

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty - Third Legislature

OF THE

STATE OF MAINE

1927

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MISCELLANEOUS  
COMMUNICATIONS

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# MISCELLANEOUS COMMUNICATIONS

## LIST OF PARDONS, ETC., 1925-26

### STATE OF MAINE

#### Executive Chamber

Augusta, Maine, Jan. 5, 1927.

To the Honorable Senate and House of Representatives:

In compliance with the Constitution of the State, I herewith communicate to the Legislature each case of remission of penalty, commutation or pardon granted during the years 1925 and 1926, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of remission, commutation of sentence, and the conditions, if any, upon which the same was granted.

RALPH O. BREWSTER  
Governor.

#### State Prison

Guy E. Crosby of Oakfield. Convicted of the crime of bribery, at the November term, 1924, of the Supreme Judicial Court at Houlton, and sentenced to imprisonment in the State Prison at Thomaston, for not more than four years and not less than two years. Full and free pardon granted March 12, 1925.

Willard S. Lewin of Houlton. Convicted of the crime of conspiracy, at the April term, 1924, of the Supreme Judicial Court at Houlton, and sentenced to one year in the State Prison at Thomaston. Full and free pardon granted June 2, 1925.

Irving A. Richardson of Westbrook. Convicted of the crime of statutory rape, at the January term, 1923, of the Superior Court at Portland, and sentenced to imprisonment, at hard labor, for not less than six years and not more than ten years in the State Prison at Thomaston. Sentence commuted February 25, 1926 so that same shall be not less than three and one-half years nor more than seven years.

Enrico Orlando of Portland. Convicted of the crime of assault with intent to kill, at the September term, 1925, of the Superior Court at Portland, and sentenced to imprisonment, at hard labor, for not less than eighteen months and not more than three years in the State Prison at

- Thomaston. Pardon granted June 17, 1926, upon the conditions that he shall not be guilty of violating any of the criminal statutes of the State, and that he shall report monthly to Stanley W. Macgowan, State Probation Officer.
- George A. Brown of Bowdoinham. Convicted of the crime of carnal knowledge of a female child under fourteen years of age, at the October term, 1925, of the Supreme Judicial Court at Bath, and sentenced to imprisonment for the term of not more than ten or less than five years in the State Prison at Thomaston. Full and free pardon granted May 6, 1926.
- Gertrude E. Wika of Portland. Convicted of the crime of transporting female for purpose of prostitution, at the January term, 1922, of the Superior Court at Portland, and sentenced to imprisonment, at hard labor, for the term of not less than six years and not more than twelve years in the State Prison at Thomaston. Pardon granted April 8, 1926 upon the conditions that she shall not be guilty of violating any of the criminal statutes of the State, and that she shall leave the State in custody of Brigadier Thomas E. Hughes of the Salvation Army, and continue in his custody during the remainder of the time for which she was sentenced.
- Joseph L. Mayer of Portland. Convicted of the crime of forgery, at the January term, 1925, of the Superior Court at Portland, and sentenced to imprisonment, at hard labor, for not less than four years and not more than eight years in the State Prison at Thomaston. Reprieve from said sentence granted July 16, 1926 for such period as the attending surgeons may certify to be necessary, from said date, for the sole purpose of receiving the necessary surgical treatment outside the confines of the State Prison, at the Knox County Hospital, at Rockland, Maine, and upon the condition that he shall not be guilty of violating any of the criminal statutes of the State and that on the expiration of such period as may be necessary as aforesaid, he shall forthwith surrender himself to the warden of the State Prison and shall again enter upon the execution of said sentence and shall be remanded to, and confined, in said State Prison for the unexpired term of his sentence. Returned to State Prison August 21, 1926.
- Ray E. Cummings of Portland. Convicted of the crime of robbery, at the January term, 1925, of the Superior Court at Portland, and sentenced to imprisonment, at hard labor, for not less than four years, and not more than eight years, in the State Prison at Thomaston. Full and free pardon granted August 9, 1926.
- Frank Elderkin of St. Albans. Convicted of the crime of being a common thief, at the January term, 1925, of the Supreme Judicial Court at Skowhegan, and sentenced to imprisonment, at hard labor, for not less than four years, and not more than six years, in the State Prison at Thomas-

ton. Pardon granted September 15, 1926, upon the condition that he shall not be guilty of violating any of the criminal statutes of the State.

Anthony P. Dale of Portland. Convicted of the crime of robbery, at the January term, 1925, of the Superior Court at Portland, and sentenced to imprisonment, at hard labor, for not less than four years, and not more than eight years, in the State Prison at Thomaston. Pardon granted November 5, 1926 upon the conditions that he shall not be guilty of violating any of the criminal statutes of the State, and that he shall report each two weeks to Philip R. Brown of Vassalboro.

Thomas H. Youtlen of Lowell, Massachusetts. Convicted of the crime of robbery, at the January term, 1923, of the Supreme Judicial Court at Saco, and sentenced to imprisonment in the State Prison at Thomaston for a term of not less than seven and one-half years and not more than fifteen years. Pardon granted December 30, 1926 upon the conditions that he shall not be guilty of violating any of the criminal statutes of the State, and that he shall report once a month to Harry E. Bodwell or to his wife, Lois Anne Kendall Bodwell, of Enfield, New Hampshire.

