

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Eighteenth Legislature
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Volume 3

Second Regular Session (Continued)
March 25, 1998 to March 31, 1998

Second Special Session
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Second Confirmation Session
August 18, 1998

Senate Legislative Sentiments

Index

Pages 1978 - 2482

(In House, March 31, 1998, that Body **ADHERED.**)

On motion by Senator **LIBBY** of York, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, JENKINS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, TREAT**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CAREY, CASSIDY, HALL, HARRIMAN, KIEFFER, KILKELLY, LIBBY, MACKINNON, MITCHELL, PENDLETON, SMALL, THE PRESIDENT - MARK W. LAWRENCE**

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **TREAT** of Kennebec to **RECEDE** and **CONCUR, PREVAILED.**

The Chair laid before the Senate the following Tabled and Later (3/26/98) Assigned matter:

SENATE REPORTS - from the Committees on INLAND FISHERIES AND WILDLIFE and NATURAL RESOURCES on Bill "An Act to Implement the Recommendations of the Great Pond Task Force"

S.P. 573 L.D. 1730

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-600) (15 Members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (S-601) (9 Members)

Report "C" - Ought to Pass as Amended by Committee Amendment "C" (S-602) (1 member)

Report "D" - Ought Not to Pass (1 member)

Tabled - March 26, 1998, by Senator **KILKELLY** of Lincoln.

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-600)**

(In Senate, March 26, 1998, Reports **READ.**)

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you, Mr. President. Ladies and gentlemen. I'm glad we are starting this early in the day. Bear with me while I pick up the packet on LD 1730. I didn't know that I might read this, and I may yet. The reason that I haven't talked too much the last few days was because I've been saving my voice for this particular LD. This LD has been worked on now for a couple of years. Actually it has been in the works for about 3 years and when I was Chair of the Fish and Wildlife Committee and people came to me the last week of the Session and wanted me to entertain a Bill on jet skis I refused to because there wasn't time enough to have a Public Hearing. I think that was a wise choice on my part. Well there has been a lot of public hearings now, and there's been all kinds of things added to water quality. We formed a Task Force and it went all over the State with its show. They had many items that they wanted to talk about. I went to a couple of them and we talked about absolutely nothing but Personal Watercraft. People were for it. People were against it. People became incensed when they even heard one or saw one a mile away. It was quite obvious to me that there was really no compromise going to come about. Because you either hated or loved them. Demonstrations were used showing that these craft could be used in shallow water with a lot less disturbance to the bottom of our ponds and lakes than a 5 horse motor. Some people still refused to acknowledge that but it's true if you don't believe it. Go to a dealer and have him turn it over and take a look at it. And I'm not going to try to debate whether they are good or bad here today. It's a matter of choice. We have had correspondence from all over the State of Maine, other states. Most of the correspondence has said ban them. Get rid of them. They are bad. Did have one interesting letter and maybe before the day is over I'll share it with you with a copy from a seventy year old lady that's for them. She's never had so much fun in her life. Probably without a doubt unless one has a horrible fear of the water, I dare say that if you operated one of these for 15 minutes, you would probably go buy one. I haven't done that personally because I'm afraid that I'd probably go buy one. They do look like a lot of fun. They are very annoying to a lot of people. I even, last summer, was invited to a camp on a pretty good size body of water for a barbecue at 4 o'clock and left at 8 o'clock. My head just rang all night long. Those things were constantly out there. I noticed that there was a lot of boats that were even trying to race with them and of course it's no race. They did seem to be enjoying having a good time but it was annoying to the people on shore that were trying to have a barbecue. I had hoped and discussed that maybe a compromise was a so-called "quiet time". That obviously didn't get anywhere because people either want to ban these things or they want to leave them alone. But a nice quiet time would be good. You couldn't operate them before 8 o'clock in the morning or after 6 o'clock at night except for headway speed only. But that's not part of this Report.

We need to look at what this Report does. Number one, and I'm sure you all have looked at the names on these reports, Report "A" is made up of the Natural Resources Committee, almost entirely. As this Bill turned out, it should have been strictly a Fish & Game Bill 100%, and if you will note where the majority of the Fish & Game Members are, it's not on Report "A". We have had this Bill in front of our Committee longer than any other Committee. I think that the Members on the Fish & Wildlife Committee have more expertise when it comes to handling this item. So, I am going to encourage you while I'm talking that you look back and see who is on which Report. So what did we come up with. There was a move to ban Personal Watercraft in

LURC's jurisdiction. The Report before you today does place a ban on 210 bodies of water in LURC's jurisdiction. Is it legal? No. Why? Because four or five states have already tried to ban them. Every one of them have been contested to their State Supreme Courts and have been ruled Unconstitutional. The Coast Guard says that Personal Watercraft is indeed a watercraft, just the same as a fourteen foot boat with a 10 horse motor on it, and have to be handled accordingly by Law. If you are going to ban Personal Watercraft on a body of water, then you have to ban all motorized watercraft. A lot of people also don't realize that this State has done a good job in the last few years of providing more launch areas in our ponds and lakes. We've done it with State money. But also included in everyone of those that the State has been involved in is some Federal money. Regardless of how big or how small the dollars, the Federal Government, another mandate by the way, says that if we give you any money to provide a launching area then you will allow all motorized watercraft. Now keep in mind, I've already told you the Federal Government has determined that a Personal Watercraft is a motorized watercraft. So there again it's illegal to ban jet skis anyplace that has a public boat launching area where State money has been used. Now, in some of these 210 ponds that they see fit to ban, you could not get a Personal Watercraft to some of those ponds unless you had a helicopter. So that seems a little foolish to me. Does it to you? There also is an Amendment here to prohibit all watercraft on five ponds on Mount Desert Island, which lie entirely in Acadia National Park. Now that would be legal if they ban all motorized watercraft. They also want to prohibit the size of horsepower onto other ponds. That they could do legally.

