

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 880

S. P. 465

In Senate, March 25, 1937.

Reported by Senator Laughlin of Cumberland from Committee on Judiciary and laid on table to be printed under Joint Rules.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

**AN ACT to Amend and Extend the Charter of Kennebec Reservoir
Company.**

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

Sec. 1. P. & S. L., 1927, c. 113, § 1, relating to Kennebec Reservoir Company, amended. Section 1 of chapter 113 of the private and special laws of 1927 as amended by section 1 of chapter 96 of the private and special laws of 1929 is hereby further amended by striking out the name of "Waldo E. Pratt" in the 2nd line and inserting in the place thereof the name 'M. L. Madden', and by striking out the name of "Fred C. Bagley" in the 3rd line and inserting in the place thereof the name 'Thomas Gorham.'

Sec. 2. P. & S. L., 1927, c. 113, § 12, amended. The 1st sentence of the 2nd paragraph of section 12 of chapter 113 of the private and special laws of 1927, as amended by section 2 of chapter 64 of the private and special laws of 1931, is hereby repealed and the following enacted in place thereof :

'Flowing of highways; roads to be constructed to replace those flowed; procedure. Said corporation is authorized by means of dams erected in pursuance of the powers herein granted to flow highways, provided however that this corporation shall not flow out any highways until it shall have constructed highways as follows :

(a) If any portion of the highway leading from North New Portland to Dead River and thence to Stratton is to be flowed out south of the intersection thereof with the highway leading therefrom to Stratton by way of Carrabassett and the Kingfield Road, then it shall construct a highway leading from a point south of the Ledge House, on said road from North New Portland where the reservoir begins, to said road leading therefrom to Carrabassett.

(b) A road from the same point, or from some point south of the Ledge House leading by the East side of the reservoir to a point near the dam and thence on the dam or north of the dam to the opposite side of Dead River.

(c) If any portion or portions of the road from Kingfield to and through Stratton and thence to Eustis, or any portion or portions of the road from Rangeley to Stratton, is or are to be flowed the company shall construct in place thereof, or of such parts as are to be flowed, reasonably safe and convenient highways, or parts of highways, including bridges, connecting the parts of the said present highways not so to be flowed.'

Sec. 3. P. & S. L., 1927, c. 113, § 12, amended. Section 12 of chapter 113 of the private and special laws of 1927, as amended by section 2 of chapter 64 of the private and special laws of 1931 and by section 2 of chapter 74 of the private and special laws of 1933, is hereby further amended by adding thereto the following:

'Flowing of lands owned by towns and plantations; conditions and procedure. Said corporation is also authorized and empowered when subscriptions of the aforesaid amount shall have been made to its capital stock to flow, by means of any dam or dams erected on the land leased to it by the state of Maine under this charter, lands of towns or plantations, including lands used for school and other public purposes, provided however that before flowing any such lands with buildings thereon used for school or other public purposes the corporation shall give notice of its intention to flow the same to the municipal officers of the town or plantation within which the same are located; if within 60 days after the receipt of such notice the municipal officers notify the corporation of the election of such town or plantation expressed at a meeting called therefor to have a building provided at the expense of this corporation in place of the one so to be flowed, such land and the buildings thereon shall not be flowed until a building to take the place of the one to be flowed shall be furnished by this corporation as hereinafter provided; if within 60 days after notice as aforesaid said town or plantation does not notify the corporation of its election to have such building or buildings so to be flowed replaced, then if the

corporation and the municipality are unable to agree upon the damages occasioned by the flowing of such land and buildings, and in all cases of the flowage of such land without buildings, if the corporation and municipality are unable to agree upon the damages occasioned by the flowing of the same, the damages shall be determined in the same manner as heretofore provided for the flowing of lands under this act; if any town or plantation elects to have any building or buildings built as a substitute for buildings used for school or other public purposes located upon its lands which are to be flowed, then and in that event this corporation shall, at its own expense, construct or cause to be constructed upon a lot of land selected for that purpose by the proper municipal officers, and either purchased by this corporation or taken by it under its powers of eminent domain at its expense therefor, or taken by the town or plantation therefor, the cost thereof to be reimbursed to the town or plantation by this corporation, a building of at least equal value and equally well suited for the public uses to which the building to be flowed is devoted; the plans for such building shall be approved by the proper authorities having jurisdiction thereof in advance, and in case of disagreement as to whether such building to be constructed is of equal value and equally well suited for the purposes for which it is intended as the one to be flowed, the question shall be decided by the county commissioners of the county in which the same is to be located; if any local authorities unreasonably refuse to approve plans submitted for said construction in the case of school houses the same may be approved by the commissioner of education and in the case of other buildings by the board of county commissioners for the county in which the same is to be located; the construction of such building and the furnishing of the lot therefor as aforesaid at the expense of this corporation and at the request of the town or plantation as aforesaid shall be in lieu of all damages for flowing the land and buildings as a substitute for which the same is furnished.'

