

# MAINE STATE LEGISLATURE

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NEW DRAFT

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EIGHTY-FOURTH LEGISLATURE

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Senate Document

No. 384

S. P. 734

In Senate, March 27, 1929.

Tabled by Senator Mitchell of Aroostook pending acceptance of either report. 500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

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STATE OF MAINE

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

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AN ACT to Incorporate Fish River Power and Storage  
Company.

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

Section 1. *Corporators: Corporate Name: Location.* Joseph Archambault of Fort Kent, Andrew J. Beck of Washburn, Robert A. Braman of Portland, Archibald R. Graustein of New York City, Allan E. Hammond of Van Buren, A. H. Rhinelander of Van Buren, E. C. Ryder of Bangor, Florent Sanfacon of Grand Isle, Sidney St. F. Thaxter of Portland, their associates, successors and assigns, are hereby made a body corporate by the name of Fish River Power and Storage Company, hereinafter in this

10 act called "the company." The principal office of the com-  
11 pany shall be located in the town of Fort Kent, county of  
12 Aroostook. The company may establish such other offices  
13 and places of business as it shall deem necessary or con-  
14 venient for the transaction of its business.

Sect. 2. *Objects and Purposes.* The object and purposes  
2 of the company are to develop, generate, and buy electricity,  
3 and to transmit, distribute, supply, sell and otherwise dis-  
4 pose of the same for all lawful purposes within the county  
5 of Aroostook except as hereinafter provided; to create and  
6 maintain storage basins as hereinafter authorized; and by  
7 means thereof to improve navigation and regulate and con-  
8 trol the flow of the waters affected thereby, and to facilitate  
9 the driving of logs to the mills in the Saint John river  
10 watershed contemplated by International Paper and Power  
11 Company and to other mills.

Sect. 3. *Powers.* Except as otherwise hereinafter pro-  
2 vided, the company is hereby authorized and empowered  
3 to develop, generate, and buy electricity, and to transmit,  
4 distribute, supply, sell and otherwise dispose of the same  
5 for all lawful purposes within said county of Aroostook,  
6 and shall have all the rights, powers and privileges and shall  
7 be subject to all the duties and obligations incident to cor-  
8 porations organized to make, generate, sell, transmit, dis-  
9 tribute and supply electricity for light, heat and power un-  
10 der the general laws of the state. The company may erect,  
11 construct, operate and maintain canals, penstocks, sluices

12 and other improvements, hydro and steam power generating  
13 stations, transmission and distribution lines, and accessories  
14 to any or all of the foregoing, and may purchase, lease or  
15 otherwise acquire, hold, sell or otherwise dispose of any  
16 real or personal property, as may be necessary or con-  
17 venient for the objects, purposes and powers in this act  
18 set out.

Sect. 4. *Authorized to Erect Dams.* In order to carry  
2 out the objects and purposes of the company and that the  
3 power generating plants in the Saint John River water-  
4 shed in Maine and New Brunswick may be operated as a  
5 unified and interconnected system, whereby the waters of  
6 said river and its tributaries may be utilized so as to gen-  
7 erate the maximum amount of hydro-electric energy, the  
8 company is hereby authorized and empowered to erect and  
9 maintain dams on land which it may at any time own at  
10 or near the outlet of Eagle Lake in the Fish river water-  
11 shed above the outlet of Sly brook by which the waters  
12 of Eagle lake and its tributary and connecting waters may  
13 be raised and held to a height not exceeding nineteen feet  
14 at said dam above mean low water mark in Eagle lake, and  
15 at or near the outlet of Nadeau lake in said watershed  
16 otherwise known as St. Froid lake by which the waters  
17 of said Nadeau lake and its tributary and connecting waters  
18 may be raised and held to a height not exceeding twenty-  
19 one feet at said dam above mean low water mark in said  
20 Nadeau lake, and also dams on land which it may at any

