

# MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL

ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FOURTEENTH LEGISLATURE,

At its Session, held in January, 1834.

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PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

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AUGUSTA :

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1834.

town of Livermore and invested with all the powers, privileges and immunities and subject to all the duties and liabilities to which other inhabitants of said town of Livermore are subject.

CHAPTER 489.

AN ACT to incorporate the Kennebec Dam Company.

Approved March 7, 1834.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That Allen Lambard, Daniel Williams, James Bridge, James L. Child, Asa Redington Jr., Rufus C. Vose, Luther Severance, Mark Nason, William H. Kittredge, William A. Brooks, George W. Morton, Edward Williams, Roscoe G. Greene, Edmund T. Bridge, William Bridge, Elias Craig Jr., Lot Myrick, Alfred Redington, William Dewey, Henry R. Smith, Henry Williams, George W. Perkins Jr., William L. Wheeler, Horatio Bridge, Greenlief White, James W. Bradbury, Joseph G. Moody, William Lambard, Charles Keene, and John Pope, their associates, successors, and assigns, be, and they hereby are, incorporated into a body politic by the name of the Kennebec Dam Company, and by that name may prosecute and defend suits at law and equity ; have and use a common seal; make and establish by-laws, rules and regulations, not repugnant to the laws of the State, for the management of their concerns ; choose all necessary officers ; and have, exercise and enjoy all the rights, privileges and immunities, pertaining to companies legally incorporated.

Persons incorporated.

Powers, privileges, &c.

First meeting—how called.

SECT. 2. *Be it further enacted,* That any three of the five persons first above named may call the first meeting of the corporation, by publishing the time and place thereof seven days previously in the Kennebec Journal, at which meeting a President, Treasurer, Directors and other officers may be chosen, by-laws adopted and any other

corporation business transacted. Said officers to hold their offices until the first Monday of January next and until others are chosen in their room.

SECT. 3. *Be it further enacted*, That in all elections and in acting on any subject, at said first meeting and all subsequent meetings, the decision shall be had by a majority of the votes actually given. And each share in the stock shall be entitled to one vote: *Provided*, That no stockholder shall be entitled to more than fifty votes. And any stockholder may vote by proxy, authorized in writing. But no vote shall be given by any stockholder, upon whose share or shares any instalment or arrearages shall have been due and unpaid more than thirty days previous to the meeting.

Elections and votes, how decided.

Proviso.

SECT. 4. *Be it further enacted*, That the Capital Stock of said corporation shall consist of Three Hundred Thousand Dollars, divided into Three Thousand Shares of One Hundred Dollars each. And said company shall prepare a book for subscriptions thereto, in form following, viz :

Capital Stock—amount and how divided.

We whose names are hereunto subscribed, severally promise to pay the Kennebec Dam Company, the sum of Ninety Nine Dollars for every share of stock set against our respective names, in such manner and proportions, and at such times, as the Directors thereof shall order, pursuant to an Act entitled An Act to incorporate the Kennebec Dam Company.

DATE.	STOCKHOLDERS' NAMES.	NO. OF SHARES.
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SECT. 5. *Be it further enacted*, That said corporators, having subscribed for such portion of the stock as they may wish to retain, not in the whole exceeding one third part thereof, shall, within thirty days from the passing of this Act, cause said book to be opened and kept at the Citizens' Bank for any person or persons to subscribe thereto, until the first day of June next, or until two thirds of said Stock, in the whole, shall have been taken up. And that portion of the Stock, if any, which shall not have been subscribed for on said first day of June may afterwards be subscribed for by the persons named in the first section of this Act, each one his equal part thereof, *Provided*, he shall so subscribe therefor before the annual meeting in January next. And each corporator and other

Corporators to subscribe for no more than one third and books to be open for subscriptions till 1st June.

Disposition of Stock not subscribed for.

person shall, on subscribing therefor, pay to said Treasurer one dollar upon each share so taken, for the use of the whole company.

SECT. 6. *Be it further enacted,* That each stockholder shall be entitled to receive a certificate of his Stock, signed by the President, and countersigned by the Treasurer, and sealed with the common seal. And he may assign said stock, or any part thereof, by himself or his attorney, upon surrendering the certificate thereof and entering said assignment upon the transfer book of the company. But all transfers of shares shall be subject to the payment of all sums, balances or arrearages due or to become due thereon. And every such assignee shall become a member of said company, subject to all the penalties and forfeitures, and of being sued for all the balance and penalty due or to become due on each share, in the same manner as the original subscriber would have been.

Stockholders to receive certificates of Stock.

How assigned.

Assignees liable to penalties and forfeitures as original subscribers.

Annual and special meetings.