But let's talk about the worse part of this Bill. They want to change the authority of the Commissioner of Fish & Wildlife to regulate Surface Water Use in this State. Presently, and for a long, long time the only way that the Commissioner of Fish & Wildlife can regulate the use of motorized watercraft on any body of water in the State of Maine is for safety reasons. Every year, and it's becoming even more so now with the invention of these Personal Watercraft, citizens have a petition drive where presently they need 25 signatures to petition the Commissioner of Fish & Wildlife to hold a hearing to prohibit use of watercraft on a particular body of water. Now keep in mind, I've already told you that the only thing that he can hang his hat on is for safety reasons. So, generally most of those, they go through the Public Hearing and people come and talk about the big motors on a small pond etc. And they go away angry because the Commissioner doesn't make any changes. I don't know how many hearings that we have had in the last ten years but there has been a lot. This Amendment will allow that to change. In addition to public safety, he could prohibit because of wildlife or environmental concerns, noise and traditional uses of the water body. Wow, think about that for a moment. It does change the number from 25 to 50, but it wouldn't be a big trick to get 50 signatures. Let's use Cobbossee Lake out here for example because it's close and most of you know how big it is etc. Fifty people petition the Commissioner to ban jet skis on Cobbossee Lake because of non traditional use because they are too loud. Well I think you would have to use a Civic Center to hold that Public Hearing. It would surely be a donnybrook. If you thought the Forestry hearings lasted a long time, I urge you to attend this one if this Bill passes. It would probably be a about a three day hearing with no way to resolve it because what we are going to do then under this, is that we are going to have the Commissioner discuss this hearing with his Advisory Council.

Then he is going to come back to the Fish & Game Legislative Committee and recommend Legislation. Sounds a lot to me like passing the buck. They don't know what to do with this so we are going to pass it back to the local people which can't agree. We are going to throw the ball to the Commissioner. The Commissioner is going to throw it back to the Legislature. You probably, conservatively figuring, will have a hundred Bills on banning jet skis next Session. Well, what are you going to do with it. Now if you have a hundred Bills on a hundred bodies of water in the State of Maine to ban them. What are you going to do with them? It's a no win situation. What should you do? What should we do? Well, I'm not old enough to have been around when they invented the automobile but I can remember doing a lot of reading about it. How people laughed and complained how they scared the horses. They got stuck in the mud. Foolhardy idea! They are never going to pan out to be anything. But by golly it did! Didn't it? You know houses that were built back then all have stables. You can go around town and see some of the older houses. Things have changed. Times have changed, but this particular Bill, I think we need to wait, and I know people don't want to hear that but no one has come up with a good idea yet.

Another thing that this does, right now anyone twelve years or older can operate motorized watercraft. People are so frustrated that they said let's raise the issue. Other states make it sixteen to operate Personal Watercraft. So they are going to do that. There was no testimony that I heard that said that juveniles were a problem. Basically it was the 25 to 30 year old people that seemed to be the problem with these things. They were having the most fun and annoying the most people. It wasn't the juveniles so why are you going to up the age limit to sixteen? For no reason! If they can't prove that those are the kids causing the problems, why would you do it? Why would you want to do it? It's in this Report, raise it to sixteen. No! Well what else did we do in this thing. We decided that, and it was testimony that, on a lot of places where people are renting jet skis to the public for an hour, afternoon or a day, those people were a problem. Those people were the biggest problem that we have with jet skis. So, well I guess we'd better license them and we are going to make them have a ten minute spiel about ethics and safety. I don't have a problem with that, but it came out now that we are going to license everybody in the State that rents watercraft. Now, there was no testimony that was any problem with these people that rent motorized watercrafts throughout the State, but I guess we had better license them if we are going to license people who rent jet skis. My intent was to register, make people be licensed for \$25 dollars who rent jet skis. I don't have a problem with a ten minute education thing here. I don't have a problem passing them a pamphlet on proper right of way on the water. I think it will help. But I am not interested in creating a new license for a new group of people who for a hundred years have been renting watercraft in this State with no problems. This Bill does that. I think that's wrong. I think more thought is needed before we pass this type of Legislation. I think that we are hurrying it. The manufacturers are making them much quieter. The dealers are taking the time and showing a video to the people who buy Personal Watercraft. They know that if they don't turn some people around on the conduct on these things that they are going to lose the business of selling them. So they are doing everything that they can. I understand that the industry is working now to even come up with a device to put on some of the older machines to quiet them down. They become very noisy when they come out of the water. That seems to be what they

like to do with them. So last year we passed a Bill to prohibit people from doing figure eights with them, jumping waves with them. It's been in effect one summer. I think that did help. Surely there was a lot of publicity on this and it brought to people's attention that there was a perceived problem. I'd like to read something. This came out of a major American magazine. "A decade ago there were fewer than a thousand of them and even a couple of years ago they were something of a novelty. But today they can be seen and heard everywhere. They've won thousands of new fans and at least as many enemies. Some authorities have talked of banning them. Advocates claim that a few bad apples have given them, the law abiding majority, a bad name." Of course the article that I have just read to you was a recent one about the Personal Watercraft industry. Correct? Wrong. The article was written about twenty five years ago from a 1971 cover story about snowmobiles in Life magazine. I think it's too early. Snowmobiles were a problem. That industry got turned around. Now we promote snowmobiling. It brings a lot of money into this State, but I surely can remember when people would hear them, got too close to the house, disturbing people's sleep. There were a lot of complaints on snowmobiles. Yes, we have had a lot of complaints on Personal Watercraft but I think that it's way too early to go this far and create more of a problem, and you will create more of a problem with shifting this back to the local community. You'll note that there is a big fiscal note attached to this Report as well as there should be. The Department doesn't have manpower enough nor time enough to handle all the hearings that will be requested of it. I don't know how they could possibly do it. You will be surely pitting neighbor against neighbor and relative against relative in any and all communities that have a body of water in their municipalities. I don't think that we need that. I think that we need to be patient and I think this thing will work itself out if we give it a little bit more time. I'm sure today, and this is for all the people who are listening in the offices, because you are not in here, you can come back in now because I'm done and I'm going to urge you to vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. Men and women of the Senate. There are a number of issues with which I agree with the previous speaker and appreciate his bringing them forward. One has to do with the issue of renting motor boats and I have seen an Amendment floating over my desk which I would consider a friendly Amendment to this Report which would, in fact, change that from regulating motor boats to regulating PERSONAL WATERCRAFT, because he is absolutely right. There wasn't information that renting motor boats, the folks that are renting motor boats were having any difficulties, however there were concerns in terms of rented Personal Watercraft. So I agree that does, in fact, make a great deal of sense.

