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**The Repudiation of the Act Incorporating the Dead River Reservoir
Company of Percival P. Baxter, Governor of Maine to Eighty-first
Legislature, April 6, 1923**

Percival P. Baxter

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THE REPUDIATION OF THE ACT
INCORPORATING
THE DEAD RIVER RESERVOIR COMPANY

MESSAGE

OF

PERCIVAL P. BAXTER

Governor of Maine

TO

EIGHTY-FIRST LEGISLATURE

APRIL 6, 1923



STATE OF MAINE

OFFICE OF THE GOVERNOR

AUGUSTA

April 6th, 1923.

*To the Honorable Senate and House of Representatives of the
81st Legislature:—*

Acting in good faith and in behalf of the people of Maine, and animated by a sincere desire to promote water power development and harmonize conflicting views, I suggested and arranged for a conference at which the accredited representatives of the parties interested in the Kennebec Reservoir Company, a senator from Cumberland County who had opposed the granting of the charter, three disinterested and representative citizens and myself were present. The two representatives of the Reservoir interests were the registered legislative agent of the Reservoir incorporators, and one of the incorporators. Both gentlemen definitely stated that they had authority to speak for their principals in the Reservoir Company, and as a result it was agreed that the terms of the Dead River Reservoir Charter were satisfactory and that the Kennebec Charter was to be repealed.

The final conference was held late in the evening, Wednesday, April 4th, and the two gentlemen referred to as representing the incorporators assured me that they would have the Dead River Charter presented in the Legislature early the following morning, and that they desired to have the same passed. I specifically inquired if any of the members of the Legislature had been consulted in connection with this Act, and the answer was in the negative. These gentlemen said they would have the charter printed in engrossed form, but to this latter suggestion the Senator and myself demurred, holding that to print the bill without legislative authority could be criticized as proceeding with undue haste, and might be construed as interfering with the prerogatives of the Legislature.

The terms of the Dead River Charter as outlined in my Message to the Legislature were unconditionally agreed upon as acceptable to all the incorporators. This charter provided for private development with the public's interests properly safeguarded. It called for a lease of the State-owned water resources, not a deed of them, and a fair rental was to be

paid the State for the leased privileges. This is the arrangement I have been advocating for the last seven years. Early Thursday morning the charter was printed in engrossed form by the order of the representatives of the Reservoir Company, as evidence of which it appears that the original engrossed copies bear at the top of the printed page the name of the Treasurer of the local Power Company, himself one of the incorporators of the Reservoir Company.

In accordance with the definite and well understood agreement made between all parties, I, in person, on Thursday morning, April 5th, presented the result of the conference in a message to a joint session of the Senate and House fully expecting that the bill immediately would be introduced into the Legislature. In every way I have lived up to my agreement, not a word has been changed in the Dead River Charter since the conference, and now I am ready to sign the bill if the Legislature in its wisdom enacts it. The arrangement entered into, and finally agreed upon by all parties, is fair to all. It gives to the company storage and water power rights for which they agree to pay an adequate rental. Not a detail of the original plan has been repudiated either by the Senator referred to or by myself, and we both stand behind the position taken, and want the people of Maine to understand it.

At two o'clock this, Friday, afternoon, April 6th, I received a communication from the Treasurer of the Central Maine Power Company, heretofore referred to as an incorporator and one of the conferees, in which he admits that he "assented to" the act incorporating the Dead River Reservoir Company. After giving his views on the storage question and on the message that I delivered to the joint convention, he recites that he "must join with the other proposed incorporators in refusing to allow my (his) name to be used in connection with the proposed charter for the Dead River Reservoir Company." The excuse offered for this abrogation of a clean-cut, definite agreement is that in my message I stated that in my opinion the Dead River Charter established a new policy for the State, to the effect that hereafter water rights would be leased, not deeded away, by the State, and that the State would derive an income therefrom. I further stated that in my opinion a value had been placed upon the State's water resources, a value that hereafter must be reckoned with. It is not reasonable that a mere opinion on my part should be taken as an excuse for terminat-

ing a definite agreement, not a line of which has been altered by either party.