Sec. 4. P. & S. L., 1927, c. 113, § 8, amended. Section 8 of chapter 113 of the private and special laws of 1927 is hereby amended to read as follows:

'Sec. 8. Rates of tolls established. This corporation is authorized and empowered to collect and receive tolls for driving logs, lumber and pulpwood within the area aforesaid, and parts thereof, at the following rates per 1000 board feet, viz:

Between the mouth of Alder stream and the point of flowage caused by this corporation's dam located at Long Falls, ~~twenty-five cents~~ 19 cents;

From the point of delivery within the flowage area as defined in section 7, to The Forks, ~~seventy five cents~~ **56 cents**;

From said dam or any point west of the mouth of Spencer stream, to The Forks, ~~fifty cents~~ **thirty-eight cents**;

From the mouth of Spencer stream, or any point west of the mouth of Enchanted stream, to The Forks, ~~forty cents~~ **thirty cents**;

From the mouth of Enchanted stream, or any point west of the mouth of Salmon stream, to The Forks, ~~thirty cents~~ **twenty-three cents**;

From the mouth of Salmon stream, or any point east, to The Forks, ~~ten cents~~ **eight cents**;

From the dam at the foot of Big Spencer pond or any point in the outlet stream to Dead River (in addition to the aforesaid tolls for driving on Dead river), ~~thirty cents~~ **twenty-three cents**;

These tolls are to remain in force for a period of 10 years, and thereafter until revised in any manner provided by the legislature. The word "west" used in designating direction in this section means the course from the mouth of Dead river towards its sources, notwithstanding the actual direction at any given point. For the purpose of this section 2 cords of pulpwood or wood cut in 4-foot lengths shall equal 1,000 board feet.

Sec. 5. Kennebec Reservoir Company authorized to sell to and Central Maine Power Company authorized to acquire property and franchises of Kennebec Reservoir Company. Provided and upon condition that Kennebec Reservoir Company is organized and accepts its charter and either subscriptions to its capital stock of at least \$300,000 shall have been made, or in lieu of such subscriptions Central Maine Power Company files with said Kennebec Reservoir Company an agreement to save it harmless from liability for the rental under the lease contained in said charter to the extent of \$300,000 prior to January 1, 1939, at any time after such organization and acceptance of said charter and either after such subscriptions to the capital stock shall have been made or after such agreement shall have been filed, but not later than July 1, 1939, said Kennebec Reservoir Company is hereby empowered and authorized to sell, convey, assign and transfer to Central Maine Power Company, and said Central Maine Power Company is hereby authorized to acquire by purchase all the franchises, rights, privileges and properties, real, personal and mixed, tangible and intangible, of said Kennebec Reservoir Company. If and when so acquired and purchased, said Central Maine Power Company and its successors shall have and enjoy, and be entitled to exercise, all of the rights, privileges and franchises of said Kennebec Reservoir Company for any and all of the corporate purposes of said Central Maine Power Company and said

Kennebec Reservoir Company, or either of them, and shall have the power and authority to own, hold and use all of the property purchased and acquired from said Kennebec Reservoir Company, or acquired under the authority of its rights, privileges and franchises either by said Kennebec Reservoir Company or by said Central Maine Power Company for any and all of said purposes.

Sec. 6. Substitution of lessee. If and when said Central Maine Power Company purchases the rights, privileges, franchises and properties of said Kennebec Reservoir Company as provided for in this act, the state of Maine hereby consents to the assignment and transfer to said Central Maine Power Company of the lease of the state, public or reserved lots, which lease is contained in section 13 of the charter of said Kennebec Reservoir Company and is section 13 of chapter 113 of the private and special laws of the state of Maine for the year 1927; and if and when said lease is so assigned and transferred to the Central Maine Power Company it shall be and become the lessee thereunder in substitution for said Kennebec Reservoir Company in the same manner as though said lease were originally granted to it, and from thenceforth it shall have all of the duties and obligations of the lessee as though originally named as lessee in said lease, except as otherwise provided in this act, and thereupon all liability of said Kennebec Reservoir Company to the state of Maine for anything occurring subsequent to said assignment shall terminate. If and when said Central Maine Power Company so acquires said properties and franchises it and its successors may themselves do and perform any and all of the acts and things that sub-section (d) of said section 13 of said charter provides that said Kennebec Reservoir Company may allow to be done and performed.

Sec. 7. P. & S. L., 1927, c. 113, § 16, amended; and § 17, repealed, upon conditions. If and when said properties and franchises of the Kennebec Reservoir Company are acquired by said Central Maine Power Company by purchase as aforesaid as provided for in this act, the last clause of section 16 of said charter of the Kennebec Reservoir Company, which reads "provided, that the total amount of bonds outstanding shall at no time exceed twice the amount of capital stock paid in in cash" and the whole of section 17 of said charter of the Kennebec Reservoir Company shall become null and void.

