

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-fourth Legislature

OF THE

STATE OF MAINE

1929

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Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Eighty-Fourth
Legislature

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of the city, and the coupons attached to said bonds shall have the printed or lithographed signature of the treasurer.

Approved April 6, 1929.

Chapter 108.

An Act to Incorporate Fish River Power and Storage Company.

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

Sec. 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. Rhineland 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 act called "the company." The principal office of the company shall be located in the town of Fort Kent, county of Aroostook. The company may establish such other offices and places of business as it shall deem necessary or convenient for the transaction of its business.

Sec. 2. Objects and purposes. The objects and purposes of the company are to develop, generate, and buy electricity, and to transmit, distribute, supply, sell and otherwise dispose of the same for all lawful purposes within the county of Aroostook except as hereinafter provided; to create and maintain storage basins as hereinafter authorized; and by means thereof to improve navigation and regulate and control the flow of the waters affected thereby, and to facilitate the driving of logs to the mills in the Saint John river watershed contemplated by International Paper and Power Company and to other mills.

Sec. 3. Powers. Except as otherwise hereinafter provided, the company is hereby authorized and empowered to develop, generate, and buy electricity, and to transmit, distribute, supply, sell and otherwise dispose of the same for all lawful purposes within said county of Aroostook, and shall have all the rights, powers and privileges and shall be subject to all the duties and obligations incident to corporations organized to make, generate, sell, transmit, distribute and supply electricity for light, heat and power under the general laws of the state. The company may erect, construct, operate and maintain canals, penstocks, sluices and other improvements, hydro and steam power generating stations, transmission and distribution lines, and accessories to any or all of the foregoing, and may purchase, lease or otherwise acquire, hold, sell or otherwise dispose

of any real or personal property, as may be necessary or convenient for the objects, purposes and powers in this act set out.

Sec. 4. Authorized to erect dams. In order to carry out the objects and purposes of the company and that the power generating plants in the Saint John river watershed in Maine and New Brunswick may be operated as a unified and interconnected system, whereby the waters of said river and its tributaries may be utilized so as to generate the maximum amount of hydro-electric energy, the company is hereby authorized and empowered to erect and maintain dams on land which it may at any time own at or near the outlet of Eagle lake in the Fish river watershed above the outlet of Sly brook by which the waters of Eagle lake and its tributary and connecting waters may be raised and held to a height not exceeding nineteen feet at said dam above mean low water mark in Eagle lake, and at or near the outlet of Nadeau lake in said watershed otherwise known as St. Froid lake by which the waters of said Nadeau lake and its tributary and connecting waters may be raised and held to a height not exceeding twenty-one feet at said dam above mean low water mark in said Nadeau lake, and also dams on land which it may at any time own on the Fish river below the outlet of Eagle lake; to erect and maintain any cut-off dams which may be necessary to hold and retain the above-mentioned waters; to dredge, widen, straighten and improve the channels of the above-mentioned waters; to hold, store, divert, regulate and control the flow of the waters raised by said dams and draw down the same as may be required for the most effective operation of said power generating plants and to facilitate the driving of logs; to erect and maintain wing dams, side dams, booms and piers in said waters; to flow such lands and property, including state, public and reserved lots and property, as may be necessary to carry out the provisions of this act, and the company shall not be liable to any action at law for damage caused by such flowage, but the damages therefor, unless arranged by mutual agreement, shall be ascertained and recovered in the manner provided by chapter ninety-seven of the revised statutes; and to take and hold as for public uses such lands, properties and rights, not including state, public and reserved lots or parts thereof, as the company may require for any of the aforesaid uses and purposes. All proceedings in relation to any such taking and the assessment of damages therefor shall be as provided in sections eleven to twenty-two, both inclusive, of chapter sixty-one of the revised statutes. In case any state, public or reserved lots or property are flowed by any dam erected by the company, the state land agent or such other person as may be designated by the governor and council is hereby authorized, with the approval of the governor and council, to agree upon the dam-

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ages for such flowage and, in case the parties are unable to agree, is authorized to represent the state in any proceedings to fix the damages.

