

No. 65.

4th Session, 8th Parliament, 62 Victoria, 1899

BILL.

An Act to incorporate the Restigouche
Boom Company.

First reading, April 21, 1899.

(PRIVATE BILL.)

Mr. McALISTER.

OTTAWA

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1899

An Act to incorporate the Restigouche Boom Company.

WHEREAS the Restigouche Boom Company has, by its Preamble.
 petition, represented that it was incorporated by an Act
 of the legislature of the province of New Brunswick, being
 chapter 30 of the statutes of 1879, and has prayed that it be
 5 enacted as hereinafter set forth, and it is expedient to grant
 the prayer of the said petition: Therefore Her Majesty, by and
 with the advice and consent of the Senate and House of Com-
 mons of Canada, declares and enacts as follows:—

1. The shareholders of the said the Restigouche Boom Incorporation.
 10 Company, hereinafter called "the old Company," together
 with such persons as become shareholders in the company
 hereby incorporated, are hereby incorporated under the name
 of "The Restigouche Boom Company," hereinafter called Corporate
 "the new Company." name.

2. The works authorized by this Act are hereby declared Declaratory.
 to be works for the general advantage of Canada.

3. The president and directors of the old Company shall President.
 respectively be the president and directors of the new Com- Directors.
 pany until their successors are elected.

4. The capital stock of the new Company shall be fifty Capital stock.
 30 thousand dollars divided into shares of twenty dollars each.

5. The head office of the new Company shall be at the Head office.
 town of Campbellton, in the county of Restigouche, in the
 province of New Brunswick

6. The shareholders of the old Company are hereby de- New share-
 35 clared to be holders respectively of shares in the new Company
 to the same extent and with the same amounts paid up thereon
 as they are holders respectively of shares in the old Company. holders
substituted
for old
shareholders.

7. The by-laws, rules and regulations of the old Company, By-laws, etc.
 30 lawfully enacted, shall be the by-laws, rules and regulations of
 the new Company.

8. The new Company shall be liable for and subject to all Debts of old
 the debts, liabilities, obligations, contracts and duties of the company
 old Company, and any person having any claim, demand, assumed.
 35 right, cause of action or complaint against the old Company
 or to whom the old Company is under any liability or obliga-
 tion, shall have the same rights and powers with respect

thereto and to the collection and enforcement thereof from and against the new Company as such person has against the old Company.

Assets, etc., of old Company.

9. The new Company may acquire all the assets, rights, credits, effects and property real and personal belonging to the old Company, or to which it is or may be or become entitled, and a conveyance and assignment thereof in the form in the schedule to this Act, or to the like effect, shall be sufficient. 5

Form of assignment.

Construction of booms, piers, etc.

10. The new Company may locate, erect and operate in the Restigouche River between the said river and a line drawn from the Mission Point on the Quebec side of the river to John Ferguson's west line (so called) on the New Brunswick side thereof, booms, piers, sheer booms and all other structures necessary for collecting, holding and rafting all lumber, floated or driven, down said Restigouche River and its tributaries within the limits of the said booms. 10 15

Expropriation of lands.

11. The new Company may enter upon, occupy, possess and use, for the purposes of this Act, the water and shore front as well as any of the adjoining lands necessary for any of the purposes aforesaid, and shall, for such use, occupation and possession make to the owners of such lands such compensation as may be agreed upon by and between the new Company and the owners of such lands, and in case they shall not agree, then and in such case the same shall be determined by and under the provisions of *The Railway Act* applicable thereto. 20 25

Navigation not to be impeded.

12. All booms shall be so constructed as to admit the passage of rafts and boats, and to preserve the navigation of the river as far as possible. 30

Booms to be kept open.

13. The new Company shall keep the said booms open in order to receive timber, logs or other lumber floating down the Restigouche River, and its tributaries, from the spring of the year and after the river is clear of ice until the first of October in each year. 35

Rate of charges.

