

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1853.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
Feb. 26, 1840, and March 16, 1842.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1853.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1853.

An act to incorporate the Big Machias Dam Company.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Corporators.

SECT. 1. C. S. Clark, D. W. Bradley, G. L. Boynton, E. S. Coe, John Winn, William H. McCrillis, Isaac Farrar, G. K. Jewett, Leonard March, and John T. K. Hayward, their associates, successors and assigns, are hereby created a body politic by the name of the Big Machias Dam Company, with all the powers and privileges of similar corporations.

Corporate name.

Dam, construction and location of.

Objects of corporation.

Toll.

Committee to fix toll.

Decision to be filed with secretary of state.

Lien for payment of toll.

Seizure of logs, &c., for payment of toll.

Logs, &c., seized, to become property of corporation.

SECT. 2. Said corporation is hereby authorized to construct and to maintain a dam, with a gate or gates, on township numbered twelve, in the eighth range of townships west from the east line of the state, on the Big Machias river, so as to flow said river and the Big Machias lake, and the streams contiguous thereto, for the purpose of facilitating the driving of lumber.

SECT. 3. Said corporation shall have the right to exact and collect a toll upon all lumber which shall pass through or over their said dam; and Isaac W. Tabor, Ira Fish and Leonard Jones, are made and constituted a committee to decide upon and fix a rate of toll upon all lumber which shall pass over or through said dam, which decision shall be made and filed in the office of the secretary of state, on or before the first day of January, eighteen hundred and fifty-four, and the rate of toll so fixed by said committee shall be the toll upon all lumber which shall pass over or through said dam. And they shall have a lien on all such logs and lumber as security for such toll; said lien shall continue on said logs or lumber, and on all lumber manufactured therefrom, whether the same remain in the possession of said corporation or not, until the amount of toll due on all the logs or lumber of the same mark and lot shall be paid; and if the toll due upon the logs or lumber of any particular mark or lot shall not be paid or secured to the satisfaction of said corporation, directly after such logs or lumber shall have passed through or over said dam, then said corporation shall have the right to seize so many or so much of the logs or lumber of such mark or lot as may be sufficient in value to pay said toll and all incidental charges, not in any case, however, to exceed one-tenth part of such mark or lot, and to mark the same, in a conspicuous manner, with the private mark of the corporation; and such seizure and marking shall operate as a lawful conversion by said corporation of the property in the logs or lumber so seized and marked, and the same shall thereby become the property of said corporation to all intents and pur-

poses. And the logs so seized and marked shall be driven with the rest of the logs or lumber of the same lot and mark, in the same manner as though they had not been thus seized and marked, to their place of destination, previous to being rafted for sale or manufacture; and they shall revert to and become the property of the original owner or his assigns, in case he or they shall pay to said corporation the amount due for toll on said lot or mark of logs, with all incidental charges, within thirty days after the arrival of the main body of said lot or mark at such place of destination. And said corporation shall have the right to demand and recover from the owner or owners of any lot of logs or lumber, at the time the same passed through or over said dam, or from any subsequent owner or owners thereof, the amount of toll due and unpaid on said lot of logs or lumber, in an action of debt, or any other proper form of action.

CHAP. 138.

How driven.

Redemption of.

Toll, right to collect, &c.

SECT. 4. When said corporation shall, by means of the receipt of such tolls, be fully reimbursed for all moneys expended in constructing said dam, and in clearing the stream in connection therewith, and all expenses of keeping said dam in repair and managing the business of said corporation, and for land damages or flowage, with interest on the same at the rate of ten per cent. per annum, then their right to toll shall cease, and said dam shall be free to public use.

Right of toll, when to cease.

SECT. 5. Said corporation is hereby authorized to enter upon said township, and occupy such portion of it as may be necessary for the location and use of said dam, and to take from said township all timber, wood, stone or gravel, which may be necessary in the construction or repairs of said dam; *provided, however*, said corporation shall pay to the owner or owners of said township, or of any part thereof so used, such prices for the use of the land, and for such building materials, as may be by them agreed upon, and in case the said parties shall not otherwise agree, then such damages or prices shall be allowed and determined by the county commissioners of the county of Aroostook, in the same manner and under the same conditions and limitations, with the same right of appeal to a jury or reference to a committee, as are by law provided in case of damages for the laying out of highways. And no application to such commissioners to determine such damages or prices, shall be made, unless within two years from the time of taking such land or building materials.

Materials for construction, authorized to take.

Proviso.

Damages, how determined.

Right of appeal.

SECT. 6. Said corporation is hereby empowered to flow the lands above said dam, so far as may be necessary to accomplish the object of its creation, paying the owner or owners of such

Flowage of lands, &c.

CHAP. 139.Damages, how
determined.Right of
remedy by
complaint, &c.

lands damage therefor; and in case the parties cannot agree upon the amount of damage, said corporation or their servants or agents, shall not be liable to any action at common law for the same; but any person injured thereby may have a remedy by complaint for flowage, on which the same proceedings shall be had, as are provided by statute in cases of lands flowed in consequence of the raising of a head of water necessary for the working of mills.

SECT. 7. This act shall take effect and be in force on and after January first, eighteen hundred and fifty-four.

[Approved March 28, 1853.]

Chapter 139.

An act to prevent the destruction of fish in Webb's Pond, in the county of Franklin.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Taking fish
with spears
and nets
prohibited.

SECT. 1. All persons are hereby prohibited from taking any fish with spears and nets in Webb's Pond, or its coves, creeks and inlets.

Penalty for
violation.

SECT. 2. If any person shall take any fish contrary to the provisions of the first section of this act, upon conviction thereof before any court competent to try the same, he shall forfeit and pay a fine not exceeding ten dollars, one half thereof to the complainant, and the other half to the town of Weld.

SECT. 3. This act shall take effect and be in force from and after its approval by the governor.

[Approved March 28, 1853.]

Chapter 140.

An act authorizing John O'Donald to build and maintain a fish wear in tide waters.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Authorized to
build fish
wear.

SECT. 1. John O'Donald of Lubec is hereby authorized to build and maintain a fish wear in tide waters in Johnson's Bay, so called, in Lubec, in front of his own land and within the limits herein described as follows: beginning at the southeast point of his land and on the southwest side of said point, thence

Limits.