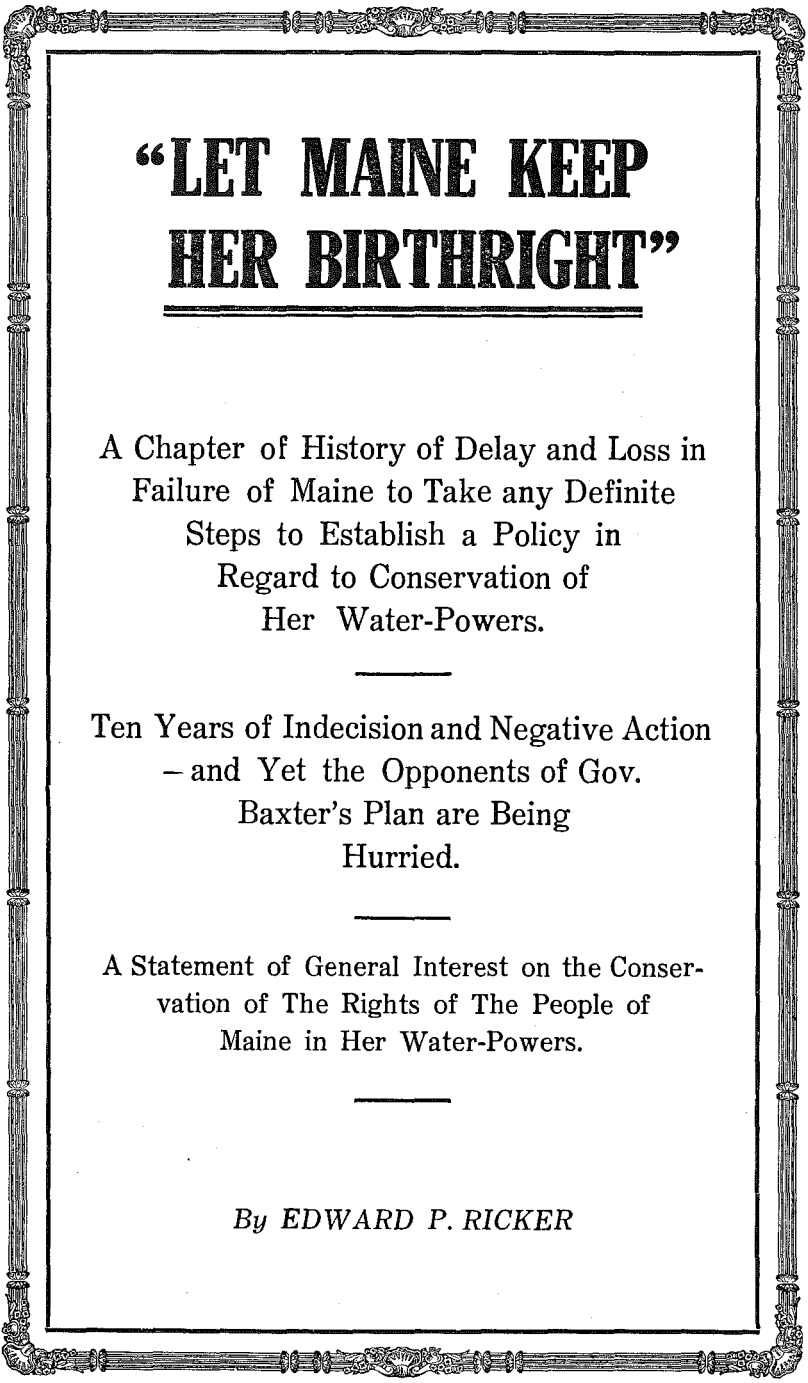


MAINE STATE LEGISLATURE

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)



“LET MAINE KEEP HER BIRTHRIGHT”

A Chapter of History of Delay and Loss in
Failure of Maine to Take any Definite
Steps to Establish a Policy in
Regard to Conservation of
Her Water-Powers.

Ten Years of Indecision and Negative Action
— and Yet the Opponents of Gov.
Baxter’s Plan are Being
Hurried.

A Statement of General Interest on the Conser-
vation of The Rights of The People of
Maine in Her Water-Powers.

By EDWARD P. RICKER

“LET MAINE KEEP HER BIRTHRIGHT”

To the People of Maine:

Those who are opposing the consideration by the People of Maine of the proposed amendment to the Constitution of Maine which shall define certain rights of the People in Maine Water Powers, have said over and over again, that there is not sufficient time for the Legislature to consider it.

This subject has been before the People of Maine for years. It has been debated in every conceivable way. There never will be a time when the voter may be better informed than now.

