

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1862. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1862.

25 Victoria – Chapter 74

An Act to incorporate the Cain's River Boom Company. Passed 23rd April 1862.

| Section. | Section. |
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| 1. Incorporation of Company. | 10. Boomage, lien for. |
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| 9. Upon notice given, timber, &c. allowed to pass through Boom free of charge. | 18. Corporate powers void unless Boom erected within two years. |
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Whereas the erection of Booms and Piers at or near the mouth of Cain's River, in the County of Northumberland, will be convenient and advantageous to persons lumbering on the said Stream and its tributaries, and enable them with greater ease and security to raft their timber and logs ready to go to market;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That James Donald, Charles Donald, and Richard Hutchison, and their associates, successors, and assigns, be and they are hereby erected into a body corporate, by the name of 'The Cain's River Boom Company,' for the purpose of erecting and maintaining such boom or booms, pier or piers, or any other works, on the shores connected therewith, as the Corporation may think necessary or deem advisable, at or near the mouth of Cain's River, and from thence upwards to Salmon Brook, for the more convenient collecting, picking up, securing and rafting timber, logs and other lumber floating down the said River and its tributaries, and for carrying on and managing the same; and the said Corporation by such name shall have all the powers and privileges incident to a Corporation by Act of Assembly or otherwise.

2. The capital stock of the Corporation shall be twelve hundred dollars, and be divided into thirty shares of fifty dollars each, to be paid at such times and by such instalments as the business of the Company shall require; and the Corporation shall, when necessary, extend the capital stock to the sum of two thousand dollars, and shall have power to increase the number of shares accordingly, or assess such increase on the original shares.
3. The first meeting of the Corporation shall be held at Newcastle, and shall be called by Edward Williston, or in case of his death, neglect, refusal, or absence, by any two of the Corporation, after ten days' notice of the day of such meeting published in the Gleaner newspaper, for the purpose of making rules and regulations for the government of the Company, and choosing Directors necessary for the management of the affairs of the Company, which Directors so chosen shall serve until the first annual meeting, or until others are chosen in their stead, and shall have power to manage the affairs of the Corporation.
4. The boom or booms shall be so constructed as to admit the passage of rafts and boats, and to preserve the navigation of the river.
5. The said Corporation shall and they are hereby required to keep the said boom or booms in order to receive timber, logs or other lumber floating down the said river, from the spring of the year and after the river is clear of ice, until the first day of October in each year during the continuance of this Act.
6. The Corporation shall be entitled to receive the sum of two pence per ton for each and every ton of square or sided timber or other lumber, and five pence per thousand for each and every thousand superficial feet of logs or other lumber actually driven or floated down into the said booms and secured by the said Corporation, where the owner or owners raft the said timber, logs or other lumber at or near the said booms and protected thereby, such payments to be in full for booming and securing the said timber, logs or other lumber.
7. That in the event of the owner of any timber, logs or other lumber secured in the said booms, not appearing and commencing to raft the same within twenty four hours from the time the same was so secured, the said Corporation are authorized to raft the said timber, logs, or other lumber, and charge for such rafting, including the boomage, not exceeding two shillings and six pence per thousand for every superficial feet of logs, and nine pence per ton for every ton of timber or other lumber so rafted; and the Corporation shall have a lien on the said timber, logs, or other lumber, until the amount of such boomage and rafting is paid or secured, or shall have authority to sue the owner or owners thereof in any Court competent to try the same.
8. All prize logs or other logs, timber or lumber floated down the Cain's River and its branches, and into or against the said boom, upon which no marks are found, and for which no owner appears, shall be sold by the said Company by public vendue after ten days' notice of the hour, day and place of such sale posted in three public places in the Parish where the boom or booms are erected and established; and the proceeds thereof to be appropriated, one quarter thereof towards paying the expenses of the said Company, and the balance to be divided among the

owners of logs or other lumber secured in the said boom, according to the quantity owned by them respectively.

9. That when the owner or owners of any timber, logs or other lumber driven or floated down the said River may desire to pass the same through the said boom, for the purpose of rafting the same in the tideway, or for other purposes, and shall give notice to the said Corporation, their agents or servants in charge of the said boom, then such timber, logs or other lumber shall be allowed to pass through the said boom free of charge, and shall be exempted from the operations of the other sections of this Act.

