
13 charter hereby granted said West Branch Driving and Reser-
14 voir Dam Company shall be holden to have guaranteed to
15 make good any such deficiency and to so guarantee the pay-
16 ment of the said notes and other legal liabilities of the Penob-
17 scot Log Driving Company.

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

25 consent of said West Branch Driving and Reservoir Dam
26 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 shall
7 drive all logs and other lumber that may be in the west branch
8 of the Penobscot river between the head of Chesuncook lake
9 and the head of said Shad pond into said Shad pond, but if
10 said Shad pond shall become filled with logs then against the
11 rear of said logs in said pond, and the booms and piers at the
12 head of Chesuncook lake acquired by the Penobscot Log
13 Driving Company from the West Branch Chesuncook Boom
14 Company shall be within the chartered limits of this company.

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 into said Shad
4 pond in the manner aforesaid and shall start said drive from
5 the head of Chesuncook lake as soon as all logs for said drive
6 shall arrive there but not later than June 25th, in each year
7 in any event and shall complete the same in 1903 by the 20th
8 day of August and thereafter by the 5th day of August in
9 each year.

Said company shall be under no obligation to drive from
11 the head of Chesuncook lake any logs which shall not be there
12 when the rear of said drive shall be started as aforesaid, nor
13 under any obligation to drive the same season any logs which
14 shall not be delivered to it before the rear of said drive shall
15 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 into

- 3 Shad pond the following prices per thousand feet board
4 measure :
- 5 From the head of Chesuncook lake, 70 cents.
6 From the foot of Chesuncook lake, 53 cents.
7 From Sourdnahunc, 50 cents.
8 From the head of Ambejijus lake, 30 cents.
9 From the foot of Pemadumcook lake, 16 $\frac{1}{4}$ cents.
10 From North Twin Dam, 11 cents.
11 and for logs driven to the sorting booms of the Great
12 Northern Paper Company, or the Twin Lakes Lumber Com-
13 pany :
- 14 From the head of Chesuncook lake, 50 cents.
15 From the foot of Chesuncook lake, 33 cents.
16 From Sourdnahunc, 33 cents.
17 And from any place to any place within the limits aforesaid
18 not specified above, the price shall be as near as may be in
19 proportion to the above prices.

These prices shall continue in force for ten years and there-
21 after until changed by the 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 lumber
5 shall arrive at their respective places of destination, and shall
6 pay the balance of said amount as soon as such logs or other
7 lumber shall be scaled after arriving at their respective places
8 of destination, but at all events within three months from the
9 time when such logs or other lumber shall pass from the con-
10 trol of said company. And the number of feet driven shall
11 be found by using as a basis the boom scale of the Penobscot
12 boom, or what shall be equivalent to such 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 except
5 liens reserved to the State and laborer's liens. Such lien shall
6 continue for six months after the logs or lumber shall arrive
7 at the place of destination for sale or manufacture and may
8 be enforced by attachment.

Sect. 10. Said company in any and all dams which may be
2 owned or controlled by it may store water for the use of any
3 mills or machinery which may use west branch water, subject
4 to the provisions that day and night throughout the year the
5 flow of water down the west branch, so long as there shall be
6 any stored water shall not be less than two thousand cubic
7 feet per second, measured in the canal and at the stone dam
8 of the Great Northern Paper Company at Millinocket, and
9 subject to the further provisions 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 this section
14 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 provi-
17 sions of this section.

There shall be a commission of three persons appointed by
19 the chief justice of the supreme judicial court upon petition
20 of said company or any person interested, after such notice
21 as he shall order and hearing. The chief justice of the
22 supreme judicial court may at any time remove any member
23 of such commission upon petition of said company or any
24 person interested after such notice as he shall order and hear-
25 ing, if he shall determine that a change in such commission
26 ought to be made. Should any vacancy occur in such com-
27 mission by death, resignation or otherwise, it shall be filled
28 by the chief justice after such notice as he shall order and

29 hearing. The expenses of said commission shall be paid by
30 said West Branch Driving and Reservoir Dam Company.