For the purpose of answer to this contention, I have published herein, a series of letters, one of which was issued ten years ago and published by me in the newspapers of Maine. Another makes a resume of present conditions and measurably answers the statements of the opponents of the Governor Baxter amendment, as made at the public hearing March 24th, 1921.

I have thought that it might revive the memories of the gentlemen who are being “hurried” and also address itself to your judgment as citizens if one of these old letters be printed anew. There are many others of similar nature that I could reproduce.

I ask the People of Maine not to be alarmed at the Governor’s proposal to submit to you this important matter. He feels that you may be trusted. I feel the same way. Delay; ever delay seems to be the plan of the persons who oppose any determination of our policy in regard to the water powers. I believe in the growth and development of Maine. I am opposed to the present methods of stagnation. I want Maine to join with other states of the Union

in progressive measures. They are going ahead. New York is developing water-power legislation that will put her forward in the race for business, population and industrial development.

What are we doing? What are we going to do? I ask your attention to the following communications on the general topic of Maine business, water power and other affairs of an important nature to you all.

[From the Lewiston Journal, April 23, 1910]

LET MAINE KEEP HER BIRTHRIGHT

Edward P. Ricker Urges the People of Maine
to Be Aroused

TO THE NEED OF SAFEGUARDING THEIR ASSETS IN WATER POWER

Every Aid to Proper Development of Capital,
But Save the Water Powers for Maine

POLAND SPRING, April 23, 1910 (Special).—Mr. Edward P. Ricker of Poland Spring has sent the following letter to a number of Maine newspapers.

Mr. Ricker says: "I do this in order to call attention of the people to a question of importance, involving the welfare of Maine. I shall be glad to have the matter generally discussed."

The letter is as follows:

To Editors of the Lewiston Journal:

In an interview in your paper a few weeks ago, I referred to the transmission of electricity beyond the confines

of the State of Maine, and called your attention to the great importance of a careful selection of representatives of the 75th legislature in respect to this matter.

I now wish to give a few facts in regard to what has been attempted and what has been done in the past, and what will be attempted in the future in this direction.

My position on this great question has been previously stated by me, but in order that there may be no mistake I will restate it. In the first place, in nothing that I have done or may do, do I desire or expect to curtail in any way the existing rights of any corporation or any other invested capital, or in any way to discourage any industry or the investment of new capital in the State of Maine. I do not desire, as has been charged against me, to convert the State of Maine into a pleasure resort; to cripple its powers, or to lessen the income of capital one penny. On the contrary, I desire to bring capital into Maine and have it secure here larger returns than ever before. I desire to see Maine become a great manufacturing state. This has been my life work and will continue to be. But I also desire to see the resources of Maine, especially in her water power, developed within the borders of the State as far as possible, and not carried across the line, by electrical transmission, and monopolized in our neighboring states, against all hope or prospect of the future growth of Maine.

Few people realize the enormous assets Maine has in her water powers. While large sums have been appropriated and spent by state and nation for the investigation of our water powers and the determination of the amount and value of the same, much of this information has not been published. The people do not know the results. They have been kept for the information of the few, and I have no hesitation in saying that the few have profited greatly by this information, thus obtained at public expense. From the best authority that I have been able to secure, Maine stands third among the states in the Union in developed water power. New York and California alone lead Maine in this respect. California, Oregon and Washington's water powers have high heads, but small and irregular flow

with very little possibility of future development by storage. New York has nearly reached its limit, unless Niagara is further developed, and additional storage provided. The area of Maine is equal to the rest of New England, while Maine has more than twice as much water power. In respect to the possible development of water power by storage and by the use of undeveloped water power, Maine has the greatest future of any state in the Union. From the best information I have been able to secure, viz., from government experts, Maine's estimated possible development, without additional storage, is 570,000 horse power, and with storage it is 1,500,000 horse power. The flow of Maine rivers without storage is more regular than that of any other state. Possible development would place Maine first or second in the country in the value and amount of this natural resource. With the correct handling of storage these water powers can be developed without injury to the agricultural or business interests of the State or without marring its scenic beauty.

The so-called Fernald bill, creating a water storage commission, was one of the first steps toward a definite plan and method of handling the water powers of Maine. That commission has been organized; has secured a capable engineer and has begun work along lines which the commission believes to be broad and just to all the interests and which it believes will be of incalculable benefit to the people. The issues concerned in this matter are of no small account. The annual earnings of 570,000 horse power now developed in Maine at \$10 a horse power would be \$5,700,000, while the earnings of 1,500,000 horse power which can be developed in this state with practical systems of water storage would amount (at \$10 per horse power per annum) to a total income of \$15,000,000 a year. This figure at \$10 per horse power, per annum, is not half what electric power is being sold for today.

