

MAINE STATE LEGISLATURE

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SEVENTY-NINTH LEGISLATURE

HOUSE

NO. 81

House of Representatives, Jan. 31, 1919.

Referred to Committee on Interior Waters and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Garcelon of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND NINETEEN

AN ACT to provide for a commission to be known as the People's Rights and Water Power Commission of the State of Maine.

WHEREAS, the people of the State of Maine, who are the inhabitants thereof, are the legal owners of all waters and rivers in the state, and that the inhabitants may receive a revenue from the same as their just due, therefore,

Be it enacted by the People of the State of Maine, as follows:

Section 1. That there is hereby created a commission to
2 be known as the People's Rights and Water Power Commis-
3 sion of the State of Maine, and shall consist of five men,
4 one of whom shall be an experienced civil engineer, and

5 one shall be an expert hydraulic and electrical engineer,
6 two, experienced dam builders, and one capable business
7 man. These men shall pass a civil service examination be-
8 fore a board of examiners, composed of four professors of
9 science, one from each of the colleges of the state, and to
10 be appointed by the president of each college. This board
11 shall meet at such time as they shall be notified by the Gov-
12 ernor, and at such place as he may appoint, there to hear
13 and examine thoroughly as to the competency of the appli-
14 cants to fill any of the positions as prescribed for each of
15 the members of the commission. But no political test shall
16 be applied. The men must be appointed for their ability for
17 the office to be filled, not for any political party affiliation.
18 After the examination, the examining board shall at once
19 report to the Governor, giving the names of the men who
20 passed a satisfactory examination, and all vacancies in the
21 commission shall be filled in the same manner.

Sect. 2. On receipt of the report of the board of examiners
2 the Governor shall, with the consent of the Council, appoint
3 the men so recommended as commissioners, who shall hold
4 office as long as they shall faithfully fulfill the duties re-
5 quired of them, and if at any time the Governor and Coun-
6 cil become convinced that any one or more of the same com-
7 missioners are proving incompetent, they shall notify such
8 in writing, and order him or them before the Council for a
9 hearing, and if the accused is found incompetent, neglectful
10 or dishonest, the Council shall declare the office vacant, and

11 the Governor shall proceed to fill the vacancy as prescribed
12 in Section 1.

Sect. 3. The duty of the commissioners is first to ascer-
2 tain the amount, and location of all the unoccupied water
3 power privileges in the state, as well as all occupied water
4 powers, and they shall proceed to take personal possession
5 at once, of all the water power unoccupied, and shall adver-
6 tise water power to let, in a manner such as will best reach
7 manufacturers in want of cheap power, and when a sufficient
8 and reliable contract is received, the commissioners shall
9 proceed to the location desired, and shall acquire by pur-
10 chase as much land each side of said water power, as they
11 deem necessary for the construction of a suitable dam and
12 power house. If the owner of the land ask, what in the
13 minds of the commissioners, is an unreasonable, unjust sum
14 per acre, the commissioners shall cause the land to be con-
15 demned, and the county commissioners of the county in
16 which the land is located, shall fix a just value, and under
17 the same process, the commissioners shall acquire as much
18 of the riparian rights as the erection of such a dam will
19 cause the water to overflow and in all cases where practi-
20 cable such a dam shall be built with its full capacity as a
21 storage for water, as the formation of the land will allow.

Sect. 4. The commissioners shall take possession of all
2 the occupied water powers in the state, which belongs to
3 the inhabitants and their successors, by first causing a no-
4 tice to be given to any person, company or corporation, who

5 are found in possession of such water powers, by giving
6 the claimant a proper notice in writing, allowing them sixty
7 days in which to vacate and deliver over to the commission-
8 ers all supervision of said water power, and the commission-
9 ers may acquire as much land on each side of the river or
10 stream, where such water power is located as would be nec-
11 essary for the repair and the maintenance and care of the
12 same. The commissioners shall have and are hereby given
13 power to take possession of said land by due process of con-
14 demnation and eminent domain.

Sect. 5. Any person, company or corporation in possession
2 of any occupied water power who are using said power
3 themselves for manufacturing purposes or generating elec-
4 tric light, power or heat, shall have the preference in en-
5 tering into a contract with the inhabitants through the
6 commissioners, so that by paying such a sum or fee per
7 horse power per annum for all horsepower used by them,
8 the said amount of power to be determined by the commis-
9 sioners, but in no case shall they pay less than twenty dol-
10 lars per horse power per annum. Any person, company or
11 corporation in possession of such water powers who sell this
12 power to others direct, shall not be allowed a lease of said
13 power.