What I would like to do is share some things that are in this Bill and then urge you to please consider the Majority Report. It does in fact increase the minimum age of operating Personal Watercraft to 16. That was an age that was recommended by the manufacturers of Personal Watercraft. I have never ridden on a Personal Watercraft. I would assume that the people that manufacture them know best what age should a person be in order to operate one of these machines independently. Their recommendation was 16. We accepted that recommendation from the folks who are supposed to know the most about them. It

also provides in this Majority Report that Lake Associations that place navigational aids would have limited liability in terms of the work that they are doing. That is very important in terms of navigating on lakes and the Lake Associations have been very gracious to take up this work but some feel that they can't because of the concern of liability. We felt that it was important to provide them with that support.

Another issue in this Bill raises from 200 feet to a maximum of 400 feet the area around a drinking water intake that can be regulated for motor boat activity. The actual original proposal on that was a 1,000 feet, just a flat 1,000 feet. We said no, that seemed like too much, and there needed to be more individual information about why, in a particular lake, they needed to increase the area from 200 to 400 feet. We also asked that it be a cooperative venture between the Department of Health Engineering and the Department Inland Fish & Wildlife and Conservation so that all of the interests, whether it's the Sportsmen interests or Health Engineering interests or DOC, that all of those interests would be a part of that decision and would also include a Public Hearing. It does, in fact, ban Personal Watercraft on 242 remote and undeveloped ponds. Those are ponds within the LURC jurisdiction that have been classified previously as remote and undeveloped. The three categories include high value, least accessible and undeveloped. The second category is especially high value, accessible and undeveloped. And the third is remote, least accessible and undeveloped. Now granted, on some of those very remote ponds as the previous speaker noted, it would in fact probably require a helicopter to get a Personal Watercraft on that particular piece of water. However, that's today.

Now if we were to look back 30 or 40 years at some of the undeveloped ponds, ponds that didn't have roads going to them, ponds that were not in any danger at all of having camps around them or having cars parked around them, we would see a much larger number of those ponds than we do now. Roads and access are being developed constantly. Some of that is a result of economic activities that are going on in the forest. Some of that is of interest on the part of owners to access some of these areas. Given the fact that we are making a decision for today about today and trying to look into the future to say how do we protect these particular pristine areas, this seemed like a very reasonable and very modest proposal in terms of banning Personal Watercraft on those undeveloped ponds. There are also three other ponds or lakes that are great ponds and lakes that are included in this and that's Tunk Lake, Donnell Pond and Mooselookmeguntic. Those are lakes that are two-thirds of their areas in LURC and more than one half of their shoreline is already protected. The concern was that if, in fact, we are going through all the effort in protecting the shoreline and protecting those ponds that it makes sense that those be held aside in terms of traditional uses and be allowed to have Personal Watercraft banned on those. There are also several ponds that are entirely within Acadia Park, and that information came to us from Friends of Acadia and from the folks at the park requesting that those ponds be included in this Bill. It also requires that the Inland Fish & Wildlife Department report back on a mandatory training program. We've heard that there are voluntary training programs and there are. There is a voluntary process now that Maine Marine Trade has worked on with its Members although I'm not sure how many folks who are not Members of Maine Marine Trade may be involved in that process. But it does provide an opportunity to show a video and give information and put a sticker on the Personal Watercraft saying that you had in

fact gone through the training program. When we had the Warden Service last year checking on those when they got a complaint about a Personal Watercraft or when they talk to someone running a Personal Watercraft, one of the things that they found is that the person who would go and rent the Personal Watercraft was often not the person who was riding the Personal Watercraft. So the person who got the training was not in fact the person who was using the machine, which really doesn't make any sense and why we think it makes sense for the Department to look at how can we look at doing a better job of providing adequate training for folks who are in fact riding these machines.

There are a number of handouts coming around to you. Again the previous speaker noted that on those lakes that have boat ramps that use Federal money that it would be illegal for us to regulate the type of watercraft on those. We've done the research and there are thirty five of those in this State and none of those are on this list. So, we feel very comfortable on the Majority Report that the ban that we are proposing is in fact legal. Now however, that does not mean that it can't be challenged. Every single activity that we undertake within this Body and the other Body can, in fact, be challenged. And if it is to be challenged so be it. That doesn't mean that we should stop doing what we believe that we ought to do because we are afraid of that particular challenge. One of the most profound pieces of testimony that we received I felt came from sporting camp owners. We had heard some economic arguments on one side saying that there is an economic benefit in terms of having Personal Watercraft available, that Personal Watercraft are in fact part of this economic engine that we have going and we shouldn't be slowing down any of that process. Well there is another side of that coin. It is that from the folks who run traditional sporting camps. And the Sporting Camp Association came to us and said that we are very concerned about our ability in the rural and more isolated parts of this State to run our traditional sporting camps. Folks who come to a traditional sporting camp to go quietly fly fishing or canoeing aren't likely to come back if their entire visit to that sporting camp is disturbed by the whirring of engines and going back and forth in front of the camp and that kind of activity. The previous speaker mentioned going to a picnic and coming home with his head buzzing with the sound of those machines. Now if you have paid good money to go to a traditional sporting camp and if you come home after several days up there with your head buzzing from the sound of Personal Watercraft going back and forth in front of your camp, my guess is that you will probably go someplace else the next time. My concern is that you may choose to go someplace somewhere out of the state of Maine which would have some severe economic impacts. So we really tried to listen to those folks in terms of their concerns about traditional uses. There is an Amendment that if we are successful in passing the Majority Report will be offered which, in fact, removes the fiscal note. I feel that it is inappropriate to discuss that in detail at this time because the Amendment is not before us. However, if we are able to get this Report through, there will be an Amendment that as I said will, in fact, eliminate the fiscal note and there is information on your desk regarding that.

