

**TESTIMONY OF THE
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

**BEFORE THE JOINT STANDING COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY**

IN OPPOSITION TO L.D. 1201

**“Resolve, Requiring the Director of the Bureau of Parks and Lands to Convey Interest
in a Parcel of Land at the Newfield Wildlife Management Area to a Private
Landowner”**

Presented by Representative SAMPSON of Alfred.

Cosponsored by Senator LIBBY of Cumberland and Representatives: LANIGAN of Sanford, WOODSOME of Waterboro

DATE OF HEARING: April 5, 2023

Good morning, Senator Ingwersen, Representative Pluecker and members of the Committee on Agriculture, Conservation and Forestry. I am Timothy Peabody, Deputy Commissioner at the Department of Inland Fisheries and Wildlife, speaking on behalf of the Department, in opposition to L.D. 1201.

This bill directs the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry to, by quitclaim deed without covenant, convey to an abutting private landowner for \$1 interest in a parcel of land in the Newfield Wildlife Management Area totaling approximately 12.6 acres that is disputed land between the bureau and the private landowner.

The parcel of land being discussed is part of the Vernon S. Walker Wildlife Management Area, a state-owned wildlife management area, or “WMA” listed in Title 12 §12708 b (42) under the jurisdiction of the Department of Inland Fisheries & Wildlife. As such this property is “Designated Land” as outlined in Title 12 §598-A 1.A and further protected under the Constitution of Maine, Article IX, Section 23. Under Title 12, Chapter 202-D, §589-A, designated lands may not be reduced or substantially altered, except by a 2/3 vote of the Legislature. The relevant section of the Maine Constitution is included below.

Maine Constitution Article IX Section 23. State park land. State park land, public lots or other real estate held by the State for conservation or recreation purposes and designated by legislation implementing this section may not be reduced or its uses substantially altered except on the vote of 2/3 of all the members elected to each House. The proceeds from the sale of such land must be used to purchase additional real estate in the same county for the same purposes.

Mr. Dolbec (an abutting landowner to the WMA) acquired property via quitclaim deed (May 20, 1985, Book 3527 Page 21) that calls for the IFW boundary as the extent of lands acquired. The

Department has engaged with Mr. Dolbec on multiple occasions, most recently in the fall of 2021, where we reviewed pertinent documents and suggested he discuss the information with an attorney (as suggested by his surveyor). The Department has not heard back from Mr. Dolbec since the meeting in 2021.

The Department began acquisition of lands over 70 years ago in 1950 to create the Vernon S. Walker Wildlife Management Area using federal funds administered via the United States Fish and Wildlife Service, Wildlife and Sport Fish Restoration (WSFR) program. The Department worked with willing landowners and conducted due diligence work including title work, determination of value, development and execution of deeds and recording those in the Registry of Deeds. As was typical practice by the Department at the time, a second instrument was developed and recorded in the Registry of Deeds consistent with the Commissioner's authority under Chapter 33 of the Revised Statutes of Maine 1951, Section 14. In effect, this authorized the Commissioner to "take" lands deemed necessary for the purpose of creating "Game Management Areas". This process required the Department to survey, describe and locate the lands such that it can be identified, in addition to recording in the registry. To locate the lands such that it can be identified, the Department physically marked the boundary lines on the face of the earth via blazing, painting and installing single strand steel wire. This process vests title in the land to the State of Maine and is important to note that lands within the proposed WMA were first acquired from willing sellers, and then those acquisitions were confirmed through a "takings" process, which was a common practice to extinguish any potential title claims.

Due to the lands being acquired with federal funding (WSFR) via a Pittman-Robertson grant (PR), the Department is obligated to maintain the lands for the purpose of acquisition. The purpose as articulated in the grant proposals in 1950 are for deer and grouse management. Diversion of lands for other purposes, or the loss of control of the lands acquired by the Department would require the Department to regain control of the parcel to prevent a "Diversion" from occurring. A Diversion as outlined in the accompanying letter from the WSFR program would result in the loss of federal funding through the PR and DJ programs. At this time, we don't have exact details of how or if that diversion could be settled. However, it is clear a Diversion would result in the Department being ineligible for millions of dollars in federal funds annually. As such if this bill were to move forward, we would ask that a fiscal note be added to this bill to cover the legal costs of giving this property to Mr. Dolbec and replacing all the millions of federal funds lost as a result of this "Diversion".

In 2008, the Department sought legal review of the deeds, Dolbec survey, and other pertinent information. The determination made by Counsel at that time was that Mr. Dolbec acquired lands based on a specific metes and bounds description, which not only references bearings and distances, but specifically describes the existing Department boundary line established nearly 35 years prior to Mr. Dolbec's interest in the adjacent lands. The perspective of the Department is that Mr. Dolbec understood, based on his deed description calling for the IFW boundary line as marked on the face of the earth, that what he was acquiring were lands which abut the Department's ownership acquired in 1951. Based on the information available to the Department, the Commissioner of the Department of Inland Fisheries & Wildlife believes that the property should remain a part of the Vernon S. Walker Wildlife Management Area.

An additional consideration is that Mr. Dolbec has conducted timber harvesting on a portion of the lands in question without IFW's permission, apparently in disregard to the recommendation of his surveyor to "consult with a title attorney before attempting any activities within the overlap area". The Department remains unaware whether legal services of a title attorney were part of Mr. Dolbec's consideration.

I would be glad to answer any questions at this time or during the work session.