What shall be done with this enormous potential value? Shall the State control its output or shall it let it remain the easy prey to the large interests which are already making their plans to secure it? Will the next legislature as-

sert its right to see that this great natural resource be used for the development of the industries of Maine, or will it sit idly by and see it taken from under our very noses to be diverted to the industries of other states, increasing their taxable property, while Maine gets little or no increase in wealth or population from this source? But few people appreciate how easily this whole value could be taken out of Maine, if those interested to do so and already laying their plans to do so, are allowed to control the next legislature. Three copper wires, less than three-fourths of an inch in diameter, can carry into Boston all the water power that can be produced on either of our great rivers. With the great improvements made of late in the method of carrying electrical currents, there would be but little loss in this transmission. The power thus diverted into Boston, would be a practical loss to Maine's industrial interests. In Boston, or in whatsoever other places it was used outside of Maine, it would in a large measure but replace the use of coal already being transformed into electrical energy, and thus add but little to the growth, though much to the dividends of the stockholders. In other words, it would in large measure be swallowed up and Maine would be merely a power station for Massachusetts or Connecticut, employing but few hands to tend dams and stations, instead of doing what Maine should do,—develop great industries here to utilize the powers on the spot, the same as is being done in the few industrial water power centers that we now have and which are adding so greatly to the wealth and prestige of Maine.

It has been said in public legislative hearings and through letters to the newspapers that we are giving ourselves unnecessary alarm in this matter, that nothing of the kind, such as I have suggested, is contemplated, but I propose to show you not only that it has been and is being contemplated, but also that it has already been attempted, and that it will be attempted again and, I fear, from the great wealth of those who are interested in the project,

that it will succeed, unless the people take a decided stand to protect their rights and so legislate that its greatest possible benefit may accrue to the people of Maine, without hardship to the rights of the invested capital or discouragement to new projects.

If my memory serves me right, it was in 1903, though it may have been in 1905 (I can easily determine the date if anyone desires it) that parties from Boston representing large interests, came to Maine and broached to certain gentlemen in this State a gigantic scheme which they hoped to gumshoe through the Legislature. This scheme was briefly this: to secure from the Legislature then in session a right of eminent domain to take land on which to string wires and convey electricity across the borders of Maine into Massachusetts. The plan contemplated the development of certain water powers on the St. John, Penobscot, Kennebec, Androscoggin and other rivers, tying them together at some point conveniently near the centre of the State and shooting their combined electricity over into Massachusetts.

The scheme might have gone through had not one of these Boston gentlemen divulged it to a Maine man not in sympathy with such gigantic wrong to the people of this State. Attorneys were employed to oppose the scheme and it was killed in the committee.

The next move that was made was in 1906, when a charter was granted in Connecticut to a corporation called the Twin State Gas and Electric Company. This corporation was given the right in this charter to maintain an office and conduct its business in any portion of Connecticut and in the states of New Hampshire, Vermont and Maine, and in other states and territories, and in the District of Columbia and in dependencies and foreign countries. The business authorized under this charter was as follows: "To generate, manufacture, purchase or otherwise produce or acquire, to store, transmit or otherwise utilize and supply, lease or sell or otherwise dispose of gas or electricity or illuminant or motive force or agency natural or artificial for light, heat or power or otherwise." This charter also

gave the corporation the right to acquire water powers and water rights; construct reservoirs, dams, water towers, etc. In short, to do nearly everything under the sun in the way of acquisition and control of the water powers in any state in the Union.

This charter, having been secured in Connecticut, the next step was to make it effective in Maine, and this was done by introducing a resolve in the Maine Legislature to authorize this Twin State Gas & Electric Company to exercise within Maine all the rights, powers and privileges and franchises conferred upon it by its certificate of incorporation. A resolve to this effect was passed February 27, 1907, and approved by Governor Cobb. The sweeping nature of the power thus conferred can be realized only by reading the said certificate. It gave to this Connecticut corporation enormous rights and privileges, so far as I can learn, without quibble or question.

I do not need to refer to anything further along this line, nor is it essential to show that within a few months great business interests, representing perhaps the largest water power construction concern in America, have been in Maine seeking to secure counsel and lay its plan to obtain permission from the Legislature to control one of the largest water powers of Maine or New England; to transmit enormous hydro-electric power across Maine by a trunk line and unite it with great hydro-electric power organizations in Connecticut and other New England states. But such is the fact, and there would have been no occasion for any publicity on the part of corporation referred to, were it not that in the Legislature of 1909 a certain bill was enacted to compel public application to the Legislature by all corporations so desiring, for right of electric transmission beyond state borders, so that the people might know and understand all about the extent and purpose of the same, before such authority is given. Were it not for this act of 1909 the old-fashioned, quiet methods of by-gone days would have been sufficient.