Sec. 8. Conditional amending clause. If and when the Central Maine Power Company acquires by purchase the rights, privileges, franchises and properties of Kennebec Reservoir Company as provided for in this act and becomes the lessee in the lease contained in section 13 of the

charter of Kennebec Reservoir Company as hereinbefore provided, said lease is hereby amended and modified in the following particulars, to all of which modifications the said Central Maine Power Company assents by the acquisition of the rights, privileges, franchises and properties of the Kennebec Reservoir Company as aforesaid, viz:

1. The following provision is hereby substituted for the 1st sentence in sub-section (b) of said section 13: 'The state may retake the demised premises and all of the structures, rights, privileges and other properties of the lessee owned and used by it in the erection and operation of its storage reservoir created by dam or dams on the leased premises under this charter at the termination of this lease, paying therefor the net investment therein, which net investment shall not include any compensation for the value of the franchises granted under this act and shall not exceed $\frac{1}{2}$ of the cost of dams then in existence and in addition to said $\frac{1}{2}$ of the cost of such dams the cost of other property and rights so taken; or the tenancy shall be renewed for such term and on such conditions as to rental, further option of renewal or retaking, and all other conditions as may then be determined by the legislature and accepted by the corporation.'

2. Sub-section (c) of said section 13 of said charter shall become null and void.

3. The following provision is hereby substituted for sub-section (f) of said section 13 of said charter: 'The right of the state to take over, maintain, and operate all of the structures erected upon the demised premises and the reservoir created by the dam or dams erected thereon, together with the lands flowed thereby, at any time by the exercise of eminent domain upon payment of just compensation therefor is hereby expressly reserved.'

4. The following provision is substituted for sub-section (g) of said section 13 of said charter: 'All buildings, dams or other structures erected by the lessee upon the demised premises shall be and remain personal property of the lessee unless and until retaken by the state under the provisions of sub-section (b) of this section 13 of this charter, and shall be taxable to the lessee.'

5. Sub-section (h) of said section 13 of said charter shall become null and void.

Sec. 9. Application of § 15 limited. If and when Central Maine Power Company acquires by purchase the rights, privileges, franchises and properties of Kennebec Reservoir Company as provided for in this act, the provisions of section 15 of said charter shall have no application to the

acquisition by said Central Maine Power Company of its own capital stock, but said Central Maine Power Company shall have and continue to have all of the rights with respect to the same that it otherwise has and had.

Sec. 10. Termination of charter after transfer. If and when said Central Maine Power Company acquires by purchase the rights, privileges, franchises and properties of said Kennebec Reservoir Company as provided for in this act, and when said Kennebec Reservoir Company has thereafterwards discharged its liabilities and liquidated its assets, the franchise of the Kennebec Reservoir Company to continue as a corporation shall terminate.

Sec. 11. Limitations based on capital stock subscriptions in Kennebec Reservoir Company inapplicable after transfer. If and when said Central Maine Power Company acquires by purchase the rights, privileges, franchises and properties of said Kennebec Reservoir Company as provided for in this act, all provisions in the charter of the Kennebec Reservoir Company making subscriptions to its capital stock in any amount a condition precedent to the exercise of any of its rights, privileges or franchises shall become null and void.

Sec. 12. Saving clause. It is hereby expressly provided, however, that no acquisition of the franchises of said Kennebec Reservoir Company, or those of any other corporation, and the merger thereof with the franchises of the Central Maine Power Company under this act, or under said chapter 113 of the private and special laws of 1927 and the amendments thereto, shall be deemed to qualify or restrict any franchise or other right which said Central Maine Power Company otherwise has and enjoys, or otherwise acquires through this act or from any other source, but shall be deemed to be additional thereto.

Sec. 13. Section 12, further amended. Section 12 of chapter 113 of the private and special laws of 1927 as amended by section 2 of chapter 74 of the private and special laws of 1933, is hereby further amended by striking out: "electing to take in place of said damages the amount provided in any written option or agreement of sale made or taken since January 1, 1921, by the Central Securities Corporation, or the Central Maine Power Company, or any one of the incorporators in this act, or any person in behalf of any of the same from the then owners of said land" and inserting in place thereof: "electing to take in place of said damages the purchase price recited in any written option or agreement of sale made or taken since January 1, 1921, by Central Securities Corporation or Central Maine Power Company, or any one of the incorporators in this

act, or any person in behalf of any of the same from the then owners of said land, whether or not such option or agreement of sale shall have terminated; provided that in event such purchase price shall have been altered by the subsequent written agreement of the parties, the altered amount only may be elected.'

Sec. 14. Rights and powers extended for 2 years. The rights, powers and privileges of the Kennebec Reservoir Company, which were granted by chapter 113 of the private and special laws of 1927, and as amended by chapter 96 of the private and special laws of 1929, and as amended by chapter 64 of the private and special laws of 1931, and as amended by chapter 74 of the private and special laws of 1933, and as extended by chapter 37 of the private and special laws of 1935, and as amended and modified by this act, are hereby extended for the period of 2 years from the date when this act takes effect; and the persons named in said act as amended, their associates, successors and assigns, shall have all the rights, powers and privileges that were granted them or their predecessors by said act and the amendments thereto, including those contained herein, to be exercised in the same manner and for the same purposes as specified in said act as heretofore and hereby amended and extended.