

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

PASSED BY THE

EXTRA SESSION OF THE THIRTY-SECOND LEGISLATURE, 1853,

AND THE

## THIRTY-THIRD LEGISLATURE

OF THE

## STATE OF MAINE,

1854.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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1854.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1854.

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## Chapter 298.

An act to incorporate the Penobscot Lumber Association, and to amend the charter of the Penobscot Boom Corporation.

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

Corporate name. SECT. 1. There is hereby established at Bangor a lumbering company to be called the Penobscot Lumbering Association, with the usual powers of corporations for the period of fifteen years. The corporate powers shall vest in and be exercised by a board of trustees consisting of seventy-four in number: Ebenezer Blunt, C. D. Jameson, F. Adams, D. R. Stöckwell, J. S. Wheelwright, C. G. Stearns, J. T. K. Hayward, Walter Brown, R. Davis, junior, O. W. Gilman, J. H. Bowler, Isaiah Stetson, H. E. Prentis, J. Eddy, A. Moore, A. C. Buffum, N. H. Allen, E. Webster, junior, John Libby, W. H. Smith, Winslow Staples, William Soper, W. Jameson, W. Henderson, M. Buck, C. E. Dole, E. S. Coe, W. H. McCrillis, Henry Spencer, Amos M. Roberts, J. B. Foster, C. S. Bragg, E. Paulk, Jesse Wadleigh, Daniel Lord, James J. Norris, William A. Rowe, J. W. Palmer, Thomas S. Ranney, Ezekiel Marsh, James Lee, William S. Snow, Phinehas Foss, Jonathan A. Cushing, Nathaniel Swett, S. W. Furber, John T. Strickland, Aaron Babb, Hastings Strickland, Lorenzo Leadbetter, James Thissell, D. F. Leavitt, James Webster, Paul D. Webster, J. J. Colburn, William R. Hersey, John Winn, Rufus Dwinel, Seth Paine, S. F. Hersey, Caleb Holyoke, William R. Miller, Samuel P. Strickland, Richard Libby, John Lane, Shepherd Boody, Leonard Jones, Harvy Reed, Samuel Braily, William Ramsdell, F. A. Reed, G. L. Boynton, C. S. Clark, S. J. Foster, are constituted the first board, of whom

Trustees.

Office, term of. the first named thirty-seven shall continue in office two years—the other thirty-seven one year. At the end of said one year the place of those whose term is then expiring shall be filled by an election to be made by owners of lumber as shall be prescribed in the by-laws. At the end of the two years the places of those whose term is then expiring shall be filled by an election in like manner. Thus from year to year there shall be an election of one-half the number of trustees to serve for two years. All vacancies in the board, from death, resignation or removal from the state, shall be filled by the board.

—vacancies, how filled.

First meeting. SECT. 2. The first meeting of said association shall be held at the Exchange Hotel, in Bangor, and may be called by any three of the corporators, by publishing in the daily papers of said city, to wit: The Daily Whig and Courier, and the Daily

Mercury, for three days successively, a notice of the time and place of such meeting, previous to holding the same, and annually afterwards its meetings shall be held at such place as may be prescribed in the by-laws.

Annual meeting.

SECT. 3. After the organization of the association, any owner of lumber in the Penobscot river or designed to come into the Penobscot boom may become a member by leaving with the treasurer sufficient evidence of his being an owner of logs and of the amount thereof. Each person on becoming a member of the association shall be allowed one vote for every hundred thousand feet of lumber belonging to him as aforesaid.

Membership.

SECT. 4. Among the officers of the association there shall be a president, directors, treasurer and clerk, with such other officers, agents and committees as the by-laws may prescribe.

Officers.

SECT. 5. The by-laws shall prescribe the mode of electing officers mentioned in the preceding section and also the mode in which conclusively to ascertain and fix the amount of lumber belonging to each and every owner, and shall prescribe the mode of making all assessments.

—election of.

Assessments, &c.

SECT. 6. Said association is hereby authorized to take a lease of the booms, shores, buildings and appurtenances of the Penobscot Boom Corporation, for the term of fifteen years from the first day of January last, for the purpose of carrying on the same under the provisions of this act, and the "Act additional to acts establishing and regulating the Penobscot Boom Corporation," passed at the present session of the legislature. And said association shall have the same right to take any additional shores for the purpose of landing, rafting and securing lumber that was conferred upon said boom corporation.

Lease of booms, &c.