This act of 1909, which was the first step in general

legislation in Maine to control the transmission of electricity beyond State confines, was enacted in the Seventy-fourth Legislature, and in effect sought to control the action of the corporations in the transmission of electric power and place the disposition of the same more specifically in the hands of the Legislature. While this bill was not all that, personally, I would have liked to have had it, because it was necessary to make certain exceptions in order to meet the requirements of the Interstate Law, and thereby make the act constitutional, yet it is a very important measure, and stands forth as a valuable instrument for the prevention of hasty legislation in granting such franchises as above indicated. This act puts into the power of legislatures the right to say when and how electric power may be transmitted beyond state lines. It was not a prohibitive act, for it simply requires that, before any corporation excepting railroad companies then doing business in the State (an exception made as indicated above on account of the Interstate Commerce Laws) transmitted electricity beyond the confines of the State, it should get permission so to do, from the Legislature.

This bill was amended in committee, was introduced in a new draft to meet the objections indicated, but it is to be noticed that in this bill no railroad is permitted to sell power, or to use it for any other purpose than the operation of its road between some point in Maine and points beyond its confines. This act is upon the statute books and in addition to this a provision was affixed to every act granting a franchise for water storage or water power at the last Legislature, forbidding the transmission of electric power so generated by water power beyond the confines of the State. Here the matter stands at the present time. The act referred to confiscated nothing; interfered with no existing contracts, but rested content with placing in the hands of future legislation, the power to control the doings of corporations created by the State, in regard to this matter. There it rests at the present time, and that is largely why I am seeking through your columns to call the attention of your readers to the situation and have them aroused to the

importance of the question that they may be on their guard, in the coming year.

And now in the conclusion, a few words on the subject of the need of great care in the conservation of our natural resources in Maine. I will not discuss the matter in which the people lost their birthright in the wild lands of Maine. This is too well known to need repetition. Had the wild lands been kept by this State; the stumpage sold by the State, it would practically pay the running expenses of the same. Millions were lost to the people by the disposal of this valuable asset for a mere trifle. The wild lands passed into private ownership, out of the control of the State, and being subject to the will of the owner rather than to what might have been the wiser policies of scientific conservation of State control they are being rapidly stripped for lumber and pulp. At the rate the forests of Maine are being cut out today, they cannot last for more than 20 or 25 years as a source of profitable revenue to paper and pulp making. When the paper and pulp mills shall have discontinued for lack of material, what will be done with the power which is now required in their operation? At the present time about 50 per cent. of the freight carried on the Maine Central R. R. comes from the forests. When this is exhausted, unless other industries replace it, the railroads will find themselves in a perplexing position, if obliged to keep in good condition and run trains as they do today. Realizing this possibility, the railroads are already instituting bureaus of information, circulating books and pamphlets, advertising the business opportunities and the inducements of agriculture in Maine.

There is no other one business so dependent on the growth of Maine as is the railroads. The first principle of good railroad management is to build up the country through which they run. There is no other subject so dear to the heart of the railroad management in Maine as the development of water powers within the State and the clustering of industries along our rivers. If the electric development of our water powers is controlled and sold

outside of Maine, the railroads of Maine will get but small benefit from this great natural resource; the State, itself, will be quickened in none of its industries; there will be a loss of taxable property and the burden of taxation must fall the more heavily on the people. It is always hard to get new industries into Maine. Distance from the market has been the chief argument against it. As opposed to this argument, our strongest plea has been that Maine has cheap power from her water sources. If that water power is to be controlled by the big water power trusts and sold outside of Maine, our argument is of no avail. On the other hand, if proper restrictions are placed on its transmission and each request be carefully scrutinized by the people through their legislators and by the attorney general and his office, this enormous water power, soon to be developed along the great rivers of Maine, can be largely utilized within the State; can be transmitted to our manufacturing centres of Maine and to safe and beautiful harbors where manufactures can be established and where all the advantages of water and rail transportation can be secured. There is no reason why industries should not spring up from source to mouth of our great rivers, and why Maine should not become within the next generation the greatest manufacturing State of the Union.