14. The new Company may receive a sum not exceeding twenty cents per ton for each ton of square or sided timber ; a sum not exceeding seventy five cents per thousand for every thousand superficial feet of pine, spruce, cedar and other logs and lumber which may be secured in the said booms and rafted in a substantial manner, such payment being in full for securing, booming, rafting and delivering the said lumber. 40

Lien on timber, etc.

15. The new Company shall have a lien on all timber, logs and other lumber which may be secured or rafted in the said booms, and may retain a sufficient part of such lumber to pay the boomage and raftage until the same is paid or secured, and the new Company may sue for and recover the said boomage and raftage from the owners of the said timber, logs or other lumber in any court competent to try the same, and if the 50

said boomage or raftage is not paid within seven days after notice to the owners that the timber, logs or other lumber have been secured or rafted in the said booms ready to be delivered, the new Company may receive a reasonable compensation for
 5 keeping the said timber, logs or other lumber which shall be deemed to be at the risk of the owners thereof, not exceeding for each week after such notice three cents per ton for square timber, and seven cents per thousand superficial feet for logs or other lumber.

10 **16.** All questions of difference or dispute of any kind relating to the quantity of timber, logs or other lumber liable to toll shall be submitted to the award and determination of three persons chosen as follows:—either party desiring a
 15 reference shall name an arbitrator and give a notice thereof in writing to the other party who shall within ten days after such notice name and appoint a person to act as arbitrator on his behalf and give notice of such appointment to the other party, and the two so chosen shall name the third. In case of
 20 neglect or refusal to appoint such arbitrator, the arbitrator first named shall name a second and they two shall name and appoint the third. The arbitrators so appointed shall proceed to hear the matter and make an award in the premises. The award and determination of such arbitrators, or any two of
 25 them, shall be final and conclusive between the parties. Such arbitrators, or any two of them, shall also determine and award by whom and how the expense of such reference or arbitration shall be paid.

Arbitration of disputes.

17. The new Company shall not be liable for the loss of
 30 any timber, logs or any other lumber which pass out of the said booms or escape therefrom, unless such loss is occasioned by its neglect or default; provided that the new Company shall without delay and with sufficient assistance follow down the river as far as Oak Bay, and use all due diligence to collect together, pick up, secure and raft all such timber, logs
 35 or other lumber which may pass out of, by, or escape from or run below the said booms.

Loss of timber, who liable.

18. Any floating joints or rafts of timber or other lumber
 40 which may run into the said booms by force of current or accident, the new Company shall protect, and be entitled to receive therefor at the rate of five cents for every ton of such timber, and ten cents for every thousand superficial feet of logs or other lumber, provided the new Company shall not be entitled to receive for any such raft or joint a larger sum than ten dollars.

Charges on flotsam.

45 **19.** All prize logs or other logs, timber or lumber floated down the said river or its tributaries, and into or against the
 50 said booms, upon which no marks are found, and for which no lawful owner appears, shall be sold by the new Company by public auction after ten days' notice of the time and place of such sale, posted in three public places in each of the parishes of Addington and Dalhousie, and the proceeds thereof shall be appropriated, after payment of boomage and expenses

Sale of flotsam.

of sale, among the owners of logs or other lumber secured in said booms in proportion to the quantity owned by them respectively.

Unmarked timber may be kept as prize.

20. All timber, logs or other lumber which shall be unmarked when the same come within the limits of the said booms shall be deemed prize logs or lumber, and if any person shall mark or attempt to mark any of such unmarked timber, logs or lumber within such limits, he shall be liable to a penalty of twenty dollars for every such act, to be recovered before any two justices of the peace for the county of Restigouche on the complaint of any of the owners of any lumber within the booms, or any of the officers or servants of the new Company, such penalty when recovered to be paid to the secretary of the new Company, and to be by him divided as the proceeds of the prize logs are directed to be divided under section 19 of this Act.

Penalty for marking.

Timber to be sorted within booms.

