

MAINE STATE LEGISLATURE

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(NEW DRAFT)

EIGHTY-FIRST LEGISLATURE

SENATE

NO. 146

In Senate, February 23, 1923.

Read once, under suspension of the rules, and on motion by Senator Smith of Somerset laid on the table pending assignment of time of second reading and 500 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

2 to fix the amount of its capital stock, and the classes thereof
3 and to increase the same from time to time, not exceeding,
4 however, in the aggregate two million dollars.

Sect. 3. Said corporation is hereby authorized and em-
2 powered to build dams and other necessary works and
3 structures on Dead River, at or near the head of Long
4 Falls, near the southeasterly corner of township three in
5 range four, in the county of Somerset, for the purposes of
6 creating storage basins and reservoirs to retain and con-
7 trol the waters of Dead river and the tributaries thereof,
8 thereby increasing and making more constant the flow of
9 water in the Kennebec river, for use at all seasons of the
10 year for manufacturing and power purposes on said Ken-
11 nebec river and for facilitating the driving of logs and lum-
12 ber on Dead river. And in order to facilitate the driving
13 of logs and lumber down said Dead river without unneces-
14 sary waste of water, said corporation is authorized to build
15 and maintain dams, side dams, sheer booms, remove rocks,
16 make embankments and other improvements on said Dead
17 river from the location of its reservoir dams to its union
18 with the Kennebec river.

Sect. 4. Said corporation is authorized by means of its
2 said works to hold, store and retain said waters in any
3 reservoir or storage basin so created, and to discharge and
4 release the same and control the volume and flow thereof
5 for the uses and purposes and subject to the restrictions
6 aforesaid. It may make such reasonable rules and regula-

7 tions as may be deemed necessary for the most advantageous
8 use thereof, and is authorized to contract with owners and
9 users of water power benefited by said development for
10 defraying the cost thereof in any manner which may be
11 agreed upon.

Sect. 5. Said corporation is authorized and empowered,
2 when subscriptions 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, but not less than all, dams, booms, piers, rafts and other
6 property used or useful in the driving or floating of logs
7 or lumber, which may at the time of such purchase or tak-
8 ing, be located in or on any part of said Dead river, be-
9 tween the mouth of Alder stream and the mouth of Dead
10 river, together with the dam at the outlet of Big Spencer
11 Pond and such works and improvements in and on the out-
12 let stream from said outlet to Dead river, belonging to the
13 Kennebec Log Driving Company or to any other corpora-
14 tion authorized by law to drive on said section of Dead
15 river or on said outlet stream, including so much of the
16 franchise or franchises as relate to driving on said section
17 or on said outlet stream, and such owner or owners are
18 authorized and empowered to sell the same to it; provided,
19 however, that the acquisition of such franchise or franchises
20 shall not impose any duties or burdens, or create any con-
21 ditions, limitations or restrictions inconsistent with the
22 franchises, rights and privileges elsewhere in this act con-

23 ferred upon this corporation. All proceedings in relation
24 to said taking and the assessment of damages therefor shall
25 be as provided in chapter sixty-one, sections twelve to
26 twenty-one, both inclusive, of the revised statutes; pro-
27 vided, that the legality of such taking shall not be affected
28 by any omission of this corporation to include in its notice
29 of taking mention of any specific item or items of property,
30 or of any such log driving corporation owner, unless it be
31 shown that such omission was made with fraudulent in-
32 tent. Subject to the last preceding exception, any notice
33 of taking filed as provided by law, unless otherwise express-
34 ly stated, shall be deemed to be notice of taking all that this
35 corporation is authorized by this section to take, and all
36 persons and corporations affected thereby shall have the
37 same rights and be subject to the same duties as though
38 they and the property so affected were fully described, and
39 may be heard and enforce their rights accordingly.