#### State Reformatory For Men

Clarence Phinney of Lubec. Convicted of the crime of breaking, entering and larceny, at the May term, 1923, of the Supreme Judicial Court at Calais, and sentenced to the Reformatory for Men at South Windham for the term of five years and six months. Sentence commuted March 25, 1925 to the extent that he shall be eligible to parole, subject to such restrictions as may be imposed by the Trustees of the State Reformatory for Men.

Joseph Spires of Calais. Convicted of the crime of breaking, entering and larceny, at the October term, 1921, of the Supreme Judicial Court at Machias, and sentenced to the Reformatory for Men at South Windham for the term of five years and one month. Sentence commuted April 9, 1925 to the extent that he shall be eligible to parole, subject to such restrictions as may be imposed by the Trustees of the State Reformatory for Men.

Loring E. Roberts of Milbridge. Convicted of the crime of rape, at the May term, 1923, of the Supreme Judicial Court at Calais, and sentenced to the Reformatory for Men at South Windham, for the term of five years and six months. Sentence commuted April 24, 1925 to the extent that he shall be eligible to parole, subject to such restrictions as may be imposed by the Trustees of the State Reformatory for Men.

## County Jails

Charles E. Calvin of Houlton. Convicted of the crimes of keeping and maintaining a liquor nuisance, and of being a common seller, at the November term, 1924, of the Supreme Judicial Court at Houlton, and sentenced to pay a fine of \$1,000 and costs taxed at \$1.20, and imprisonment in the county jail at Houlton for the term of eleven months, and in default of payment of fine and costs be imprisoned in said jail for the term of eleven months additional; also sentenced to pay a fine of \$500 and imprisonment in the county jail at Houlton for the term of six months, and in default of payment be imprisoned in said jail for the term of six months additional. Full and free pardon granted March 12, 1925.

William Tactikos of Presque Isle. Convicted of the crimes of unlawfully keeping and maintaining a liquor nuisance, and of being a common seller of intoxicating liquor, at the November term, 1924, of the Supreme Judicial Court at Houlton, and sentenced to pay a fine of \$300 and costs taxed at \$7.37 and imprisonment in the county jail at Houlton for the term of three months, and in default of payment of fine and costs, be imprisoned in said jail for the term of six months additional; also sentenced to pay a fine of \$200 and costs taxed a \$7.37 and imprisonment in the county jail at Houlton for the term of two months, and in default of payment of fine and costs be imprisoned in said jail for the term of six months additional. Full and free pardon granted March 12, 1925.

Richard S. Vereker of Houlton. Convicted of the crimes of being a common seller of intoxicating liquors, and maintaining a common nuisance, at the November term, 1924, of the Supreme Judicial Court at Houlton, and sentenced to pay a fine of \$250. and costs taxed at \$35.68, and imprisonment in the county jail at Houlton for the term of three months, and in default of payment of fine and costs be imprisoned in said jail for the term of three months additional; also sentenced to pay a fine of \$500. and costs taxed at \$1.20 and imprisonment in the county jail at Houlton for the term of four months, and in default of payment of fine and costs be imprisoned in said jail for the term of four months additional. Full and free pardon granted March 12, 1925.

Charles Smith of Houlton. Convicted of the crimes of being a common seller of intoxicating liquors, and maintaining a common nuisance, at the November term, 1924 of the Supreme Judicial Court at Houlton, and sentenced to pay a fine of \$300. and costs taxed at \$17.17 and imprisonment in the county jail at Houlton for the term of three months, and in default of payment of fine and costs be imprisoned six months additional; also sentenced to pay a fine of \$500. and costs taxed at \$1.20 and imprisonment in the county jail at Houlton for the term of six months, and in default of payment of fine and costs be imprisoned in said jail for the

- term of six months additional. Full and free pardon granted March 12, 1925.
- Charles H. Powell of Houlton. Convicted of the crime of being a common seller of intoxicating liquors, at the November term, 1924, of the Supreme Judicial Court at Houlton, and sentenced to pay a fine of \$250. and costs taxed at \$8.62 and imprisonment in the county jail at Houlton for the term of three months, and in default of payment of fine and costs be imprisoned in said jail for the term of six months additional. Full and free pardon granted March 12, 1925.
- George Lefevre of Auburn. Convicted of the crime of having intoxicating liquor unlawfully in his possession, and also for single sale, at the April term, 1925, of the Superior Court at Auburn, and sentenced to pay the sum of one hundred dollars and costs of prosecution taxed at seven dollars and twenty-three cents, and in addition imprisonment in the county jail at Auburn for the term of sixty days, and in default of payment of said fine and costs be imprisoned six months additional; also to pay the sum of one hundred dollars and costs of prosecution taxed at seven dollars and twenty-three cents, and in addition imprisonment for sixty days in the county jail at Auburn, and in default of payment of fine and costs be imprisoned two months additional. Full and free pardon granted August 12, 1925.
- Gaspero De Angelis of Rumford. Convicted of the crime of driving an automobile while under the influence of intoxicating liquors, at the May term, 1925, of the Supreme Judicial Court at Paris, and sentenced to six months in the county jail at Paris. Full and free pardon granted September 11, 1925.
- Harry Smith of South Thomaston. Convicted of the crime of illegal possession of liquor, at the September term, 1925, of the Supreme Judicial Court at Rockland, and sentenced to pay a fine of \$300. and costs of \$9.11 and imprisonment in the county jail at Rockland for the term of four months, and in default of payment of fine and costs be imprisoned six months additional in said jail. Full and free pardon granted December 17, 1925.
- Ralph Eugene Knight of Waterville. Convicted of the crime of desertion and failure to support at the Waterville Municipal Court, September 25, 1925, and sentenced to ten months imprisonment, at hard labor, in the Kennebec jail at Augusta and to pay a fine of \$300. and costs of \$8.00. Pardon granted February 25, 1926, upon the conditions that he shall not be guilty of violating any of the criminal statutes of the State, and that he pay to his wife for her support and that of her minor children the sum of not less than nine dollars per week as per order of court.



