

# MAINE STATE LEGISLATURE

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# SEVENTY-THIRD LEGISLATURE

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HOUSE.

No. 621

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND SEVEN.

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AN ACT to incorporate the Livermore Falls Water District.

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

Section 1. The following territory and the people within  
2 the same, namely: All of the town of East Livermore except  
3 all that part of said town situated easterly of the road leading  
4 from East Livermore camp ground, so called, to Wayne  
5 village over Beech hill, so called, and south of the southerly  
6 line of Augustus Young's farm and bounded on the west by  
7 said road, on the south by the town of Wayne, on the east by  
8 the town of Wayne and Fayette and on the north by the  
9 southerly line of Augustus Young's farm, shall constitute a  
10 public municipal corporation under the name of the Liver-  
11 more Falls Water District for the purpose of supplying the

12 inhabitants of said district and of the towns of Livermore and  
13 Jay and such municipalities, together with the town of East  
14 Livermore, with pure water for domestic, sanitary and  
15 municipal purposes.

Sect. 2. The said district, for the purpose of its incorpora-  
2 tion, is hereby authorized to take, hold, divert, use and dis-  
3 tribute water from Moose Hill pond, so called, in said East  
4 Livermore and from the North Livermore ponds, so called,  
5 situated in the town of Livermore.

Sect. 3. The said district, for the purposes of its incorpora-  
2 tion, is hereby authorized to take and hold, as for public uses,  
3 by purchase or otherwise, any land or interest therein or  
4 water rights necessary for erecting and maintaining dams,  
5 for flowage, for power for pumping its water supply through  
6 its mains, for reservoirs, for preserving the purity of the  
7 water and water shed, for laying and maintaining aqueducts  
8 and other structures for taking, distributing, discharging and  
9 disposing of water and for rights of way or roadways to its  
10 sources of supply, dams, power stations, reservoirs, mains,  
11 aqueducts, structures and lands. Nothing in this act shall  
12 authorize said district to erect or take any dam, or interest  
13 therein, on the Androscoggin river or to take any water right  
14 therein.

Sect. 4. The said district is hereby authorized to lay in and  
2 through the streets, roads, ways and highways of the towns  
3 named in section one and across private lands therein, and  
4 to maintain, repair and replace all such pipes, aqueducts and  
5 fixtures as may be necessary and convenient for its corporate  
6 purposes, and whenever said district shall lay any pipes or

7 aqueducts in any street, road, way or highway it shall cause  
8 the same to be done with as little obstruction as practicable  
9 to the public travel, and shall, at its own expense, without  
10 unnecessary delay, cause the earth and pavement removed by  
11 it to be replaced in proper condition.

Sect. 5. The said district is hereby authorized, for the  
2 purposes of its incorporation, to erect and maintain all dams,  
3 reservoirs and structures necessary and convenient for its  
4 corporate purposes.

Sect. 6. In exercising any right of eminent domain con-  
2 ferred upon it by law, from time to time, or any right of  
3 eminent domain through or under the franchise of the water  
4 company by it acquired, the said district shall file in the office  
5 of the county commissioner of the county where such lands  
6 or water rights are situated and record in the registry of  
7 deeds in said county, plans of the location of all lands or  
8 interests therein or water rights, to be taken, with an appro-  
9 priate description and the names of the owners thereof, if  
10 known. When for any reason the district fails to acquire  
11 the property authorized to be taken, and which is described  
12 in such location, or the location recorded is defective or  
13 uncertain, it may, at any time, correct and perfect such loca-  
14 tion and file a new description thereof, and in such case the  
15 district is liable in damages only for property for which the  
16 owner had not previously been paid, to be assessed as of  
17 the time of the original taking, and the district shall not be  
18 liable for any acts which would have been justified if the  
19 original taking had been lawful. No entry shall be made on  
20 any private lands, except to make surveys, until the expira-

21 tion of ten days from such filing, whereon possession may  
22 be had of all said lands or interests therein or water rights  
23 so taken, but title thereto shall not vest in said district until  
24 payment therefor.