10. The Corporation shall have a lien on all timber, logs or other lumber which may be secured in the said boom or booms, and rafted thereat, and may by themselves, agent or agents, retain a sufficient part of such lumber to pay the boomage until such boomage is paid or secured; or the Company shall have power to sue for and recover the said boomage from the owner of the said timber, logs or other lumber, in any Court competent to try the same; and should the said boomage be not paid within five days after notice to the owner that the timber, logs or other lumber has been secured in the said booms and ready to be delivered, the said Corporation shall be entitled to receive a reasonable compensation for keeping the said timber, logs or other lumber, which shall be deemed to be at the risk of the owner or owners thereof, not exceeding for each week after such notice two pence per ton for timber, and four pence per thousand superficial feet of logs or other lumber.

11. 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 reference shall name an arbitrator and give notice thereof in writing to the other party, who shall within ten days after such notice name and appoint a person as arbitrator on his behalf, and give notice of such appointment to the other party, and the two so chosen shall name a third; in case of neglect or refusal to appoint such arbitrator, the arbitrator first named shall name a second, and they two name a third, who shall proceed to hear the matter and make an award in the premises; the award and determination of them, or any two of them, shall be final and conclusive between the parties; which referees, or any two of them, shall also determine and award by whom and how the expenses of such reference shall be paid.

12. Should the boom at any time be filled with lumber, and the Corporation apprehend that a greater quantity driven therein would endanger its safety, they shall, if three fourths of the parties having lumber on the said River shall in writing approve of such a course, at once notify those parties on the stream not to continue their drive until the boom can be relieved; should they however persist in driving, and damage arise in consequence, either to the Corporation or to the owners of lumber in the boom, the party or parties so offending shall be responsible, as well to the Corporation as to the owners of lumber, for all damage sustained thereby.

13. The said Corporation shall not be liable for the loss of any timber, logs or other lumber which pass out of the said boom, or escape therefrom, unless such loss is occasioned by their neglect or default of their agents and servants; provided always, that the said Corporation, their agents or

servants, shall be bound, without delay, and with sufficient assistance, to follow down the River as far as Indian Town, and use all due diligence to collect together, pick up, secure, and raft all such timber, logs and other lumber which may pass out, or by, or escape from, or run below the said boom of the said Company.

14. Stockholders of the said Company shall be chargeable in their private and individual capacity, and shall be holden for the payment of all debts at any time due from the said Corporation, or damages sustained by the default or neglect of said Corporation, or their agents or servants, in proportion to the stock they respectively hold; provided however, that in no case shall any stockholder be liable to pay a sum exceeding the amount of stock actually then held by such stockholder in addition to the stock then held by such stockholder; provided nevertheless, that nothing herein contained shall be construed to exempt the joint stock of the said Corporation from being also liable for and chargeable with the debts and engagements of the same.

15. If any stockholder shall fail to pay the amount of any assessment made by the Company, or any part thereof, it shall be lawful for the said Company to sue such stockholder for the amount thereof in any Court of law or equity having competent jurisdiction, and to recover the same with lawful interest from the day on which such assessment was payable, with costs of suit; and when the amount due shall not exceed five pounds, the same may be recovered before any Justice of the Peace for the County of Northumberland, under the provisions of Chapter 137, Title xxxvii, of the Revised Statutes, 'Of the jurisdiction of Justices in civil suits.'

16. In any action or suit to be brought by the said Corporation against any stockholder to recover any money due for any call, it shall not be necessary to set forth the special matter; but it shall be sufficient for the said Company to declare that the defendant is the holder of one or more shares in the said Company, and is indebted to the said Company in the sum of money to which the assessment or assessments in arrear shall amount, in respect of one assessment or more upon one share or more, by means of which an action hath accrued to the said Company by virtue of this Act.

17. If any person shall wilfully and maliciously, and to the prejudice of the said undertaking, break, cut, damage or destroy the said boom or booms, or any pier or piers, or any part thereof, or any of the warps, ropes or fixings thereof, such person or persons so offending shall, upon conviction thereof before any two Justices of the Peace for the County of Northumberland, forfeit and pay a sum not exceeding forty dollars, with costs of prosecution, and when collected to be paid to and form a part of the funds of the said Corporation; and any stockholder in the said Company is hereby declared a competent witness against such offender or offenders.

18. Unless a good and sufficient boom or booms for the purposes of this Act be erected within two years after the passing of this Act, and a certificate thereof under the hand of the agent or principal officer of the Corporation, attested to by such agent or principal officer before one of Her Majesty's Justices of the Peace for the said County, which oath such Justice of the Peace is hereby authorized to administer, shall be filed in the office of the Secretary of the Province, then the corporate powers hereby granted shall be deemed null and void.

19. Nothing in this Act shall authorize or empower the said Corporation, or any of their agents or servants, to enter into or upon any lands or tenements of any person whomsoever, unless the consent of the owner or owners be first obtained.

20. This Act shall continue and be in force for ten years and no longer.