21 time own on the Fish river below the outlet of Eagle lake;  
22 to erect and maintain any cut-off dams which may be neces-  
23 sary to hold and retain the above-mentioned waters; to  
24 dredge, widen, straighten and improve the channels of the  
25 above-mentioned waters; to hold, store, divert, regulate and  
26 control the flow of the waters raised by said dams and  
27 draw down the same as may be required for the most ef-  
28 fective operation of said power generating plants and to  
29 facilitate the driving of logs; to erect and maintain wing  
30 dams, side dams, booms and piers in said waters; to flow  
31 such lands and property, including state, public and reserved  
32 lots and property, as may be necessary to carry out the  
33 provisions of this act, and the company shall not be liable  
34 to any action at law for damage caused by such flowage,  
35 but the damages therefor, unless arranged by mutual agree-  
36 ment, shall be ascertained and recovered in the manner pro-  
37 vided by chapter ninety-seven of the revised statutes; and  
38 to take and hold as for public uses such lands, properties  
39 and rights (not including state, public and reserved lots or  
40 parts thereof) as the company may require for any of the  
41 aforesaid uses and purposes. All proceedings in relation  
42 to any such taking and the assessment of damages therefor  
43 shall be as provided in sections eleven to twenty-two, both  
44 inclusive, of chapter sixty-one of the revised statutes. In  
45 case any state, public or reserved lots or property are flowed  
46 by any dam erected by the company, the state land agent  
47 or such other person as may be designated by the governor

48 and council is hereby authorized, with the approval of the  
49 governor and council, to agree upon the damages for such  
50 flowage and, in case the parties are unable to agree, is  
51 authorized to represent the state in any proceedings to fix  
52 the damages.

The company shall be entitled to the benefits and be sub-  
2 ject to the obligations of sections thirty-seven to forty-two,  
3 inclusive, of said chapter ninety-seven relating to flowage  
4 of highways and townways. Before raising the waters in  
5 Eagle lake the company shall erect at its outlet under the  
6 direction and to the approval of the commissioner of  
7 inland fisheries and game a proper fish screen above any  
8 dam built at said outlet in lieu of the fish screen now ex-  
9 isting there. Before the flowage takes place the area to  
10 be flowed by any dam or dams erected by the company shall  
11 be thoroughly cleared of standing timber, trees and other  
12 growth, and of dri-ki and debris which would be caused  
13 by such flowage, to the extent that the company has the  
14 legal right to do so and to such an extent and in such man-  
15 ner as shall be specified by the commissioner of inland fish-  
16 eries and game and the forest commissioner acting under  
17 the direction of the governor and council. All dams erected  
18 by the company shall be so constructed with proper roll-  
19 ways, sluice ways, or gates as to facilitate the floating or  
20 driving of logs and lumber, and the company shall permit  
21 the passage of logs at reasonable times during the driving  
22 season.

Sect. 5. *Restrictions.* Nothing in this act shall be con-

2 strued to authorize the company to erect any dams or power  
3 generating stations on the Allagash river or its tributaries,  
4 or on the Saint John river or its tributaries, other than the  
5 Fish river and its tributary and connecting waters as above  
6 provided. Nothing in this act shall be construed to author-  
7 ize the company, without the written consent of the owner  
8 of the developed power or dam next below mentioned, to  
9 control the headwaters of Wallagrass stream or to inter-  
10 fere with the operation of any developed power on Walla-  
11 grass stream or with any dam erected or that shall be  
12 erected at the site on lot forty-two in Wallagrass planta-  
13 tion described in section one of chapter two hundred and  
14 eight of the private and special laws of nineteen hundred  
15 and seventeen entitled "An Act to Authorize Fort Kent  
16 Electric Company to Erect and Maintain a Dam Across  
17 Wallagrass Stream." Nothing in this act shall be construed  
18 to authorize the company to interfere with any of the rights  
19 granted to the Fort Kent Electric Company in said chap-  
20 ter two hundred and eight of the private and special laws  
21 of nineteen hundred and seventeen or to authorize the com-  
22 pany to interfere with any of the rights granted to the  
23 Wallagrass Dam Company in chapter one hundred of the  
24 private and special laws of nineteen hundred and nineteen  
25 entitled "An Act to Incorporate the Wallagrass Dam Com-  
26 pany." Nothing in this act shall be construed to authorize  
27 the company to divert the waters of the Fish river or the  
28 lakes above the same by way of Violette brook or in any

29 other manner so that said waters shall be discharged into  
30 the Saint John river otherwise than through the Fish river.  
31 Nothing in this act shall be construed to prohibit the taking  
32 of water from said river or lakes for municipal and do-  
33 mestic purposes.

