

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

SENATE

NO. 33

In Senate, Feb. 1, 1923.

On motion by Mr. Smith of Somerset, the bill was laid on the table pending reference to Committee on Judiciary and 1000 copies ordered printed.

L. ERNEST THORNTON, Secretary.

Presented by Senator Smith of Somerset.

STATE OF MAINE

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

AN ACT to Create the Kennebec Reservoir Company and
Define the Powers Thereof.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Philip T. Dodge, H. deForest Lockwood, Rudolph Pagenstecher, Waldo E. Pratt, Garret Schenck, W. E. Winchester and Walter S. Wyman, their associates, successors and assigns are hereby made a body corporate under the name of the Kennebec Reservoir Company, with all the rights, powers and privileges hereinafter named.

Sect. 2. Said corporation is authorized and empowered to fix the amount of its capital stock, and the classes thereof, and to increase the same from time to time.

Sect. 3. Said corporation is hereby authorized and empowered to build dams and other necessary works and structures on Dead river, at or near the head of Long Falls, near the southeasterly corner of township three in range four, in the county of Somerset, for the purposes of creating storage basins and reservoirs to retain and control the waters of Dead river and the tributaries thereof, thereby increasing and making more constant the flow of water in the Kennebec river, for use at all seasons of the year for manufacturing and power purposes on said Kennebec river and for facilitating the driving of logs and lumber on Dead river. And in order to facilitate the driving of logs and lumber down said Dead river without unnecessary waste of water, said corporation is authorized to build and maintain dams, side dams, sheer booms, remove rocks, make embankments and other improvements on said Dead river from the location of its reservoir dams to its union with the Kennebec river.

Sect. 4. Said corporation is authorized by means of its said works to hold, store and retain said waters in any reservoir or storage basin so created, and to discharge and release the same and control the volume and flow thereof for the uses and purposes and subject to the restrictions aforesaid. It may make such reasonable rules and regulations as may be deemed necessary for the most advantageous use thereof, and is authorized to contract with owners and users of water power benefited by said devel-

10 opment for defraying the cost thereof in any manner which
11 may be agreed upon.

Sect. 5. Said corporation is authorized and empowered,
2 when subscription to its capital stock at least of three hun-
3 dred thousand dollars have been made, to acquire by pur-
4 chase or otherwise, or to take and hold, as for public uses,
5 all dams, booms, piers, rafts and other property used or
6 useful in the driving or floating of logs or lumber, which
7 may at the time of such purchase or taking, be located in
8 or on any part of said Dead river, between the mouth of
9 Alder stream and the mouth of Dead river, belonging to
10 the Kennebec Log Driving Company or to any other cor-
11 poration authorized by law to drive on said section of Dead
12 river, including so much of the franchise or franchises as
13 relate to driving on said section, and such owner or owners
14 are authorized and empowered to sell the same to it; pro-
15 vided, however, that the acquisition of such franchise or
16 franchises shall not impose any duties or burdens, or create
17 any conditions, limitations or restrictions inconsistent with
18 the franchises, rights and privileges elsewhere in this act
19 conferred upon this corporation. All proceedings in rela-
20 tion to said taking and the assessment of damages therefor
21 shall be as provided in chapter sixty-one, sections twelve
22 to twenty-one, both inclusive, of the revised statutes; pro-
23 vided, that the legality of such taking shall not be affected
24 by any omission of this corporation to include in its notice
25 of taking mention of any specific item or items of prop-

26 erty, or of any such log driving corporation owner, unless
27 it be shown that such omission was made with fraudulent
28 intent. Subject to the last preceding exception, any notice
29 of taking filed as provided by law, unless otherwise ex-
30 pressly stated, shall be deemed to be notice of taking all
31 that this corporation is authorized by this section to take,
32 and all persons and corporations affected thereby shall have
33 the same rights and be subject to the same duties as though
34 they and the property so affected were fully described, and
35 may be heard and enforce their rights accordingly.