Right to take additional shores.

SECT. 7. The charter of said Penobscot Boom Corporation is hereby so amended as to relieve it from the duty of hanging the booms, or rafting the lumber therefrom, or to secure it in or below the booms, and from the duty of hereafter making any repairs upon the boom or any of its structures, and from all liabilities arising from the escape of lumber during the period of the lease aforesaid.

Penobscot Boom Corporation discharged from certain duties and liabilities.

SECT. 8. It shall be the duty of the association, from time to time, to make all needful repairs upon the boom and its connected structures, and at all times during the continuance of the lease to take full charge and control of all lumber which may come into the same, and faithfully raft it, and to cause full and accurate scalings and surveys to be made whereby to ascertain the quantity of lumber actually rafted from said boom.

Repairs of boom, control of lumber, &c.

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Scaling and  
marking of  
lumber.

And it shall be the duty of the surveyor general of lumber at Bangor to appoint a suitable number of scalers, whose duty it shall be accurately to scale the contents of each and every log which may be rafted from said boom and legibly marked with red chalk or a marking iron the full contents thereon, and make daily returns of the same to the clerk of the association.

Toll.

SECT. 9. Instead of the toll or boomage now allowed to the proprietors of the Penobscot Boom Corporation, there shall be allowed and paid to them by the association as and for a full equivalent for the use of said boom, shores, buildings and other structures connected therewith, the sum of ten cents for each and every thousand feet of logs and other lumber passing through said booms for the term of fifteen years next ensuing, and without being subjected to alteration by the legislature during that time; and said Penobscot Boom Corporation shall be extended for the term of twenty years. Said boomage shall be paid by the Penobscot Lumber Association to the Penobscot Boom Corporation annually, one-half on the first day of August and one-half on the first day of December, and to recover the same if not punctually paid, the said corporation shall have a lien on any and all lumber which may then or afterward have come into said boom, with interest at the rate of twelve per cent yearly, which lien may be enforced as provided in the seventh section of the charter of the said boom corporation, and the sixth section of the act in addition thereto, approved March twenty-one eighteen hundred thirty-eight, in addition to its claim upon said association.

—how appro-  
priated.

—lien to secure  
payment of.

Owners of lum-  
ber sold entitled  
to compensation.

SECT. 10. Any member of the association, whose lumber may be thus taken to pay the debts or liabilities of said association, shall be entitled to recover therefor against the association with interest thereon at the rate of twelve per cent. per annum.

Loss of lumber  
by neglect of  
association,  
remedy for.

SECT. 11. If through neglect or carelessness of the association or its officers, in exercising any of the powers herein granted, the owner of lumber may suffer any loss or damage, he shall in addition to his common law rights be entitled to a summary process as follows, namely: by petition to any judge of the supreme judicial court in term time or vacation, who after notice to the association may hear the parties and adjudicate upon the amount, if any, to be recovered by the petitioners, and such adjudication shall at once be entered upon the records of the court as a judgment of the court, and thereupon an execution shall immediately be issued, costs being allowed to the

prevailing party. If the hearing be not in term time the proceedings shall be entered as of the next preceding term; *provided, however*, that for any sum so awarded amounting to more than five hundred dollars, either party may have right to remove the case by petition into court to be there tried as an action at law.

SECT. 12. Logs found in the boom without marks or means by which their ownership can be ascertained, shall belong to the association, and shall be sold or manufactured from time to time in such manner as the by-laws may prescribe, and the proceeds be appropriated as said by-laws provide.

Unmarked  
lumber.

SECT. 13. All logs rafted from said booms having marks thereon not entered with the association, denominated strays, shall be run to some suitable and convenient place of deposit, the owner of which shall be entitled to the same by paying the tolls and expenses thereon and giving a receipt for the same to the clerk of the association; and said association shall annually at the close of the rafting season, and before the month of January, advertise in some paper printed in Bangor the number of such logs that shall remain unclaimed by their owners, designating the place where they are; and they shall manufacture in the spring following such as shall remain in their possession and sell the lumber, keeping an accurate account of the quality and quantity of each and every mark, and record the same in a book, specifying the proceeds of each mark, which book shall be deposited with the treasurer of the association and subject to the inspection of log owners at all times. And the treasurer of said association shall give notice in some newspaper printed in Bangor of the sums in his hands, specifying the name and amount belonging to each claimant, and shall pay over to the person proving ownership the net amount of the proceeds thereof as deposited with him, at any time within one year from the time of said deposit, and any balance remaining after the expiration of such period shall be distributed, *pro rata*, amongst the log owners of the year when they were rafted.

