

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE

1903.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1903.

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shall have precedence of all other claims, except laborers' liens, and shall continue for ninety days after the logs or other timber shall arrive at their place of destination for sale or manufacture and may be enforced by attachment, but such lien may be discharged by a bond with sufficient sureties given to the company conditional that all such expenses shall be seasonably paid.'

--lien shall have precedence.

Section 4. Said chapter four hundred and seven is hereby further amended by adding thereto the following section:

Chapter 407, further amended.

'Section 6. Every person or corporation owning timber lands on the west branch of the Penobscot river, or its tributaries, and every owner of logs or other timber cut upon said West branch, or its tributaries, and intended to be driven down said river below Shad pond, shall be members of this company. Every such timberland owner shall be entitled to one vote, and every such owner of logs or other timber shall be entitled to one vote for every one hundred thousand feet of logs or other timber intended to be driven to any point on said river between Shad pond and the Penobscot boom.'

Owners of timber lands shall be members of this company

--voting powers.

Section 5. All acts or parts of acts, inconsistent herewith are hereby repealed.

Section 6. This act shall take effect when approved.

Approved March 13, 1903.

### Chapter 174.

An Act to incorporate the West Branch Driving and Reservoir Dam Company.

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

Section 1. Frederick H. Appleton, J. Fred Webster, Fred A. Gilbert, J. Sanford Barnes, Jr., Payne Whitney, R. Somers Hayes and Garret Schenck, their associates, successors and assigns, are hereby created a body politic and corporate by the name of the West Branch Driving and Reservoir Dam Company.

Corporators.

--corporate name.

Section 2. The capital stock of said company shall be fixed by said company and shall not be less than two hundred thousand dollars, and may be increased from time to time by a vote representing a majority of the capital stock issued.

Capital stock.

Section 3. When this charter shall have been accepted by the corporators and said company shall have been organized and subscriptions to the capital stock thereof to an amount at least of two hundred thousand dollars shall have been made in good faith, and fifty thousand dollars at least on such subscriptions

Eminent domain, when and to what extent it may be exercised.

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shall have been actually paid in cash into the treasury of said company, said West Branch Driving and Reservoir Dam Company may then exercise the power of eminent domain to the extent that thereunder it may take and hold all the dams, real estate, piers, booms, wing dams, side dams and steamboats now owned by the Penobscot Log Driving Company except the dam at the outlet of Millinocket lake which is to be and remain the property of the Penobscot Log Driving Company. Said West Branch Driving and Reservoir Dam Company may file in the registries of deeds in Penobscot and Piscataquis counties a written statement of its determination to exercise said power of eminent domain and thereupon said dams, real estate, piers, booms, wing dams, side dams and steamboats shall be and become the property of said West Branch Driving and Reservoir Dam Company and all the powers, rights and privileges of the Penobscot Log Driving Company pertaining to the driving of logs and the improving of the West branch of the Penobscot river above the head of Shad pond on said West branch but not below the head of said Shad pond shall be and become the powers, rights and privileges of the West Branch Driving and Reservoir Dam Company, and all the duties of said Penobscot Log Driving Company pertaining to the driving of logs between the head of Chesuncook lake and the head of Shad pond shall be and become the duties of said West Branch Driving and Reservoir Dam Company which shall thereafter be holden to perform said duties except as modified by the provisions of this act.

—may file statement in registries of deeds of Penobscot and Piscataquis counties of determination to exercise eminent domain.

—value of property taken to be determined by agreement.

—or by commission.

—commission, how appointed.

—commission shall hear parties, and determine value of property taken.

—may compel attendance of witnesses, etc.