Sect. 7. If any person, sustaining damages by any taking  
2 as aforesaid, shall not agree with said district upon the sum  
3 to be paid therefor, either party, upon petition to the county  
4 commissioners of the county where said lands or water rights  
5 are situated, may have said damages assessed by them; the  
6 procedure and all subsequent proceedings and right of appeal  
7 thereon shall be had under the same restrictions, conditions  
8 and limitations as are or may be by law prescribed in the  
9 case of damages by the laying out of highways.

Sect. 8. In case of any crossing of a railroad, unless con-  
2 sent is given by the company owning or operating such rail-  
3 road as to place, manner and conditions of the crossing,  
4 within thirty days after such consent is requested by said  
5 district, the railroad commissioners shall determine the place,  
6 manner and condition of such crossing; and all work within  
7 the limits of such railroad location shall be done under the  
8 supervision and to the satisfaction of such railroad company,  
9 but at the expense of the district.

Sect. 9. All the affairs of said district shall be managed  
2 by a board of trustees composed of three members. They  
3 shall be appointed by the municipal officers of the town of  
4 East Livermore on or before the fourth Monday of April,  
5 nineteen hundred and seven, and due certificate thereof filed  
6 with the town clerk of said town. The term of office of the  
7 trustees shall begin on the said fourth Monday of April.

8 As soon as convenient after all the members of said board  
9 have been so chosen, said trustees shall hold a meeting at  
10 the selectmen's office in the town of East Livermore to be  
11 called by one of said trustees upon such reasonable notice  
12 therefor as he deems proper. They shall organize by the  
13 election of a president and a clerk, adopt a corporate seal  
14 and when necessary may choose a treasurer and all other  
15 needful officers and agents for the proper conduct and man-  
16 agement of the affairs of said district. They may also ordain  
17 and establish such by-laws as are necessary for their own  
18 convenience and the proper management of the affairs of  
19 the district. At said first meeting the trustees so elected  
20 shall determine by lot the term of office of each trustee so  
21 that one trustee shall retire each year and whenever the  
22 term of office of a trustee expires his successor shall be  
23 appointed by the municipal officers of the town of East  
24 Livermore. The trustees so appointed shall serve the full  
25 term of three years; and in case any vacancy arises in the  
26 membership of the board of trustees it shall be filled in like  
27 manner, for the unexpired term, by the municipal officers  
28 of said town of East Livermore. All such trustees shall be  
29 eligible to re-election, but no selectman of said town of East  
30 Livermore shall at any time be eligible to such office. Said  
31 trustees may procure an office and incur such expense as  
32 may be necessary. Each member shall receive in full com-  
33 pensation of his services an allowance of one hundred dol-  
34 lars per annum. At the close of each fiscal year the trustees  
35 shall make a detailed report of their doings, of the receipts  
36 and expenditures of said water district, of its financial and

37 physical condition, and of such other matters and things  
38 pertaining to said district as shall show the inhabitants of  
39 said district how said trustees are fulfilling the duties and  
40 obligations of their trust, such reports to be made and filed  
41 with the municipal officers of the town of East Livermore.

Sect. 10. Said water district is hereby authorized and  
2 empowered to acquire by purchase or by the exercise of the  
3 right of eminent domain, which right is hereby expressly  
4 delegated to said district for said purpose, the entire plant,  
5 property, franchises, rights and privileges of the Livermore  
6 Falls Water Company, except its cash assets, including all  
7 lands, waters, water rights, dams, structures, reservoirs,  
8 pipes, machinery, fixtures, hydrants, tools and all apparatus  
9 and appliances owned by said company and used or usable  
10 in supplying water in East Livermore, Livermore and Jay,  
11 together with all real estate so used or usable. The said  
12 water company is hereby authorized to sell and transfer its  
13 franchises and property to said water district. All said  
14 franchises and properties shall be taken subject to all mort-  
15 gages, liens and encumbrances thereon, all of which mort-  
16 gages, liens and encumbrances shall be assumed and paid by  
17 said water district.

