

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 972

H. P. 1399 House of Representatives, March 25, 1931.

Reported by Mr. Blanchard from Committee on Legal Affairs and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

New Draft of S. P. 605, L. D. 206.

STATE OF MAINE

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

AN ACT to Amend An Act to Incorporate the Oquossoc Light
and Power Company.

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

Chapter 187 of the Private and Special Laws of Maine for 1915, being an act to incorporate the Oquossoc Light and Power Company, is hereby amended by striking out all of Section 5 of said act and inserting in place thereof the following:

'Sec. 5. Said corporation is hereby authorized to construct dams and develop water power along the outlet of Kennebago Lake above its confluence with Rangeley Stream, and especially to construct and maintain a dam at Kennebago Falls, so-called, about one (1) mile from the outlet to said lake in Township 3, Range 4 in Franklin County, for developing power and storage for the uses of said company for the purposes for which it was created and may take all lands and other property and property rights necessary to carry into effect the purposes for which created; provided, however, that said dam or dams shall be located below the existing dam of the Kennebago Improvement Company situated about one-half ($\frac{1}{2}$) mile from the outlet of Kennebago Lake and, unless said dam of Kennebago Improvement Company and the rights appurtenant thereto shall be taken as hereinafter provided, be so constructed

as not to interfere with the floating and driving of logs through said Improvement Company's dam and also be so constructed as not to interfere with or prevent the use of said Improvement Company's dam or any other dam that may be constructed in place thereof for the holding and storage of the surplus waters of said Kennebago Lake by said Kennebago Improvement Company or by the Union Water Power Company; provided further, however, that said corporation may take said existing dam of said Kennebago Improvement Company, the land on which the same is situated and the water rights appurtenant thereto, or any one or more of such property or property rights, for its purposes and under the power herein conferred, by flowing out the same, or otherwise, and if it does so it shall pay for such dam and the rights of Kennebago Improvement Company only the balance of the cost and cost of construction and maintenance thereof accrued prior to such taking, and at such time unliquidated by the tolls theretofore collected by said Kennebago Improvement Company, and it shall construct on or before January 1, 1932 in place of said dam a dam of cement or cement and log crib construction so constructed as to preserve to all persons, firms, and corporations using said stream for log driving purposes all the privileges and advantages now enjoyed in the driving of logs through and by means of the existing dam of said Kennebago Improvement Company, and, except as hereinafter provided, shall maintain and operate said dam in such manner as to preserve said privileges and advantages, charging the same rates of toll as now charged by the Kennebago Improvement Company until reimbursed for the cost of said taking of said dam, and thereafter without any charge or toll therefor, but said corporation shall not be obliged to open the gates of such dam for the passage of logs for long lumber, or for any log driving purposes after July first each year, and such dam so erected or any dam erected in place thereof shall be so constructed and operated as to preserve to said Union Water Power Company, its successors and assigns, except as hereinafter provided, all the rights and privileges acquired or reserved by it under the terms of the agreement made in 1886 referred to in Section 7 of Chapter 227 of the Private and Special Laws of Maine for 1891, being the act incorporating Kennebago Improvement Company, and the agreement be-

tween Union Water Power Company and Kennebago Improvement Company dated June 7, 1897.

Whenever from time to time the agent of said Union Water Power Company, its successors and assigns, or the person administering the control of the storage system at the headwaters of the Androscoggin River for it or them, however such person may be designated, shall determine it necessary for the equitable adjustment and apportionment of the several uses of stored water for log driving purposes and for power purposes of said Oquossoc Light and Power Company and others on said Androscoggin River, said Union Water Power Company, its successors and assigns, shall have the right to operate the gate or gates of said dam or of any dam that shall hereafter be erected in place thereof by said Oquossoc Light and Power Company, its successors or assigns, and to use or permit the use of the stored water without compensation therefor to said Oquossoc Light and Power Company, its successors and assigns; provided, however, that except with reference to the use of water for the purposes of log driving, Oquossoc Light and Power Company shall not be compelled to reduce, nor shall any control exercised as aforesaid reduce, the use of said water by said Oquossoc Light and Power Company below an amount which, at any average daily rate of flow, is not in excess of that obtained at a uniform rate for twenty-four (24) hours per day limited to the present maximum combined capacity of its two (2) wheels of one hundred forty-two (142) cubic feet per second, nor shall it be required to release from storage any greater quantity of water than will leave the water in Kennebago Lake at the level of at least four (4) feet above the sill of the present Mahaney Dam on February 25 each year.