Maine cannot go on supporting her great charities and institutions of learning without a new source of revenue. It is not proposed to sacrifice these institutions. Either a new source of revenue must be found, or the people must be taxed increasingly for their support; for no one dreams of abandoning them. Here in our hands is this ready-made source of income, given us by the Almighty, a perpetual and unfailing source—really a trust, put in our hands for the use of all our people. Shall we use it for the beneficent purpose of helping the poor and the worthy within the limits of our State, or shall we hand it over for spoliation by the speculators of the outside world?

Your respectfully,

EDWARD P. RICKER.

REAL ISSUES ARE CONFUSED

To the Editor of the Lewiston Journal:

In all this discussion of water power in Maine, the private opposition to a definition of public rights, as usual, seeks to confuse the issue by ringing in the alarm of absurd and ridiculous statement.

It is the ancient and much-used method. The people awoke one day to find they had lost their public lands. Are they now to be frightened into giving up their rights in the flow of public waters by misleading propaganda?

"Public Ownership." "Is the State prepared to embark on the sea of socialism?" "Have we the money to engage in commercial enterprise like this?"

The old phrases!

The proposed constitutional amendment now before the Legislature means nothing of the kind.

It is a question of legislation clear and simple. Whether or not the members of the Senate and House, as representatives, shall provide means for the people to define their rights in Maine's greatest natural resource.

The question of commercial venture is not involved. The question of establishing the right of regulation and control of public utility as a commercial venture is involved. That is simple and that is all.

There is no proposal to retard private enterprise, none to take away any private rights. On the contrary, if the people decide they have rights in the natural flow of waters, the State, by future legislation, under the proposed amendment to the Constitution, can assist development, stabilize private endeavor and protect investments.

The chorus cry of the opposition that merely granting the constitutional process of establishing those rights will drive capital from the State is the most childish piece of special pleading. Anyone who knows anything at all about investment knows that investors first of all seek stability and settled policy.

There will be no settled policy of public utility in water power until the people themselves have defined it in constitutional method. If this Legislature does not submit the question some other will. The earlier the better.

Other great water power States have established public interest in this natural asset. Maine ranks with New York and California in water power wealth. New York has already state control of development for public utility. Governor Miller has proposed a measure for additional rights for the people and this bill is now the great question at Albany.

California and Wisconsin have declared the use of falling water for power a public utility. New laws for state regulation are up for consideration in West Virginia. Oregon, California, Washington, Pennsylvania and Utah are operating along the same line. I hope to discuss the agitation in other states in more detail in later communications.

The other great water-power States will soon be competitors of Maine. They are awake to the importance of public rights. Why should Maine sleep on?

In the consideration of this important State problem, which Governor Baxter has brought to the acute stage, I am not surprised at the character of the opposition, but I am surprised at its lack of originality and ingenuity.

It is THE CENTURY-OLD QUESTION OF PROGRESS OF THE PEOPLE OF MAINE AS A WHOLE OR THE FINANCIAL ADVANCEMENT OF A FEW SPECIAL INTERESTS.

We find on the one side a chief executive who comes to power unchained by obligations and entirely free to speak and act for the community. It is not unprecedented, but it is unusual. On the other we find the same small and compact body of exploiters, a kept press, well-nigh unanimous, and a few well-kept politicians. When to these are added some of the best legal talent in the State, we find a powerful combination.

AND IT NEVER SLEEPS.

I know whereof I speak, for I have only to call to mind the Rangeley Lake contest, similar in character to this, and not yet forgotten. When it came to engaging legal representatives to take up the case of the people in the Legislature, an unattached lawyer was as hard to find as a snowdrift in August.

The opposition is the same now as then. The concert is familiar.

Hardly had the Governor's message been delivered to the Senate and House when the venal chorus swelled out all the way from Portland to Bangor. The same old song, long in type, often rehearsed.

"No time to settle a great and far-reaching question like this, since the Legislature will adjourn in two weeks."

In one thing there is common agreement. It is a great and far-reaching question, probably the most important ever before a Maine Legislature. Time *must* be taken to settle it, even if adjournment is delayed.

The problem has arisen. It is the duty of the representatives to solve it. *The time to begin is now.* For this they were elected.

Who decides when the Legislature will adjourn?

It took but a short time to settle the Katahdin Park question wrong. It ought not to take very long to settle this one right. It is very simple and does not involve final determination but simply submission to the people themselves for decision.