Sect. 11. The Livermore Falls Water Company may, at  
2 its option, on or before the second Monday of May, nineteen  
3 hundred and seven, file with said trustees an offer in writing  
4 stating therein the price at which it will sell and transfer,  
5 as authorized in section ten, its entire plant, property, fran-  
6 chises, rights and privileges, except its cash assets, subject  
7 to all liens, mortgages and encumbrances, to the said water

8 district. Said offer shall provide that actual possession of  
9 the plant and property shall not be given until payment  
10 therefor, but that delivery of possession, when made, shall  
11 be as of the first day of October, nineteen hundred and  
12 seven, from which day interest on said price shall run at the  
13 rate of six per cent per annum and all net rents and profits  
14 accruing thereafter shall belong to said water district. Such  
15 offer shall further provide that payment of said price shall  
16 be made by said district at its option on or before the first  
17 day of October, nineteen hundred and seven. The said  
18 water district shall in writing accept or reject said offer on  
19 or before the second Monday in June of said year. In case  
20 of acceptance as aforesaid the said water company shall  
21 forthwith cause proper deeds of transfer and conveyance  
22 to be made and filed in the clerk's office of the supreme judi-  
23 cial court for the county of Androscoggin, for the inspection  
24 of said water district and to be approved by the court, or  
25 any justice thereof, in term time or in vacation. The said  
26 water district, through its trustees, shall file its petition when  
27 acceptance is made as aforesaid, in the clerk's office of the  
28 supreme judicial court for the county of Androscoggin, in  
29 term time or in vacation, addressed to any justice of said  
30 court, alleging its willingness to pay the agreed purchase  
31 price and interest into court before the first day of October,  
32 nineteen hundred and seven, for the benefit of the water  
33 company interested therein, and said court through any jus-  
34 tice thereof, in term time or in vacation, after notice to the  
35 said water company and its mortgagees, and hearing there-  
36 on, shall make all necessary decrees for the vesting of full



37 title in said water district to the entire plant, property and  
38 franchises of the defendant water company in such petition,  
39 subject to all liens, mortgages and encumbrances thereon;  
40 after such final decree and before transfer of the plant,  
41 property and franchises in accordance therewith, and before  
42 payment therefor, the court sitting in said county of Andros-  
43 coggin, by a single justice thereof, as hereinbefore provided,  
44 shall, upon motion of either party, after notice and hearing,  
45 take account of all receipts and expenditures properly had  
46 or incurred by the defendant water company, belonging to  
47 the period from and after October first, nineteen hundred  
48 and seven, and all the net rents and profits accruing there-  
49 after, and shall order the net balance due to either party to  
50 be added to or deducted from the amount to be paid under  
51 said final decree as the case may be. All findings of law or  
52 fact by any single justice at the hearing aforesaid shall be  
53 final. After any such acceptance as aforesaid, the water  
54 company interested therein may compel said water district,  
55 by appropriate process in equity, to perform its contract of  
56 acceptance, and to pay for the plant, property and franchises  
57 in accordance therewith.

Sect. 12. Where the said trustees fail to agree with said  
2 water company upon terms of purchase, as hereinbefore pro-  
3 vided, on or before July first, nineteen hundred and seven,  
4 then said water district, through its trustees, is hereby  
5 authorized to take the plant, property and franchises of such  
6 water company, as authorized in section ten, subject, how-  
7 ever, to all mortgages, liens and encumbrances thereon as  
8 stated in section ten as for public uses, by petition therefor

9 in the manner hereinafter provided, wherein such water com-  
10 pany and its mortgagees shall be the party defendant. And  
11 said water district, through its trustees, is hereby authorized  
12 or or before July fifteenth, nineteen hundred and seven, to  
13 file a petition in the clerk's office of the supreme judicial  
14 court, for the county of Androscoggin, in term time or in  
15 vacation, addressed to any justice thereof, who, after notice  
16 to said defendant water company and its mortgagees, shall,  
17 after hearing and within thirty days after the filing of said  
18 petition appoint three disinterested appraisers, none of whom  
19 shall be residents of the county of Androscoggin, one of  
20 whom shall be learned in the law, for the purpose of fixing  
21 the valuation of the plant, property and franchises of said  
22 defendant water company as described in section ten. Said  
23 petition shall not be dismissed after filing but may and shall  
24 be amended in any manner required to enable the court to  
25 make all necessary decrees thereon. At the hearing afore-  
26 said, such justice, upon motion of the petitioner, may order  
27 the production and filing in court, for the inspection of the  
28 petitioner, of all books and papers pertinent to the issue to  
29 be heard by said appraisers, the terms and conditions of so  
30 producing and filing such books and papers to be determined  
31 by said justice in his order therefor and to be enforced from  
32 time to time as any justice of said supreme judicial court, in  
33 term time or in vacation, upon motion of either party, may  
34 deem reasonable and proper in the premises. At such hear-  
35 ing, such justice, upon motion of the petitioner, may fix a  
36 time at which the said defendant water company shall file in  
37 the clerk's office of the supreme judicial court for the county