Oquossoc Light and Power Company shall draw, or permit to be drawn, from storage through said dam sufficient water for use in the log driving operations on said stream between February 25 and July 1 each year, but, except as hereinafter provided, not in excess of a quantity of water which will leave the water in Kennebago Lake at the level of at least four (4) feet above the sill of the present Mahaney Dam on July 1.

For the purpose of equitably controlling the storage water of said stream as between the log driving interests and said Oquossoc Light and Power Company during the driving sea-

son aforesaid, questions concerning the necessity of accumulating storage on said Kennebago Lake and of the quantity thus to be stored in advance of beginning log driving operations and relating to the drawing down of said storage water in greater quantities than will leave the water in Kennebago Lake at the level of at least four (4) feet above the sill of the present Mahaney Dam July 1 each year, shall be by both parties left to the decision of the agent of Union Water Power Company, or his successor as the person having control of the storage system at the headwaters of the Androscoggin River; his decision shall be binding upon both parties and he may take over and assume control of said dam to be constructed by said Oquossoc Light and Power Company for the purpose of carrying out his decisions, the expense to be paid one-half by Oquossoc Light and Power Company and one-half by the owners of the log drive.

Union Water Power Company may, at its election, take over said dam as provided in said agreements with respect to the dam of Kennebago Improvement Company. If it does so elect, it shall give to Oquossoc Light and Power Company six (6) months' prior notice in writing of such intention, and thereupon, at the expiration of said notice, shall have the right to take said storage dam and the necessary land, and Oquossoc Light and Power Company shall convey the same to said Union Water Power Company. If said Union Water Power Company shall, at the time of giving such notice, declare its intention of erecting in place of or above said dam, a dam capable of storing greater quantities of water than the dam of said Oquossoc Light and Power Company then existing, and shall within six (6) months from the expiration of said six (6) months' notice begin actual operations to that end, then Union Water Power Company shall make no payment to Oquossoc Light and Power Company for said property and property rights, but the erection of said new dam shall be deemed to be sufficient consideration for the conveyance of said property. If, however, no such declaration of purpose shall be made or commencement of work upon a new dam for carrying out of the same shall occur, then Union Water Power Company shall pay to Oquossoc Light and Power Company, upon the determination of the purchase price hereinafter provided for, a purchase price determined as follows:

said purchase price shall be the then fair value of the physical property of said dam and land plus the actual cost of flowage rights in so far as said Union Water Power Company does not then own the right to flow, but without including in such valuation any water or storage rights, and if the parties are unable to agree upon the purchase price, such price, so far as based upon the fair value as aforesaid, shall be determined by a board of three (3) arbitrators, one to be selected by the Oquossoc Light and Power Company, one by the Union Water Power Company, and the third by the two persons selected, and a majority decision of the board shall be final. Union Water Power Company after taking said dam shall provide adequately for the water requirements of the Oquossoc Light and Power Company in accordance with and subject to the provisions hereinbefore set forth, but shall not, except as hereinafter provided, be required to provide a total volume of water during any day of twenty-four (24) hours in excess of that which may be obtained by a uniform rate of flow of one hundred forty-two (142) cubic feet per second for twenty-four (24) hours, and shall permit said Oquossoc Light and Power Company to draw water by canal or penstock directly from said dam to its power house if and when Oquossoc Light and Power Company shall adjust its facilities to require the same, or, if said Union Water Power Company shall install a wheel in its said dam, Oquossoc Light and Power Company shall, at its request, discontinue the use of such canal or penstock for drawing water directly from said dam and said Union Water Power Company shall furnish to Oquossoc Light and Power Company a sufficient quantity of water in excess of a total volume during a day of twenty-four (24) hours which may be obtained by a uniform rate of flow of one hundred forty-two (142) cubic feet per second for twenty-four (24) hours, to compensate for the loss of head incident to the loss of use of such canal or penstock directly from said dam, calculating such loss by the height of the dam and flashboards, if any, erected by Oquossoc Light and Power Company, to store water on Kennebago Lake at a level not in excess of nine (9) feet above the sill of the present Mahaney Dam.

Said Kennebago Improvement Company and said Union Water Power Company shall not by means of any dam constructed, acquired or maintained by them, or either of them,

their successors or assigns, decrease the flow of water in said Kennebago River below the guaranties hereinbefore prescribed in case of the acquisition of the dam of said Oquossoc Light and Power Company by Union Water Power Company. All damages for flowage under the provisions of this section shall be ascertained in the manner described in Chapter 106 of the Revised Statutes.'