The value of said dams, real estate, piers, booms, wing dams, side dams and steamboats so taken shall be determined by agreement between said companies or if said companies shall fail to agree then by a commission of three disinterested persons to be appointed as follows: Either of said corporations, or any person interested, may file in the clerk's office of the supreme judicial court in and for the county of Penobscot, either in term time or vacation, a petition to said court for the appointment of such commission, to consist of three disinterested persons, and upon such petition said court, after such notice as said court may deem proper, shall appoint such commission. Such commission shall as soon as may be, but after reasonable notice, hear the parties, their proofs and arguments and determine the value of said dams, real estate, piers, booms, wing dams, side dams and steamboats. The commission shall have power to compel the attendance of witnesses and the production of books and papers pertinent to the issue, and may administer oaths, and any witness or person in charge of such books or papers refusing to attend or to produce the same shall be subject to the same

penalties and proceedings, so far as applicable, as witnesses summoned to attend the supreme judicial court. The commission, or a majority thereof, after such hearing, shall report to the court in said county in term time what in its judgment is a fair and just value of the dams, real estate, piers, booms, wing dams, side dams and steamboats, which it is directed to appraise and all other findings which it may have been directed by the court to make, and return such papers and proofs taken by it as the court has directed or may from time to time direct it to return.

—commission shall report to court.

The court may confirm such report or reject it, or recommit the same, or submit the subject matter thereof to a new commission.

—court may confirm, reject or recommit report.

The expenses of said commission shall be paid one-half by each of said companies.

—expenses of commission, by whom paid.

All proceedings of the court with reference to any matter herein raising a question of law shall be subject to exceptions. When all such exceptions, if any shall be taken, shall be disposed of, and any such report shall have been accepted and confirmed by said court, said court shall render judgment against said West Branch Driving and Reservoir Dam Company for the amount finally determined in such report as accepted and confirmed by said court.

—exceptions, if taken, how disposed of.

Section 4. If the amount of said judgment with the amount of all other assets of said Penobscot Log Driving Company, not including said Millinocket dam and not including the franchise of said Penobscot Log Driving Company, shall not be sufficient to pay in full all outstanding notes and other legal liabilities of said Penobscot Log Driving Company said West Branch Driving and Reservoir Dam Company shall make good the deficiency and be holden to guarantee the payment in full of all such notes and other legal liabilities after all said assets of the Penobscot Log Driving Company shall have been reduced to money and applied towards the payment of the said notes and other legal liabilities, and by accepting the charter hereby granted said West Branch Driving and Reservoir Dam Company shall be holden to have guaranteed to make good any such deficiency and to so guarantee the payment of the said notes and other legal liabilities of the Penobscot Log Driving Company.

Liabilities of Penobscot Log Driving Company, how paid or guaranteed.

Said West Branch Driving and Reservoir Dam Company may assume the defense of any claims which may be made against the said Penobscot Log Driving Company, and prosecute, in the name of said Penobscot Log Driving Company, any claim which it may have against other parties, and no settlement of any claim belonging to said Penobscot Log Driving Company

—pending claims, by whom defended on prosecution.

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or against it shall be made without the consent of said West Branch Driving and Reservoir Dam Company.

Logs and lumber, driving of, regulated.

Section 5. From and after the time when said West Branch Driving and Reservoir Dam Company shall have filed in the registries of deeds for Penobscot and Piscataquis counties a written statement of its determination to exercise the power of eminent domain, as provided in section three of this act, said West Branch Driving and Reservoir Dam Company shall drive all logs and other lumber that may be in the West branch of the Penobscot river between the head of Chesuncook lake and the head of said Shad pond into said Shad pond, but if said Shad pond shall become filled with logs then against the rear of said logs in said pond, and the booms and piers at the head of Chesuncook lake acquired by the Penobscot Log Driving Company from the West Branch Chesuncook Boom Company shall be within the chartered limits of this company.

At least one drive each year shall be made.

Section 6. Said West Branch Driving and Reservoir Dam Company shall make at least one drive each year, with due diligence, from the head of Chesuncook lake into said Shad pond in the manner aforesaid and shall start said drive from the head of Chesuncook lake as soon as all logs for said drive shall arrive there but not later than June twenty-fifth, in each year in any event and shall complete the same in nineteen hundred three by the twentieth day of August and thereafter by the fifth day of August in each year. Said company shall be under no obligation to drive from the head of Chesuncook lake any logs which shall not be there when the rear of said drive shall be started as aforesaid, nor under any obligation to drive the same season any logs which shall not be delivered to it before the rear of said drive shall pass the point of attempted delivery.