The company shall be entitled to the benefits and be subject to the obligations of sections thirty-seven to forty-two, inclusive, of said chapter ninety-seven relating to flowage of highways and townways. Before raising the waters in Eagle lake the company shall erect at its outlet under the direction and to the approval of the commissioner of inland fisheries and game a proper fish screen above any dam built at said outlet in lieu of the fish screen now existing there. Before the flowage takes place the area to be flowed by any dam or dams erected by the company shall be thoroughly cleared of standing timber, trees and other growth, and of dri-ki and debris which would be caused by such flowage, to the extent that the company has the legal right to do so and to such extent and in such manner as shall be specified by the commissioner of inland fisheries and game and the forest commissioner acting under the direction of the governor and council. All dams erected by the company shall be so constructed with proper rollways, sluice ways, or gates as to facilitate the floating or driving of logs and lumber, and the company shall permit the passage of logs at reasonable times during the driving season.

Sec. 5. Restrictions. Nothing in this act shall be construed to authorize the company to erect any dams or power generating stations on the Allagash river or its tributaries, or on the Saint John river or its tributaries, other than the Fish river and its tributary and connecting waters as above provided. Nothing in this act shall be construed to authorize the company, without the written consent of the owner of the developed power or dam next below mentioned, to control the headwaters of Wallagrass stream or to interfere with the operation of any developed power on Wallagrass stream or with any dam erected or that shall be erected at the site on lot forty-two in Wallagrass plantation described in section one of chapter two hundred and eight of the private and special laws of nineteen hundred and seventeen entitled "An Act to Authorize Fort Kent Electric Company to Erect and Maintain a Dam across Wallagrass Stream." Nothing in this act shall be construed to authorize the company to interfere with any of the rights granted to the Fort Kent Electric Company in said chapter two hundred and eight of the private and special laws of nineteen hundred and seventeen or to authorize the company to interfere with any of the rights granted to the Wallagrass Dam Company in chapter one hundred of the private and special laws of nineteen hundred and nineteen entitled "An Act to Incorporate the Wallagrass Dam Company." Nothing in this act shall be construed to

authorize the company to divert the waters of the Fish river or the lakes above the same by way of Violette brook or in any other manner so that said waters shall be discharged into the Saint John river otherwise than through the Fish river. Nothing in this act shall be construed to prohibit the taking of water from said river or lakes for municipal and domestic purposes.

Sec. 6. Provision for removal of dead bodies and for locating new cemeteries. This company is empowered to authorize the selectmen of any town, the assessors of any plantation or organized township, and the selectmen of a town or assessors of a plantation or organized township adjoining any unorganized township, to take up from any existing cemetery in such town, plantation or organized township, or unorganized township respectively, which will be flowed by any of its dams, the bodies and remains of all deceased persons buried therein, and all headstones and markers at the graves therein, and remove said bodies and remains to a new cemetery to be selected by said selectmen or assessors and there decently inter the same, and properly reset such headstones and markers over such dead bodies and remains. Such new cemeteries shall be located with due regard to the convenience of all the inhabitants of the respective communities in which they are located. Said selectmen and assessors are in each case, within thirty days after being so requested in writing by this company, to select the place for a new cemetery and fix the bounds thereof, and to proceed with reasonable diligence to cause the removal of the bodies, remains, headstones and markers, as aforesaid. If they fail to do so, this company is authorized and empowered to make such selection or selections and cause such removals to be made. All of the expenses incurred in procuring the lands necessary for such cemeteries, in clearing and fitting the ground and fencing the same, and in the taking up and removal of all of the remains of all deceased persons, and in the removal of said headstones and markers, and the interment of said remains and resetting of said headstones and markers shall be paid for by this company.