Sect. 6. Any person, company or corporation who desires
2 to improve and lease any unoccupied water power, may on
3 application to the commissioner setting forth the desire, may
4 be allowed to do so, but said parties must build and main-

tain such a dam as the commissioners shall determine and
said builders shall have a lease of the water power not to
exceed ten years, and which may be renewed in periods of
ten years each, and said parties shall pay to the state for
the use of the inhabitants only twenty dollars per horse power
per annum for the first ten years of lease, and thereafter
such sum as the commissioners may deem proper.

Sect. 7. The price of rental for water power throughout
the state shall be not less than twenty nor more than fifty dollars
for each and every horsepower used during one year,
and all money for the use of power shall be paid every three
months, and any party who fails to pay the contract price
within three months after it becomes due, shall be given sixty
days' notice in writing declaring that they have broken
the contract and that the lease will be declared null and
void, and that they must vacate the power.

Sect. 8. No person, company or corporation shall be allowed
to cut any ice on any waters or rivers for commercial
purposes, cold storages for meats, fish or creamery purposes,
or any other food products, without first getting a
permit from the commissioners, and paying to the state for
the use of the inhabitants, a sum not less than twenty-five
cents, and not more than one dollar for each and every ton
of ice cut and taken from the waters and rivers. Municipal
ice plants shall be deemed a corporation in the above, and
shall receive a certificate from the commissioners to enter
on to any waters or rivers to cut and take ice therefrom, and

12 may pass any person's land to get to said waters or rivers,
13 without trespass, providing they do the land or property no
14 damage.

Sect. 9. All farmers and private individuals may cut ice
2 for home use or family consumption free of cost, but shall
3 not cut or interfere upon any field of ice of any other parties
4 who have received a license from the commissioners and
5 have been assigned the boundary of their ice field.

Sect. 10. The commission shall be an incorporated com-
2 mission with full power to issue sufficient bonds to defray
3 all the expenses of the said commission, and the developing
4 of all water powers of the state, and also paying for all ri-
5 parian and flowage rights that may be deemed necessary.
6 Also to pay for all improvements on a basis of the actual
7 capital invested in them by the present holders of such im-
8 provements outside of all dams built by trespass upon the
9 rivers or waters belonging to the inhabitants. But any per-
10 son, company or corporation now holding any developed
11 water powers and are developing and supplying electric
12 light, power and heat, may be allowed to retain their im-
13 provements by paying to the commission for the benefit of
14 the inhabitants for each and every horse power of water
15 that they use per annum, as provided in Section 6. The
16 commission shall take control of all dams on all waters and
17 rivers and shall assume the expense of the upkeep of the
18 same. The commission shall have power to pledge a suffi-
19 cient amount of the income of the leased powers to pay the

20 interest on all bonds issued and said interest shall be made
21 payable in two annual payments, and shall not exceed six
22 per cent per annum, and the redemption of all bonds issued.
23 And these bonds shall be deemed good and legal investment
24 for all savings banks of the state. Any city or town in the
25 state who wishes electric lights on their streets or county
26 roads or power, light and heat for the use of the inhabitants,
27 on the farms may petition the commission for the same and
28 if a sufficient number of towns combined shall enter into a
29 contract to warrant the cost of a plant, or a wire be sup-
30 plied, the commissioners shall at once proceed to supply
31 them with such light, power and heat, as they need, taxing
32 a reasonable rate for all such service sufficient to cover the
33 cost of maintenance of such service annually and allowing
34 for an income of not less than thirty dollars per horse pow-
35 er used in supplying the service required. The commission
36 shall have all the power of an attorney to act for the inter-
37 ests of the inhabitants of the state. No bonds shall be is-
38 sued until they are needed by the commissioners and no
39 interest shall commence on said bonds until the day they
40 are issued by the commission and receive the endorsement
41 of the Governor and Council. And as soon as the income
42 from the fees received from the rentals of the water powers
43 shall be sufficient to pay all indebtedness or operating ex-
44 penses then such a sum shall be used annually not to exceed
45 ten million a year to pay the interest and redemption of
46 bonds, any further surplus not to exceed fifteen million a

47 year, shall be applied to paying the municipal expense of
48 all towns, cities, counties and state, such sum to be paid
49 by the State Treasurer by order of the Governor and Coun-
50 cil out of such funds that he has received from the commis-
51 sioners. If he has not received a sufficient sum to pay all
52 the expenses of the cities, towns, counties and state, he shall
53 pay a percentage on the dollar, all the municipal officers of
54 the towns, cities and county commissioners shall make out
55 an itemized report of all reasonable expenditures which they
56 shall subscribe to under oath before an officer qualified to
57 administer such oath, their reports shall then be submitted
58 to the State Auditor, who shall examine the same and if
59 he finds them correct, reasonable and not extravagant, he
60 shall then notify the Governor and Council as to the finding
61 of all the bills, but the Governor and Council shall not or-
62 der any bill paid which they shall deem to be dishonest or
63 extravagant until they have ordered the officers responsible
64 for such bills to appear before them and explain to them
65 in regard to their bill, and if the Governor and Council shall
66 then be convinced that the bill is right and proper, they may
67 then order it paid, so as to do away with all taxes upon the
68 people. Any balance then left shall be applied to building
69 good, solid and permanent roads of the most enduring con-
70 struction and such sum shall be expended annually not to
71 exceed fifteen million a year until all roads in the state are
72 completed. After the dams are all built and riparian and
73 flowage rights paid for and all roads built then all the money

74 received after paying all state, counties, cities and towns
75 expenses, shall be divided annually per capita to every man,
76 woman and child who are legal inhabitants of the state.