--shall start drive not later than June 25.

--shall complete drive Aug. 20, 1903, and thereafter Aug. 5, of each year.

Prices for driving logs.

Section 7. Said West Branch Driving and Reservoir Dam Company shall receive for driving the logs as aforesaid into Shad pond the following prices per thousand feet board measure: From the head of Chesuncook lake, seventy cents; from the foot of Chesuncook lake, fifty-three cents; from Sourdnahunc, fifty cents; from the head of Ambijejus lake, thirty cents; from the foot of Pemadumcook lake, sixteen and one-fourth cents; from North Twin dam, eleven cents, and for logs driven to the sorting booms of the Great Northern Paper Company, or the Twin Lakes Lumber Company; from the head of Chesuncook lake, fifty cents; from the foot of Chesuncook lake, thirty-three cents; from Sourdnahunc, thirty-three cents. And from any place to any place within the limits aforesaid not specified above, the price shall be as near as may be in proportion to the above prices.

These prices shall continue in force for ten years and thereafter until changed by the legislature.

Section 8. All owners of logs and other lumber which shall be driven by said company shall pay three-quarters of the amount due for driving their respective logs and lumber at the prices above set forth as soon as such logs or other lumber shall arrive at their respective places of destination, and shall pay the balance of said amount as soon as such logs or other lumber shall be scaled after arriving at their respective places of destination, but at all events within three months from the time when such logs or other lumber shall pass from the control of said company. And the number of feet driven shall be found by using as a basis the boom scale of the Penobscot boom, or what shall be equivalent to such scale.

Payment for driving, when to be made.

Section 9. The West Branch Driving and Reservoir Dam Company is hereby given a lien on all logs and lumber which it shall drive for the driving of the same as provided in this act, which lien shall have precedence of all other claims except liens reserved to the state and laborers' liens. Such lien shall continue for six months after the logs or lumber shall arrive at the place of destination for sale or manufacture and may be enforced by attachment.

Lien on logs and lumber, for driving.

--lien shall continue for six months.

Section 10. Said company in any and all dams which may be owned or controlled by it may store water for the use of any mills or machinery which may use West branch water, subject to the provision that day and night throughout the year the flow of water down the West branch, so long as there shall be any stored water shall not be less than two thousand cubic feet per second, measured in the canal and at the stone dam of the Great Northern Paper Company, at Millinocket, and subject to the further provision that in the spring of each year in advance of the freshet season the water shall be drawn down in all the dams which may be owned or controlled by the company, in accordance with any direction which the commission to be appointed under the provision of this section may give. The supreme judicial court, or any justice thereof, sitting in equity, in term time or vacation, may summarily enforce the specific performance of any of the provisions of this section. There shall be a commission of three persons appointed by the chief justice of the supreme judicial court upon petition of said company or any person interested, after such notice as he shall order and hearing. The chief justice of the supreme judicial court may at any time remove any member of such commission upon petition of said company or any person interested after such notice as he shall order and hearing, if he shall determine that a change in such

Storage and flow of water.



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commission ought to be made. Should any vacancy occur in such commission by death, resignation or otherwise, it shall be filled by the chief justice after such notice as he shall order and hearing. The expenses of said commission shall be paid by said West Branch Driving and Reservoir Dam Company.

May clear out and improve navigation of West branch.

Section 11. Said company in order to facilitate the driving of logs and lumber, and to facilitate the storage of water for use as aforesaid, may clear out and improve the navigation of said West branch, remove obstructions, break jams and erect booms where the same may lawfully be done all within the limits aforesaid.

May rebuild dams.