Walter O. Anderson of Scotland. Convicted of the crime of unlawful possession of intoxicating liquors, at the Portland Municipal Court, January 11, 1926, and sentenced to two months imprisonment in the County jail at Portland, and in addition thereto to pay a fine of two hundred dollars and costs of prosecution taxed at seven dollars and seventy-nine cents, and in default of payment of said fine and costs be imprisoned in said jail for an additional term of six months. Fine remitted and sentence commuted to two months, March 12, 1926.

John Simpson of Scotland. Convicted of the crime of unlawful possession of intoxicating liquors, at the Portland Municipal Court, January 11, 1926, and sentenced to imprisonment in the county jail at Portland for the term of two months and to pay a fine of two hundred dollars and costs of prosecution taxed at four dollars and seventy-nine cents, and in default of payment of said fine and costs be imprisoned in said jail for an additional term of six months. Fine remitted and sentence commuted to two months, March 12, 1926.

George F. Williamson of Scotland. Convicted of the crime of unlawful possession of intoxicating liquors, at the Portland Municipal Court, January 11, 1926, and sentenced to imprisonment in the county jail at Portland for the term of two months, and to pay a fine of two hundred dollars and costs of prosecution taxed at seven dollars and seventy-nine cents, and in default of payment of said fine and costs be imprisoned in said jail for an additional term of six months. Full and free pardon granted March 12, 1926.

## DEVELOPMENT AND CONTROL OF HYDRO-ELECTRIC POWER

Special Message to the Legislature, March 23, 1927

*Mr. President and Members of the Eighty-third Legislature:*

Consideration of the proper course for the State to take in relation to the export of hydro-electric power now engages the attention of a great number of thoughtful citizens of Maine. The hearing upon the various measures which have been proposed was conspicuous for the moderation of expression by all concerned. It afforded a most happy example of the temper of sweet reasonableness that has seemed to pervade the atmosphere of these halls to a degree unprecedented in recent years. Personalities have been here eliminated to make room for a dispassionate consideration of the issues that are at stake. Repeatedly it has been the comment of interested observers that the members of the Legislature seemed to be earnestly seeking what was right. Through all the deliberations of this Legislature in these halls and in the several committee rooms there has run a keynote of primary consideration for the welfare of the State. That attitude augurs well for the progress that we seek. The calm, clear thinking of the citizenry of Maine as reflected in its duly accredited representatives in these legislative halls is equal to an intelligent appraisal of the evidence that is at hand.

To the Executive Department with its somewhat different contacts there necessarily comes information bearing upon problems of this interest to the State. A legislative background of the past ten years gives one a certain degree of familiarity with some of the considerations that are involved.

In view of the overshadowing importance of the issues that are presented and the responsibility that must be shared for the course that is now determined and the results that shall be achieved it seems not only proper but appropriate that my constitutional duty of communication should be exercised at this time.

**Legislative Responsibility**

In the Inaugural Address at the opening of this session the opinion was expressed that this Legislature was not likely to abdicate its responsibility for the sober settlement of the issues that concern our State or to be unduly influenced in its decision by any one inside or outside our official life. The experiences of this session have abundantly demonstrated the correctness of that view. This Legislature seems likely to be conspicuous for "padding its own canoe."

### Fernald Law

For nearly two decades now Maine has had upon its statute books the so-called Fernald Law enacted under the leadership and in the administration of the Honorable Bert M. Fernald whose memory and whose service we all so much revere. This statute prohibits any corporation chartered by the State of Maine from engaging in the export of hydro-electric power. For ten years now its constitutionality has been attacked by many of those associated with the power companies of our State. It has been criticized as provincial and unconstitutional although a test of its legal adequacy has not been sought.

### Economic Conditions

Its economic effects have long been a matter of debate. An unfortunate emphasis has recently been placed upon whatever was unfavorable in the activities of our State. There has been a tendency to paint a picture of pessimism and gloom as a foundation for an argument to effect a change in our policy with relation to power. This is calculated to encourage a defeatist attitude toward the possible development of the State of Maine. This does not mean the espousal of an ostrich-like attitude with head buried in the sand. Maine people always prefer to look facts in the face, pleasant or otherwise, but no zest of proving a point should blind us to a fair recognition of considerations either way.

It is regrettable that a proposal so profound in its implication should seem to require as the initial step in its presentation the depression of the thought of our people regarding the progress of our State when we seem so definitely in certain respects to be standing at the dawn of a new day.

There is no question that certain of our major industries face very serious problems at this time and that it is of supreme importance that every possible measure should be taken to reduce their cost of operation in order to meet keen competition from other parts of the United States. This means that any prospective lessening of power costs or lightening of the burden of taxation may be one of the important factors in persuading these industries to carry on through the economic crisis with which they have recently been faced. Their problems are reflected by other lines of activity within our State and our citizens generally are naturally and seriously concerned for the prosperity of these enterprises. We shall desire to do anything consistent with the general welfare of the State that these industries may consider is calculated to help them out.