The discussion about whether we would end up with a hundred Bills back in the Legislature on Personal Watercraft, I think there are two analogies I'd like to leave with you. One is the Endangered Species Act. A couple of years ago, the Legislature decided that rather than the Commissioner making the decision on endangered species that was a decision that

ought to be left to the Legislature. The Department went and gathered all the information they needed to determine which species ought to be listed on an endangered list, they then brought that report and one piece of Legislation back to the Committee. The Committee held Public Hearings. The Committee held work Sessions and then the Committee made its decision on which of the things on that list ought to be included. I think that's a very reasonable process and it's a similar process to what we are talking about within this piece of Legislation. It's important that we have local input because each of the thousands of ponds in this State are different. Some are shallow and rocky. Some are deep and wide. Some are small and a number of people around those ponds, in fact, like Personal Watercraft and would like to continue to have Personal Watercraft, and that's fine. But in other cases, there are ponds where folks really do not wish to have these kinds of machines on their ponds and we ought to give them that opportunity. I think the Committees did a really good job of balancing the two concerns. The concern on the one hand about people that, in fact, do enjoy Personal Watercraft, and the people who, on the other hand, are very concerned about Personal Watercraft. And we tried to take the proposals on both sides which included banning them entirely or, in some cases, banning them in LURC jurisdictions or banning them on certain size lakes and ponds and, on the other side, which said don't do anything, it's not a problem. We will outgrow this and we'll get over it. We tried to come up with something in the middle that addressed the concerns of both sides. So I would urge you to support Report "A" and allow us to come back and discuss with you an Amendment that would in fact remove the fiscal note and allow us to proceed with this important Legislation. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you, Mr. President. May it please the Senate. I've had a chance to review some of the hand out material as well as the Reports and, Mr. President, may I pose a question or two through the Chair?

THE PRESIDENT: Yes, the Senator may pose his questions.

Senator **BENOIT:** Thank you. On one of the handouts, a memo from the Committee analyst mentions 245 ponds being involved here in LURC jurisdiction. On another handout there's 242 ponds. There's a difference in the number of ponds. The first question that I have is where might I obtain a list of the 242 or 245 ponds because with that kind of specificity there must be a list of the ponds. The same way that there must be a list of the Bill of the three ponds that are named, Donnell, Tunk and Mooselookmeguntic. There must be some specificity about the 242 ponds. I would like to have a copy of the list and I would just make an observation. I don't know how much weight should be given to this analysts statement of March 23rd which cites a Federal Court decision in the 9th Circuit. A Federal Circuit Court is made up of several Federal Court Judges. Here we have an analyst questioning the soundness of a Federal Court of plural

judges. Whenever I see that, I don't give a whole lot of weight and it kind of reflects upon the rest of the memo that anybody, actually any attorney, might question a Federal Court decision. I suppose it's a free country and we can do it. I question the weight to be given that. Where might I get a list of these 242 ponds in LURC jurisdiction?

THE PRESIDENT: The Senator from Franklin, Senator Benoit poses a series of questions through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. I will endeavor to provide that list for the good Senator. The list is available. We've had a map set up at one point. I'm not sure if the map is currently available or not. There was one large map that was available from LURC. Regarding the memo, our request to the analyst and to the staff in OPLA was to provide us with as much information as possible about other decisions that had been made and how those decisions might impact the work that we are doing. So I was pleased that that research was done and the information was provided to the Committee. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President. Colleagues of the Senate. I consider the Bill before us to be a minimal step to protect one of Maine's greatest resources. I think our lakes are under challenge. I think that we have to take these steps, that we've seen lakes die such as China Lake has died over time and we are trying to bring it back. Why should we wait and have to do resuscitation later when we have ways to protect our lakes. The manufacturers in this Bill, you see 82 decibels and that's a jack hammer at 50 feet. The manufacturers are totally capable of bringing it down. We might have required more of them. I wish we had in terms from a step down gradual decrease in the noise. There's nothing more "chase away from Vacationland", there's nothing that chases people away more than to sit down to a quiet Sunday morning by a pond or a lake and have this, what I would call a loud mosquito, buzzing around your front lawn completely ruining many people's morning. I think that we should have required manufacturers or maybe do that another time. I'm still in support of this Bill. I'm in support of doing anything we can to save what I consider to be one of our greatest resources, and that being both the lakes and the vacationers who come to our lakes. Thank you for listening.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I know the debate this morning is on Personal Watercraft or jet skis but I feel as though we have been fishing for red herrings and that concerns me. The first thing that I want to address is a memo that was handed out that states "Three Courts overturn bans and limits on jet skis." I want to assure the Members of this Body that this is not applicable in this case. All those cases where the Court had overturned those jet ski bans, those bans were adopted by municipalities or counties without first getting State authorization to do so. In our case the Majority Report gives the final decisions at the State level. Please listen also to the next thing that I'm going to talk about.