Section 12. Said company is hereby given the power to rebuild in such manner as it may see fit, any dams which it may acquire as aforesaid of the Penobscot Log Driving Company, and may raise the height of the same so that the Chesuncook dam may hold back six feet more water than the present dam, and the North Twin dam may hold back five feet more water than the present dam and may raise the dam between North Twin and Millinocket lakes to retain the stored water in North Twin lake, and the damages for any flowage caused by such increased height of any of said dams may be recovered in accordance with the provisions of chapter ninety-two of the revised statutes.

--may raise height of Chesuncook dam.

--of North Twin dam.

--of dam between North Twin and Millinocket.

--damages for flowage, how recovered.

May build dam near Sourdnahunc falls.

Section 13. Said company is hereby authorized to erect and maintain a dam across the West branch of Penobscot river in the vicinity of Sourdnahunc falls, and another dam across said West branch in the vicinity of Ambijejus falls for the purpose of facilitating the driving of logs and lumber and damages for any flowage caused by such dams may be recovered in accordance with the provisions of chapter ninety-two of the revised statutes.

--near Ambijejus falls.

--damages for flowage, how recovered.

May take lands for certain purposes.

Section 14. Said company for the purpose of rebuilding, constructing or maintaining dams as authorized in this act is hereby given the right to purchase or take and hold any lands necessary for erecting and abutting such dam or dams. Said company shall file in the registry of deeds' office in the county where any land so taken may be situated, plans of the location of all land so taken in such county, and no entry for the purpose of taking lands shall be made on any lands owned by other persons except to make surveys, until the expiration of ten days from the time of said filing. Said company shall also publish in some newspaper published in the city of Bangor, Maine, within ten days after such plans shall be filed, a statement that it has filed in the registry of deeds' office plans of the location of all lands so taken in such county. Said company shall be held liable to pay all damages for the land so taken, and if any person

--proceedings.

--damages, how assessed and paid.

sustaining damages as aforesaid shall not agree with the company upon the sum to be paid therefor, either party on petition to the county commissioners of the county where such land is situated may have the damages assessed for the taking of said land and subsequent proceedings and right of appeal thereupon shall be had in the same manner and under the same conditions, restrictions and limitations as are by law prescribed in the case of damages by the laying out of highways.

Section 15. After said West Branch Driving and Reservoir Dam Company shall have delivered the rear of any annual drive of logs into Shad pond in manner aforesaid it shall allow to flow out of North Twin dam at such times and at such rates of discharge as the Penobscot Log Driving Company may request for the purpose of driving said logs to the Penobscot boom or their several places of destination above said boom, water equivalent to the amount of water held back by said dam as now constructed when there is a thirteen foot head at said dam measured from the bottom of the dam, or so much thereof as shall be called for by said Penobscot Log Driving Company for said purpose, and in determining the quantity of water which the Penobscot Log Driving Company shall be entitled to request for driving purposes, the two thousand cubic feet per second specified in section ten shall be considered a part thereof at such times and at such times only as water is being allowed to flow from said dam at the instance and request of the Penobscot Log Driving Company.

Water for driving logs from Shad pond to destination, how supplied.

If before the rear of the drive shall be delivered in Shad pond in manner aforesaid in any year, a jam shall occur in the West branch below Shad pond and the Penobscot Log Driving Company or its agent shall notify the West Branch Driving and Reservoir Dam Company to stop turning logs out of Quakish lake, said company shall stop turning logs out of said lake until otherwise notified and the time of getting the rear into Shad pond in manner aforesaid that year may be postponed by the West Branch Driving and Reservoir Dam Company by as much time as the said company was prevented from turning logs out of Quakish lake as aforesaid.

—provisions when jam occurs in West branch below Shad pond.

Section 16. The first meeting of said corporation shall be called at Bangor, in the county of Penobscot, by a notice signed by any two of the corporators named in section one, setting forth the time, place and purpose of the meeting, and such notice shall be mailed to each of the corporators, postage paid, seven days at least before the day of such meeting. Any corporator may be represented at said first meeting by proxy.

First meeting, how called.

Section 17. This act shall take effect when approved.

Approved March 12, 1903.