### Encouraging Factors

On the other hand there are certain other factors that are encouraging and these we shall desire accurately to appraise.

At no time since the remarkable developments that came to Maine in the first half of the last century has Maine seemed to have more reason for confidence in the prospects in certain lines. The center of population of this country is now stabilizing. Water transportation via the Panama Canal is turning the country inside out. All great civilizations have ultimately reached their glory in developments about their water ports. There are not wanting indications that in the ripening of our civilization a similar phenomenon will be observed. America is reaching maturity and its industrial and social life is entering an era of decentralization as a result of the remarkable inventions of recent years. There is also growing a recognition of the more ample rewards of living outside our metropolitan centers with their necessarily abnormal mode of life.

Three corners of our country in the last three decades have experienced an amazing growth as their recreational attractions have unlocked their agricultural and industrial expansion on an unprecedented scale. All about us there are symptoms that indicate the renaissance of Maine. There is a quickening of interest from all parts of the United States. Maine is ready to go forward and with us rests temporarily the responsibility to guide its course.

Meanwhile we are entering the era of the domination of electric power with implications as profound as the revolution in the last century wrought by the discovery and harnessing of steam. Within the past two years one of the pioneers in the power world has turned his attention to Maine. He has entered our State with full knowledge of our restrictive policy and assumed the responsibility for more than sixty million dollars of investment within our bounds.

The one responsible for that investment has personally assured your Chief Executive that whenever he was ready for the investment of further money in substantial amounts within our State he would be most pleased to discuss with us the conditions under which it might be brought to pass. No further communication has been received from him since the conference of something over a year ago.

### Hospitality to Capital

The State of Maine cordially welcomes and invites investment of outside capital and is prepared to cooperate to the fullest extent compatible with its interests in making their entry of advantage to all concerned. Maine asks simply a similar consideration for its judgment as to what is wise and a scrupulous observance of the line of demarcation between presentation of economic considerations for or against a change of policy and attempts improperly to influence the decision of responsible officials by misleading

propaganda or by considerations that are not concerned primarily with the welfare of the State.

With millions of dollars as the stake there is naturally the most earnest argument of the issues that are involved. This means that men and women in public life and those responsible for the formulation of an intelligent public opinion in the dispensing of the news are under a peculiar responsibility in these days of propaganda to hold the scales in balance and see that the public are thoroughly and accurately informed.

It is a matter of congratulation that the hearing upon these measures was elevated to a plane perhaps never before reached in consideration of measures of this kind.

Whatever vehemence of invective or expression may have been used outside these halls there has prevailed here a primary concern with the economic and civic aspects of the questions that are involved.

The most significant economic development in Maine in the past two decades has been the entry of the Insull interest into Maine. They do not have a reputation for investing in economic graveyards and we may rest assured that their payment of twice the market price for the common stock of the largest utility in the State and their later acquisition of the utility serving the most populous and congested center with the ample undeveloped hydro-electric resources that one of these companies affords was a result of careful consideration of the tendencies that are abroad. From their strategic position astride the continent they are in a peculiarly favorable position to invest in the most fertile fields and they came here with full knowledge of the long established policy of our State. Their entry is a tribute to the possibilities that are in our hands.

Within the past two years we have also seen the erection of a million dollar paper mill at Madawaska by Canadian capital coming south of the international line and construction is now commencing upon a cement plant at Rockland which has been characterized by competent authority as the most promising industrial development in Maine since the Great Northern Paper Company built Millinocket a generation ago. Incidentally it offers a prospect of a market for fifteen to twenty million kilowatt hours of hydro-electric energy each year. Options have been acquired by the International Paper Company on most important properties at Bath and their engineers are now making surveys as to the practicability of its use. In addition this same organization comprising one of the largest manufacturers of paper and of power in the country is seriously contemplating the erection of a paper mill in the northern part of the State of Maine.

A number of smaller industrial developments are germinating or in process in various parts of the State.

### Problems Common to New England

It is not possible to say that these developments are a result of our historic policy regarding power. Neither is it possible to say that any failure of development in recent years is to be attributed to that cause. Industrial depression is far more marked in other certain sections of New England than in the State of Maine and yet those other sections enjoy a free interchange of electrical power as we are frequently reminded by the exponents of a change of view.

In the country as a whole only about four per cent of electrical power actually crosses a state line and even in New England the proportion does not run to ten per cent. The textile mills and the shoe factories in Massachusetts have been experiencing far worse difficulties than in the State of Maine. In fact there has been a tendency for those industries to move to other parts of the country to a far more marked degree than has been experienced here in the State of Maine. Certain of the shoe manufacturers in Southern New England on a small scale have actually been moving to the State of Maine on account of the better industrial atmosphere that we here enjoy and it is reasonable to suppose that they are influenced somewhat by the cheapness of our power. A new shoe plant at Skowhegan will soon give employment to more citizens of our State.