21. Unless otherwise ordered by the owners, the new Company shall, and it is hereby authorized and required to raft the timber, logs and other lumber within the said booms of the several owners separately, according to the marks furnished to them for the purpose.

Borrowing powers.

22. The directors of the new Company may, from time to time, at their discretion, when required for the purposes of the Company, borrow money for the said purpose, and secure the repayment of the moneys so borrowed in such manner and upon such terms or conditions as they see fit, and in particular by mortgage, pledge, hypothecation or charge of or on all or any of the assets and property of the new Company; provided that the total amount so borrowed shall not exceed twenty-five per cent of the capital stock of the company.

Damage to booms, etc.

23. If any person shall wilfully and maliciously break, cut, damage or destroy any of the said booms, or piers or any part thereof, or any of the warps, ropes or fastenings thereof, such person so offending shall, upon conviction thereof before two justices of the peace in and for the district in which the said booms are located, forfeit and pay a sum not exceeding forty dollars, with costs of prosecution; one-half of such penalty shall go to the prosecutor or informer, and the other half to Her Majesty, and in default of the payment of such fine, the person so condemned shall be imprisoned for a period of not less than fifteen days and not more than two months, which imprisonment shall cease upon the payment of the said fine and costs.

Penalty.

When Act to take effect.

24. This Act shall not take effect until at a special general meeting of the shareholders of the old Company duly called for the purpose of considering it, a resolution accepting and approving thereof, and fixing the date or event upon which this Act is to take effect has been passed by the shareholders present or represented by proxy at such meeting, such shareholders holding not less than seventy five per cent of the subscribed capital stock of the old Company represented at such meeting, and a certified copy of such resolution shall,

within fifteen days from the passing thereof, be published in the *Canada Gazette*, but upon such resolution being passed this Act shall take effect from the time or event fixed by such resolution.

- 5 25. Section 18 of *The Companies Clauses Act* shall not apply to the Company. R.S.C., c. 118

SCHEDULE.

This indenture made the _____ day of _____ A.D. ____ Between the Restigouche Boom Company, incorporated under an Act of the General Assembly of the province of New Brunswick, 42 Victoria, chapter 30, and amending Acts, of the first part, hereinafter called "the old Company," and the Restigouche Bcom Company, incorporated by chapter ____ of the statutes of Canada, A.D., 1899, of the second part, hereinafter called "the new Company."

Whereas the shareholders of the old company have accepted and approved the new Company's Act of incorporation, being the Act of the Parliament of Canada, passed in the year 1899, intituled "An Act to incorporate the Restigouche Boom Company," and by the resolution of the shareholders of the old Company duly passed in that behalf the _____ day of _____ was fixed as the date from which the said Act should take effect.

And whereas by the said Act last mentioned the new Company is authorized to acquire all the assets, rights, credits, effects and property, real and personal, of the old Company, and the old company has agreed to convey and assign the same to the new Company.

Now this indenture witnesseth that for and in consideration of the said Act last mentioned, and of the shares of the capital stock of the old Company which are thereby vested in the shareholders of the new Company, and in consideration of the covenants by the new Company, hereinafter contained, the old Company doth hereby grant, assign, transfer and set over unto the new Company, its successors and assigns for ever all the assets, rights, effects and property, real and personal, of whatever kind, and wheresoever situated, belonging to the old Company, to have and to hold unto the new Company, its successors and assigns, to and for its sole and only use forever. And the old Company covenants with the new Company to execute and deliver, at the expense of the new Company, all such further and other separate and formal assignments, transfers and conveyances which may be required to vest in the new Company, its successors and assigns, the full legal, equitable and beneficial title and interest to and in the said assets, rights, effects and property, and every part thereof.

And in consideration of the foregoing the new Company covenants with the old Company, its successors and assigns, that it shall and will pay, discharge, carry out and perform all debts, liabilities, obligations, contracts and duties for or in respect of which the old Company is now liable, or which it should pay, discharge, carry out or perform, and the new Company shall and will indemnify and save harmless the old Company in respect thereof.