

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**PUBLIC DOCUMENTS**

OF THE

**STATE OF MAINE**

BEING THE

**REPORTS**

OF THE VARIOUS

**PUBLIC OFFICERS  
DEPARTMENTS AND  
INSTITUTIONS**

FOR THE TWO YEARS

**JULY 1, 1926 - JUNE 30, 1928**

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

# STATE OF MAINE

---

REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

at a low figure, I call the attention of Your Excellency to the fact that during the previous administration the Governor of this State was notified by the War Department of unused forts which were offered for sale under similar conditions, and the legislature not being in session within the time limit prescribed, the properties were purchased by the then Governor and Council for and in behalf of the State, and the purchase tacitly approved by the legislature in Chapter 183 of the Public Laws of 1925.

Respectfully yours,

RAYMOND FELLOWS,  
*Attorney General.*

June 22, 1927.

*Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.*

DEAR GOVERNOR BREWSTER: The jurisdiction of a State bordering on the sea over the waters thereof is that of an independent nation, except so far as it would conflict with that of the United States, and extends for a marine league from the shore and over the bays and arms of the sea within the limits defined by international law.

This principle has been applied to the law relating to fisheries, to the criminal laws, to statutes giving the right of action for death by wrongful acts, to statutes authorizing state authorities to fill in land under water where navigation will not be materially affected thereby, to the building of piers and wharves as authorized by the state legislatures.

It has been held in many jurisdictions, including the Federal Court, that the State has the absolute power to grant its lands under water, unless prohibited by its constitution or some statute. The reason for this is that no title to the soil under navigable waters was conferred by the constitution to the Federal Government so far as the original states were concerned, but the title remained in the respective states. The Federal Government, of course, has the right to regulate navigable waters so far as commerce is concerned and permission must be obtained from it where there is to be a permanent and material obstruction to navigation.

Under Chapter 45 of the Public Laws of 1927, if and when

the same shall go into effect, the Governor and Council have the power and authority to lease the rights to gather kelp on the submerged lands and reefs within the jurisdiction of this state, namely, to a point not exceeding a marine league from the shore. Leases, however, shall not be executed for a period of more than thirty years at an annual rental of not less than \$3., per annum per square mile. The prospective lessee should file a petition together with plan showing the location of the territory desired, upon which the Governor and Council should order notice and hold hearing.

Respectfully yours,

RAYMOND FELLOWS,  
*Attorney General.*

July 20, 1927.

*Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.*

DEAR GOVERNOR BREWSTER: Under Article XXXI, Section 16 of the Constitution of Maine, popularly known as the Referendum, it is provided that no act or resolve, except emergency legislation, shall take effect "until ninety days after the recess of the legislature passing it"; and Section 17 of the same Article provides that a non-emergency act or resolve shall not take effect at the end of this ninety-day period, if ten thousand electors of the state within the ninety days lawfully petition for a reference of the law to the whole electorate. Then if the people at an election approve of the law as passed by the legislature, it takes effect thirty days "after the governor shall have announced by public proclamation that the same has been ratified by a majority."

Article XXXI, Section 17, says: "As soon as it *appears* that the effect of any act \* \* \* \* *has been suspended* by petition \* \* \* \* , the governor by public proclamation shall give notice thereof, and of the time when such measure is to be voted on."

Ten thousand electors, by filing petitions, may prevent any law from *taking effect* until after a general or special election. If petitions duly signed and verified by not less than the constitutional number are filed, the law is suspended and does not go into effect at the end of the ninety day period. *Kehail v.*