Sect. 6. *Provision for Removal of Dead Bodies and for  
2 Locating New Cemeteries.* This company is empowered to  
3 authorize the selectmen of any town, the assessors of any  
4 plantation or organized township, and the selectmen of a  
5 town or assessors of a plantation or organized township  
6 adjoining any unorganized township, to take up from any  
7 existing cemetery in such town, plantation or organized  
8 township, or unorganized township respectively, which will  
9 be flowed by any of its dams, the bodies and remains of all  
10 deceased persons buried therein, and all headstones and  
11 markers at the graves therein, and remove said bodies and  
12 remains to a new cemetery to be selected by said selectmen  
13 or assessors and there decently inter the same, and properly  
14 reset such headstones and markers over such dead bodies  
15 and remains. Such new cemeteries shall be located with  
16 due regard to the convenience of all the inhabitants of the  
17 respective communities in which they are located. Said  
18 selectmen and assessors are in each case, within thirty days  
19 after being so requested in writing by this company, to select  
20 the place for a new cemetery and fix the bounds thereof,  
21 and to proceed with reasonable diligence to cause the re-  
22 moval of the bodies, remains, headstones and markers, as



23 aforesaid. If they fail to do so, this company is author-  
24 ized and empowered to make such selection or selections  
25 and cause such removals to be made. All of the expenses  
26 incurred in procuring the lands necessary for such ceme-  
27 teries, in clearing and fitting the ground and fencing the  
28 same, and in the taking up and removal of all of the re-  
29 mains of all deceased persons, and in the removal of said  
30 headstones and markers, and the interment of said remains  
31 and resetting of said headstones and markers shall be paid  
32 for by this company.

No claim shall be made against this company for not com-  
2 plying with the terms herein set out unless the same is made  
3 within sixty days after this company gives said selectmen  
4 or assessors written notice that it has performed its duties  
5 under this section. And nothing herein contained shall be  
6 construed to limit or qualify the rights of flowage con-  
7 ferred upon this company by any provision of this act or  
8 which it may possess under any law of the state.

Sect. 7. *Transmission and Distribution Lines.* The com-  
2 pany is hereby authorized and empowered to set poles and  
3 towers, extend wires and lines, and lay pipes and conduits,  
4 and maintain and operate the same, for the purposes of  
5 transmission, distribution and sale of electricity, upon, along,  
6 over, across and under the streets, roads and ways within  
7 the territory wherein it is hereby authorized to do business,  
8 subject, however, to the general law regulating the erection  
9 of poles and wires and the laying of pipes and conduits for

10 such purposes. The company is also authorized and em-  
11 powered to take and hold as for public uses such lands or  
12 interests therein as may be necessary for the construction  
13 and operation of its transmission lines, and the proceedings  
14 in relation to such taking and the assessment of damages  
15 therefor shall be as in the case of railroads.

Sect. 8. *Restrictions on Sale of Power.* The company  
2 may sell electrical energy to the International Paper and  
3 Power Company, or its successors or assigns, or to any  
4 corporations owned or controlled by it or them for the use  
5 of any mills or manufacturing plants in Aroostook county  
6 owned or operated by it or any of them, but not to be  
7 resold by it or any of them, which it and they are hereby  
8 forbidden to do. The company may also sell electrical en-  
9 ergy to the Gould Electric Company, its successors or as-  
10 signs. The company shall not sell electrical energy to any  
11 other corporation, municipality, quasi-municipal corpora-  
12 tion, firm, association or individual, whether the same be a  
13 public utility or not, in or to be used in any territory in  
14 Aroostook county without having first obtained an order  
15 from the public utilities commission permitting it so to do,  
16 after public notice and hearing and a finding that neither  
17 the Gould Electric Company nor any corporation owned  
18 or controlled by it is furnishing or will furnish adequate  
19 service in said territory. Provided, that, in order the better  
20 to assure unto the citizens of Aroostook county the enjoy-  
21 ment of any benefits which may ensue from the Fish river

22 development, in determining the reasonableness of any rate  
23 charged by the Gould Electric Company, or any corpora-  
24 tion owned or controlled by it, for electrical energy sold,  
25 whether at wholesale or retail, the public utilities commis-  
26 sion shall take into account comparative line losses and the  
27 cost at which said Gould Electric Company, or any cor-  
28 poration so owned or controlled, may purchase such energy  
29 from the Fish River Power and Storage Company, but  
30 without disregarding the right to a fair return on the value  
31 of the plant and equipment of the Gould Electric Com-  
32 pany, or any corporation so owned or controlled, erected  
33 for the service of the communities which they are designed  
34 to serve.