The dams, booms, piers, rafts and other property, includ-
2 ing the dam at the outlet of Big Spencer Pond and works
3 and improvements in the outlet thereof, described in this
4 section as the property of the Kennebec Log Driving Com-
5 pany, are meant to include all of the works and facilities
6 within the territory described herein which were formerly
7 owned and used by the Dead River Log Driving Company
8 and are now owned, used or controlled by the Kennebec
9 Log Driving Company with all additions thereto made or
10 acquired by or under the latter company. If the Kennebec

11 Reservoir Company shall offer in writing to pay the Ken-
12 nebec Log Driving Company as full compensation for all
13 of said property, including so much of its franchise as is
14 mentioned in this section, forty thousand dollars, or a sum
15 equal to the amount of the Kennebec Log Driving Com-
16 pany's existing indebtedness on account of said property,
17 if the same be less than forty thousand dollars; and if such
18 offer is not accepted in writing within twenty days after
19 its receipt, said Kennebec Reservoir Company may, at its
20 option, take the whole or any part or parts of the same as
21 aforesaid, and may exercise and enjoy the franchises men-
22 tioned in the next section hereof to the exclusion of the
23 Dead River Log Driving Company and the Kennebec Log
24 Driving Company, paying them or either of them only for
25 so much of said property as it may elect to take as for pub-
26 lic uses as aforesaid, if any, and no more.

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, or the Kennebec Log Driving Company
5 shall have failed to accept a written offer therefor as pro-
6 vided in section five, as to so much as is described in the
7 last paragraph of said section five, and it has taken by pur-
8 chase or otherwise that belonging to others than the Ken-
9 nebec Log Driving Company and the Dead River Log Driv-
10 ing Company, it shall drive all logs and lumber that may
11 be in said Dead river below the mouth of said Alder stream

12 which flows into the North branch and all logs and lumber
13 which may be delivered to it at the dam at the foot of Big
14 Spencer Pond, or in said outlet stream below the dam, in-
15 cluding all area flowed by its dams as far as the same may
16 extend up the South branch of Dead river, landing them
17 in Kennebec river, or against any drive that may then be
18 passing through or held in Kennebec river at that point, or
19 behind booms and piers across, and near the mouth of Dead
20 river; at either of which places they are to be taken up by
21 the owners, or others having authority to receive them,
22 without further obligation on the part of said Kennebec
23 Reservoir Company; provided, that said logs and lumber
24 shall not be turned over this corporation's reservoir dam
25 against said Kennebec Log Driving Company's written pro-
26 test that they cannot then be safely discharged.

Sect. 7. This corporation shall be required to make one
2 drive per year. It shall be started from the mouth of Alder
3 stream not later than June first and from all other points
4 seasonably for delivery as a unit; and reasonable effort be
5 made to deliver it at the point where Dead river empties
6 into Kennebec river at The Forks to be taken up by the
7 Kennebec Log Driving Company before or at the time the
8 rear of the main Kennebec drive passes said point. It shall
9 not be required to drive from any starting point any logs
10 which shall not be there when the rear of its drive shall be
11 started from that point nor to drive the same season any

12 logs which shall not be delivered to it before the rear of
13 its drive passes the point of attempted delivery.

This corporation shall remove all growth on the area
2 flowed by it seasonably to prevent it from falling and being
3 carried away by the water. It shall keep the area at the
4 mouth of all tributaries flowing into its reservoir and Dead
5 river below reasonably clear for the entrance of logs and
6 lumber during the driving seasons, and shall boom logs and
7 lumber driven into it from said tributaries. Owners land-
8 ing logs or lumber within the flowed area shall deliver them
9 within drivable waters and boom the same. Drivable wa-
10 ters in this section shall be understood to mean water within
11 a contour line representing a twenty-five foot head on the
12 reservoir dam.

One or more persons, firms or corporations desiring to
2 drive not less than five thousand cords of logs or pulp-
3 wood after the aforesaid annual drive has been made by this
4 corporation may give notice thereof to this corporation in
5 writing. This corporation may elect, in writing within
6 twenty days, to make such drive itself, whereupon it shall
7 undertake and complete the same within the limits and sub-
8 ject to the regulations governing said annual drive, as far
9 as the same are applicable, and receive the same tolls there-
10 for, or, if it does not so elect, the owners may make the
11 drive at their own expense. This corporation shall make
12 reasonable effort to land any such extra drive or drives
13 driven by it in the Kennebec river, at The Forks, immedi-

14 ately after, and not before the regular drive of the Kenne-
15 bec Log Driving Company shall have passed over the dam
16 at Solon; and delivery by it to said Kennebec Log Driving
17 Company at The Forks, or behind booms or piers in the
18 mouth of Dead River shall terminate its responsibility. The
19 Kennebec Log Driving Company is not bound to accept
20 such drive unless delivered at The Forks within such limits
21 as to time.

This corporation shall be responsible for sufficient water
2 to make the regular and one such extra drive annually, if
3 so much shall have flowed into its reservoir during the cur-
4 rent year, and shall provide water for such additional drives
5 as may be made as aforesaid if it then has it.