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

Sec. 7. Transmission and distribution lines. The company is hereby authorized and empowered to set poles and towers, extend wires and lines,

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and lay pipes and conduits, and maintain and operate the same, for the purposes of transmission, distribution and sale of electricity, upon, along, over, across and under the streets, roads and ways within the territory wherein it is hereby authorized to do business, subject, however, to the general law regulating the erection of poles and wires and the laying of pipes and conduits for such purposes. The company is also authorized and empowered to take and hold as for public uses such lands or interests therein as may be necessary for the construction and operation of its transmission lines, and the proceedings in relation to such taking and the assessment of damages therefor shall be as in the case of railroads.

Sec. 8. Restrictions on sale of power. The company may sell electrical energy to the International Paper and Power Company, or its successors or assigns, or to any corporations owned or controlled by it or them for the use of any mills or manufacturing plants in Aroostook county owned or operated by it or any of them, but not to be resold by it or any of them, which it and they are hereby forbidden to do. The company may also sell electrical energy to the Gould Electric Company its successors or assigns. The company shall not sell electrical energy to any other corporation, municipality, quasi-municipal corporation, firm, association or individual, whether the same be a public utility or not, in or to be used in any territory in Aroostook county without having first obtained an order from the public utilities commission permitting it so to do, after public notice and hearing and a finding that neither the Gould Electric Company nor any corporation owned or controlled by it is furnishing or will furnish adequate service in said territory. Provided, that, in order the better to assure unto the citizens of Aroostook county the enjoyment of any benefits which may ensue from the Fish river development, in determining the reasonableness of any rate charged by the Gould Electric Company, or any corporation owned or controlled by it, for electrical energy sold, whether at wholesale or retail, the public utilities commission shall take into account comparative line losses and the cost at which said Gould Electric Company, or any corporation so owned or controlled, may purchase such energy from the Fish River Power and Storage Company, but without disregarding the right to a fair return on the value of the plant and equipment of the Gould Electric Company, or any corporation so owned or controlled, erected for the service of the communities which they are designed to serve.

Sec. 9. Interchange of power. Except as otherwise provided in this section, no electric current generated by the company shall be transmitted outside the state contrary to the provisions of section one of chapter sixty of the revised statutes and acts amendatory thereof and additional thereto:

Inasmuch as the development of power sites and storage areas by the company is a part of a project for development, as a whole, of portions of the Saint John river watershed which lie partly in Maine and partly in New Brunswick, and inasmuch as operation of the generating stations and storage works in said watershed can be most economically and effectively handled through interconnection as a unified system, all to the advantage of the state of Maine, the company may transmit and deliver electric current to Saint John River Power Company, its successors or assigns, in New Brunswick, provided the Saint John River Power Company, its successors or assigns, shall deliver to the company in Maine in each calendar year at least an equivalent number of kilowatt hours of electrical energy generated in New Brunswick, and the company shall deliver the same to consumers and public utilities in Maine subject, however, to the restrictions of section eight hereof. The delivering into Maine of the electrical energy allotted to Maine under the order of the international joint commission dated the twenty-eighth day of June, nineteen hundred and twenty-six, or any order that may be made supplemental thereto, shall not be deemed to be satisfaction in whole or in part of the foregoing requirement.

Sec. 10. Compensating power from New Brunswick. Inasmuch as the rights herein given of storage and control of waters will enure not only to the benefit of hydro-electric plants in Maine, but also to the benefit of the hydro-electric plant of the Saint John River Power Company at Grand Falls, in the province of New Brunswick, it is hereby declared that the state of Maine will be entitled to have allotted to Maine a share of the electrical energy that will be generated at Grand Falls, New Brunswick, by use of the waters stored in Maine pursuant to this act. Accordingly the rights of regulation and control of said waters provided for in this act shall not be exercised unless and until a contract which, in the opinion of the attorney general, is legal and binding upon the parties thereto, for such number of kilowatt hours and on such terms and conditions as shall be approved by the public utilities commission, shall have been executed by and between the company and Saint John River Power Company for delivery into Maine by the latter, or its successors or assigns, of electrical energy generated in New Brunswick additional to the amount delivered under section nine of this act. The company shall not alter or modify said contract without the consent of the public utilities commission. The delivery into Maine of the electrical energy allotted to Maine under the order of the international joint commission dated the twenty-eighth day of June, nineteen hundred and twenty-six, or any order that may be made supplemental thereto shall not be deemed to be satisfaction

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in whole or in part of the obligation of Saint John River Power Company under the contract above in this section mentioned.