Stray lumber.

Unclaimed lum-  
ber, how dis-  
posed of.

SECT. 14. All prize logs and stray marks now in Pea cove shall be taken by the Penobscot Lumber Association, by paying the toll and expenses thereon to the Penobscot Boom Corporation, and they shall advertise the strays by posting up a transcript of the several marks at the post office in Bangor, Orono and Oldtown thirty days before the fifteenth of June next, and at the expiration of that time shall proceed to manufacture

Prize logs, &c.,  
in Pea cove, how  
disposed of.

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those not claimed by the owners and expenses paid thereon, and shall manufacture the prize logs and dispose of the lumber both of strays and prize, and distribute the net proceeds of said logs amongst the log owners paying boomage the three last years.

Navigation of  
river, preserva-  
tion of, &c.

SECT. 15. All present and future additions and erections to said booms made by said association shall be so made, constructed and maintained, as to admit the safe passage of rafts and boats, and preserve the navigation of the river and its branches, and that said association shall at all times keep and maintain the piers and booms sufficiently strong to secure all the lumber contained therein; and no person shall at any time be allowed to encumber said booms with rafts, either of logs, boards or other lumber.

Passways, &c.,  
to be guarded.

SECT. 16. It shall be the duty of the association to cause the passageways or open spaces in said booms to be carefully guarded by day and night, so that no lumber be permitted to escape; to raft all lumber therefrom securely and faithfully for the several owners with suitable warps and wedges, and secure the same below said booms.

Rafting of  
lumber, &c.

Same subject.

SECT. 17. The said association shall cause the logs to be rafted at such suitable rafting places as they shall find necessary, without any unnecessary delay. The owner of lumber shall drive the same as near the main body of the logs in both upper and lower booms and where they are to be rafted as may be, and if not so driven, it shall be done by the association, and the expenses shall be paid by the several owners.

Assessments to  
meet payments  
and expenses  
of association.

SECT. 18. In order to meet all payments and expenses of every character due from the association, they shall have power and it shall be their duty to make and enforce assessments therefor, either after the payments and expenses or in anticipation of the same, which assessment shall be pro rata upon every thousand feet of lumber, to be ascertained or estimated as the by-laws may prescribe. For all such assessments a lien upon the lumber shall exist, enforceable as pointed out in the seventh section of the charter of the Penobscot Boom Corporation, and in the sixth section of the act additional thereto, approved March twenty-first eighteen hundred thirty-eight. If any owner shall wish to take his lumber before the assessment thereon has been made, he shall be permitted to do it upon paying to the treasurer in advance such sum as he shall prescribe, the amount to be made equal and just after the amount to have been assessed shall be ascertained. In addition to the lien aforesaid, the association shall have

—lien for pay-  
ment of.

Lumber may be  
taken by owner  
before assess-  
ment.

remedy by action of assumpsit against the owner or any person to whom the lumber so assessed may have been transferred by mortgage, pledge or other way of security.

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Liability of owner after transfer.

SECT. 19. If the assessments collected shall exceed the amounts paid for use and repair of the boom and all other actual expenses, the surplus shall be refunded, pro rata, to those from whom it was received in manner prescribed in the by-laws. In order to insure the safety of debts due from the association, it shall be its duty, before taking control of lumber in the boom, to establish and constantly afterwards to maintain a substantial fund amounting to at least fifty thousand dollars, lodged in the hands of a trustee. It may consist of good and well secured notes made payable on demand to the trustee of the Penobscot Lumbering Association safety fund. These notes may be given by members of the association, as individuals, or by other persons. They shall be in such sums as the trustee shall judge to be expedient and with security satisfactory to him.

Assessments, surplus of, how appropriated.

Safety fund.

SECT. 20. So often as any judgment or other liquidated claim against the association shall be made, it shall be the duty of the trustee to pay the same out of the safety fund by collections, made as early as possible, upon the notes, pro rata, or as nearly so as the trustee may find convenient. For sums thus collected on the notes, the party paying the same shall be entitled to recover against the association.

Adjusted claims, how paid.

SECT. 21. For the use of such guarantee notes, a reasonable compensation to the person furnishing the same, and also a compensation to the trustee for his services, may be made by the association.

Guarantee notes, &c., compensation for use of.