SECT. 7. *Be it further enacted,* That the stockholders shall meet annually on the first Monday of January at such hour and place as shall be prescribed by the by-laws, at which meeting the President, Treasurer, Directors and other officers of the company shall be chosen, who shall hold their offices for one year and till others are chosen and qualified in their room, and any other corporation business may be transacted. The by-laws shall prescribe the mode of calling special meetings. At any annual meeting, or at any special meeting, wherein one half at least of the stock actually subscribed for shall be represented, the company may make, alter or annul any of their by-laws, rules or regulations.

When corporation may commence operations.

SECT. 8. *Be it further enacted,* That as soon as six hundred or more of the shares shall have been subscribed for as aforesaid, it shall be lawful for said company to proceed in the operations hereinafter mentioned.

Company may build a dam across Kennebec river.

SECT. 9. *Be it further enacted,* That said company be, and they hereby are, authorized to build, maintain, keep up, repair and rebuild a dam across the Kennebec River in Augusta at or within forty rods of a small island, which is

about half a mile above the Kennebec Bridge, (not to exceed in height fifteen feet above common high-water mark,) for the purpose of raising a head of water for propelling factories and for other purposes. And said company are authorized by means of said dam to flow the water as aforesaid, and the same to draw, use, occupy, sell or lease in whole, or in part, either upon said dam or in canals, basins or collateral sluices made therefor.

SECT. 10. *Be it further enacted*, That it shall be the duty of said Corporation to insert and constantly keep and maintain in said dam a lock or locks for the passage of boats, rafts, steam boats and river craft, each of which locks to be not less than twenty-eight feet in width in the clear, and of such length as to receive and accommodate boats or rafts of one hundred feet in length, and of such depth as that boats or steam boats, or vessels which might have ascended or descended the river before the erection of said dam, may at all times enter the lock from below, and of such height and structure as to afford a safe and easy entrance, passage and departure of boats, rafts, steam boats and river craft, into, through and from said lock or locks, and said Company shall cause said lock or locks, to be constantly attended by a sufficient number of capable and faithful persons, whose duty it shall be at all times promptly and diligently, carefully and faithfully to tend said lock or locks and aid in transmitting through the same all boats, rafts, steam boats and river craft having occasion to pass : *Provided*, That neither said Company, nor the person or person so employed shall demand or receive any compensation for the services aforesaid—and said company shall forfeit and pay a penalty of Twenty Five Dollars for each and every day they shall neglect to cause said lock to be attended as aforesaid, if the natural state of the river would permit the passage of boats, rafts, steam boats and river craft.

Corporation to construct locks for passage of boats, &c. free of toll—provide attendance at said locks, &c.

Proviso.

SECT. 11. *Be it further enacted*, That said Corporation, shall erect and maintain as far as possible, within two hun-

Corporation to erect piers, bulk heads, &c.

dred rods above or below said dam, such piers, bulk-heads, abutments, side-booms, temporary dams or other structures as may be necessary and suitable for the protection of said dam, locks and other works of said Company, and for creating such eddies and slack-water pools, as may be necessary for the safe and easy guidance into and from said locks, of boats, rafts, steam boats and river craft. *Provided*, That such piers, bulk-heads, abutments, side-booms or other structure shall not impede the free passage of logs or other lumber floated down and designed by the owners thereof to pass over the dam. And it shall be the duty of said Corporation to construct and maintain from the twentieth of April to the twentieth of July in each year, a good and sufficient passage way up, through, or over said dam, and at the most suitable part of the same, so as to render the passage of salmon, shad and alewives, practicable and easy, so that the same may go up the said river into the fresh water ponds, streams and other waters connected with the Kennebec river above said dam.

Proviso.

Corporation to provide passage way for passage of salmon and other fish.

Corporation may hold real and personal estate.

SECT. 12. *Be it further enacted*, That for the purposes of this Act, said Corporation are authorized to purchase, have, hold and enjoy in fee simple or any less estate, lands, tenements and estates, real, personal or mixed, to an amount not exceeding Three Hundred Thousand Dollars, as provided for in the fourth section ; and the same or any part thereof to sell, lease or convey at pleasure.

Company may enter upon and occupy necessary land, on paying compensation.

SECT. 13. *Be it further enacted*, That it shall be lawful for said Company to enter upon and occupy such land as may be necessary for the erecting, repairing, and maintaining said dam, with the slope and fishway thereof, together with the locks and canals necessary for the navigation of the river, and also such piers and other obstructions as may be necessary for the protection of said works and for the safety and ease of the boating and rafting business. And for the injury, arising therefrom to the owner of the land, a just compensation shall be paid by said Company.