Sect. 9. *Interchange of Power.* Except as otherwise pro-  
2 vided in this section, no electric current generated by the  
3 company shall be transmitted outside the state contrary to  
4 the provisions of section one of chapter sixty of the revised  
5 statutes and acts amendatory thereof and additional thereto.  
6 Inasmuch as the development of power sites and storage  
7 areas by the company is a part of a project for develop-  
8 ment, as a whole, of portions of the Saint John River water-  
9 shed which lie partly in Maine and partly in New Bruns-  
10 wick, and inasmuch as operation of the generating stations  
11 and storage works in said watershed can be most econom-  
12 ically and effectively handled through interconnection as a  
13 unified system, all to the advantage of the state of Maine,  
14 the company may transmit and deliver electric current to

15 Saint John River Power Company, its successors or assigns,  
16 in New Brunswick, provided the Saint John River Power  
17 Company, its successors or assigns, shall deliver to the  
18 company in Maine in each calendar year at least an equiva-  
19 lent number of kilowatt hours of electrical energy gen-  
20 erated in New Brunswick, and the company shall deliver  
21 the same to consumers and public utilities in Maine sub-  
22 ject, however, to the restrictions of section eight hereof.  
23 The delivering into Maine of the electrical energy allotted  
24 to Maine under the order of the international joint com-  
25 mission dated the twenty-eighth day of June, nineteen hun-  
26 dred and twenty-six, or any order that may be made sup-  
27 plemental thereto, shall not be deemed to be satisfaction in  
28 whole or in part of the foregoing requirement.

Sect. 10. *Compensating Power from New Brunswick.*

2 Inasmuch as the rights herein given of storage and control  
3 of waters will enure not only to the benefit of hydro-electric  
4 plants in Maine, but also to the benefit of the hydro-electric  
5 plant of the Saint John River Power Company at Grand  
6 Falls, in the province of New Brunswick, it is hereby de-  
7 clared that the state of Maine will be entitled to have allot-  
8 ted to Maine a share of the electrical energy that will be  
9 generated at Grand Falls, New Brunswick, by use of the  
10 waters stored in Maine pursuant to this act. Accordingly  
11 the rights of regulation and control of said waters pro-  
12 vided for in this act shall not be exercised unless and until  
13 a contract which, in the opinion of the attorney general,

14 is legal and binding upon the parties thereto, for such num-  
15 ber of kilowatt hours and on such terms and conditions as  
16 shall be approved by the public utilities commission, shall  
17 have been executed by and between the company and Saint  
18 John River Power Company for delivery into Maine by  
19 the latter, or its successors or assigns, of electrical energy  
20 generated in New Brunswick additional to the amount de-  
21 livered under section nine of this act. The company shall  
22 not alter or modify said contract without the consent of the  
23 public utilities commission. The delivery into Maine of the  
24 electrical energy allotted to Maine under the order of the  
25 international joint commission dated the twenty-eighth day  
26 of June, nineteen hundred and twenty-six, or any order  
27 that may be made supplemental thereto shall not be deemed  
28 to be satisfaction in whole or in part of the obligation of  
29 Saint John River Power Company under the contract above  
30 in this section mentioned.

Sect. 11. *Capital Stock.* The company may fix the amount  
2 of its capital stock and the classes thereof and increase the  
3 same from time to time, not exceeding, however, in the  
4 aggregate one million dollars, all subject to the approval  
5 of the public utilities commission.

Sect. 12. *Bonds and Other Obligations.* The company  
2 may from time to time issue its bonds, notes and other obli-  
3 gations on such terms as it may deem necessary, and may  
4 secure the same by pledge or mortgage of any or all of its  
5 franchises and any or all of its property, present and future,

6 all subject to the approval of the public utilities commission.

Sect. 13. *Public Utilities Commission.* The public utilities commission is hereby vested with jurisdiction, upon petition of any interested party and upon such procedure as it may prescribe, to hear and determine any of the matters referred to it by the provisions of this act, and may make appropriate orders with respect thereto.

Sect. 14. *First Meeting: Meetings of Directors.* The first meeting of the company shall be called at Fort Kent by a notice signed by any two of the corporators named in section one, setting forth the time, place and purpose of the meeting. Such notice shall be mailed to each of the corporators, postage paid, at least seven days before the date of such meeting. Any corporator may be represented at such meeting by proxy. A majority of such corporators present in person or represented by proxy shall constitute a quorum. Meetings of the board of directors may be held for any purpose within or without the state if the by-laws so provide.

Sect. 15. *Construction of Charter.* No provision of any general act or of any other special act passed at the present session of the eighty-fourth legislature, either prior or subsequent hereto, shall be held to alter or affect the provisions of this act, unless such general or special act shall specifically provide by reference hereto.

