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A Message to the People of Maine by Percival P. Baxter, Governor
of Maine**

Percival P. Baxter

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THE INSIDE HISTORY
OF THE
Kennebec-Dead River
Storage Charters

A MESSAGE
TO
THE PEOPLE OF MAINE

BY
PERCIVAL P. BAXTER

Governor of Maine



To the People of Maine:

When the Legislature convened in January, 1923, it was apparent that a determined effort was to be made by certain private corporations to obtain complete control of the Kennebec River and that an organization had been perfected for this purpose. During the first week of the session the water-power lobby appeared upon the scene in Augusta, and the Kennebec Storage charter soon was launched upon the Legislature. This bill provided that the State should deed to a private corporation certain water resources owned by the State in the Dead River region, one of the few places where the State actually holds title to valuable water privileges.

This "Kennebec" charter did not escape my attention but I felt that it was a legislative problem in the first instance, and accordingly refrained from commenting on it other than to say that I believed it was unwise for the State to part with its water resources. The 81st Legislature, however, was very sensitive about its so-called "prerogatives," and I was not consulted in connection with the bill, although I had some brief but guarded conversation regarding it with certain lobbyists who called upon me.

CHARTER PASSED OVER VETO

During the 81st Legislature the corporate interests were unusually powerful, more so than I ever have known them to be. They swept aside the opposition of the few members of the Senate and House who opposed the bill. Senator R. O. Brewster of Cumberland and Representative F. D. Cummings of Portland led the opposition and made a vigorous attack upon the bill, exposing its many weak points. The arguments of the lobbyists, however, were persuasive. The Legislature both Senate and House rushed the charter through by triumphant majorities.

The Charter came to me in due course. I vetoed it in a message delivered in person to a joint convention of the

Senate and House, after which it immediately was carried over my veto by overwhelming votes in both branches. It was amusing to see the lobbyists race to the telephone booths to spread the news of their victory over the Governor. Their rejoicing was premature for within a few hours I issued a formal proclamation telling the people of Maine that their valuable water resources had been deeded to a private corporation and calling upon them to rally to the support of a referendum. The response was splendid and from that moment the people took the matter into their own hands. Such prompt action was unexpected by, and caused a good deal of concern to, the water power interests. They soon saw how the situation was developing and that they could not stem the tide of popular disapproval. In a desperate attempt to save their own charter they adopted the unusual procedure of themselves starting a second referendum. The corporations never have been known to consult the people before for when they have sought special privileges usually they have obtained them for the asking. Finding themselves in a corner, they endeavored to escape by having a referendum at a special election in September, 1923, which they expected they could control with a few thousand votes.

PROMPT DECISION DESIRED BY ALL

I desired to have this issue settled promptly, but did not want to hasten the decision if by doing so the people of Maine, before they realized what the corporations were doing, might lose their water resources forever. For example 27,285 votes were cast at the *special* referendum election in 1921, while there were 118,542 votes cast on the referendum at the *general* election of 1920. A majority of 27,285 votes is much easier to obtain than a majority of 118,542 votes. From this it is apparent that the corporate interests believed that they could save their charter by controlling a few thousand votes at a special election in 1923. The cost of doing this meant nothing to them but they were afraid of a vote in 1924, when over 200,000 voters would go to the polls and vote on the referendum I had started. I wanted the people as a whole to take time

to think this matter over so they could vote intelligently upon it. I feared the corporate propaganda and wanted a large vote which no interests could handle. An added reason for postponing the referendum until 1924 was that the people of the State thereby would be saved the heavy expense of a special election, not less than \$30,000.

It should not be overlooked that had the Legislature wished to consult the people upon this important matter, it might have put a referendum clause on the original bill. This would have settled the matter without a referendum by either the Governor or the corporations. The legislators, however, did not care to consult the people, its decision to pass the Kennebec bill was arrived at early in the session and its first thought of the people was after my referendum was well underway.

The result was that both referendum petitions were placed in circulation. During all this activity I was considering the matter carefully. After consulting with my brother, Councilor R. H. Baxter, I thought some compromise might be effected wherein the State's interests would be protected and private development encouraged.