### Maine Leads

There has been a good deal of stress laid upon the relative decline of the State of Maine among the power-producing states. It is obvious that this is influenced to a material extent by the resources that we possess in comparison with other states and the extent to which they have been heretofore developed and by other considerations not concerned with the problem of hydro-electric power. The industrial renaissance of the south at the expense of Massachusetts has been one of the most significant phenomena of recent years and the cheapness of the hydro-electric power in the south played a minor part in bringing this development to pass. It is very easy to exaggerate the extent to which industries will seek the source of power but it is impossible to argue that industries will not move to the source of cheap power and at the same time to intimate that an industrial renaissance will be brought to Maine by the export of such hydro-electric energy as we now possess.

The progress of modern civilization is measured by the extent to which mechanical power is placed at the service of the individual man. This nation is supreme in industrial progress because of the development of its power resources of various kinds. If this is the formula for measuring success Maine stands without an equal in the country at this time. In the

deprecating attitude that has been fashionable regarding the development of the power resources of Maine no attention has ever been called to the amazing fact that the STATE OF MAINE LEADS THE COUNTRY IN THE PER CAPITA DEVELOPMENT OF HYDRO-ELECTRIC POWER. Few other states in this Union are even in measurable distance of the State of Maine in this regard. This gratifying achievement has been brought to pass during the period of the existence of the Fernald Law as our investment in electrical development has increased from fifteen million to more than eighty million dollars. It is also worth while to ponder the implications of the fact that no State in the Union has so large a proportion of its developed hydro-electric resources directly serving industrial plants. This may be of significance in connection with our power policy designed for the purpose of developing pay-rolls in the State of Maine.

This does not indicate that Maine has been neglecting the talent that has been placed so evidently in its care but Maine has ever possessed the courage of the pioneer under the inspiration of its motto which indicates its desire to go ahead.

#### Revolution in Conditions May Mean Evolution in Law

It is not necessary to bring in question the wisdom of the men who inaugurated this policy for our State nor even the sincerity of those who within the past five years have radically altered their views in order to recognize the desirability of orienting our course by the conditions of today.

A proper regard for the wisdom of our elders will lead us, however, to examine well all the considerations that are involved and to make certain that no merely selfish influence shall alter the historic policy of our State without regard to the purposes of Maine development that accounted for its origin seventeen years ago.

It is represented that there exists in Maine today a considerable surplus of developed power that may profitably be sold beyond our bounds and that the revenues thus derived will mean a measurable reduction in the costs of delivering electricity to the citizens of Maine. It is proper that the State should determine for itself the existence of this surplus and the economic and engineering problems involved in its adequate control if limited export shall be adopted as the policy of the State. No such determination is possible in the limited time at our disposal since a concrete proposal was submitted to the State.

### Steady Growth

Steady development of our hydro-electric resources has been going on for the past fifteen years and the prosperity of the companies has constantly increased. With creditable vision they have kept supply ahead of demand and more and more of this hydro-electricity has been placed at the service of the citizens and industries of our State. These developments have taken place with full knowledge of our long established policy and it is fair to expect that any change in policy should be discussed without undue emphasis upon any temporary surplus that may exist. In its normal course of development Maine has absorbed fifteen to twenty million kilowatt hours in additional electric power each year and the cement development at Rockland would indicate the possible doubling of the demand in the next two years.

The relation of primary and secondary power as a result of more adequate storage facilities is also to be taken into account.

### Exports and Rates

The industrial and domestic users of hydro-electric power in the State of Maine may well consider carefully whether with an export market available they are more likely to secure reductions in the cost of power or whether the tendency will be to maintain the market in the State of Maine by charging all that the traffic will bear or all that the Public Utilities Commission will permit and then dumping the surplus abroad somewhat upon the analogy of the results obtaining in certain industries as a result of our protective tariff walls.

One of the largest users of electric power in our State now enjoys a rate of five mills for surplus power. One utility in Maine is buying this power from another utility at three mills and immediately reselling it ten miles away for five mills at a profit of 66 2-3 per cent. Will the tendency be for this price to increase or to lessen if other markets are available for disposition of this surplus power?

These are economic considerations with which our business men will be primarily concerned.

The practicability of determining and defining surplus in relation to existing or potential markets in our industries or upon our farms is also a matter worthy of the most careful deliberation by the citizens of our State.

We are still operating under the archaic system of rate determination based primarily on the use of electricity for lighting purposes. Its use for power is rapidly becoming paramount and we see the economic crudity of installing meters for various uses in our home.

The determination of the approximate ratio prevailing in the average



home for use of power for a variety of purposes may soon mean the fixing of a composite rate that will not lessen the revenues of the companies but may greatly stimulate the use of power. We are in this transitional stage in the expansion of the electrical industry at this time. This might mean that much of any surplus could be absorbed upon existing lines.

### Rural Electrification

Use of any revenues derived from export for building rural lines is meaningless unless coupled with it is a guaranty that the consumer shall not have this investment reckoned in the cost to him of power since all the electrical companies in Maine under the persuasive influence of the Public Utilities Commission are ready to make expansion wherever the return will in any degree approximate the cost and their resources are ample to carry out developments of this kind. It is not a lack of development funds but the impracticability of paying the cost of the service that has held back the electrification of our farms. What the companies need is customers rather than capital.

Allocation of a portion of the revenues from the sale of surplus power to absorption of certain of the fixed charges for rural electrification will assist that service to the degree that it is equitably applied but must involve the recognition by the company of the policy of service below cost. This precedent would have far reaching implications in the construction of rate schedules and the socialization of the public utilities of the State.