38 of Androscoggin, for the inspection of the petitioner, the  
39 following: First, schedules showing the names, residence,  
40 street number (if any) and water service of each customer  
41 on July first, A. D. 1907, with rate charged therefor; second,  
42 copies of all contracts in force on said July first; third, an  
43 itemized statement of the gross income earned during its last  
44 complete fiscal year and all operating expenses and fixed  
45 charges paid or incurred during such year and properly  
46 chargeable thereto; fourth, a memorandum of all real estate,  
47 or interest therein, owned or controlled on said July first  
48 with such brief description thereof as will reasonably iden-  
49 tify the same; fifth, a memorandum of all water rights used  
50 or owned on said July first with a brief description thereof  
51 and a concise statement of the method of acquiring the same;  
52 sixth, duplicate plans of all structures owned in whole or in  
53 part on said July first with specifications thereof; seventh,  
54 descriptions and specifications of all reservoirs and stand  
55 pipes owned on said July first; eighth, a description of all  
56 pipes, service pipes, hydrants, gates, gate boxes, shut-off  
57 boxes, fixtures and machinery, and all the physical elements  
58 in such water system, giving in detail all quantities, sizes,  
59 lengths, specifying the streets, roads or ways where situated;  
60 ninth, an itemized list of all tools, apparatus and appliances  
61 used or usable in supplying water on said July first. Such  
62 orders may be enforced from time to time by any justice of  
63 said supreme judicial court, in term time or in vacation,  
64 upon motion of either party, as such justice may deem  
65 reasonable and proper in the premises. At such hearing the  
66 justice then sitting may, upon motion of the petitioner, make

67 all such decrees as he deems reasonable and proper to enable  
68 the petitioner, through its servants and employees, to ascer-  
69 tain the condition of the mains and pipes of the defendant  
70 water company, externally and internally, all work connected  
71 therewith to be in the presence of the agents of the water  
72 company, and, at the election of the water company by its  
73 servants, otherwise by the petitioner, but wholly at the  
74 expense of said water district, said decree to fix the number  
75 of such examinations and to impose such conditions as may  
76 to the court seem just and proper in the premises. The said  
77 appraisers shall have the power of compelling attendance of  
78 witnesses and the production of books and papers pertinent  
79 to the issue and may administer oaths; and any witness or  
80 person in charge of such books or papers refusing to attend  
81 or to produce the same shall be subject to the same penalties  
82 and proceedings, so far as applicable, as witnesses summoned  
83 to attend the supreme judicial court. Depositions may be  
84 taken as in civil actions. The said appraisers may appoint  
85 a sufficient number of stenographers to enable a full report  
86 of the proceedings of each day to be in readiness for use the  
87 following day, each of said appraisers to so have one copy  
88 thereof, and the parties to receive such number of copies as  
89 the appraisers may deem necessary. The compensation and  
90 expenses of said stenographers shall be taxed and allowed  
91 by the appraisers and be paid and borne as hereinafter pro-  
92 vided. Their reports, certified by said appraisers as correct,  
93 shall be filed with the award to be made by said appraisers  
94 and shall be legal evidence of all proceedings so reported.  
95 They shall make full report as required in trials had in the