Massachusetts, New Hampshire and Vermont all have very similar provisions on their books today to what we are proposing in this Majority Report, and none of those three state provisions have been challenged by the jet ski industry.

The second point was on the minimum age. The previous speaker had stated that he had never heard of any problems with anybody under sixteen driving Personal Watercraft. I served on the sub-committee that was made up of Members of the Natural Resources Committee and the Inland Fisheries & Wildlife Committee. The Personal Watercraft Manufacturers Association of Maine supported raising the age to sixteen. I know that the little bit of time we take off and spend on the coast every summer for the last ten years as a family has been amazing to see the increase in the number of kids with these Personal Watercraft in ocean waters trying to see how many loops they can go around a lobster boat as they go from one trap to another. So I just wanted to agree with the previous speaker that this is a good, I feel, first step. I think that we can improve this Majority Report further with an Amendment in the future. There is not a legal problem with this Bill. The Jet Ski Association themselves wanted the age raised to sixteen. None of the 245 lakes on this list have a boat ramp that has been funded by Federal money. That is not a problem with the Majority Report either. Please, go on to support Report "A". Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait

Senator **GOLDTHWAIT:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I too wish to focus on one of the Personal Watercraft aspects of this Legislation even though there are many other factors. The reason that we are seeing more and more talk about banning these is because enforcement doesn't seem to work. I simply don't fault the Department for not having sufficient personnel to be able to baby-sit every individual pond in this state, and I have certainly heard from my constituents that when they are able to get someone to come to a pond where Personal Watercraft are a problem, they respond as well as they can but as soon as the law enforcement people leave the objectionable activity resumes again. It seems that only a ban would solve the problem for a number of these ponds particularly where there are either year round or seasonal residents.

Regarding the issue of a flood of Bills coming into the Legislature on an individual ponds, the municipalities have no choice. There is no other process for them. They cannot resolve these matters municipally because they do not have the authority to do so and until they have that authority, they must use the process available to them which brings that ultimate decision into the State process whether in the Department or in the Legislature.

Regarding the piece in the Committee Report "A" that has to do with Acadia National Park, I think I heard the Senator from Piscataquis, Senator Hall saying that we wanted to ban all boats on those ponds. Either I misheard him or, at any rate, that is certainly not the case. The seven ponds referenced that are entirely within Acadia National Park in this Report are by no means all of the ponds in the park because the larger ponds already have restrictions. Some of which have been driven by the desire of the park to do that and others in which have been required of us because those ponds are also water supplies. We have been required by the Drinking Water Program to put certain motor boat restrictions on those ponds. So the seven ponds

before you in this Legislation are mostly smaller ponds and we are seeking two types of restrictions. Originally the seven ponds were treated identically with a ban on internal combustion engines. We have three to four million visitors to Mt. Desert Island in the course of the summer and we welcome them. We enjoy them when they come. We enjoy it when they go, frankly, but we are glad to have them in the summer. But the sheer volume of visitors to our island requires us to set some limits. We are an island under siege. We have sightseeing planes flying overhead. We've got whale watch boats cruising up and down. We've got motorcycles and vehicles all over our roads. We've got mountain bikes on the carriage roads and on the other paths in the park, and we really need to be setting some limits on the types of use that will still make that a pleasant experience for the people who come and the people who live on that island. So we are asking that, on these ponds within the park, there be a ban on internal combustion engines. The list of ponds was separated into two groups: ponds that are road accessible and ponds which are not. These are all small. The largest of them is 38 acres and the smallest is 16 acres. On the two ponds that you can get to in a vehicle, we are seeking the 10 horse power restriction so that traditional fishing uses can continue. On the five ponds that are deeper into the park we are seeking the ban on internal combustion engines and I would appreciate your support for this Committee Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. Fellow Members of the Senate. I request permission to pose a question through the Chair, please.

THE PRESIDENT: The Senator may pose his question.

Senator **BENNETT:** Thank you. Actually it's a series of questions. First of all, I'm most interested in sections 8, 9 and 10 of the Majority Report. And my questions are these. First of all, does the licensing and fees attained thereto, for renting motorcraft, do those fees and licenses apply to every person? I understand that they apply to businesses but I'm wondering if they apply to every person as well. My second question is if so, if a person leases a camp with a motorboat or some other personal device with the camp would that person as well be affected by the requirements under sections 8, 9 and 10 even though that lease may be an indirect rental of the camp along with and ATV or a motorboat, would that person also be under the subject of the provisions of sections 8, 9 and 10? And my third question is why is the fee of \$25 dollars necessary and what is the economic or cost or political basis for the \$25 level to that fee? Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Bennett poses a series of questions through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. In response to the previous questions, the fees are fees for the business that is doing the renting service. They would pay a fee for that license. The reason that the \$25 dollar fee was established as the good Senator knows having worked so diligently on the Appropriations Committee that the Inland Fisheries & Wildlife Committee has been adamant that the Department not take up

additional responsibility without that being covered. We felt that the cost of issuing these licenses would be covered by the \$25 dollar fee so that we would not be using the funding from hunting and fishing license buyers to in fact provide this additional service. This is a fee for the business entity that would in fact be renting watercraft. And as I mentioned, I do view it as a friendly Amendment that would change it from motorboats to Personal Watercraft only.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. I request permission to pose further questions.

THE PRESIDENT: The Senator may pose further questions.