Most commendable consideration has been given to this problem by one of the leaders of the electrical industry within our State and a project formulated that it was confidently anticipated might make it practicable to install rural lines where there were five or six users to the mile as compared with ten or twelve users that are considered necessary under prevailing conditions in this State. This project was very carefully worked out involving the cooperation of the companies, the users, the municipalities and the State and, at the request of the power company concerned, the hearty cooperation of the State, to the extent that it could properly be given its Chief Executive, was pledged a year and a half ago—coupled with an expression of appreciation that an outlet for developed power was being sought primarily upon our farms rather than outside our State.

This project has not been presented to this Legislature to my keen regret and it is to be hoped that its abandonment does not indicate that outside authority for reasons not concerned with Maine refused sanction of the very creditable plans which had been developed by the engineering genius of a leader of this industry within our State. The State of Maine can well afford to encourage in every proper way both in detailed cooperation and in general determination of policy the attention which the head of this

company was wisely giving to the development of rural electrification within our State.

### Public Utilities Commission and Holding Companies

These economic and engineering questions face conditions that have been transformed. The whole electrical industry is in a state of flux. It is of supreme importance that the State of Maine shall place itself in a position to deal justly and adequately with any situation that may arise. Its information is today utterly inadequate to cope with the problems that we face.

Two years ago it was believed wiser by all concerned to let the troubled waters calm and not agitate the surface while we turned our thought to other things. Careful consideration indicates that the resources of the Public Utilities Commission of the State of Maine should be considerably increased and that there should be the most careful study of all the economic and legal problems involved in the regulation of electrical utilities under the transformed conditions of our day. The entry of holding companies into the control of our utilities has presented a new and serious problem to the commission in our State. There may be a proper field for their activities but they readily lend themselves to most unfortunate results. To the extent that they bring public service for less cost to the people of Maine we shall be desirous of availing ourselves of the advantages they possess. But the State of Maine cannot tolerate their use for the purpose or with the result of imposing additional burdens upon electrical consumers in the State of Maine. The Public Utilities Commission should be given the legislation that they have requested in order to protect the people of the State of Maine.

Upon which side of the fence a given company or given practice is to be placed can only be determined by most careful consideration of the factors involved by men who have the time and the resources to make an impartial appraisal from the standpoint of the State. It is generally recognized that the expenses of this supervision is as appropriate a charge to the consumer through the medium of the utility that is involved as are any of the other expenses of administration of the utilities of our State. The cost is negligible compared with the evils that it will prevent since the managers of our utilities are not employed to look out primarily for the people of the State. It is no reflection upon their integrity to recognize that they are primarily responsible to the owners of their companies for the administration of their trust and cannot be expected to exert that single-minded devotion to the interests of the public that is properly placed upon the Public Utilities Commission of our State.

### Power and Light

The desire for more thorough information is not an indication of a desire for delay. If questions of this character had been pressed two years ago it would have seemed calculated to continue the animosities which had been engendered by the strife of recent years. As the problem of exportation, however, becomes insistent it is imperative that the State should place itself in a position wisely to orient its course and this can only be upon the basis of the most thorough-going study of all the factors that are now involved. The practicability of development and transmission and the probable effects upon the local costs of power are matters that need to be examined in the light of the experience of recent days. Gross exaggeration has been indulged in as to the comparative costs of steam-generated and hydro-electric power. The Cumberland County Power and Light Company has constructed an expensive steam development in Portland harbor because it was unable to be assured of a dependable supply of power from any hydro-electric source. The executive officer of the Central Maine Power Company has expressed the very strong conviction that the cost of generating electrical power by steam under modern conditions has not yet been determined because of ignorance as to depreciation costs and as to the lessening efficiency of the mechanism in the course of passing years.

### Permission to Export and Control by the State

For the purpose, however, of determining the issues with which we are faced it seems to me possible to assume the correctness of all the representations that have been made as to the surplus of power that now exists and the practicability of its transport to a market outside our State and the probability of further substantial developments if such a market shall open though no assurances as to this are now at hand. It seems possible to take this question upon the very ground upon which it has been urged, viz.—that the State of Maine shall permit the export of surplus hydro-electric power but retain full control within the State of Maine.

The people of the State of Maine now assume that this question is entirely within their control and it seems to be agreed by every one participating in this discussion that no measure of export shall be permitted to detract from that control.

This formula appears repeatedly in discussions on all sides and was the meaning of the platform solemnly adopted by the majority party in this State as its considered declaration of policy for the coming two years.

The form of the proposal for export that is being most seriously considered and most earnestly urged adopts the device of chartering companies that may engage in the export of hydro-electric power under the

supervision of the Utilities Commission of our State to which at all times they are declared to be subject by a variety of arrangements that are instituted to this end.

The question with which we are faced is whether this arrangement will be effectual to accomplish the end we have in view. This is a legal question and there seems to be a rather astonishing uniformity of legal opinion as to the results that may ensue.

### Referendum

The people of the State might well pass by solemn referendum upon the issue of an outright repeal of the Fernald Law and eliminate all restriction as to the interchange of power. That would be an economic question without legal complications of any sort. It is also possible that the people of the State should consider the question of permitting a limited export of surplus power with full control retained within the State. That is the question that is sought to be raised by the referendum that is proposed at this time. It is for us to determine whether or not that is the question that is involved in the pending proposal, assuming for the moment that we might consider the submission of such a question at this time.

The entire development of the discussion in the thought of the people of Maine has been addressed to the proposal that export of surplus power might be permitted retaining absolute control within the State.