96 supreme judicial court. The appraisers so appointed shall,  
97 after due notice and hearing, fix the valuation of the plant,  
98 property and franchises of said defendant water company  
99 at what they are fairly and equitably worth, so that said  
100 water company shall receive just compensation for all the  
101 same. The first day of October, nineteen hundred and  
102 seven, shall be the date as of which the valuation aforesaid  
103 shall be fixed, from which date interest on said award at  
104 the rate of six per cent per annum shall run and all net  
105 rents and profits accruing thereafter shall belong to said  
106 water district. The report of said appraisers or of a  
107 majority of them, shall be filed in said clerk's office within  
108 six months after their appointment, but, if at the expiration  
109 of said six months the hearing before said appraisers should  
110 them be in progress and unfinished, their report may be so  
111 filed within thirty days after close of said hearing. After  
112 said report is filed, such single justice, so appointing said  
113 appraisers, or in case of his inability to act, then any justice  
114 designated for the purpose by the chief justice, may, after  
115 notice and hearing, confirm or reject the same or recommit,  
116 if justice so requires, and in case of such rejection or recom-  
117 mittal such justice may fix the times for new hearings and  
118 new report thereon. The award of the appraisers shall be  
119 conclusive as to valuations. Upon confirmation of their  
120 report, the court so sitting, in term time or in vacation, shall  
121 thereupon, after hearing, make final decree upon the whole  
122 matter, including the transfer of the properties and fran-  
123 chises, jurisdiction over which is hereby conferred with the  
124 same power to enforce said decree as in equity cases. All

125 the costs and expenses arising under such petition and  
126 appraisal shall be paid and borne as directed by the court  
127 in said final decree. The findings of such justice as to  
128 such costs and expenses and their apportionment shall be  
129 final. In all other matters the justice so making such final  
130 decree shall, upon request of any of the parties, make sepa-  
131 rate findings of law and fact. All such findings of fact  
132 shall be final, but any party aggrieved may take exceptions  
133 to any rulings of law so made, the same to be accompanied  
134 by only such parts of the case as are necessary to a clear  
135 understanding of the questions raised thereby. Such excep-  
136 tions shall be claimed on the docket within ten days after  
137 such final decree is signed, entered and filed, and notice  
138 thereof has been given by the clerk to the parties or their  
139 counsel, and said exceptions so claimed shall be made up,  
140 allowed and filed within said time unless further time is  
141 granted by the court or by agreement of the parties. They  
142 shall be entered at the next term of the law court to be held  
143 after the filing of such exceptions and there heard unless  
144 otherwise agreed, or the law court shall for good cause  
145 order a further time for hearing thereon. Upon such hear-  
146 ing the law court may confirm, reverse or modify the decree  
147 of the court below or remand the cause for further pro-  
148 ceedings, as it seems proper. During the pendency of such  
149 exceptions the cause shall remain on the docket of the court  
150 below, marked, "Law" and decree shall be entered thereon  
151 by a single justice, in term time or in vacation, in accord-  
152 ance with the certificate and opinion of the law court.  
153 Before the aforesaid plant, property and franchises are

154 transferred in accordance with such final decree, and  
155 before the payment therefor, the court sitting in said county  
156 of Androscoggin, by a single justice thereof, as hereinbefore  
157 provided, shall, upon motion of any party, after notice and  
158 hearing, take account of all receipts and expenditures  
159 properly had and incurred by said water company, belong-  
160 ing to the period from and after October first, nineteen hun-  
161 dred and seven, and all net rents and profits accruing there-  
162 after, and shall order the net balance due to any party to  
163 be added to or deducted from the amount to be paid under  
164 said final decree, as the case may be. All findings of law  
165 or fact by such single justice at such hearings shall be final.  
166 On payment or tender by said water district of the amount  
167 so fixed and the performance of all other terms and condi-  
168 tions so imposed by the court, the entire plant, property and  
169 franchises of said water company as described in section  
170 ten shall become vested in said water district subject to all  
171 liens, mortgages and encumbrances thereon theretofore  
172 created by said water company. After the filing of said  
173 petition it shall not be discontinued or withdrawn by said  
174 water district, and the said water company may thereafter-  
175 wards cause said valuation to be made as herein provided,  
176 and shall be entitled to appropriate process to compel said  
177 water district to perform the terms of the final decree and  
178 to pay for said plant, property and franchises in accordance  
179 therewith. If a vacancy occurs at any time in said board  
180 of appraisers, from any cause, any justice of the supreme  
181 judicial court, sitting in said county of Androscoggin, may,  
182 in term time or in vacation, after notice and hearing,

183 appoint a new appraiser or appraisers, and make all such  
184 orders for hearing said cause by the appraisers anew or for  
185 any extension of time for making their award, or other-  
186 wise, as the circumstances of the case may require.

Sect. 13. All valid contracts, made in good faith, now  
2 existing between said water company and any person or  
3 corporations for supplying water within the towns named  
4 in section one shall be assumed and carried out by said  
5 Livermore Falls Water District.