Senator **BENNETT:** Thank you., Mr. President. To anyone who may be able to respond. The language in this Amendment and I understand the desire by some to change it from motorboats to Personal Watercraft, but it says clearly that is provided in this section " a person or a business may not rent or lease a motorboat after January 1, 1999 unless that person or business goes through the licensing process." I understand the focus on business entities but I'm concerned that the way this is written it would also apply to a casual business relationship where money has changed hands between a person and another person. And reading it that way leads me to the second question which I ask. If a person, and there are many people particularly in my area that own second homes or camps on water, and they often have motorboats or Personal Watercraft or other devices stored there, and they often lease those for periods of time during the summer for the use of the people that are leasing their property, and I'm wondering if they would be covered implicitly under this provision of the Majority Report. And thirdly, once again I appreciate the good Senator from Lincoln, Senator Kilkelly's response to the first part of my question which is why the fee is necessary but if I could have a more thorough explanation of why the \$25 dollar amount figure per se was arrived at, I would appreciate it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. In response to the question, again the \$25 dollar fee was seen as a very modest fee that would in fact cover the cost of issuing the license. We felt that anything less than that would probably cost more to do the paperwork than it would to collect the funding. And so it made sense for there to be an effort to zero this out so that there was no cost in issuing these licenses. In terms of person or business, I believe that's standard language. I mean that there are a number of ways that one can have a business entity if one is a self-employed person who rents Personal Watercraft, Yes, you would need to have a license under this provision. If you have it incorporated as a business, then that would be what would happen. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President. If I may further respond to the question. If you take a look at the Majority Report,

the Amendment of it, there are three exceptions which were intended to cover persons who casually rented, for example campgrounds, who rent to their clientele. They really don't have a rental business. It's simply making it available to their clientele. Also sporting camps and guiding activities are included. That's the first time that someone has raised the issue if someone leases their home and they lease the Personal Watercraft with it. I'm really not sure whether that raises a question that broadens us beyond what is truly a business. I don't think that was the intent. As has been mentioned, there are additional proposed Amendments to come to provide some clarification on this section, and I think that after consulting with the Council and OPLA on this, if they felt that was bringing in individuals that were truly in the rental business, I for one would not be opposed to a clarification of the language. But the intent here is to address rental businesses of Personal Watercraft, not of all watercraft. Again that is a problem that we note is in the language that we hope to fix. The \$25 dollar fee, as I understand it, mirrors the fee that was chosen for the snowmobile registration provision. So we do have some track record as to the actual cost of this and it's designed not as a fund raising provision but simply to cover the cost of registration. And I would just say thirdly that this provision was very strongly supported even by the industry because it is felt that one of the biggest problems with misuse of Personal Watercraft is that people are not getting the appropriate kind of instruction when they rent them. This is an attempt to deal with that particular problem and I think it does it in a very targeted way. If you read further you will see that the Report takes out a mandatory education provision that was in the original Bill, and this is part of an attempt to deal with that issue in a more targeted way.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. I appreciate the clarification of the good Senator from Lincoln, Senator Kilkelly as well as the Senator from Kennebec, Senator Treat. Frankly, I'm not very concerned about business, the associations and the industries because they look after themselves nicely in the Legislature. And the three exemptions for campgrounds, sporting camps and guides, I acknowledge were put in largely to ameliorate serious and legitimate concerns that those groups had about this. What I am concerned about are individual people. I'm concerned about homeowners and individuals who engage in casual business relationships by leasing their property or renting their property to friends, neighbors and folks that come in from away to spend a week or two at their cottage. There are a lot of people like that in my District, and those are the people I'm concerned about that may not have been at the table when this language was worked out. And so I am very pleased to hear the openness with respect to insuring that this is specified for truly business kind of relationships, not the kind of casual relationships that I'm concerned about. I would hope that before this Legislation got too far that we would be able to so amend the Bill whichever Report gets adopted so that we can insure that those people's interests are accommodated and we don't put undo pressure on people that are too often unrepresented here. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you, Mr. President. Ladies and gentlemen of the Senate. May I pose two questions through the Chair?

THE PRESIDENT: The Senator may pose his questions.

Senator **KIEFFER:** Thank you, Mr. President. In the Committee hearings, as well as here today, I've heard three figures 210, 242 and 245 different lakes or ponds and perhaps that is an academic number at this point in time, however, earlier the Senator from Franklin, Senator Benoit posed a question as to a list of these ponds. I'm wondering if that list could be provided to be a little more specific than just names. I'd like to see the size of these ponds as well as their specific location and the reason for that request is that I don't know how many round ponds, mud ponds, narrow ponds, and long ponds that we have in the State of Maine. I think that would be important to me. Secondly, and more importantly, right now if there is public boat landing on a lake or pond that has been built by IF&W, and if there were any Federal moneys involved in building that launch, those ponds cannot be listed under this 242, or whatever the number is. The flip side of that, then obviously, may be a prohibition of building or construction of any more public boat launches or landings in the event these ponds are closed to the use of Personal Watercraft. My question to anyone who would choose to answer, am I in error on that? Would this mean that if these ponds are in fact closed to Personal Watercraft that it would also prohibit the future building of a public boat landing on any of these 242 ponds in the future for all time?

THE PRESIDENT: The Senator from Aroostook, Senator Kieffer poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President. In response to the several questions actually from the Senator from Aroostook, Senator Kieffer, I would offer the following explanations. The number 242 is the number of lakes that are in LURC that the Majority Report would have restrictions on Personal Watercraft on. There are three additional lakes that are listed which are public land ownership and those are specifically listed, Mooselookmeguntic, Tunk Lake and Donnell Pond where 75% of the shoreline is owned in public trust or public land ownership. So that's why two different figures have been used. The total number is 245 but of those the ones that are just sort of listed generically in LURC are the 242.

