

CHAPTER 305

BOOM COMPANIES

305.01 CORPORATIONS FOR DRIVING LOGS.

HISTORY. 1889 c. 221 s. 2; G.S. 1894 s. 2633; R.L. 1905 s. 2933; G.S. 1913 s. 6261; G.S. 1923 s. 7550; M.S. 1927 s. 7550.

Pigeon River is one of the waters traversed by the line, and Grand Portage is one of several portages circuiting several impassable falls in Pigeon River, and they are within the provisions of the Webster-Ashburton Treaty of 1842. There is nothing in the treaty that precludes an improvement of the stream by sluiceways, dams and booms, rendering it capable of transporting timber products, a use theretofore impossible because of natural obstructions, nor does it prevent the inaction of a non-discriminatory charge for the use of such improvement. *Pigeon River v Cox*, 291 US 138, 54 SC 363.

305.02 POWERS AND PRIVILEGES.

HISTORY. 1889 c. 221 s. 2; G.S. 1894 s. 2633; R.L. 1905 s. 2934; G.S. 1913 s. 6262; G.S. 1923 s. 7551; M.S. 1927 s. 7551.

An action brought by a riparian owner to recover damages alleged to have been caused by the negligence and wrongful acts of the defendant boom company in causing log jams to be formed whereby waters were set back upon plaintiff's land, the evidence was sufficient to support a verdict in favor of the plaintiff. *Dousette v Little Falls*, 71 M 206, 73 NW 847.

In order to entitle a corporation organized under this section to collect toll, it is not necessary that it take possession of or improve the whole stream. *Northwestern v O'Brien*, 75 M 335, 77 NW 989.

305.03 CORPORATIONS FOR DRIVING LOGS; POWERS AND DUTIES; TOLLS; LIENS.

HISTORY. 1889 c. 221 s. 2; 1905 c. 89 s. 1; G.S. 1913 s. 6263; G.S. 1923 s. 7552; M.S. 1927 s. 7552.

A corporation cannot be made a certain kind of corporation merely by being labeled as such, if its declared objects declare it to be something else. The defendant in the instant case, although its articles of association state that it was incorporated under General Statutes 1894, Chapter 34, Title 2, was in fact as shown by its declared objects a contemplated business, organized for the purposes indicated by Laws 1889, Chapter 221, and as such is entitled to all the benefits of this section. Distinguishing the holding in *Northwestern v O'Brien*, 75 M 335. *International Company v Rainy Lake*, 97 M 513, 107 NW 735.

The evidence shows a contract pursuant to which defendant collected, sorted and handled plaintiff's logs as they were driven down Rainy Lake river in 1904, and the defendant is entitled to reasonable compensation, and has a lien for that compensation, and may retain possession of the logs until the lien is discharged. *International v Rainy Lake*, 97 M 513, 107 NW 735.

A public service corporation, although authorized to condemn private property, may not exercise such power when the particular enterprise contemplates and interferes with the navigable capacity or navigation of any of the navigable waters of the state, unless such interference is expressly authorized by statute. *Minnesota v Pratt*, 101 M 97, 112 NW 395.

The surveyor general's fees for surveying logs running out of a chartered boom are chargeable to the company operating such boom; the company having the right, in turn, to include such fees in the tolls, costs and expenses collectible by it. *Bennett v Rainy Lake*, 115 M 96, 131 NW 1059.

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Distinguishing *International v Rainy Lake*, 97 M 513, the defendant in the instant case is not authorized by this section to levy tolls on logs passing through its sorting works located in the Rainy Lake river; it not having been requested by the owner to drive, handle or sort such logs, or authorize so to do by reason of the fact that such logs were impeding the main drive. *Namakan v Rainy Lake*, 115 M 296, 132 NW 259.

Upon a breach of a contract to refrain from diverting water from a stream so as to interfere with the operation of a mill, the contractee may recover as damages profits which he would have made except for the breach. *Johnson v Wild Rice*, 118 M 24, 136 NW 262.

The rights of mill and other riparian owners upon navigable rivers are subordinate to the right of the state to improve the river for navigation, and to the rights conferred by statute upon logging corporations with the limitation that the rights so conferred must be exercised in a reasonable manner, and so as not to unnecessarily injure riparian rights. *Heiberg v Wild Rice*, 127 M 8, 148 NW 517; *Johnson v Wild Rice*, 127 M 490, 150 NW 218.

This section, which authorizes the organization of logging and boom companies and provides for a lien for the corporation's charges, cannot be construed to authorize such company to extend its works beyond the center of Rainy Lake river, nor within the jurisdiction of the Dominion of Canada.

Where defendant extended its sheer boom from the American side to the Canadian side, and caught logs of a Canadian lumber company, the boom company was not entitled to tolls for handling such logs, and the Canadian company might maintain a replevin in a federal court of the United States to recover logs so unlawfully held by the defendant. *Rainy Lake v Rainy River*, 162 Fed. 287.

305.04 CHARGES FOR BOOMAGE BY CERTAIN COMPANIES.

HISTORY. 1911 c. 191 s. 1; G.S. 1913 s. 6264; G.S. 1923 s. 7554; M.S. 1927 s. 7554.

305.05 SCALE; FEES.

HISTORY. 1911 c. 191 s. 2; G.S. 1913 s. 6266; G.S. 1923 s. 7555; M.S. 1927 s. 7555.

305.06 LIEN; SALE.

HISTORY. 1911 c. 191 s. 3; G.S. 1913 s. 6267; G.S. 1923 s. 7556; M.S. 1927 s. 7556.