Sect. 8. This corporation is authorized and empowered
2 to collect and receive tolls for driving logs and lumber with-
3 in the area aforesaid, and parts thereof, at the following
4 rates per thousand board feet, viz:

Between the mouth of Alder stream and the point of flow-
2 age caused by this corporation's dam located at Long Falls,
3 twenty-five (25) cents;

From the point of delivery within the flowage area as de-
2 fined in section seven, to The Forks, seventy-five (75) cents;

From said dam, or any point west of the mouth of Spencer
2 Stream, to The Forks, fifty (50) cents;

From the mouth of Spencer Stream, or any point west of
2 the mouth of Enchanted Stream, to The Forks, forty (40)
3 cents;

From the mouth of Enchanted Stream, or any point west
2 of the mouth of Salmon Stream, to The Forks, thirty (30)
3 cents;

From the mouth of Salmon Stream, or any point east, to
2 The Forks, ten (10) cents;

From the dam at the foot of Big Spencer Pond or any
2 point in the outlet stream to Dead River (in addition to the
3 aforesaid tolls for driving on Dead river) thirty (30) cents.

These tolls are to remain in force for a period of ten years,
2 and thereafter until revised in any manner provided
3 by the Legislature. The word "west" used in designating
4 direction in this section means the course from the mouth
5 of Dead river toward its sources, notwithstanding the actual
6 direction at any given point.

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 June
3 in that year, file with the clerk of this corporation a correct

4 statement in writing, signed by a sworn surveyor, of all
5 such logs and lumber intended for the regular annual drive,
6 of the number of feet, full scale, with the mark or marks
7 thereon, together with the place from which the logs are
8 to be driven and their destination. This corporation may
9 adopt such statements as correct for the purpose of ascer-
10 taining the amount of tolls to which it is entitled, or cause
11 the same to be scaled. If any owner fails to file such state-
12 ment, the corporation shall give such owner notice of its
13 intention to estimate in some convenient manner the quantity
14 of his logs or to scale the same and unless such owner files
15 such statement within seven days after receiving such no-
16 tice, the estimate or scale of the corporation shall be con-
17 clusive upon such owner.

Whenever this corporation elects to make any later drive
2 as provided in section seven, the foregoing provisions as
3 to filing statements, and the effect thereof, and of failure
4 to do so, shall be applicable thereto, except that the same
5 be filed on or before the date of starting the drive.

Sect. 11. This corporation is authorized and empowered
2 to acquire by purchase from other corporations and indi-
3 viduals who are authorized to drive logs or lumber on any
4 tributaries or on the Kennebec river, and such corporations
5 are authorized and empowered to sell and convey to it, any
6 part or all of their respective properties and franchises for
7 log-driving purposes; and to contract with such corpora-
8 tions and individuals concerning their respective duties as

9 log-driving companies. Provided, however, that no acqui-
10 sition of the franchises of another corporation and merger
11 thereof with the franchise of this corporation in any man-
12 ner under this or any other section of this act, shall be
13 deemed to qualify or restrict any franchise or other right
14 which this corporation otherwise acquires through this char-
15 ter or from any other source, but shall be deemed to be addi-
16 tional 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 may
4 require; and when subscriptions to the capital stock thereof
5 to an amount of at least three hundred thousand dollars
6 have been made, it is authorized and empowered to take
7 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 and
10 purposes, and such material as may be needed for erecting
11 and maintaining any of its dams and works, and all pro-
12 ceedings in relation to said taking and the assessment of
13 damages therefor shall be as provided in said chapter sixty-
14 one, sections twelve to twenty-one, both inclusive, of the
15 revised statutes. Said corporation is also authorized and
16 empowered, when subscriptions of the aforesaid amount
17 shall have been made to its capital stock, to flow such lands
18 as may be necessary to carry out the purposes of this act,
19 and the damages therefor and for flowage caused or au-

20 thorized under any other section of this act not otherwise
21 expressly provided unless arranged by mutual agreement,
22 shall be ascertained and determined in the manner pre-
23 scribed in chapter ninety-seven of the revised statutes; and
24 said corporation may also have the benefit of chapter one
25 hundred ninety-six of the public laws of nineteen hundred
26 and twenty-one. The provisions of this section shall not
27 be construed to authorize the taking of property or fran-
28 chises described in section eleven otherwise than by pur-
29 chase.

