

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 245**

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H. P. 198

House of Representatives, January 21, 1969

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Durgin of Raymond. By Request.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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**RESOLVE, Authorizing Flowage Rights to Arthur C. Shute and Emma L. Shute of Sebago on State Highway #126 in East Sebago.**

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**Preamble.** Whereas, Arthur C. and Emma L. Shute are owners of certain land situated in Sebago in the County of Cumberland and State of Maine, in Lots 20 and 21 in East Sebago which, prior to the acquisition of said land by Mr. and Mrs. Shute, contained mill privileges. The subject property is an irregular shaped parcel approximately 1,700 feet in length varying in width with the widest part being about 350 feet wide and includes the east and west banks of the Northwest River; and

Whereas, about 18 years ago and for some time prior thereto a dam had been erected at the south end of the subject parcel and the land area had been flooded for a mill pond to the maximum sea level elevation of about 299 feet; but for the past 18 years or so no dam has existed and the thread and current of the Northwest River has resumed its normal course; and

Whereas, the State of Maine, acting by and through its State Highway Commission by a Notice of Layout and Taking dated October 23, 1968 and recorded November 15, 1968 in the Cumberland County Registry of Deeds in Volume 3065, Page 813, diagonally bisected the subject parcel from the Southwest to the northeast side. 4.42+ acres of land was taken together with 580+ square feet of slope easement and .32+ of an acre area for a channel diversion. In addition 8 drainage easements were acquired and a .17+ of an acre area was acquired for a temporary work easement; and

Whereas, the highway construction plans to use stone riprap to protect the highway slopes and at the channel relocation which will divert the west channel of the river to the east channel, a concrete bridge will have a finished elevation level of 304.40 feet. The purpose of the construction is to provide

reinforced slopes to the rescribed elevation in the event that the Shutes reconstruct the now non-operating dam and flood their land to the elevation of 299 feet as they have indicated in correspondence and contacts with the Highway Commission and Department of Inland Fisheries and Game; and

Whereas, Mr. and Mrs. Shute have plans for reconstructing the dam on their land to flood the banks of Northwest River to create a mill head of water and a still pond on the river which will supply a power source for the Shute's mill and also supply an auxiliary water supply for the community; and

Whereas, flooding of the Shute's land to the desired level to create an effective mill privilege will require flooding of part of the highway right-of-way acquired by the State Highway Commission from Mr. and Mrs. Shute; and

Whereas, the only statute which authorizes the granting of mill privileges on state-owned land is Title 12, section 514, and that relates to leasing of mill privileges on land under the supervision of the Forest Commissioner and is not applicable to land acquired for highway purposes. Therefore, the following proposed legislative resolve will be required to permit flowage of the highway right-of-way; now, therefore, be it

**Resolved:** That Arthur C. Shute and Emma L. Shute of Sebago in the County of Cumberland and State of Maine shall be authorized flowage rights adjacent and contiguous to the mill privilege existing upon their land to flow land of the State of Maine acquired for highway right-of-way on State Highway #126 in East Sebago to and not exceeding a maximum sea level elevation of 299 feet within the following designated right-of-way limits:

1. An area of the State Highway 126 right-of-way consisting of 1.15+ acres of land beginning at highway Station 484+25+ on the easterly side of said highway and then extending northerly and northeasterly along said easterly side of said highway to Station 498+46+ as the aforesaid highway station references appear on the Maine State Highway Commission Right of Way Map, State Highway 126, Sebago, Federal Aid Project No. S-0126(5), dated July, 1968 on file in the office of the State Highway Commission, S.H.C. File No. 3-194, a copy of which is on file in the office of the Cumberland county commissioners.

2. An area of the State Highway 126 right-of-way consisting of .60+ of an acre of land beginning at highway Station 491+80+ on the westerly side of said highway and then extending northeasterly along said westerly side of said highway to Station 499+28+ as the aforesaid highway station references appear on the Maine State Highway Commission Right of Way Map. State Highway 126, dated July, 1968, on file in the office of the State Highway Commission, S.H.C. file No. 3-194, a copy of which is on file in the office of the Cumberland county commissioners.

The owners and operator of the mill privilege shall at all times control the flowage rights so as to not interfere with the use of said highway by the public and that the said owners and operators of the said mill privilege shall lower the water head within the above described flowage right areas whenever, in the opinion of the State Highway Commission, it shall or may become necessary to perform construction, reconstruction or maintenance work within the above described flowage right areas.