This is not the first instance in which the name of Baxter has been associated with public enterprise of this sort. Twenty-five or thirty years ago Mayor Baxter, father of the present Governor, appreciating the wonderful natural resources of Portland as a resort centre, laid out a general plan of park improvement to enhance the beauty of the city. It met the same kind of special interest opposition and by this was delayed. But it is worth noting now that, while the system has not been completed, the plan is being carried out and the citizens of Portland are finding it wise

investment. Not only have real estate values increased, not only has the expense been paid by this increase, but this delightful gateway to Maine's coast and lake beauties has been made more attractive to summer visitors who now linger on the way. Business and beauty combined. If Mayor Baxter's ideas had all been carried out at the time, Portland and Casco Bay, with its 365 islands, would have been the finest summer resort centre in America.

Governor Baxter is now trying to do for the State what Mayor Baxter did for the city.

The Katahdin Park bill as it finally came before the Legislature involved no appropriation of money, but simply marked the beginning of a project in which the whole State was interested. It is a matter of community business as well as State sentiment and scenic beauty. My own observation leads me to the conclusion that this was killed and the improvement delayed for no other reason under the sun than that a great corporation wished it killed. And this, simply because it involved the question of eminent domain, which this corporation never feared as applied to private capital but which it seems to hold in holy horror when it means possible benefit for the State as a whole.

It is easy to note in this water power contest the same general trend of opposition, and much of its personnel.

Once is enough in one legislature.

In the matter of the water power amendment as well as the Katahdin park measure, I am heart and soul in the Governor's support. His position is the only position to be taken by any official or citizen who has faith in his State and desire for the advancement of the many instead of that of the few.

I hope the people of Maine will not be confused and misled by the learned counsel of the special interests who now, as in the past, are quoting technical law when common law and common sense only apply.

Yours respectfully,

EDWARD P. RICKER.

South Poland, Me., March 26, 1921.

SEE WHAT NEW YORK STATE IS DOING!

WATER POWER BILL GIVES NEW BOARD SWEEPING POWERS

Senator Gibbs' Measure, Backed by Governor, Would Give Commission Right of Eminent Domain

From a Staff Correspondent

ALBANY, March 21.—The creation of a state water power commission with sweeping powers, including the right of eminent domain, is provided for in a bill introduced tonight by Senator Leonard W. H. Gibbs, of Buffalo, and carrying out recommendations made by Governor Miller in his recent message to the Legislature.

Under the right of eminent domain the commission, to further water power development, can condemn any private property which may be necessary. The commission, which is to consist of the State Conservation Commissioner, the Attorney General, the majority leader of the Senate and the Speaker of the Assembly, is given sole charge of the formulation of a definite state water-power policy.

The commission may make surveys and investigations and would be given free access to all property and records of persons or corporations to whom water-power licenses are issued. It also devolves upon the commission to protect the state's water power rights against any act of the Federal government which may be considered as an infringement upon the state's water-power rights, as well as to confer with Federal authorities relative to further development of power in the Niagara and St. Lawrence rivers.

The commission is empowered to grant applications for water-power licenses for a period up to fifty years and fix the amount to be charged by the state in return for these rights. The sums collected are to be turned over to the State Treasurer. The measure also contains provision for the leasing of surplus barge canal waters after the State Superintendent of Public Works has certified that these waters are not necessary for the operation of the canal.

When issuing licenses the state reserves the right to regulate through the state Public Service Commission, rates service and capitalization of water-power companies. Provision is made that licensees must begin actual water-power development, or take steps toward construction, with a given period, as well as keep their plants in good repair and efficient working order.

The measure carries an initial appropriation of \$25,000 and authorizes the commission, of which the Conservation Commissioner is to become chairman, to select its own staff of employees, which shall include a secretary and as many engineers as may be necessary.

The bill (of which the above is an outline), introduced in the New York Legislature to carry out Gov. Miller's recommendations on water power, appears to be more sweeping than even the Governor could wish. It is so much more drastic in protecting public rights than anything Gov. Baxter has proposed for Maine that one wonders at the outcry of our own State papers.

The Maine proposition is merely submission to the people of a constitutional amendment in which the people themselves are given the opportunity to define their rights.

The Federal water-power bill which aims at national control of state waters makes it all the more necessary for the people to determine those rights at once. That part of Gov. Miller's message in New York which applies directly to the case of Maine, says:

"In my view the Federal Water Power Act is an infringement upon the sovereign power of the State which it appears to me to be the duty of the Attorney General to resist, and I am advised that steps will be taken as promptly as possible to secure a final adjudication of the question by the United States Supreme Court.

"It is unnecessary, however, for the State to delay the adoption of a policy pending such decision, for however the conflict of authority between the State and the Federal government may be resolved, it will still be necessary for the State to adopt a policy which as far as I can see will not be affected by such decision. Indeed the Federal Act

makes it more important than ever that a definite policy be adopted."