I believe your second question is, is there a list available? Does it have the size of the lakes on that list and where they are located? The answer is yes the list is available but because some of us have been involved in the debate here, we've been unable to go and get it photocopied and available to everybody here but we'll be happy to do that. Basically, the 242 lakes were chosen which is out of a total 3 thousand lakes in LURC territory. There are seven different LURC categories when they do their management plan. Category 1 is high value, leased accessible and undeveloped and that was one category that we chose to put into this general restriction area and that is 29 lakes. The other is especially high valuable, accessible but undeveloped and that's 36 lakes. And then the other categories, category 6 which is remote ponds and that was 177 ponds. I do have the list and what I would like to do is be able to get that to everyone. I believe that one copy has been given to Senator Benoit of

Franklin by the OPLA staff person but this list does show the size of the lakes. It shows what category they're in. They are actually numbered. And we do have a map which was in the Human Resources Committee, I don't know if it's still there, but we'll try to track that down so people can have a very clear idea of what is being proposed here.

Your final question, if I have kept track of all this, is the issue of the Federally funded boat ramps and the legal issue around that. We have checked and none of the 242 lakes proposed here have boat ramps. So at this time there is no legal problem. The question was, does this mean that for the end of all time there will never be any boat ramps because of the legal problem? I'd answer that in several ways. First of all, I don't believe that they would be targeted for boat ramps in the first place because of the type of management category they are in which is the remote lakes. Many of them you can't even get to with anything except an ATV type of vehicle. But, secondly, there is nothing that preserves this for all time the way that this Bill is set up and when we get an opportunity to talk about Amendments, it's basically all done through Legislation and Legislation can be changed at any time. In addition as part of the Majority Report, there is a requirement that LURC come back to the Legislature with a plan for all of its lakes. So I think that at that time there would be a second chance to revisit the issue. But I would answer in a third way which is that even if you would want to have a boat ramp on one of these very remote lakes, there is no requirement that it would have to be done with Federal funding. And the issue is Federal funding and I believe that we have had quite a few discussions about restrictions with using Federal funds in the previous discussions around subjects that I will not mention at this time. But I don't think there is anything that stops us from using State money to build a boat ramp if that was the intention or from taking any one of those lakes off the list at a future date.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY.** Thank you, Mr. President. There was a comment made a few minutes ago about someone owning a lot, their lawn going all the way down to the water and that they objected to people out on the lake and unfortunately that person is absent right now but I did land surveying for a living, such as it was, and I would like to point out that once that person's property reaches the high water mark, that's as far as they go. The water does not belong to that property owner. And so I have a very serious concern as the Senator from Lincoln, Senator Kilkelly mentioned where if somebody came in and just complained that in fact they could get a hearing and the lakes could be changed so that some of these Personal Watercrafts would not be allowed. I own a cottage on North Pond which is the second higher of the five chain of lakes in the Belgrade Lakes. I haven't put my boat in the water for the last couple of years. We do do some canoeing and we have had Personal Watercrafts going by our place. They are licensed. They are legitimate. They are staying 200 feet away from the shore. So I personally don't have any problems with those. In going through this Bill, I find it unfortunate, for instance, that a very few people on a lake could in fact shut off the lake for hundreds of others. That doesn't seem fair. They only own 100 or 200 feet of frontage and in my town for instance, we have 158 miles of lake frontage over the five lakes. I do have a concern in the Bill, Committee Amendment "A", section 78 25B, Motorboat Rental Agent

Certificates. There is no mention about a fee. It's obviously a flat \$25 dollar fee whether the person has three boats or thirty boats for rent and it seems as though that might have been a graduated scale in there. I do have a problem with subsection 4 out of section 8 which says that there are exceptions to people in this particular section 8, campgrounds licensed by the Department of Human Services. Apparently, they do not have to have the safety portion shown to the people who are going to be renting a boat. Certainly people could be at the campground and that's why they are excluded but those people who are at the campground may never have been in a boat in their life. Subsection B in subsection 4, Commercial Sporting Camps for the purpose it seems as though there are some people who have been sold out in the process as long as they were excluded. And so that gives me a problem. Commercial sporting camps for the purpose of this section means a business consisting of primary lodging facilities that offer the public the opportunity to pursue primitive hunting, fishing, boating or snowmobiling. Those people are also excluded from having to have some kind of a safety training course. So there are problems with this thing and I would hope that maybe some of those can be addressed as we go along.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BEHOIT:** Thank you, Mr. President. May it please the Senate. I urge you to support the pending Report and I will be voting for this Report "A" because it's my constituents agenda and for the past three years I've accumulated almost as much written material as Senator Hall has shown us today in support of this Legislation. I've taken some heat for it this week. I've had some calls from constituents in Rangeley, who have given me the dickens for having this approach. And it's unfortunate to see Legislation like this or any Legislation which impacts adversely against people using the outdoors with freedom. But I have in mind examples where that's been necessary because of abuse.

In my District near Farmington, we have Clearwater Lake. Some years ago it was noted for smelting in the spring. It was just a beautiful spot to go and smelt on this stream that ran out of the lake. There were constituents who bordered on the stream that had their property desecrated by people who went smelting. They were drinking beer and throwing beer cans around and littering, tearing down fence posts etc. And so it came to going through the procedure with the Fish & Wildlife Department, holding a Public Hearing and now no smelting on this stream can take place. And it's really a shame that there are people who cannot conduct themselves with manners, and as Senator Carey points out, in some cases he uses a little different example but makes the same point, people will lose their rights. My agenda, personally, is in support of this kind of Legislation.