The economic and engineering problems involved in regulation and in the policy that it presents are complicated but might well be left to the determination of the people as a whole. It is obvious, however, that whether or not under the proposed measure the State would actually retain control is entirely a question of constitutional and statutory law and any business man would submit that for determination to the most competent counsel that he could find. We should be recreant to our trust and guilty of a deception of the people of the State if we permitted a proposal to go to them that in appearance gave the State control and yet was considered by competent counsel as very liable to mean an end of any authority which the State might otherwise exercise over the exportation of power to markets outside our bounds.

Assuming that there is an exportable surplus of hydro-electric power and that it is practicable for a state administrative body to determine and release this from time to time, the citizens of Maine are desirous of knowing the legal method by which its export may be controlled in the interests of the State. This is a problem for lawyers and to them we naturally and necessarily turn.

### Legal Method of Control

The Attorney General is the constitutional legal adviser selected by this Legislature for the State. He is clear and emphatic in his advice that there is grave danger that the chartering of corporations by general or special act to handle exportation may be ineffectual to accomplish the end in view. Decisions of the Supreme Court of the United States indicate a serious possibility that the attempted control by the State of interstate commerce by this method might be pronounced invalid and the exportation left without control by the State or nation, or that action by the Federal Congress might terminate our rights.

It is indicated that the so-called Compact Clause of the Constitution offers the surest refuge for protection from annulment of our regulation by the action of a Federal court with the additional protection that is proposed by certain pending bills. No method can be guaranteed, but the best legal opinion indicates that the regulations and limitations specified in a compact between the states and ratified by Congress would leave the situation in our control, at least, until Congress should deem it necessary to act. As a practical matter, it seems doubtful if Congress would enter the field if a reasonably workable arrangement was being carried on between the states and the citizens in this section had no reason to complain that an important public utility was outside their control.

### Fernald Law and Its Limitations

The Fernald Law does not pretend to control the transmission of steam-generated electricity nor the transmission of hydro-electricity by private individuals or any agency other than a corporation chartered by the State. This means that there is at present no obstacle to the acquisition of hydro-electric powers in the State of Maine by any agency other than a Maine corporation—that might legally claim the right to do business in Maine—and the exportation of all the electricity thus secured. There is no pretense of a prohibition in our present law against such a course nor could the State restrict or regulate such transmission unless such a right could be secured by a compact between the states. This was recognized by counsel for the power companies in the hearings upon these bills.

This indicates that Maine will drift into a more and more precarious position, if it shall simply rest upon its existing rights, since the pressure for development will make it increasingly likely that some appropriate course will be adopted that will carry hydro-electricity outside of our State, or a Maine corporation may take the bull by the horns and raise the question as to the unconstitutional character of the limitations that the State is seeking to impose upon the creatures of its semi-sovereign power in view

of the restrictions imposed on state authority by the Constitution of the United States.

#### Disinterested Advisers

This Legislature also furnishes the Executive with a Council to whom he may turn for advice. The present Chairman of that Council brings a rather unusual range of experience to guide him in advising on questions of this sort. Associated throughout his legal practice with public utilities and with large industrial corporations, he brings a rich and mature experience to guide him on a problem of this kind. He is in agreement with the Attorney General as to the legal aspects of the situation.

The Chairman of the Public Utilities Commission of this State has had five years of experience in dealing with the legal and engineering problems that are involved and he is one of those primarily responsible for the suggestion of this solution by compact to the State.

Outside of official life, but closely identified with the developments that we have been thriftily cultivating in recent years, is the Chairman of the State of Maine Associates, representing the various organizations devoted to the progress of the State on every line. Connected for some time with one of the largest firms in New York City, he afterwards spent some years as an assistant to Herbert Hoover, Secretary of Commerce, and for a portion of that time was associated with the problems incident to a compact such as is here proposed. Returning to the State of Maine, he earnestly advocated the unlimited export of power, but has since modified his views to believe that the State should retain control. His opinion, after careful study, coincides with that of the official advisers to whom one would naturally turn.

The consensus of opinion among these four attorneys who have given consideration to this problem, of the most disinterested sort, seems a strong indication of the probable correctness of their views.

One of the leading authorities in the country upon the questions that are here involved addressed a representative gathering in this hall in recent days and enunciated in no uncertain terms his conviction that the compact clause of the Constitution afforded the only practicable means by which the State of Maine could gain the end it had in view. This represents also the advice of Herbert Hoover as given to the last session of the New England Council at Providence in December of this last year.

It has been the contention of those opposed to the Fernald Law for many years that its provisions were unconstitutional and void. This consensus of opinion was voiced by Representative Robert Hale at Waterville within recent weeks. The attorneys responsible for the form of the proposal to charter corporations to export power have agreed that these exporting

corporations would be subject to Federal control. The protection of the State then rests solely upon the possibility that the Supreme Court of the United States might not invalidate the regulations we seek to impose upon generating companies, nor the limitations we seek to draw between the generation and transmission of hydro-electric power. This seems to present essentially the same problem as the Fernald Law in a form somewhat more difficult to defend, since this very power would then be flowing across state lines.