THE INSIDE HISTORY

The history of these negotiations makes interesting reading for Maine people. The first of my referendum petitions were distributed March 26th. On Friday, March 30th, I invited Mr. William B. Skelton of Lewiston to come to Augusta, he being the registered lobbyist, or "legislative agent," of the principal individuals who comprised the Kennebec group of water power owners interested in the proposed charter. Mr. Skelton, Councilor Baxter, and myself talked over the matter, but apparently to no purpose. Without making plans for another conference we parted. Not being discouraged, on Sunday, April 1st, I telephoned Hon. E. W. Wheeler of Brunswick, a man of wide experience in public affairs, entirely impartial and not interested in water powers, and Mr. Skelton. At my invitation they came to Augusta that afternoon and discussed the situation with Councilor Baxter and myself. I told Mr. Skelton that I would favor granting his companies

a charter if they would accept a conservatively worded constitutional amendment allowing the State to develop water storage, and also would pay a fair price on a *lease* for the Dead River water rights. Mr. Skelton agreed to report this offer to his principals, both those within and without the State. Monday, April 2nd and Tuesday, April 3rd passed without my hearing from Mr. Skelton. I thought the matter had been abandoned, but meanwhile I took Senator Brewster into my confidence and told him all that had occurred.

NEW CHARTER AGREED UPON

The attempt to effect a compromise appeared to have failed. On Tuesday evening Mr. Walter S. Wyman, Treasurer and General Manager of the Central Maine Power Company, himself one of the concessionaires in the original bill, met Senator Brewster and asked him to find out my views as to what would be a fair rental, and before seven o'clock Wednesday morning, April 4th, the telephone at the Blaine House rang and Mr. Skelton talked from Lewiston with my brother and said he was coming to Augusta with full authority to negotiate. On the afternoon of that day Mr. Skelton, Councilor Baxter, Senator Brewster, and myself went over the details and Mr. Skelton definitely stated that his corporations would not oppose a constitutional amendment and would pay a fair price for a *lease* of the water rights. He stated also that he had communicated with *all seven* of his companies and was their accredited representative at our conference. After this the only question at issue was the amount of money to be paid the State as rental. Everything else had been agreed upon.

Later in the day Mr. Skelton came to the Governor's Office and stated that he had discussed all the details with his corporations in Maine and those in Boston, that they all understood and had agreed to them but as an afterthought wanted the constitutional amendment eliminated from the agreement. Senator Brewster and myself conferred about this and concluded that as the amendment was not really an issue at that time we would waive it. As a result the price of \$25,000 per year was established

as rental for the privileges leased. The bargain was made and the matter closed.

"WATER POWERS"

Senator Brewster and Mr. Skelton retired to Mr. Wyman's office to draft the bill as agreed upon. About 11.30 that evening, they returned to the Blaine House accompanied by Mr. Wyman and bringing with them a type-written copy of the new charter, according to agreement. Councilor Baxter and Secretary Chadbourne were present. In talking with Messrs. Skelton and Wyman, I called their attention to the fact that the first charter did not grant the nominal right to develop water power, although it specifically granted the company everything the State owned, including the main dam location together with the right to build and maintain such other dams as the Company might want to build between the location of its principal dam and the junction of the Kennebec and Dead Rivers, twenty-two miles distant. In other words, I showed them that the first charter was all inclusive and gave the corporations all the water rights of this vast territory, a region larger than Androscoggin County.

I realized that the companies had not asked for the specific right to "develop" water power, but understood their plan which was merely a blind or camouflage. Once the storage dam was built, of course no other dam could be placed on the same location and the Kennebec Company was the only party that ever could develop water power in that location or area. They had seen to it that nothing was left to the State! The second step would be to ask the next Legislature for the nominal right to develop or sell the water power at the dam where it would be running to waste, and such a request then could not reasonably be withheld. I told Messrs. Wyman and Skelton that if they built a dam there was no reason why they should not develop such power as was available, for to fail to do so would be an economic waste, and certainly no one else could develop water power at their dam location. Mr. Wyman replied that the "water power" would be of "no consequence," and if there was some "seasonal" power it would be for

only four or five months a year, and he would not know what to do with it if he had it. He stated it was not worth bothering about and brushed the whole *power* matter aside. Nothing more was said about it, nor did it enter into our calculations. The price of \$25,000 was agreed upon before water power was mentioned; that price was not discussed or altered afterwards, and no suggestion of dividing the rental, one part for storage and another for power, was made. That figure was based solely upon storage and not upon the water power privileges, which were only incidental and were treated in a very indifferent manner by both Messrs. Wyman and Skelton. The attempt now being made by certain newspapers that support the corporations to confuse this issue, has as one of its purposes the saving of the feelings of those Legislators who voted with the corporations and then retreated under fire by repealing their own bill. The right to use the water power that otherwise would run to waste was not a factor in our agreement for the Dead River charter.