Sect. 11. 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
4 said west branch, remove obstructions, break jams and erect
5 booms where the same may lawfully be done all within the
6 limits aforesaid.

Sect. 12. Said company is hereby given the power to rebuild
2 in such manner as it may see fit, any dams which it may
3 acquire as aforesaid of the Penobscot Log Driving Company,
4 and may raise the height of the same so that the Chesuncook
5 dam may hold back six feet more water than the present dam,
6 and the North Twin dam may hold back five feet more water
7 than the present dam and may raise the dam between North
8 Twin and Millinocket lakes to retain the stored water in
9 North Twin lake, and the damages for any flowage caused
10 by such increased height of any of said dams may be recov-
11 ered in accordance with the provisions of chapter ninety-two
12 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 in
3 the vicinity of Sourdnahunc falls, and another dam across said
4 west branch in the vicinity of Amejijus falls for the purpose
5 of facilitating the driving of logs and lumber and damages for
6 any flowage caused by such dams may be recovered in accord-
7 ance with the provisions of chapter ninety-two of the Revised
8 Statutes.

Sect. 14. 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 purchase or take and hold any lands
4 necessary for erecting and abutting such dam or dams. Said
5 company shall file in the registry of deeds office in the county

6 where any land so taken may be situated, plans of the location
7 of 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. Said company shall
11 also publish in some newspaper published in the city of
12 Bangor, Maine, within ten days after such plans shall be filed,
13 a statement that it has filed in the registry of deeds office plans
14 of the location of all lands so taken in such county. Said
15 company shall be held liable to pay all damages for the land
16 so taken, and if any person sustaining damages as aforesaid
17 shall not agree with the company upon the sum to be paid
18 therefor, either party on petition to the county commissioners
19 of the county where such land is situated may have the dam-
20 ages assessed for the taking of said land and subsequent pro-
21 ceedings and right of appeal thereupon shall be had in the
22 same manner and under the same conditions, restrictions and
23 limitations as are by law prescribed in the case of damages by
24 the laying out of highways.

Sect. 15. After said West Branch Driving and Reservoir
2 Dam Company shall have delivered the rear of any annual
3 drive of logs into Shad pond in manner aforesaid it shall
4 allow to flow out of North Twin dam at such times and at
5 such rates of discharge as the Penobscot Log Driving Com-
6 pany may request for the purpose of driving said logs to the
7 Penobscot boom or their several places of destination above
8 said boom, water equivalent to the amount of water held back
9 by said dam as now constructed when there is a thirteen
10 foot head at said dam measured from the bottom of the dam,
11 or so much thereof as shall be called for by said Penobscot
12 Log Driving Company for said purpose, and in determining
13 the quantity of water which the Penobscot Log Driving Com-
14 pany shall be entitled to request for driving purposes, the

15 two thousand cubic feet per second specified in section ten
16 shall be considered a part thereof at such times and at such
17 times only as water is being allowed to flow from said dam
18 at the instance and request of the Penobscot Log Driving
19 Company.

If before the rear of the drive shall be delivered in Shad
21 pond in manner aforesaid in any year, a jam shall occur in the
22 west branch below Shad pond and the Penobscot Log Driving
23 Company or its agent shall notify the West Branch Driving
24 and Reservoir Dam Company to stop turning logs out of
25 Quakish lake, said company shall stop turning logs out of
26 said lake until otherwise notified and the time of getting the
27 rear into Shad pond in manner aforesaid that year may be
28 postponed by the West Branch Driving and Reservoir Dam
29 Company by as much time as the said company was prevented
30 from turning logs out of Quakish lake as aforesaid.

Sect. 16. 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 purpose 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. Any
7 corporator may be represented at said first meeting by proxy.

Sect. 17. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, March 12, 1903.

Reported by Mr. BURLEIGH from Committee on Interior Waters,
and laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.