SECT. 22. Whenever from a regard to greater security or to a better equalization of privileges among the members of the association, or any other expediency, the trustee shall prefer to have a new note or notes substituted for any of the notes in his hand, he may require the same to be furnished. In case of the death or resignation of the trustee, his place shall be filled by an appointment made by the judge of probate for the county of Penobscot. The person thus appointed shall receive into his hands the notes composing the fund, and may, in his name as trustee, make the requisite collections upon the same, with all the powers and duties of his predecessor in relation to them.

New notes may be given.

Trustee vacancy, how filled.

Trustee, powers of, &c.

SECT. 23. Samuel F. Hersey, Esquire, is hereby constituted and appointed the trustee.

—appointment of.

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Logs not required to be kept more than twenty-four hours after being rafted.

Commissioners, appointment and duty of.

—duty to examine boom, &c.

—to keep records of their doings.

—to file copy with clerk of association.

Association not responsible for losses in certain cases.

—to perform acts prescribed by commissioners.

Proceedings in case of neglect.

SECT. 24. Said association shall not be required to keep any logs more than twenty-four hours after the same shall have been rafted and secured, and unless the owner shall remove or cause them to be removed within the period or such shorter time as the log agent shall require, the said association shall have the right to remove them and charge five cents per log therefor.

SECT. 25. There shall be appointed by the governor and council annually three commissioners whose duty it shall be to examine all the booms, piers and structures of the corporation, and determine what shall be done by said association for the security and preservation of said corporate property, and they shall be paid by said association for their services.

SECT. 26. Whenever five or more persons interested in lumber in said river, shall apply to said commissioners, in writing, to visit said boom and structures for the purpose of examining the manner and mode that said logs, lumber, masts and spars are being rafted and secured, and to see that the trips and passage ways are properly guarded, and also to examine into and determine whether said boom is safe and secure and being managed in the best possible manner for the lumbering interest and the safety and security of the logs and lumber in their care and custody, said commissioners shall forthwith proceed to examine into and determine upon all matters relating to the boom as contemplated in this section; and said commissioners shall keep a record of their doings from time to time, and enter therein their determination in the premises and the directions and orders they have issued in pursuance of said determination, and of all matters relating to said boom and structures, and of the general management of the boom by the association, and file a copy of their doings with the clerk of the association and with the president of the Penobscot Boom Corporation; and if the said association shall fully and faithfully do and perform all the requirements and directions of said commissioners, then and in that case said association shall not be responsible for any loss or damage which may arise and accrue to any owners of lumber.

SECT. 27. Said association shall forthwith do and perform whatever said commissioners, or a majority of them, shall or may determine and prescribe for the purposes aforesaid; and in case of any unreasonable neglect or delay on the part of said association to do or perform such matters and things as said commissioners may determine and prescribe in the premises, then and in such case the said commissioners are hereby

authorized and required to do or cause the same to be done in such way and manner as they may think proper. And the said commissioners shall for this purpose have power to take possession of the property of said association; and all the expenses of said commissioners and of their doings in the premises shall be paid by said association on demand. And the said commissioners shall have and retain a lien on all the tolls of said association until they shall be fully reimbursed for their expenditures and paid for their services.

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Power of commissioners to possession of property of association.

Lien.

SECT. 28. Said commissioners shall appoint a log agent or agents, who shall be paid by the association, to remain at said boom during the season for running lumber, whose duty it shall be to superintend and assist in the delivery of logs from said boom and to cause the same to be properly secured in the eddies below, and to keep a record of the number and marks of said logs and of the delivery thereof to the respective owners, or their agents, which record shall be returned to the clerk of the association, and after said logs shall have been thus run down and secured in said eddies in a manner which he may consider safe, the said association shall not be liable for any future loss or damage: *Provided* said association shall take such care thereof as a prudent person would take of his property in like situation.

Log agent.

—duty of.

SECT. 29. The Penobscot Boom Corporation is forthwith to complete all the booms, piers and other work now in progress of erection at the Argyle booms. In case said corporation shall be dissatisfied with the manner in which its booms, piers and property leased are kept in repair by said association, and allege that they are depreciating on account of the neglect of the association to make such necessary repairs as will preserve the works, they may apply to the county commissioners for the county of Penobscot, whose duty it shall be at the earliest moment practicable to notify the commissioners appointed by the governor and council of the time and place where they will meet and proceed with them and examine all the booms, piers and structures, and said county commissioners shall determine and prescribe after viewing the premises, what repairs if any shall be made in order to protect and preserve the interest of said Penobscot Boom Corporation, and said county commissioners shall keep a record of their doings and enter their determination and direction touching the premises, and shall deliver a written and attested copy of the same to the commissioners appointed by the governor and council, whose duty

Works at Argyle boom in progress of erection to be completed.