OVER CONFIDENCE OF CORPORATIONS

Mr. Wyman agreed to secure the passage by the Legislature the following (Thursday) morning, of the new bill and was so sure of the corporations' ability to carry it through that he proposed to have the bill "engrossed" that very night. It then was after midnight. The last step before the final passage of a bill is its "engrossing," and Mr. Wyman wanted the charter in shape to have it passed promptly at the morning session. Senator Brewster and myself both suggested that to have a bill "engrossed" before it even had been "introduced," might be construed as interfering with Legislative prerogative. We cautioned against undue haste and inquired if the Legislators had been consulted. The reply was in the negative, but Messrs. Skelton and Wyman both were confident of their influence with the Legislature, and stated that the bill would be passed. That was their work, not ours! Mr. Wyman immediately went to the printer's office and ordered the bill engrossed, with the result that the first proofs innocently enough had the word "Wyman" printed at the top of the

page, showing that the printer had taken his orders from Mr. Wyman personally. This printed name is conclusive proof that the bill was approved in every detail by both Messrs. Wyman and Skelton, and that is the bill that Senator Brewster and myself consistently favored, and which we sought to have passed in the closing hours of the Session. Not a word or line of it ever has been changed by any of the parties who conferred regarding it.

I agreed to deliver a message to the Legislature explaining the new (Dead River) charter, prepared it Thursday morning, and after reading it to Senator Brewster, delivered it about noon before the Senate and House. Within an hour the water power lobby re-appeared at the Capitol in full force and the atmosphere was charged with excitement.

LEGISLATURE'S DILEMMA

The Legislators did not take kindly to the Dead River Charter for they felt it placed them in an uncomfortable position. On the assurance of the corporations that the Kennebec Charter was a good bill and did not affect adversely the public interest, they had accepted the first bill and passed it over the Governor's veto. Now their faith in the corporations was shaken, for they found that Messrs. Skelton and Wyman privately had agreed upon a second bill in which the State was to receive a million dollars rental, under a *lease* of privileges that under the first bill were to be *deeded* away forever. Consternation prevailed among those Legislators who had backed the Kennebec bill, and passed it so triumphantly over the Governor's veto. They did not know what to do. The scene in the Augusta House that evening never will be forgotten, and feelings ran high. Some Legislators in their distress came to me and explained their predicament. They asked for advice, saying they could not face their constituents at home if the new charter passed. They were desperate and realized that explanations would be demanded of them.

I replied that there was a principle which should guide us all and that was first to determine what was best for the State of Maine, then hold to it, and let all other con-

siderations of expedience and "face-saving" be disregarded. I explained that the new bill was a LEASE, not a DEED, that it gave the State a million dollars rental during the 40 year period, which rental could be increased if a renewal of the lease were granted, that the timber on the land leased was retained by the State and that the bill provided that all the dead wood should be removed so that a beautiful lake and not a great forest graveyard would be created in the Dead River country. The Kennebec charter contains none of these provisions. Had there been a few more cooler heads in and about the Legislature, the Dead River charter would now be law of the State. As a matter of fact, however, Messrs. Wyman and Skelton were so upset by the turn of events that the new charter never was formally "introduced" in either branch.

REPUDIATION

Up to this point in the negotiations, I have every reason to believe that Messrs. Wyman and Skelton were acting in good faith and were desirous of effecting a compromise that would be fair to all parties. Whether they exceeded the authority conferred upon them by their associates is of course a matter entirely within their own knowledge. At two o'clock on Friday afternoon, April 6th, I received a formal letter from Mr. Wyman, in which he admitted that he had "assented to" the Dead River charter but stated he had withdrawn from the proposed arrangement, and did not want it passed. His excuse was that in my message I expressed an opinion that the Dead River charter established a "new policy for the State," which was that water resources owned by the People hereafter would be *leased*, not *deeded* away to private interests, and that the People must receive an adequate rental therefor. He also objected to my statement that the Dead River charter placed a value upon the State's water resources which must hereafter be reckoned with.