Sect. 6. From and after the time when this corporation
2 shall have acquired by purchase or otherwise, as provided
3 in section five of this act, the properties and franchises
4 therein mentioned, it shall drive all logs and lumber that
5 may be in said Dead river below the mouth of said Alder
6 stream which flows into the North branch, landing them
7 in Kennebec river, or against any drive that may then be
8 passing through or held in Kennebec river at that point,
9 or behind booms and piers across, and near the mouth of
10 Dead river; at either of which places they are to be taken
11 up by the owners, or others having authority to receive
12 them, without further obligation on the part of said Ken-
13 nebec Reservoir Company; provided, that the Kennebec
14 Log Driving Company shall be given written notice before
15 the logs are turned over this corporation's reservoir dam,
16 and they shall not be so turned over against said Kennebec
17 Log Driving Company's written protest that they cannot
18 then be safely discharged.

Sect. 7. This corporation shall not be required to make
2 more than two drives in any one year. They shall be
3 prosecuted with due diligence, and shall start from the
4 mouth of Alder stream as soon as all logs intended for
5 it shall arrive there, but not later as to the first drive than
6 June fifteenth annually. All persons and corporations hav-
7 ing logs or lumber for a second drive shall give this cor-
8 poration written notice thereof, stating their location, and
9 approximate quantity, not later than the first day of Au-
10 gust; and this corporation shall give such persons and cor-
11 porations written notice, not less than two weeks in ad-
12 vance, of the earliest date when said second drive will be
13 started from the point most remote from the Kennebec
14 river where logs or lumber are to be received. It shall not
15 be under obligations to drive from said starting point any
16 logs which shall not be there when the rear of the respec-
17 tive drive shall be started as aforesaid, nor to drive the
18 same season any logs which shall not be delivered to it
19 before the rear of the last drive of that season shall pass
20 the point of attempted delivery. It shall not be required
21 to make a second drive in any season unless it receive no-
22 tice, as aforesaid, of not less than one million feet. It shall
23 not be responsible for the safety of any logs or lumber
24 placed in said river or reservoir in any year after the sec-
25 ond drive has passed, nor after the first drive has passed
26 when no second drive is made.

Sect. 8. This corporation shall be entitled to receive for
2 driving logs and lumber under the next preceding section
3 or through rights otherwise acquired under the provisions
4 of this act reasonable tolls which shall be fixed in the man-
5 ner hereinafter provided. Not less than ninety days before
6 it shall start its first drive it shall file with the board of
7 county commissioners of the county of Somerset a com-
8 plete schedule of tolls, rules and regulations governing such
9 service, which shall be at all times open for inspection and
10 shall constitute the lawful tolls, rules and regulations until
11 changed in any manner provided herein. This corporation
12 may alter, amend or enlarge the same by filing in like man-
13 ner, new or amended schedules and mailing copies thereof
14 to all persons and corporations who had said service the
15 preceding season, if any, all not less than ninety days be-
16 fore the next succeeding drive is to start. Any party in
17 interest may petition said county commissioners for an
18 amendment or alteration of said rates, and said commis-
19 sioners shall forthwith order a hearing upon such notice
20 as they deem reasonable and upon such hearing shall de-
21 termine whether the existing rates, rules and regulations
22 are reasonable, and if not, fix reasonable rates, rules or
23 regulations in lieu thereof, which shall not be changed with-
24 in two years thereafter without the consent of said com-
25 missioners after notice and public hearing. They may make
26 any order retroactive as to a drive started after notice of
27 the proposed change has been given or petition for reduc-

28 tion filed, and log owners shall be entitled to refund of any
29 amounts paid in excess of new rates so established and made
30 retroactive.

All such tolls shall be payable when the logs or lumber
2 reach the destination to which this corporation is to drive
3 them, and said corporation shall have a lien on them for
4 said tolls enforceable by attachment within three months
5 after they reach their destination for manufacture or sale.

Sect. 9. Charges for driving logs and lumber, as afore-
2 said, shall be due and payable when the drive to be made
3 by this corporation is completed; and said corporation shall
4 have a lien on all such logs and lumber which it shall drive
5 for the driving of the same as provided in this act, which
6 lien shall have precedence of all other claims except liens
7 reserved to the state and laborer's liens, shall continue for
8 three months after the logs or lumber shall arrive at the
9 place of destination for manufacture or sale, and may be
10 enforced by attachment.

Sect. 10. The owners of logs or lumber to be driven by
2 this corporation shall, on or before the first day of May
3 in that year, file with the clerk of this corporation a cor-
4 rect statement in writing, signed by a sworn surveyor, of
5 all such logs and lumber of the number of feet, full scale,
6 with the mark or marks thereon, together with the place
7 from which the logs are to be driven and their destination.
8 This corporation may adopt such statements as correct for
9 the purpose of ascertaining the amount of tolls to which

10 it is entitled, or cause the same to be scaled. It may esti-
11 mate in any convenient manner the quantity of logs put
12 into the drive by any owner without having filed such state-
13 ment, or scale the same, and such estimate or scale shall
14 be conclusive upon the owner.