SECT. 14. *Be it further enacted*, That said lock or locks shall be completed and fitted for use before the main dam

shall be extended more than half way across the river. And said dam shall be so constructed, that a space of at least sixty feet thereof, shall be at least twelve inches lower than any other part of said dam and of smooth surface, with a slope therefrom of the same width, to be made and kept in repair by said Company, and to extend down the river with such inclination, length, and of such construction as shall facilitate the passage of rafts, logs and other lumber, in the most safe and convenient manner.

Dam to be so constructed as to admit the passage of lumber.

SECT. 15. *Be it further enacted,* That after said lock or locks, slope and fishway shall have been completed, if there shall be any unreasonable delay or neglect to keep the same in good repair, or in attending to open and shut the gates of said locks and render the necessary aid in getting boats, rafts and steam boats and river craft through the same, said Company shall be liable to pay all damages to the person or persons injured thereby ; to be recovered by action of the case before any Court of competent jurisdiction.

Company liable for damages in cases of unnecessary delay in opening locks.

SECT. 16. *Be it further enacted,* That unless said dam, lock or locks, fishway and slope shall be completed and fitted for use within five years from the passing of this Act, all the powers herein granted to said Company shall be rescinded and held void.

Limitation of this act.

SECT. 17. *Be it further enacted,* That if any person or persons shall sustain any injury by means of the erection of said dam, either by the overflowing of his or their lands, or by the throwing back the water of the river upon his or their mills, machinery or water works, whether the same be erected upon said river or upon any tributary stream thereof, he or they shall be entitled to receive of said Corporation the just damages therefor.

Corporation liable for damages by flowing, &c.

SECT. 18. *Be it further enacted,* That whenever any person or persons, entitled to compensation or damages pursuant to the thirteenth or seventeenth section of this Act, shall not be able to agree with said Company upon the amount thereof, he or they, may, by petition, apply to the Supreme Judicial Court, or Court of Common Pleas for the County of Kennebec for remedy. And said Court shall

Proceedings in case of disagreement as to damages.



When title is denied Court may order issue to be tried.

order suitable notice to be given to said Company of the pendency of said petition. And if said Company shall in their plea deny the complainant's title to the said lands, mills, machinery or other water works alleged to have been injured by means of said dam, or shall claim a right to flow without payment of damages, or for an agreed composition, the Court, if issue be joined thereon, shall order a trial at the bar of the Court.

Appraisers of damages to be appointed and proceedings thereon.

SECT. 19. *Be it further enacted,* That, if the said Company shall not shew sufficient cause, the said Court may appoint three or more disinterested freeholders to make true and faithful appraisement of the damages already sustained, as well as of those to be yearly sustained by said complainant or complainants. And the report of said Commissioners shall, under the direction of the Court, be given in evidence to the Jury, which shall, at the request of either party, be empanelled to try such cause, subject however to be impeached by evidence from either party. And judgment having been rendered upon the verdict of said jury, or upon said report of the Commissioners, (if no such jury trial has been requested,) the same shall be a bar to any action brought for such damages.

Verdict to be the measure of yearly damages until, &c.

SECT. 20. *Be it further enacted,* That such verdict or report and judgment thereon shall be the measure of yearly damages, until either of the parties shall, on a new complaint and by the same form of process, obtain an increase or decrease thereof. And the party prevailing upon any original or subsequent complaint as aforesaid, whether by complainant's failure to prosecute, or on final decision, shall be allowed reasonable expenses and costs, to be taxed by the Court.

Proceedings when complaint is made that Company have failed to comply with the conditions of their charter.

SECT. 21. *Be it further enacted,* That whenever any three or more persons shall make complaint in writing to the Supreme Judicial Court, or Court of Common Pleas for the County of Kennebec, alleging that the said Company, in the construction of the lock or locks, or of the slope and fishway, eddies or slack water pools, have failed to conform to the conditions of this Act, it shall be the duty

of the Court to appoint three or five disinterested freeholders, who, after due notice given, shall examine the premises and hear the parties and their witnesses, and thereupon adjudicate upon said complaint. And if they find the same to have been unfounded, they shall award reasonable costs to said Company against said complainants; but, if well founded, they shall award like costs to the complainants, and shall in writing prescribe the improvement necessary to be made in said lock, locks, slope or fish ways, eddies or slack water pools, and the time in which the same shall be finished.

SECT. 22. *Be it further enacted,* That if the corporation shall not cause said prescribed improvement to be made and finished, within the time allowed therefor, the said commissioners shall enter into contracts therefor and cause the same to be made and finished. And for all the expense thereof, with reasonable compensation to said Commissioners and all other costs, the said Court shall issue an execution or warrant of distress against said Company.

If prescribed improvements are not made until time allowed they may be made by Commissioners at expense of corporation.