Sect. 11. The commissioners shall receive a salary of
2 \$1800.00 per year and all necessary travelling expenses while
3 on duty for the state. The Governor and Council shall see
4 that the commissioners have a suitable room in the state
5 house for an office, and shall appoint a suitable person to
6 act as a permanent secretary and clerk for the commission-
7 ers, and do such clerical work as may be assigned to him,
8 and he shall receive \$1200.00 per year for his services, and
9 if he is sent to any exposition or fair in the state or else-
10 where for the purpose of advertising the water powers of
11 Maine, he shall receive a sufficient sum, to pay all actual
12 expenses. The Governor and Council shall provide the com-
13 missioners with all necessary clerical office help to conduct
14 the business of the office properly, the compensation of the
15 same shall be fixed by the Governor and Council.

Sect. 12. The commissioners shall keep an itemized ac-
2 count of all moneys received, and from what source, and
3 also for all money paid out, taking a voucher for the same
4 which shall be filed with the Governor and Council to be
5 approved by the state auditor. They shall make a financial
6 statement to the Governor and Council once in three months,
7 and at the end of the year, they shall make a full and a
8 complete report of all their proceedings as well as an item-
9 ized financial report, and the Governor and Council may or-

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10 der as many copies of the report to be printed as may be
11 deemed necessary. All moneys received by the commission-
12 er from any source shall be paid to the treasurer of the state
13 each week and shall receive his voucher for the same.

Sect. 13. No person, company or corporation shall be al-
2 lowed to lease or hire any water privilege, water power or
3 any part thereof, with the intentions of manufacturing elec-
4 tricity to be carried outside the state line. Any person, com-
5 pany or corporation leasing power in the state, attempting
6 to carry the wires or the conductors outside the state line,
7 or connect with other wire or conductor which may be
8 brought into the state from outside by any parties whatever,
9 shall have their lease revoked without notice, and shall for-
10 feit all their claims and rights to any franchise, power build-
11 ings, and machinery, to the state.

Sect. 14. The commissioners shall have full power to make
2 such rules and regulations for the letting and leasing of
3 the water powers, permits for cutting of ice, storage of logs,
4 or pulp wood on any waters or rivers in the state. Also for
5 power boats for carrying passengers on any of the said
6 waters or rivers. They shall have power to stop pollution
7 of any waters of the refuse from any saw-mill, factory or
8 pulp-mill into said waters, particularly they shall take such
9 means to protect the pollutions of all waters where taken
10 for drinking and culinary purposes by due process of law.

Sect. 15. And all laws relating to the water storage, com-
2 missioners and water powers of the state as embodied in

3 the public utility bill, as well as all laws previously enacted
4 relating to all waters and rivers in the state are hereby re-
5 pealed, and the people's rights and water powers commis-
6 sioners are hereby given full power and control of all wat-
7 ers and rivers in the state, to be developed and leased for
8 the benefit of all the inhabitants thereof. The people's right
9 and water power commissioners shall give such bonds for
10 the honest and faithful performance of their duty as the
11 Governor and Council shall determine. The commissioners
12 shall have power to hear the complaints of over-charges
13 when brought to their notice in writing by not less than
14 five persons setting forth their complaints under oath that
15 any person, company or a corporation are charging an un-
16 reasonable price for either light, heat or power. The com-
17 missioners shall call both parties before them for a hearing,
18 and if in their minds the claim is sustained they shall have
19 power to fix a just price for the same. And that all waters
20 and rivers in the state are the legal property of the inhab-
21 itants thereof, and their successors, by a good and sufficient
22 warrantee deed of perpetuity given by King William and
23 Mary of England, dated October 7th, 1691. Warranted and
24 defended by them, their heirs and successors forevermore,
25 and can never be disposed of, by the state or even by the
26 people themselves, as the coming inhabitants have the same
27 claim as the past and present inhabitants have.

Sect. 16. All riparian lands necessary for the construc-
2 tions of all dams, power houses, or for flowage purposes,

3 which can not be bought for a reasonable price, shall be
4 taken under the constitutional law provided for taking over
5 lands by right of eminent domain, and paid for as the law
6 provides.

 This act shall take effect ninety days after the approval by
2 the Governor and the adjournment of the legislature.