On this phase of the question, the Governor further says:

"The Federal Water Power Act appears to be carefully drawn to prevent the exploitation of the public resources for private gain. I believe that a State Act drawn along somewhat similar lines can be made efficacious to secure to all of the people of the State the benefits to be derived from the development of the State's natural resources. Any plan or any policy, which does not assure the maximum development of the potential hydro-electric energy of the State for the benefit of all the people of the State, should be rejected."

On the subject of eminent domain, Governor Miller says:

"I have indicated an ultimate and I believe a practical goal. We can only hope to reach it by degrees. Meanwhile, as far as the State of New York is concerned, it appears to me that its first step should be to make possible the development of its own water powers by the adoption of a policy which will make it practicable for private initiative to undertake the task under safeguards which will protect the public interest.

"The condemnation law in relation to this subject should be clarified and made more effective, and as it is so germane to the subject I suggest that suitable provisions governing the exercise of the power of eminent domain by licensees of the State be incorporated in the Act."

These words apply directly to the situation in this State.

New York is Maine's principal competitor in water power. We should watch the developments there with the greatest care and act accordingly to protect our own interests.

FINAL RESULT IS CERTAIN AS TOMORROW'S SUN.
THE ISSUE WILL BE TAKEN TO THE PEOPLE
FOR THEM TO SETTLE FINALLY AND SETTLE
RIGHT.

To the Editors of the Lewiston Journal:

At this stage of the water power controversy, which Saturday's significant event at Augusta has brought to the front more prominently than ever before, it is well to review the situation briefly and point out what seems to be the Governor's objective.

The Maine Water Power Commission, brought into being by the act of the Legislature of 1919, has reached the limit of its powers under the State Constitution. It has interpreted liberally the law creating it and proceeded for nearly two years with investigation, survey, collection of important data, making of maps, and the dissemination of information valuable alike to Maine public in general and the power companies in particular. Careful investigation of the statute raises the question, not whether it has done enough, but whether it has gone beyond strict interpretation.

The report of all its doings has been made to the Executive as required by the law. This makes up a book of 271 pages, in form for public distribution, a comprehensive digest of the whole water power situation in Maine. It includes reports of the commissioners, the Chief Engineer and the United States Engineering Council which made a special investigation of conditions in this State; also a discussion of storage, water power legislation, topography, geology, flow of rivers, precipitation, evaporation, reports of surveys so far as they could be made under the act, and an instructive system of maps and drawings.

All this has been collected, arranged and classified under the supervision of the Commission's competent engineer, George C. Danforth, who has given his entire time, labor,

education and experience to the State for a compensation far less than he could have commanded in the employ of private capital. It is on file at the office of the Commission in the State House where reports can be obtained, and maps, tables and other data consulted.

When it came to action, both in the matter of conservation and assistance to development—the real reason for the creation of a water power commission—this body ran hard against the Constitution of the State. This was determined by the Supreme Court in its answer to questions propounded by the House of Representatives. It was found that the Constitution prevented the Legislature from providing for state storage and other public assistance to development, and in addition that the fundamental law of Maine was out of harmony with the National Constitution as expounded by the United States Supreme Court.

Therefore, the Commission could not proceed unless under “some proper amendment to the Constitution of the State such work could be legally recognized as a public purpose in the accomplishment of which the State could exercise the right of eminent domain.”

Acting on this suggestion of the power commission’s first annual report, Governor Baxter has proposed to the Legislature a resolve providing means for the people to determine their own rights in this natural resource, in other words whether storage conservation or any other aid to development is a public utility—whether the interests of the State in the flow of State waters are superior or inferior to those of the individual or corporation.

Unless some such resolve is passed, and the people’s rights thus determined, any further existence of a water power commission is of no value to the State. It is worse than useless because an unnecessary expense to the taxpayers. Its only function would be to collect material useful only to the power corporations and of no value at all to the people in whose service it was created.

It is the simplest of propositions.

And yet, the learned counsel of the corporations say it is indefinite, difficult of understanding!

They know very well what it means, and all it means!

Which is: Whether the citizen body of Maine shall have opportunity to declare whether or not it cares to share in the benefits of the State's greatest natural asset. That, and nothing more.

And they express great fear of a Chinese wall against outside capital!

Under their sway in all these last twenty years, what industry in this State has shown substantial growth except that of the summer resorts? That they could not stop, for climate and scenery have thus far had the boldness to exercise superiority to their laws and lack of laws.

The only Chinese wall for which they have fears is their own, which they have erected between *their* privileges and *those* of the people.

In this connection I am prompted to ask again: What public utility securities are more valuable or more easily floated than those which have the constitutional approval of the State behind them?

