

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

THE TRACY BILL

EIGHTIETH LEGISLATURE

SENATE

NO. 4

In Senate, January 13, 1921.

Referred to committee on interior waters, 1000 copies ordered printed and sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Garcelon of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND TWENTY-ONE

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 reve-
nue 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 Com-
3 mission of the State of Maine, which shall consist of five
4 men, one of whom shall be an experienced civil engineer,

5 and 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
8 before a board of examiners, composed of four professors
9 of science, one from each of the colleges of the state, and
10 to be appointed by the president of each college. This
11 board shall meet at such time as they shall be notified by
12 the governor, and at such place as he may appoint, there
13 to hear and examine thoroughly as to the competency of
14 the applicants to fill any of the positions as prescribed for
15 each of the members of the commission. But no political
16 test shall be applied. The men must be appointed for their
17 ability for the office to be filled, not for any political party
18 affiliation. After the examination, the examining board
19 shall at once report to the governor, giving the names of
20 the men who passed a satisfactory examination, and all
21 vacancies in the commission shall be filled in the same
22 manner.

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

11 office vacant, and the governor shall proceed to fill the
12 vacancy as prescribed 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 water power unoccupied, and shall advertise
6 water power to let, in a manner such as will best reach
7 manufacturers in want of cheap power, and when a suffi-
8 cient and reliable contract is received, the commissioners
9 shall proceed to the location desired, and shall acquire by
10 purchase as much land each side of said water power, as
11 they deem necessary for the construction of a suitable dam
12 and power house. If the owner of the land ask, what in
13 the minds of the commissioners, is an unreasonable, unjust
14 sum per acre, the commissioners shall cause the land to
15 be condemned, and the county commissioners of the county
16 in which the land is located, shall fix a just value, and under
17 the same process the commissioners shall acquire as much of
18 the riparian rights as the erection of such a dam will cause
19 the water to overflow and in all cases where practicable
20 such a dam shall be built with its full capacity as a storage
21 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
4 notice to be given to any person, company or corporation,
5 who are found in possession of such water powers, by giv-

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

Sect. 5. Any person, company or corporation in posses-
2 sion 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 enter-
5 ing into a contract with the inhabitants through the com-
6 missioners, so that by paying such a sum or fee per horse
7 power per annum for all horse power used by them, the
8 said amount of power to be determined by the commis-
9 sioners, but in no case shall the pay be less than thirty dol-
10 lars per horse power per annum. Any person, company
11 or corporation in possession of such water powers who sell
12 this power to others direct, shall not be allowed a lease of
13 said power.

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

6 said builders shall have a lease of the water power not to
7 exceed ten years, and which may be renewed in periods of
8 ten years each, and said parties shall pay to the state for
9 the use of the inhabitants only thirty dollars per horse
10 power per annum for the first ten years of lease, and there-
11 after such sum as the commissioners may deem proper.

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

Sect. 8. No person, company or corporation shall be al-
2 lowed to cut any ice on any waters or rivers for commercial
3 purposes, cold storages for meats, fish or creamery pur-
4 poses, or any other food products, without first getting a
5 permit from the commissioners and paying to the state for
6 the use of the inhabitants, a sum not less than twenty-five
7 cents, and not more than one dollar for each and every ton
8 of ice cut and taken from the waters and rivers. Municipal
9 ice plants shall be deemed a corporation in the above, and
10 shall receive a certificate from the commissioners to enter
11 on to any waters or rivers to cut and take ice therefrom,
12 and any person or company may pass any person's land to

13 get to said waters or rivers, without trespass, providing
14 they do the land or property no damage.

Sect. 9. All farmers and private individuals may cut ice
2 for home use or family consumption free of cost, but
3 shall not cut or interfere upon any field of ice of any other
4 parties who have received a license from the commission-
5 ers and 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 all
3 the expenses of the said commission, and the developing of
4 all water powers of the state, and also paying for all riparian
5 and flowage rights that may be deemed necessary. Also to
6 pay for all improvements on a basis of the actual capital in-
7 vested in them by the present holders of such improvements
8 outside of all dams built by trespass upon the rivers or wa-
9 ters belonging to the inhabitants. But any person, company
10 or corporation now holding any developed water powers and
11 are developing, and supplying electric light, power and heat,
12 may be allowed to retain their improvements by paying to the
13 commission for the benefit of the inhabitants for each and
14 every horse power of water that they use per annum, as pro-
15 vided in section 6. The commission shall take control of all
16 dams on all waters and rivers and shall assume the expense
17 of the upkeep of the same. The commission shall have power
18 to pledge a sufficient amount of the income of the leased
19 powers to pay the interest on all bonds issued and said inter-
20 est shall be made payable in two annual payments, and shall
21 not exceed six per cent per annum, and the redemption of all