Logs or lumber found within the limits of this corpora-
2 tion without some distinguishing mark designating the owner
3 or owners thereof, shall be the property of this corporation
4 and may be sold by it; provided, however, that any person
5 may claim any logs or other lumber which he may have
6 put into said limits without such mark of ownership, or the
7 proceeds, if the same has been sold, within one year after
8 the date of sale, and be entitled to receive the same upon
9 satisfactory proof of ownership. Net proceeds of such sales
10 of logs or other lumber not so reclaimed and returned shall
11 be distributed among the owners whose logs and lumber
12 were driven during the year of such taking, in proportion
13 to the total tolls paid by them.

Sect. 11. This corporation is authorized and empowered
2 to acquire by purchase from other corporations which are
3 authorized to drive logs or lumber on any tributaries of
4 Dead river, or on any body of water flowing into such trib-
5 utaries, or on the Kennebec river, and such corporations
6 are authorized and empowered to sell and convey to it,
7 any part or all of their respective properties and franchises
8 for log-driving purposes; and to contract with such cor-
9 porations concerning their respective duties as log-driving

10 companies; and to erect and maintain dams, piers, booms
11 and other structures on any of said tributaries and impound
12 water thereby for facilitating the driving of logs or lum-
13 ber upon such tributaries or waters tributary thereto; and
14 may take and hold as for public uses lands and materials
15 for the location and construction of dams, piers, booms
16 and other structures as aforesaid, said taking and the as-
17 sessment of damages therefor to be as provided in said
18 chapter sixty-one, sections twelve to twenty-one, revised
19 statutes. Provided, however, that no acquisition of the
20 franchises of another corporation and merger thereof with
21 the franchise of this corporation in any manner under this
22 or any other section of this act, shall be deemed to qualify
23 or restrict any franchise or other right which this corpo-
24 ration otherwise acquires through this charter or from any
25 other source, but shall be deemed to be additional thereto.

Sect. 12. Said corporation is authorized to acquire by
2 purchase, lease or otherwise such lands, properties and
3 rights, including any state, public or reserved lots, as it
4 may require; and when subscriptions to the capital stock
5 thereof to an amount of at least three hundred thousand
6 dollars have been made, it is authorized and empowered to
7 take and hold as for public uses, such lands, properties and
8 rights, including state, public and reserved lots, or parts
9 thereof, as it may require for any of the aforesaid uses
10 and purposes, and such material as may be needed for
11 erecting and maintaining any of its dams and works, and

12 all proceedings in relation to said taking and the assess-
13 ment of damages therefor shall be as provided in said chap-
14 ter sixty-one, sections twelve to twenty-one, both inclusive,
15 of the revised statutes. Said corporation is also authorized
16 and empowered, when subscriptions of the aforesaid amount
17 shall have been made to its capital stock, to flow such
18 lands as may be necessary to carry out the purposes of
19 this act, and the damages therefor and for flowage caused
20 or authorized under any other section of this act not other-
21 wise expressly provided unless arranged by mutual agree-
22 ment, shall be ascertained and determined in the manner
23 prescribed in chapter ninety-seven of the revised statutes;
24 and said corporation may also have the benefit of chapter
25 one hundred ninety-six of the public laws of nineteen hun-
26 dred and twenty-one.

Sect. 13. The state land agent, or such other person as
2 the governor and council may designate, is hereby author-
3 ized, empowered and ordered under their direction, to con-
4 vey to said corporation by appropriate deeds or instru-
5 ments, such state, public and reserved lots or any part or
6 portion of the same or interest therein as shall be deemed
7 by this corporation to be necessary or taken by it for any
8 of the purposes of this act. Said deeds or other instru-
9 ments shall contain a condition subsequent revesting in the
10 state the title to the property and rights conveyed if said
11 corporation fails to pay the purchase price therefor as de-
12 termined in manner hereinafter provided within one year

13 from the time so determined, and said land agent, or other
14 person designated by the governor and council, is hereby
15 authorized under their direction to agree upon the con-
16 sideration for the purchases and the damages for taking,
17 or flowing said lots or parts thereof. And in case the par-
18 ties are unable to agree upon said consideration or dam-
19 ages, the same are to be determined in the manner pro-
20 vided in section twelve of this act; and said land agent or
21 other person designated by the governor and council is au-
22 thorized to represent and act for the state in any proceed-
23 ings to fix the consideration and damages as herein pro-
24 vided.

