

MAINE STATE LEGISLATURE

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EIGHTY-THIRD LEGISLATURE

Senate Document

No. 117

S. P. 319

In Senate, Feb. 17, 1927.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Smith of Somerset.

STATE OF MAINE

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

AN ACT to Incorporate the Marshall Dam and Improvement
Company.

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

Section 1. D. M. Marshall, G. D. Marshall, E. M. Spin-
2 ney, R. M. Sterling and E. L. Sterling, their associates,
3 successors and assigns, are hereby incorporated under the
4 name of The Marshall Dam and Improvement Company,
5 with all the powers and privileges of similar corporations.

Sect. 2. Said company is hereby authorized to build dams,
2 side dams, piers and booms, and to maintain same, on Fahi
3 brook and its tributaries in the towns of Anson and Emb-
4 den in the county of Somerset; to remove rocks and trees
5 and to excavate ledges therefrom; and to widen, deepen

6 and otherwise improve the same for the purpose of raising
7 a head of water and of making said brook and its tribu-
8 taries floatable to facilitate the driving of logs, pulp wood
9 and other lumber on the same.

Said company and its assigns for the above purposes may
2 take all necessary land and materials for building said dams
3 and piers and making such improvements; may flow con-
4 tiguous lands so far as necessary to raise suitable heads
5 of water; may attach their booms and piers to land adja-
6 cent to said brook; and may with their agents, servants and
7 teams pass and repass over and along said brook and adja-
8 cent land, and to and from the same over the land of other
9 persons for the purposes aforesaid and for managing said
10 dams, piers and booms.

Sect. 3. If the parties cannot agree on the damages, said
2 company and its assigns shall pay the proprietors for the
3 land and materials so taken and the damage so done; the
4 amount to be ascertained and determined by the county
5 commissioners of the county of Somerset in the same man-
6 ner and under the same conditions and limitations as pro-
7 vided by law in the case of damages by laying out of high-
8 ways; and for the damage done by flowing land, said com-
9 pany and its assigns shall not be liable to an action at com-
10 mon law, but the person injured may have remedy by com-
11 plaint for flowage, when the same proceedings shall be had
12 as when a complaint is made under the statutes of this state
13 for flowing lands by raising a head of water for the work-
14 ing of mills.

Sect. 4. Said company and its assigns may demand and
2 receive a toll for the passage of logs, pulp wood and other
3 lumber over their improvements of thirty cents per thou-
4 sand feet for logs and lumber and fifteen cents per cord
5 for pulp wood; and shall have a lien thereon for the pay-
6 ment of said toll with all costs and charges, but the logs,
7 wood and lumber of each owner shall only be holden for
8 the amount due from him. Unless said toll is paid within
9 twenty days after said logs, pulp wood or other lumber, or
10 the major part thereof, passes the south line of the town
11 of Embden, said lien may be enforced by attachment and
12 suit to be begun within ninety days after the same shall
13 have passed the south line of said Embden.

Sect. 5. This act does not authorize said company or its
2 assigns to interfere with the riparian rights of the existing
3 dams and mills on said brook in the town of Anson.

Sect. 6. Said company is authorized to impound and re-
2 strain the natural flow of said waters only when and in so
3 far as is necessary for log-driving purposes, and as limited
4 by this act. No dam authorized by this act shall be used
5 for power purposes.

Sect. 7. All the property, rights and franchises within the
2 state of Maine acquired, erected, owned, held or controlled
3 by the said company, or its successors or assigns, at any
4 time after this act shall take effect, under and by virtue of
5 the terms thereof, shall be subject to be taken over by, and
6 become the property of the state of Maine, whenever said

7 state shall determine by appropriate legislation that the pub-
8 lice interests require the same to be done. Upon the taking
9 effect of such legislation, the ownership of said property,
10 rights and franchises shall immediately be transferred to,
11 and vest in, said state of Maine, and said state shall pay to
12 said company the fair value of all the same, excepting, how-
13 ever, such franchises and rights as are conferred upon said
14 company under and by virtue of the provisions of this act,
15 which said franchises and rights shall be wholly excluded
16 in the determination of the amount to be paid to said com-
17 pany by said state of Maine.

The fair value of the property, rights and franchises so
2 taken by the state of Maine, subject to the exceptions here-
3 inbefore mentioned, shall be determined by agreement be-
4 tween said company and such officers and agents of said
5 state as shall be thereunto authorized to act in its behalf
6 by the act which authorizes the taking of said property,
7 rights and franchises; and such agreement failing within
8 six months after said act takes effect, then by such fair
9 and impartial tribunal and under such provisions as to the
10 manner of procedure and for full hearing of parties and
11 payment of damages awarded as shall be provided in said
12 act.