SECT. 23. *Be it further enacted,* That for the payment of any execution or warrant of distress, which may be obtained as aforesaid, against said corporation, each stockholder shall be liable to an amount not exceeding the original cost of his stock, as established in the fourth section of this Act, held by him at the time of the issuing of said execution, for which such precept shall have been obtained. And if there cannot be found property of said corporation upon which to levy said execution in whole or in part, it shall be lawful for the officer having such precept for service to levy what may remain unsatisfied upon the goods and estate of any stockholder or stockholders not exceeding the amount of his stock as aforesaid, in the same manner as if such precept had been originally issued directly against such stockholder or stockholders.

Stockholders personally liable to the extent of their subscription.

SECT. 24. *Be it further enacted,* That, if any person shall wilfully open or shut any gate of any lock, or drive any nails, spikes, pins or wedges into any such gate or any fixture thereof; or throw any rocks, earth or other heavy

Penalty for obstructing locks, &c.

substance, or bring any drift stuff, lumber or other obstacle against such gate, or into such lock, or fish way, or the vicinity thereof, whereby the free use of said gate, lock or fish way shall be prevented, or whereby any boat, raft, steam boat or river craft shall be precluded from freely and safely approaching, entering, passing and retiring from said lock; he shall, on conviction thereof, before the Court of Common Pleas or the Supreme Judicial Court, for every such offence forfeit a penalty not exceeding one hundred dollars, or suffer imprisonment not exceeding six months.

Penalty for boats, river craft, &c. causing unnecessary delay.

SECT. 25. *Be it further enacted,* That if any person, having the care of any boat, raft, steam boat or river craft or other floating article, shall willingly practice any unnecessary delay in approaching, entering, passing or departing from said lock and the vicinity thereof, or shall unnecessarily moor or fasten any of said boats, rafts, steam boats, river craft or other articles in the immediate vicinity of said lock, whereby the suitable movements of any other boats, rafts, steam boats, river craft or other floating articles, shall be prevented or retarded, he shall for every such offence forfeit and pay a penalty not exceeding ten dollars for each and every hour of delay so occasioned.

Penalty for taking fish in vicinity of dam.

SECT. 26. *Be it further enacted,* That if said Company, or any person, shall at any time take any fish, called salmon, shad or alewives, within the distance of one hundred rods above or below said dam, slope, fish way, or lock, he shall for every such salmon, he or they shall take, forfeit five dollars, for each shad so taken three dollars, and for every such alewife so taken one dollar, to be recovered by an action of debt in the name of the complainant, before any Justice of the Peace in the County of Kennebec, and for the use of such complainant.

Forfeitures and penalties how recovered.

SECT. 27. *Be it further enacted,* That all penalties arising under this Act may be recovered with costs by indictment before the Court of Common Pleas or the Supreme Judicial Court for the County of Kennebec, to the use of the State.

SECT. 28. *Be it further enacted,* That if any person

shall wilfully tear down, cut or break away, or in any manner deface or injure the said dam or any lock or gate thereof, or any canal, basin, sluice, pier, bulk-head, abutment, side-boom, temporary dam or other structure, erected in virtue of this Act, he shall on conviction thereof before the Supreme Judicial Court or Court of Common Pleas, forfeit and pay a penalty, to the use of the State, of not more than five thousand dollars for every such offence, or suffer imprisonment, not exceeding twelve months, at the discretion of said Court; and be also liable to pay to said Company double damages therefor, to be recovered by an action of trespass in any Court of competent jurisdiction.

Penalty for tearing down or injuring dam, locks, gates, &c

SECT. 29. *Be it further enacted,* That this Act shall at all times hereafter, be liable to be amended, altered, or repealed at the pleasure of the Legislature.

Powers granted liable to be amended, &c.

SECT. 30. *Be it further enacted,* That in case said company after proceeding to any extent in obstructing the regular passage of the water in said river for the purpose of erecting said dam, shall then neglect or abandon the same, they shall be holden to remove such obstruction, and be liable for all loss or damage that may be sustained by any boat, raft, steam boat, river craft or vessel in consequence thereof.

Corporation to remove obstruction in case of abandoning works partially finished and liable for damages.

## CHAPTER 490.

AN ACT to establish the Sagadahock Ferry Company.

Approved March 7, 1834.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That John Purshey, William M. Rogers, Nathaniel Weld, Asa Palmer, Oliver Moses, Peter Knight, George Ricker, Edward Hodgkins, William V. Moses, Richard Nutter, Jonathan Hyde, with their associates and successors, be, and hereby are created a body politic and corporate, by the name of the Sagadahock Ferry Company, with power by that name to sue

Persons incorporated.