Sect. 16. *Forfeiture of Charter Rights.* This act shall become null and void,

(a) unless the company shall have organized and commenced actual business within two years from the day when the same takes effect and

(b) unless, within four years from the day when this act takes effect the company hereby created shall have begun actual construction of a hydro-electric power generating plant or plants of at least four thousand horse power installed capacity on the Fish river in the town of Fort Kent, and International Paper and Power Company, or its successors or a company owned or controlled by it or them, shall have begun actual construction in Aroostook county on the Saint John river of a pulp or paper mill costing (exclusive of said power plant or plants and exclusive of all transmission lines) not less than three million dollars, and unless said power plant or plants and mill shall be completed and put in operation within a further period of two years unless delayed by factors beyond control. No expenditure for renovation of the existing pulp mill at Van Buren shall be included in such cost.

(c) unless before the pulp or paper mill referred to in the foregoing paragraph (b) shall commence operations International Paper Company or its successors shall have executed and delivered to the secretary of state an agreement under seal with the state of Maine that said pulp or paper mill will be operated, except for temporary shutdowns, for a period of at least ten years from the time when such operations shall start and that at least one-half

9 of the wood used in the course of said ten-year period for  
10 the manufacture of the pulp made or used in said mill shall  
11 have been cut from lands within the state of Maine unless  
12 some provision of federal or state law shall prohibit or levy  
13 a tax or duty upon the exportation of wood from the state  
14 of Maine or unless it may be necessary to use a greater  
15 proportion of Canadian wood in order to salvage wood  
16 from land in the Saint John river watershed in Canada  
17 owned by any company which is owned or controlled by  
18 International Paper and Power Company or its successors  
19 because of damage by fire, insect attack, blow down or any  
20 other cause damaging said timber. The forest commissioner  
21 of the state of Maine, acting under the direction of the  
22 governor and council shall determine whether any such fire,  
23 insect attack, blow down or any other cause requiring such  
24 salvage shall have occurred. Upon any default in the per-  
25 formance of said agreement the state of Maine may,  
26 through such agencies as it may provide for the purpose,  
27 acquire the franchises and the rights hereby granted and  
28 the dams and other structures erected by authority of this  
29 act, and the lands and interests therein and other property  
30 and rights acquired by the company for the objects and  
31 purposes in section two of this act set out, upon payment  
32 therefor of the original cost of the same prudently ex-  
33 pended as determined by the public utilities commission,  
34 less depreciation on said structures, but such payment shall  
35 not include compensation for the value of the franchises



36 granted by this act or any profit to the International Paper  
37 and Power Company or any of its subsidiary or affiliated  
38 companies.

Sect. 17. *Non-compliance with Contract.* In case the  
2 contract for delivery of electrical energy entered into by  
3 Saint John River Power Company under section ten hereof  
4 shall not be complied with by the said Saint John River  
5 Power Company or its successors even though such non-  
6 compliance be caused by some present or future law of the  
7 province of New Brunswick or of the Dominion of Canada  
8 the state of Maine shall have all and the same rights as  
9 are provided by paragraph (c) of section sixteen hereof  
10 as to the acquiring of the property and franchises of the  
11 company. If any such non-compliance shall be caused by  
12 some present or future law of the province of New Bruns-  
13 wick or of the Dominion of Canada and if the state or  
14 an agency thereof shall exercise such right of acquisition  
15 then, in that case, the state or said agency thereof as the  
16 owner of the property and franchises of the company shall,  
17 to the extent that it is possible to do so by operation of  
18 the property so acquired, perform any contracts which the  
19 company may have made to supply electrical energy for use  
20 in the state of Maine unless the public utilities commission  
21 shall determine that any such contract is on such terms as  
22 to be unfair to the state or said agency thereof, and in the  
23 event of any such determination shall so supply electrical  
24 energy on terms prescribed by the public utilities commis-

25 sion as fair to all parties concerned.

Sect. 18. *Right of State to Take Over Property and Franchise.* The corporation hereby created shall continue for a  
2 3 period of forty years. At the expiration of said period the  
4 charter of the company may be extended for such time and  
5 on such conditions as may be fixed by the state and agreed  
6 to by said corporation. If said charter shall not be so  
7 extended at the end of said period the state may then ac-  
8 9 quire all of the property, rights and franchises of said cor-  
10 poration on the payment of just compensation therefor but  
11 such compensation shall not include compensation for the  
12 franchises granted by this act. Provided, however, that if  
13 at the end of said period said charter shall not have been  
14 extended by agreement as aforesaid, the corporate existence  
15 of the company shall continue with the rights and powers  
16 hereby granted until such time as the state shall exercise  
its right to acquire such property, rights and franchises.