Sect. 14. This corporation is empowered to authorize the
2 selectmen of any town, the assessors of any plantation or
3 organized township, and the selectmen of a town or as-
4 sessors of a plantation or organized township adjoining any
5 unorganized township, to take up from any existing ceme-
6 tery in such town, plantation or organized township, or
7 unorganized township respectively, which will be flowed by
8 any of its dams, the bodies and remains of all deceased
9 persons buried therein, and all headstones and markers at
10 the graves therein, and remove said bodies and remains to
11 a new cemetery to be selected by said selectmen or assessors
12 and there decently inter the same, and properly reset such
13 headstones and markers over such dead bodies and remains.
14 Such new cemeteries shall be located with due regard to
15 the convenience of all the inhabitants of the respective com-

16 munities in which they are located. Said selectmen and
17 assessors are in each case, within thirty days after being
18 so requested by this corporation, to select the place for a
19 new cemetery and fix the bounds thereof, and to proceed
20 with reasonable diligence to cause the removal of the bodies,
21 remains, headstones and markers, as aforesaid. If they
22 fail so to do this corporation is authorized and empowered
23 to make such selection or selections and cause such re-
24 movals to be made. All of the expenses incurred in pro-
25 curing the lands necessary for such cemeteries, in clearing
26 and fitting the ground and fencing the same, and in the
27 taking up and removal of all of the remains of all deceased
28 persons, and in the removal of said headstones and mark-
29 ers, and the interment of said remains and resetting of said
30 headstones and markers shall be paid for by this corpo-
31 ration.

No claim shall be made against this corporation for not
2 complying with the terms herein set out unless the same
3 is made within sixty days after this corporation gives said
4 selectmen or assessors written notice that it has performed
5 its duties under this section. And nothing herein contained
6 shall be construed to limit or qualify the rights of flowage
7 conferred upon this corporation by any provision of this
8 act or which it may possess under any law of the state.

Sect. 15. Said corporation is authorized and empowered
2 to purchase, hold and sell its own stock in accordance with
3 the provisions relating thereto, which shall be provided for

4 in the by-laws, but it shall not purchase or hold said stock
5 except for the purpose of re-sale, or for a longer period
6 of time than one year; provided that said corporation may
7 retire any part or any class of its capital stock or substi-
8 tute another class therefor in any manner provided in its
9 by-laws and not inconsistent with the laws of the state.

Sect. 16. Said corporation may from time to time bor-
2 row money for any lawful purpose and may issue bonds
3 or debentures on such terms as the stockholders may de-
4 termine, and may pledge or mortgage all the property, fran-
5 chises or income of the corporation or any part thereof for
6 the payment of the sums so borrowed and interest thereon.

Sect. 17. The state of Maine reserves the right to acquire
2 by proper legislation and by such agencies as it may pro-
3 vide for the purpose the whole or any part of the fran-
4 chises and rights hereby granted, and the whole or any part
5 of the structures erected by authority of this act upon the
6 payment of just compensation; but such compensation shall
7 not include the value of the franchises granted by this act,
8 and shall not exceed the cost of the property and fran-
9 chises so taken, and just compensation for damages by sev-
10 erance if less than the whole is so taken; provided, that
11 said right shall not be exercised within fifty (50) years
12 from the date of approval of this act without the consent
13 of said corporation, its successors or assigns.

Sect. 18. This corporation shall not generate, sell or dis-
2 tribute electricity in any manner, and shall not dispose of

3 its property or franchises to any corporation which has
4 authority so to do.

Sect. 19. The first meeting of this corporation shall be
2 called at Augusta by a notice signed by any two of the
3 corporators named in section one, setting forth the time,
4 place and purpose of the meeting. Such notice shall be
5 mailed to each of the corporators, postage paid, seven days
6 at least before the day of such meeting. Any corporator
7 may be represented at such meeting by proxy.

Meetings of the board of directors may be held, for any
2 purpose, within or without the state if the by-laws so
3 provide.