—how repaired in case of dissatisfaction.

## CHAP. 298.

it shall be forthwith to cause said repairs to be made by the association, and if not so made, to make them at the expense of the association.

Associates,  
powers of.

SECT. 30. Said associates may exercise all the powers herein given, though their numbers may be reduced by resignation or otherwise, and a majority of said associates present, at any meeting legally called, shall constitute a quorum to do business.

Certain logs to  
be run without  
charge.

SECT. 31. All logs intended to be manufactured in the Stillwater branch, which may be rafted at the upper boom during the time the trip, for the passage of logs and rafts at the lower boom, shall be closed by the accumulation of logs, shall be run below said trip without charge, for running, to the owner: *Provided, however,* that said association shall have power to enact such by-laws concerning said logs as they may deem equitable and just.

Proviso.

Log owners' duty  
to transmit  
marks of their  
logs to treasurer  
of association.

SECT. 32. It shall be the duty of the log owners to transmit to the treasurer of the association on or before the twentieth day of April annually, or before the association raft them out, a schedule of the marks or mark of logs claimed by them or him, and said corporation may raft as strays those logs the marks of which are not thus furnished.

Special police,  
appointment and  
duty of.

SECT. 33. Special power is hereby granted to said association, to appoint a special police to watch the booms and main river above said booms with a view to the detection of persons who may be using logs belonging to members of the association, and any person detected in marking or mutilating the marks of any logs shall be considered guilty of felony.

Altering marks  
on logs, &c.,  
deemed a felony.

Account of re-  
ceipts, expendi-  
tures, &c., to be  
kept.

SECT. 34. It shall be the duty of said association to keep an accurate account of all its receipts and expenditures, specifying for what each item is received or paid, which account shall be made upon the first day of January annually, and be kept by the treasurer for the inspection of all persons interested therein, together with a true statement of the number and quantity of logs rafted at the booms the preceding year; said association shall also make a return in writing monthly to the treasurer of the boom corporation, of the number and quantity of all logs and other lumber passing through said booms the month preceding.

Monthly return.

Personal prop-  
erty of Boom  
Corporation,  
how disposed of.

SECT. 35. Said association shall be held to take all the personal property of said boom corporation used in operating said boom and pay said corporation therefor on demand the value thereof. If said parties cannot agree upon such value.

they may settle the same by an appraisement mutually agreed upon. CHAP. 299.

SECT. 36. This association shall remain a corporate body after the time named in the first section of this act, for the purpose of settling up the business thereof, and of enforcing and having enforced debts and liabilities, so long as it may be necessary for said purposes, but for no other. Charter, limita-  
tion of.

SECT. 37. This act shall take effect and be in force from and after its approval by the governor.

[Approved April 5, 1854.]

### Chapter 299.

An act additional to acts establishing and regulating the Penobscot Boom Corporation.

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

SECT. 1. The Penobscot Boom Corporation shall have the right to demand and receive fifty-three cents per thousand feet board measure, for booming and rafting board logs, and finding warp and wedges, upon all such logs rafted at their booms, instead of the rate of boomage heretofore prescribed; and for the rafting and boomage of all other lumber, the tolls shall remain as authorized in the act establishing said corporation; and the rate of boomage herein provided is established for the period of eight years or during the pleasure of the legislature; said corporation shall have the same lien on all logs and other lumber, boomed and rafted at their booms, for the security of the tolls and expenses authorized by this act, as is provided in the acts to which this is additional. Tolls.  
  
—lien for.

SECT. 2. The limits of said boom shall be the same as are prescribed in the act of incorporation thereof, extending up the river however to the head of Olamon island; and said corporation shall have the exclusive right within said limits to boom, pick up and raft logs, and are authorized to raft the same at such places from their booms, as they shall deem necessary. Boom, limits of,  
&c.

SECT. 3. It shall be the duty of log owners to receive and take away their logs as the same shall be rafted out and fastened to the buoys; and if they shall neglect so to do, and suffer them to accumulate so as to retard the rafting, then the corporation may run them away, and hitch them at the shores Logs when to be  
taken away.