Mr. Wyman's "excuses" were transparent. I since have learned that his out-of-State associates pressed him hard and refused to abide by the agreement that he and Mr. Skelton made with me as Governor of the State. My

"Message" expressed my own opinion: it did not bind the Legislature, present or future, and Mr. Wyman's withdrawal was a deliberate breach of faith on the part of himself, his associates, and the corporate interests they represented.

The situation became complicated. It was apparent that the Legislators were determined to kill both bills and the lobby now recognized that this was inevitable. To the Legislators that seemed the only way out of their dilemma. It was interesting to see how eager some members who had openly advocated the Kennebec bill now were to kill it. Several were anxious to have the honor of giving it its death blow, but the privilege of introducing its repeal very fittingly fell to Senator H. G. Allen of York County, one of the few staunch and consistent opponents of the bill from the beginning. Although Senator Brewster and myself had done our best for the State, the Legislature was not quite broad-minded enough to accept the best trade ever offered a Maine Senate and House. Thus ended both storage charters.

The Dead River charter was fair to all parties and would have encouraged the development of industry. From the time it left our hands on Wednesday evening and was ordered printed by Mr. Wyman, until now, neither Senator Brewster nor myself have "crossed a T or dotted an I" in it. Moreover, we did all we could to secure its passage.

LOBBY DOMINATES SITUATION

For 24 hours after my message was delivered, Mr. Wyman and his associates labored feverishly with the Legislature to induce it to adopt the Dead River Charter. This proves that they favored it, and their excuse for repudiating their definite agreement with Senator Brewster and myself, was an eleventh hour evasion that did not occur to them until they realized that the men who actually were, in control, and who live out of the State, had withdrawn their support and ordered a retreat. It was a complete and humiliating backdown for them.

The disappointed corporate interests having lost the control of the Kennebec River that once was in their grasp,

now are trying to explain what happened. They are constantly talking about the so-called "water power rights" of the second charter. This is an afterthought, devised to sooth those Legislators who still smart under the treatment the corporations gave them. It is an excuse to let them down gently, and is dust to confuse the people. The Lobbyists and newspapers affiliated with them seek to make it appear that the rental was based upon these rights, whereas, as has been stated, Mr. Wyman himself said the power rights were of "no consequence," and the matter never was discussed beyond that point.

There is an interesting sidelight in connection with the appearance of the hearing before the Legislative committee of George C. Danforth, Chief Engineer of the Maine Water Power Commission. On being questioned by the representative of the corporations, Mr. Danforth stated that in his opinion the Kennebec Reservoir Bill did not conflict with the public interest, and he believed it should be passed. The duty of a State official is to protect the interests of all the people, and I regretted that the representative of a Commission, for the creation of which I was responsible, should have failed completely to grasp the full meaning of the Kennebec charter. The Water Power Commission was established to protect the People's rights, and Mr. Danforth might have been of real assistance to all parties in this crisis. Since the adjournment of the Legislature, if newspaper reports are correct, he has traveled about the State addressing gatherings and informing those present that a serious mistake had been made by repealing the Kennebec Charter.

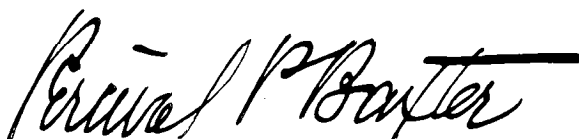
PLANNING FOR FUTURE DRIVE

Certain newspapers affiliated with the Central Maine Power Co. and other corporate interests are now rallying to their support, and the State is flooded with propaganda, alleging that the first bill would have been of great benefit to our industries. In other words, during the Legislative session, the Lobby backed the Kennebec bill and carried it through. Now some of the leading newspapers are backing it and have entered upon a deliberate policy of creating

public sentiment so that the water power companies may obtain the same or a similar bill at the next Legislative session. This is all a part of the general scheme of certain private interests to secure control of all the water resources of the State. In my opinion, however, the more publicity the newspapers give this issue the more our citizens will understand what the water power people really are attempting to do.

It is doubtful if a Maine Legislature ever again will pass a bill like the Kennebec Storage Charter, but should this be done, the people of Maine will invoke the referendum and prevent such a charter becoming the law of Maine.

Public sentiment has crystalized. LEASES not DEEDS will be granted in the future. The people of Maine are prepared to insist that a fair rental be paid by all corporations that hereafter ask for the right to develop State-owned natural resources.

A handwritten signature in black ink, reading "Percival P. Baxter". The signature is written in a cursive style with a prominent horizontal line at the end.

Governor of Maine.