The message I delivered to the Legislature is entirely distinct from the Dead River Charter, and is not a part of it. No one can control my Messages and they are not reviewed in advance by others than myself. To show that the reason for the withdrawal of the Reservoir interests is but an excuse, I call your attention to the fact that for twenty-four hours after the delivery of my Message these interests labored incessantly with the Legislature to induce that body to pass the Dead River bill; they even had a conference with me late in the evening of April 5th, and at that time were anxious to have it enacted. Influences from without the State stepped in and blocked matters, and the letter sent to me and to which I have referred is the result. As this letter states it already has been given to the newspapers, I do not attach it to this Message.

I do not question the motives of the gentlemen who entered into the agreement with me. At the time they no doubt believed they were acting within their authority. Whatever occurred later is a matter of which they only can speak; but it is wrong to allege that the arrangement was broken by any one other than by themselves.

When the Governor of the State of Maine enters into an arrangement it is to be expected that he will hold to it. The same properly can be expected of the others who are parties to it. As the Legislature now is considering the Kennebec and Dead River matters, I desire to notify you that this letter has just come to me and to show you that the Governor of Maine approves of the Dead River Charter, believes it would be wise to pass it, and has not departed from the agreement he has entered into.

Respectfully submitted,

(Signed) PERCIVAL P. BAXTER,

Governor of Maine.

Was read and ordered placed on file and sent up for concurrence and on motion of Mr. Wing of Auburn, 2500 copies ordered printed, together with the letter from Walter S. Wyman to Governor Baxter, which was offered by Mr. Maher of Augusta and ordered placed on file.

*Hon. Percival P. Baxter,
Governor of Maine,
Augusta, Maine.*

Dear Sir:—

"The Central Maine Power Company has always stood four-square for private as against public development of the natural resources of the state and for the doctrine that neither the state nor any individual has any rights in the water powers or storage basins other than the well recognized riparian rights which go with, and are wholly dependent upon the ownership of the land at the site of the dam. This position was fully supported in the answers of the justices to the questions propounded by the Legislature and published in the 118th volume of the Maine reports.

"The State of Maine is the owner of two public lots on Long Falls on the Dead River and these lots contain the dam site of the storage reservoir dam proposed on both the Kennebec and Dead River charters. Because of the ownership of this land, including the banks and the bed of the stream, the state owns all the ordinary rights of any riparian proprietor owning a dam and power site upon any of our rivers.

"The act incorporating the Dead River Reservoir Company as drawn and assented to by me, representing our company, provided for a lease of the dam site, power privileges and lands to be flowed by the dam at a rental that would probably not be excessive as between private parties. The basis of the rental was that the major part should be allocated to the power rights which were leased under this charter, but were not granted by the Kennebec Reservoir charter. The balance over and above this power charge was to represent a rental of the storage dam site and the other state lands flowed by the dam. The valuable power rights which formed the basis of this power lease were not granted under the Kennebec reservoir charter, but were retained by the state.

"At the conference when an attempt was made at compromising with the opponents of the former measure I understood that this reason for and the basis for the rental was perfectly plain and understood by all present. Your message, however, conveys to the Legislature and to the public the idea that the Central Maine Power Company and myself assent to

the doctrine that there is some right belonging to the state in every storage reservoir which any developing company should pay for, even though the state owns no land affected thereby.

"With this construction upon the Dead River charter, now before the people, its acceptance by me would be considered assent to all this doctrine. Although I believe the charter does not warrant such a conclusion, I cannot allow myself and the company which I represent to be placed in the position of apparently subscribing to the views expressed in and the impression conveyed by your message. For this reason I must join with the other proposed incorporators in refusing to allow my name to be used in connection with the proposed charter for the Dead River Reservoir Company.

"In order that the views expressed in this letter may be understood by the public, I am giving a copy of it to the press."

W. S. WYMAN.

House of Representatives, April 6, 1923.

Read and placed on file.

CLYDE R. CHAPMAN, *Clerk*.