Sect. 14. For accomplishing the purposes of this act, said  
2 water district, through its trustees, is authorized to borrow  
3 money temporarily and to issue therefor the interest-bearing  
4 negotiable notes of the district, and for the purpose of  
5 refunding the indebtedness so created, of paying any neces-  
6 sary expenses and liabilities, incurred under the provisions  
7 of this act, including the expenses incurred in the creation  
8 of the district, in acquiring the property and franchises of  
9 the Livermore Falls Water Company, by purchase or other-  
10 wise, or in the purchase or acquisition of the property and  
11 franchises of said water company, of assuming and paying  
12 the mortgages, liens and encumbrances thereon as provided  
13 in section ten, of securing sources of supply, taking water  
14 and lands, paying damages, laying pipes, constructing, main-  
15 taining and operating a water plant, and making renewals,  
16 extensions, additions and improvements to the same, the said  
17 water district, through its trustees, may from time to time  
18 issue bonds of the district to an amount or amounts neces-  
19 sary in the judgment of the trustees therefor. Said notes  
20 and bonds shall be legal obligations of the water district,



21 which is hereby declared to be a quasi municipal corporation  
22 within the meaning of section 96, chapter 47 of the Revised  
23 Statutes, and all the provisions of said section shall be  
24 applicable thereto. The said notes and bonds shall be legal  
25 investments for savings banks.

Sect. 15. All individuals, firms and corporations, whether  
2 private, public or municipal, shall pay to the treasurer of  
3 said district the rates established by said board of trustees  
4 for the water used by them, and said rates shall be uniform  
5 within the territory supplied by the district. Said rates shall  
6 be so established as to provide revenue for the following pur-  
7 poses:

I. To pay the current expenses for operating and main-  
9 taining the water system.

II. To provide for the payment of the interest on the  
11 indebtedness created or assumed by the district.

III. To provide each year a sum equal to not less than  
13 one nor more than five per cent of the entire indebtedness  
14 created or assumed by the district, which sum shall be turned  
15 into a sinking fund and there kept to provide for the extin-  
16 guishment of such indebtedness. The money set aside for  
17 the sinking fund shall be devoted to the retirement of the  
18 obligations of the district or invested in such securities as  
19 savings banks are allowed to hold.

IV. If any surplus remains at the end of the year it may  
21 be paid to the town of East Livermore.

Sect. 16. All incidental powers, rights and privileges nec-  
2 essary to the accomplishment of the main object herein set  
3 forth are granted to the public municipal corporation hereby  
4 created.

Sect. 17. This act shall take effect when approved by a  
2 majority vote of the legal voters of the town of East Liver-  
3 more voting by ballot at an election to be specially called  
4 and held for the purpose on the second Monday of April,  
5 nineteen hundred and seven. Such special election shall be  
6 called, warned and conducted according to the law relating  
7 to municipal elections in said town, provided, however, that  
8 the selectmen shall not be required to prepare for posting  
9 or the town clerk to post a new list of voters, and for the  
10 purpose of registration of voters said selectmen shall be in  
11 session the secular day next preceding such election. The  
12 town clerk shall reduce the subject matter of this act to the  
13 following question: "Shall the act to incorporate the Liver-  
14 more Falls Water District be accepted?" and the voters shall  
15 indicate by a cross placed upon their ballots over the words  
16 "Yes" or "No" their opinion of the same. The result shall  
17 be declared by the selectmen and due certificate thereof filed  
18 by the town clerk with the secretary of state.

Sect. 18. Sections two, three, four, five, six, seven and  
2 eight shall be inoperative, null and void unless the said water  
3 district shall first acquire by purchase or by the exercise of  
4 the right of eminent domain as in this act provided, the plant,  
5 property and franchises, rights and privileges of the Liver-  
6 more Falls Water Company.

Sect. 19. This act shall take effect when approved by the  
2 Governor, so far as necessary to empower the calling and  
3 holding of the election authorized in section seventeen  
4 hereof.





STATE OF MAINE.

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HOUSE OF REPRESENTATIVES,

Augusta, March 18, 1907.

Reported by Mr. MONTGOMERY from Committee on Judiciary, and  
ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*