In view of the attitude of the Maine Press, with few exceptions, so hostile to the Governor's contention and thus, it seems to me, to the best interests of the State, this may be my last communication for the present on this topic. I hope, however, to continue the discussion in pamphlet form, for distribution among the Legislators, and all who are interested in the advancement of Maine; including therein a statement of what other great water power states are doing and information and other memoranda about Maine industry which I have been collecting and studying for quarter of a century.

The history of what we have lost by legislative indecision and inaction at the behest of a few men makes up a considerable volume. It is sad, but instructive.

I cannot refrain, in conclusion, from expressing gratitude, and the greatest hope in last week's turn of State events. We seem to have a Governor with courage. More power to his elbow.

The prearranged succession is broken again. A new day has dawned. And no longer does special privilege

stalk the corridors with the smug air of settled proprietorship in both branches of the government.

It was inevitable, for arrogance cometh before a fall. Overreaching produced opportunity. The incident has brought the issue close up to the people. Interest and curiosity are stirred. Education is now not only possible, but easy.

The final result is as certain as tomorrow's sun. Should he be beaten at this session the Governor will take the question to the voters and win. This Legislature has only to decide whether the people shall have right and justice now or two years from now.

EDWARD P. RICKER.

South Poland.

A FINAL WORD

Finally as I said in the beginning, Let us Save our Birthright. Some of the industrious opponents of the Governor's amendment to the Constitution, have been saying that Maine has no birthright. That is what Jacob said after he had bought out Esau.

I have a notion, however, that there are some rights of the people in the water powers and I have been trying to say so in this writing. Other states seem to have them. Canada seems to have had some. The Federal Government seems to have them. All law is subject to the sovereign will of the people. The people make the laws; the people unmake them and when injustice is not done and confiscation does not ensue there can be no hardship.

Of itself, the Governor's amendment does not "legislate." It does not take any action that can be construed as Socialistic (and I use this word as a quotation from the opponents of the Amendment who have been the first to use it). It does nothing but provide a way by which the Public may declare that "conservation, storage, control and

use of waters and the development, improvement, transmission, utilization, electrical interconnection, control and sale of water powers by the State of Maine, either directly or through such public district or districts as the Legislature may authorize, but not otherwise, are paramount public uses.”

This is not embarking on any sea of socialism. This is a simple declaration of a power inherent in the Public and that the People of Maine should have defined constitutionally, in justice to the future and in preservation of a common and ordinary control over a natural resource.

It does not indicate that any legislation need ever be passed. It may and it may not be passed in the future, according as to how the owners of water power conduct themselves. At present there is almost no control over the use or the abuse of the water power of Maine (outside of the Public Utilities Commission, which is limited, and the general law). In many ways, Maine has not the rights of the ordinary private individual. The Governor asks these rights, indicated in his proposed amendment, in the interest of Maine. He asks it in the interest of the common people of this State, who may be rich or poor, interested in industries or not—all to be treated alike and harm done to not one of them.

I agree with the Governor that if Maine were to make a new Constitution today, the People would preserve to themselves a control over the water powers. When Maine was created into a State, the water powers were not esteemed for their value. Nor were the wild lands. The wild lands, as I have said, have been lost to the State by waste and lack of appreciation of their true value. It is not enough to say that our Fathers did as well as they knew how. That excuse will not save us today. We know now better than to hesitate to put into the organic law, a decisive declaration of our rights.

And further, this matter will be taken to the people. They will have ample time to consider it. The subject will be before them in all its aspects. The action of the Legislature is but the opening of the debate. This subject will

never down until it is settled and settled right. It seems intolerable to me that a condition could endure, by which, through ownership of the lands on either side or both sides of a stream, a person could for years deprive the people of the public benefit that should accrue from the development of the power in the falling water.

Any reader of this pamphlet can conceive of a condition in which a person or a company could hold up development of water powers, retard business, and keep from the public the natural benefits that should come to it by the proper use of those powers. The public has a right therein. The water that flows over the dam is not altogether for the use of the owner of the land or of the river bed. There are other and broader rights. The waters are here for public use, not for private and exclusive control. It is these rights that we desire defined and also the declaration of the paramountcy of the people in the control of the use and the general management of water powers that the public may have what belongs to it and no more.

There is a BIRTHRIGHT in the water powers! See to it that you do not miss sight of it, in the confusion; and that you maintain it against all hazard.

EDWARD P. RICKER.

South Poland, Me., March 30, 1921.

**JOURNAL PRINTSHOP AND BINDERY
LEWISTON, MAINE**