22 bonds issued. And these bonds shall be deemed good and le-
23 gal investment for all savings banks of the state. Any city
24 or town in the state who wishes electric lights on their
25 streets or county roads or power, light and heat for the use
26 of the inhabitants, on the farms may petition the commis-
27 sion for the same and if a sufficient number of towns com-
28 bined shall enter into a contract to warrant the cost of a
29 plant, or a wire be supplied, the commissioners shall at once
30 proceed to supply them with such light, power and heat, as
31 they need, taxing a reasonable rate for all such service suffi-
32 cient to cover the cost of maintenance of such service annu-
33 ally and allowing for an income of not less than fifty dollars
34 per horse power used in supplying the service required. The
35 commission shall have all the power of an attorney to act
36 for the interests of the inhabitants of the state. No
37 bonds shall be issued until they are needed by the
38 commissioners and no interest shall commence on said
39 bonds until the day they are issued by the commission
40 and receive the endorsement of the governor and council.
41 And as soon as the income from the fees received from the
42 rentals of the water powers shall be sufficient to pay all
43 indebtedness or operating expenses then such a sum shall
44 be used annually not to exceed ten million a year to pay
45 the interest and redemption of bonds, any further surplus
46 not to exceed fifteen million a year, shall be applied to pay-
47 ing the municipal expense of all towns, cities, counties and
48 state, such sum to be paid by the state treasurer by order
49 of the governor and council out of such funds that he has

50 received from the commissioners. If he has not received
51 a sufficient sum to pay all the expenses of the cities, towns,
52 counties and state, he shall pay a percentage on the dollar,
53 all the municipal officers of the towns, cities and county
54 commissioners shall make out an itemized report of all
55 reasonable expenditures which they shall subscribe to un-
56 der oath before an officer qualified to administer such oath,
57 their reports shall then be submitted to the state auditor,
58 who shall examine the same and if he finds them correct,
59 reasonable and not extravagant, he shall then notify the
60 governor and council as to the finding of all the bills, but
61 the governor and council shall not order any bill paid which
62 they shall deem to be dishonest or extravagant until they
63 have ordered the officers responsible for such bills to ap-
64 pear before them and explain to them in regard to their
65 bill, and if the governor and council shall then be convinced
66 that the bill is right and proper, they may then order it paid,
67 so as to do away with all taxes upon the people. Any bal-
68 ance then left shall be applied to building good, solid and
69 permanent roads of the most enduring construction and
70 such sum shall be expended annually not to exceed fifteen
71 million a year until all roads in the state are completed.
72 After the dams are all built and riparian and flowage rights
73 paid for and all roads built then all the money received
74 after paying all state, counties, cities and towns expenses,
75 shall be divided annually per capita to every man, woman
76 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
3 while on duty for the state. The governor and council shall
4 see 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 permanent secretary and clerk for the commissioners,
7 and do such clerical work as may be assigned to him, and
8 he shall receive \$1200.00 per year for his services, and if
9 he is sent to any exposition or fair in the state or elsewhere
10 for the purpose of advertising the water powers of Maine,
11 he shall receive a sufficient sum, to pay all actual expenses.
12 The governor and council shall provide the commissioners
13 with all necessary clerical office help to conduct the business
14 of the office properly, the compensation of the same shall
15 be fixed by the governor and council and shall be paid out
16 of the revenue received from the water power.

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-
10 der as many copies of the report to be printed as may be
11 deemed necessary. All moneys received by the commis-
12 sioner from any source shall be paid to the treasurer of

13 the state each week and shall receive his voucher for the
14 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,
5 company or corporation leasing power in the state, attempt-
6 ing to carry the wires or the conductors outside the state
7 line, or connect with other wire or conductor which may
8 be brought into the state from outside by any parties what-
9 ever, shall have their lease revoked without notice, and shall
10 forfeit all their claims and rights to any franchise, power
11 buildings, and machinery, to the inhabitants.

Sect. 14. The commissioners shall have full power to
2 make such rules and regulations for the letting and leasing
3 of the water powers, permits for cutting of ice, storage of
4 logs or pulp wood on any waters or rivers in the state.
5 Also for power boats for carrying passengers on any of the
6 said waters or rivers. They shall have power to stop pollu-
7 tion of any waters of the refuse from any saw-mill, factory
8 or pulp-mill into said waters, particularly they shall take
9 such means to protect the pollutions of all waters where
10 taken for drinking and culinary purposes by due process
11 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

5 repealed, and the people's rights and water powers com-
6 missioners are hereby given full power and control of all
7 waters and rivers in the state, to be developed and leased
8 for the benefit of all the inhabitants thereof. The people's
9 right and water power commissioners shall give such bonds
10 for the honest and faithful performance of their duty as
11 the governor and council shall determine. The commis-
12 sioners shall have power to hear the complaints of over-
13 charges when brought to their notice in writing by not less
14 than five persons setting forth their complaints under oath
15 that any person, company or a corporation are charging an
16 unreasonable price for either light, heat or power. The
17 commissioners shall call both parties before them for a
18 hearing, and if in their minds the claim is sustained they
19 shall have power to fix a just price for the same. And that
20 all waters and rivers in the state are the legal property of
21 the inhabitants thereof, and their successors, by a good
22 and sufficient warrantee deed of perpetuity given by King
23 William and Queen Mary of England, dated October 7th,
24 1691. Warranted and defended by them, their heirs and
25 successors forevermore, and can never be disposed of, by
26 the state or even by the people themselves, as the coming
27 inhabitants have the same claim as the past and present
28 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
2 by the governor and the adjournment of the legislature.