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

Sec. 12. Bonds and other obligations. The company may from time to time issue its bonds, notes and other obligations on such terms as it may deem necessary, and may secure the same by pledge or mortgage of any or all of its franchises and any or all of its property, present and future, all subject to the approval of the public utilities commission.

Sec. 13. Jurisdiction of 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.

Sec. 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.

Sec. 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 so provide by reference hereto.

Sec. 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 com-

pany 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 shut-downs, for a period of at least ten years from the time when such operations shall start and that at least one-half of the wood used in the course of said ten year period for the manufacture of the pulp made or used in said mill shall have been cut from lands within the state of Maine unless some provision of federal or state law shall prohibit or levy a tax or duty upon the exportation of wood from the state of Maine or unless it may be necessary to use a greater proportion of Canadian wood in order to salvage wood from land in the Saint John river watershed in Canada owned by any company which is owned or controlled by International Paper and Power Company or its successors because of damage by fire, insect attack, blow down or any other cause damaging said timber. The forest commissioner of the state of Maine, acting under the direction of the governor and council shall determine whether any such fire, insect attack, blow down or any other cause requiring such salvage shall have occurred. Upon any default in the performance of said agreement the state of Maine may, through such agencies as it may provide for the purpose, acquire the franchises and the rights hereby granted and the dams and other structures erected by authority of this act, and the lands and interests therein and other property and rights acquired by the company for the objects and purposes in section two of this act set out, upon payment therefor of the original cost of the same prudently expended as determined by the public utilities commission, less depreciation on said structures, but such payment shall not include compensation for the value of the franchises granted by this act or any profit to the International Paper and Power Company or any of its subsidiary or affiliated companies.

Sec. 17. Non-compliance with contract. In case the contract for delivery of electrical energy entered into by Saint John River Power Company under section ten hereof shall not be complied with by the said

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Saint John River Power Company or its successors even though such non-compliance be caused by some present or future law of the province of New Brunswick or of the Dominion of Canada the state of Maine shall have all and the same rights as are provided by paragraph (c) of section sixteen hereof as to the acquiring of the property and franchises of the company. If any such non-compliance shall be caused by some present or future law of the province of New Brunswick or of the Dominion of Canada and if the state or an agency thereof shall exercise such right of acquisition then, in that case, the state or said agency thereof as the owner of the property and franchises of the company shall, to the extent that it is possible to do so by operation of the property so acquired, perform any contracts which the company may have made to supply electrical energy for use in the state of Maine unless the public utilities commission shall determine that any such contract is on such terms as to be unfair to the state or said agency thereof, and in the event of any such determination shall so supply electrical energy on terms prescribed by the public utilities commission as fair to all parties concerned.

Sec. 18. Right of state to take over property and franchise. The corporation hereby created shall continue for a period of forty years. At the expiration of said period the charter of the company may be extended for such time and on such conditions as may be fixed by the state and agreed to by said corporation. If said charter shall not be so extended at the end of said period the state may then acquire all of the property, rights and franchises of said corporation on the payment of just compensation therefor but such compensation shall not include compensation for the franchises granted by this act. Provided, however, that if at the end of said period said charter shall not have been extended by agreement as aforesaid, the corporate existence of the company shall continue with the rights and powers hereby granted until such time as the state shall exercise its right to acquire such property, rights and franchises.

Approved April 9, 1929.

Chapter 109.

An Act to Re-Establish the Town Line Between the Towns of Hancock and Lamoine.

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

Sec. 1. Town line re-established. The town line between the towns of Hancock and Lamoine, in Hancock county, is re-established as follows: Beginning in the center of Skillings river, so-called, where it empties into Frenchman's bay; thence northerly and northwesterly but always follow-