Provided, however, that this corporation shall not flow
2 out any part of the highway which leads from North New
3 Portland to Dead River and thence to Stratton until it shall
4 have constructed in place thereof, or of such parts as are
5 flowed, highways, or parts of highways connecting the
6 parts of the present highway not so flowed, reasonably safe
7 and convenient as follows: one leading from a point south
8 of the Ledge House, on said road from North New Port-
9 land, where the reservoir begins, to Stratton, passing east
10 of Bigelow Mountain; the other from the same point and
11 leading by the east side of the reservoir to a point near the
12 dam and thence on the dam or north thereof to the oppo-
13 site side of Dead river. This corporation may acquire by
14 purchase, or take as for public uses, lands and materials for
15 the location and construction of such highways, and all pro-
16 ceedings in relation to said taking and the assessment of
17 damages therefor shall be as hereinbefore provided for the

18 taking of lands and materials for other purposes. Such
19 highways shall be constructed to the approval of the county
20 commissioners of the counties in which they, or the re-
21 spective parts of them, are situated. This corporation shall
22 give written notice to the clerks of the boards of county
23 commissioners of Franklin and Somerset counties before
24 it proceeds to build such roads, and shall locate them as
25 directed by the joint action of said boards if it receives
26 such directions in writing within thirty days after the giv-
27 ing of its notice as aforesaid; otherwise, the corporation
28 shall fix the location. The roads so constructed shall be
29 and become public highways, and all rights therein and du-
30 ties and obligations in respect thereof shall be the same as
31 though said highways had been located, laid out and con-
32 structed in manner provided in the general laws of the state.
33 Such construction shall work a discontinuance of the roads
34 and parts of roads so flowed with the same effect as if dis-
35 continued in the manner provided by statute, and shall con-
36 stitute full settlement for all damages to the state or any
37 sub-division thereof for flowing said existing highway; pro-
38 vided, however, that this shall not be construed to release
39 this corporation from any legal liability to abutters for dam-
40 ages caused by such flowage or changed location.

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 instruments,

5 such state, public and reserved lots or any part or portion
6 of the same or interest therein as shall be deemed by this
7 corporation to be necessary or taken by it for any of the
8 purposes of this act. Said deeds or other instruments shall
9 contain a condition subsequent revesting in the state the
10 title to the property and rights conveyed if said corporation
11 fails to pay the purchase price therefor as determined in
12 manner hereinafter provided within one year from the time
13 so determined, and said land agent, or other person desig-
14 nated by the governor and council, is hereby authorized
15 under their direction to agree upon the consideration for
16 the purchases and damages for taking, or flowing said lots
17 or parts thereof. And in case the parties are unable to agree
18 upon said consideration or damages, the same are to be
19 determined in the manner provided in section twelve of
20 this act; and said land agent or other person designated by
21 the governor and council is authorized to represent and act
22 for the state in any proceedings to fix the consideration and
23 damages as herein provided.

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 un-
7 organized township respectively, which will be flowed by
8 any of its dams, the bodies and remains of all deceased per-

9 sons buried therein, and all headstones and markers at the
10 graves therein, and remove said bodies and remains to a
11 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 fail
22 to do so, this corporation is authorized and empowered to
23 make such selection or selections and cause such removals
24 to be made. All of the expenses incurred in procuring the
25 lands necessary for such cemeteries, in clearing and fitting
26 the ground and fencing the same, and in the taking up and
27 removal of all of the remains of all deceased persons, and
28 in the removal of said headstones and markers, and the in-
29 terment of said remains and resetting of said headstones
30 and markers shall be paid for by this corporation.

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 of
6 time than one year; provided that said corporation may
7 retire any part or any class of its capital stock or substitute
8 another class therefor in any manner provided in its by-laws
9 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 on
3 such terms as the stockholders may determine, secured by
4 pledge or mortgage of all the property, franchises, and in-
5 come of the corporation or any part thereof for the pay-
6 ment of the sums so borrowed and interest thereon; pro-
7 vided, that the total amount of bonds outstanding shall at
8 no time exceed twice the amount of capital stock paid in in
9 cash.

Sect. 17. The State of Maine reserves the right to ac-
2 quire by proper legislation and by such agencies as it may
3 provide 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 franchises
9 so taken, and just compensation for damages by severance
10 if less than the whole is so taken; provided, that said right
11 shall not be exercised within fifty (50) years from the date
12 of approval of this act without the consent of said corpora-
13 tion, 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 au-
4 thority to do so.

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