Even if the legal adequacy of this arrangement is assumed, however, the possible annulment of the charter of the transmission company for violation of its franchise as a means of enforcing our control would seem to present a most precarious remedy, since the physical lines for transmission would then have been built and the practical problem of ownership would be an easy one to adjust. The circumstances would inevitably invite a test of the validity of all restrictive measures or the adoption of a form of ownership that might well place the situation beyond state control unless effectual protection had been secured for state regulation through the Compact clause.

If the consensus of opinion of the disinterested and official advisers whom you have furnished for the State, is to be regarded, then there must be recognized to be grave danger of loss of state control by proceeding along merely charter lines. If this analysis is correct, then submission of the proposed measure to the people would mean an entire misapprehension of the issue that is at stake. The people understand something of the questions of policy that are involved, but must leave to the Legislature the determination of the legal form. The pending proposal might, in essence, be offering the wolf of unrestricted exportation in the sheep's clothing of an intended state control. The people are entitled to rely upon our presentation of a legally prudent course.

This does not imply any question as to the sincerity of the proponents of this measure or of those who have sponsored it before the State. During my experience in public affairs there has been no more earnest advocate of the interests of those benefitting by Maine pay-rolls, than the Senator who introduced the measure that bears his name. There is no legislator more loyal to the idea of retaining full control of these resources within the State of Maine. Some of the most promising developments in recent years within our State have come within the community that he is privileged to serve, and in no small measure as a result of his talent for leadership along sound lines. He would be the first to urge the course that he should be satisfied would most amply protect the rights of the citizens of Maine.

All those participating in the discussions of this session have made it

perfectly clear that Maine wishes to be in the driver's seat where its hydro-electric resources are concerned.

Compact seems to be the possible solution of the problem of regulated export of hydro-electric power. The Legislatures of Massachusetts and New Hampshire are now in session and would have every incentive to appoint representatives to consider an agreement that might make available, to some extent, our resources for their use.

When all are agreed in the objective that is in view and Maine has something to offer that her sister states very much desire, it should be possible soon to accommodate the questions that are involved, and arrive at a concrete form of agreement. This must be considered and accepted by the Legislatures of the states involved, and formally approved by the Congress of the United States. Federal sanction has, however, never been refused where there was an agreement among the states and the possibility of Federal interference in the power field would be made measurably more remote if the citizens of this section had taken constructive action along these lines and eliminated to that extent the dangers of unregulated interchange of power.

The Legislature of Massachusetts convenes for a regular session in January of next year. It should be possible to formulate a compact for submission at that time. The importance of progress in this matter to citizens of Maine would assuredly warrant the calling of a special session of this Legislature to consider such a compact and secure its immediate submission to Congress which would then be entering its long session. The feasibility of a two-state compact, with the possible later joining of the other New England states or the inclusion of New Hampshire at its inception, would be determined by the legal and practical problems it might present, and the degree of interest in the project by our only neighboring state.

This would not involve any appreciable delay since the pending proposal for export contemplates delaying a decision until the fall of this present year. Consideration of the bill providing for export might well be deferred until such a special session, since the adoption of a compact would in all probability make desirable the enactment of legislation of this character as the practicable method of exercising the power of control the state would then possess. This would then supplement the Fernald Law and any additional legislation which may wisely have been enacted with a view to strengthening its provisions.

The immediate negotiation of a compact seems very desirable from the standpoint of those who believe in the Fernald Law, since no such law can protect us against absolutely unrestricted export by any individual or group of individuals as distinguished from a corporation. A compact is desirable from the standpoint of those citizens of Maine who believe in ex-



port under state control, since it is the consensus of disinterested legal opinion that this offers the only method by which the state's control of the amount to be exported may be reasonably assured.

One of the counsel for the power companies closed his statement at the hearing, in the following words: "All we ask for is consideration of these questions upon their merits, remembering that we are here prepared to tie into them all of the precautions that those who have most continuously opposed the proposal, have conceived to be necessary to protect the rights of the State of Maine."

That attitude should make possible a meeting of all our minds upon a course that seems to offer promise of a new day.

With a compact as a firm legal foundation, the enactment of legislation along the lines advocated by the Senator from Androscoggin during this past year to permit the conditional export of surplus power and to supplement his pending proposal for strengthening the Fernald Law, would seem a progressive and a protective step.

If this course is adopted and the next nine months do not witness the formulation of a compact, it would seem to me that a request from any substantial number of the members of the Legislature for a special session would deserve recognition as offering an opportunity of preserving the fruits of the unusually careful study that has been given to this power question by this body at this time.

If this proposal shall commend itself to you as wise, this Legislature may lay a foundation for the harmonious adjustment of a problem that has long troubled the citizens of our State. It will also be unique in recent history in the avoidance of any major controversies to disrupt the harmony of our State, and prepare the ground for that progress that is made possible by the unification of our thought. The elevation of this question from politics and partisanship to the plane of economics and law, will be one of the greatest services that has been rendered by any Legislature in recent years, and the citizens of Maine will come gradually to realize and appreciate something of the sincerity of purpose that has animated you in your effort to build a busier and better Maine.

Respectfully submitted,

RALPH O. BREWSTER.

FINAL MESSAGE  
STATE OF MAINE  
Office of the Governor

Augusta, April 16, 1927.

*To the President of the Senate and Speaker of the House of Representatives:*

I herewith transmit a list of 397 acts and 244 resolves passed by the present session of the Legislature. Ten resolves and one act have become laws without my signature.

I have no further communication to make.

Respectfully,

RALPH O. BREWSTER,  
Governor of Maine.