When I was a judge in Skowhegan, I had a case come in one day with some folks with a Personal Watercraft that had so harassed some loons, driving them down, that they drowned two of them. And when the wardens brought them into court, I frankly threw the book at these folks. I have very little patience with people who do things like that. Maybe I should have more patience, but I don't. And I laid on a pretty stiff fine and I even had the loons valued at the University Lab for Fish & Wildlife to help and evaluate the loss of wildlife. So I had them pay restitution to the people of the State for the loss. So when I see these things happening, it's very easy for me to support this kind of Legislation. Moreover, it's my constituents agenda. I'm

disappointed as I look over the list, if I read it correctly. First of all let me back up, I'm very pleased to see Midway Pond and Sandy River where I live, Seven Acres, Ledge Pond is six acres and some of the smaller ponds are protected by this Legislation. Behind the house where Judy and I are on Beaver Mountain Lake is Beaver Mountain. Up on top there are two ponds, Mud Pond and Beaver Mountain Pond. Beaver Mountain Pond I don't believe is on this list and I'm disappointed. I don't know why. You have to hike 800 feet from the Plantation Road where I live to get to the pond. It's fly fishing only. There are no residences located along its shore. It must be a good 16 or 18 acres in size. I'm disappointed because that pond has been raped of its fishery over the years. I can remember twenty years ago going up there to fly fish and putting the inflatable boat in the water. I'm tying on a Yellow May, which is one of my favorite flies to use in the spring and it falls out of my fingers and bounces off the boat into the pond and whump, it's gone in a foot of water. The fish were that close to shore and the fishery was just a beautiful fishery. But over the years we've had people who cannot conduct themselves in a management way with our fishery. They have no care I guess for what they do when they take out their limit and someone else's in violation of the law. I wish that pond was on here. I hope that I am misreading and will be delighted to find that Beaver Mountain Pond is protected. We've tried to protect its fishery. It's starting to come back now but it's going to take a long while to get to where it was when I first encountered the pond. I will be supporting this Legislation because there are just some people out there who can't conduct themselves in a lawful manner. They seem so abusive in the way they conduct themselves and where they are the rest of us suffer as well. But that's just the way it is in our society. People who abuse privileges cause us all to lose them. I urge your support of this Legislation.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you, Mr. President. Good morning ladies and gentlemen of the Senate. I rise this morning to ask you to vote against the amended Ought To Pass Report "A" and I would like to state my reasons. I feel that we need to address the problem face on. We don't need to implement work rounds and I do listen very intently to the good Senator Benoit, and however, because people abuse the laws I feel that we should enforce what we have. I do have good reason for objecting to the LURC restrictions because I feel that it should be to all boats, not just Personal Watercraft. Personal Watercrafts are boats. They are legally produced, distributed and sold. They are registered with the State of Maine like any other watercraft. They are manufactured in compliance with U.S. Coast Guard regulations. Their operators are subject to the same rules and enforcement actions as any other watercraft. Simply put they are boats with certain lengths, propulsions and fuel requirements just like any other boats. And they should not be treated any differently than other boats. Let's refer to them like sports cars. Do we distinguish sports cars as special and have special regulations for them on the highways because they can go faster. No we look at the responsibility of the driver and we enforce responsibility of the operator. Just like when you are speeding in a car down the highway, you are fined for speeding. So enforce the regulations of the Coast Guard for boats and treat Personal Watercrafts as boats as many other states do. Let's not overreact! Let's look at our problem head on and focus on it.

We identify it and focus on it. Speed is the problem. So we enforce the existing laws. We make sure that we curtail that and curtail the driver to make sure that he or she is a responsible person. If noise is the problem, I can remember when cigarette boats first came out on the lakes and we all just put our hands over our ears and said I don't want to listen to those things on our lakes. Well, I have to tell you that I haven't seen a Personal Watercraft that's any louder than a cigarette boat. Now if noise is a factor, the manufacturers are currently addressing that. Just like they did with snowmobiles many years ago when we first starting enacting laws against snowmobiles and we didn't like them. Now they are "white gold" in Aroostook County and in Moosehead Lake and in many other areas of our State.

Speaking about that, let's talk about tourism. We have Vacationland on our number plates. Think about this for a moment. Tourism! People come in here in the winter with their snowmobiles. They utilize our lodges, our filling stations, our restaurants and they bring much money to our State. What about watercrafts in the summer time? We have these numerous lakes that this could be a great area for us to build on vacationlands. They're easy to tow and haul. They can tow a water skier actually easier than a power boat can. People coming here on vacation, if we want to open the doors and welcome them here for a vacation, let's make sure they are welcome. Let's look at what they are doing in other states, in Florida. There are many opportunities for advertisements for jet skis, actually Personal Watercraft, because many of them now hold two and three people, to tour and vacation along the rivers, the lakes and the ocean. I just read in USA Today about a dam tour by jet ski. Getting soaked in Las Vegas is about to take on a new meaning. Starting this week adventurous gamblers can sign up for jet ski tours on Lake Mead, a popular aquatic playground about 40 minutes southwest of Glitter Gulch. Up to fifty riders on twenty-five jet skis follow guides for a two hour excursion past Hoover Dam listening to descriptions of the areas history, geology and wildlife via two-way radio headsets. The trip is \$179.00. Now folks let's think about this. If we take a positive attitude towards watercraft as we now have with snowmobiles and we treat them equally as a boat, why can't we invite people to be responsible. The older generation, such as myself, who might like to go out and take a vacation with a picnic on a sunny afternoon and ride down the Penobscot River, we do quite frequently along with other boats, enjoy the scenery and stop for a picnic. Or go to our larger lakes and travel around, observe the sights and the wildlife, there's nothing anymore interesting than going on a small lake and going up and shutting off your motor and sitting back and watching the loons play. You know not all of us abuse the use of watercraft. I happen to have two that hold three people a piece, and we take our grandchildren. It's a great way to teach children how to be responsible drivers. You can ride behind them and teach them how to control speed, but I agree with you on the law for age sixteen if not accompanied by an adult on the machine because it is dangerous having a child out there. The temptation is too great with the speed when they are under sixteen unless they are accompanied by an adult. This Report "A", the complexity of the Report is really overwhelming. How are you going to implement all of these various entities. We haven't done a good job implementing the existing law that we put in last year when our Inland Fisheries & Wildlife Committee worked diligently and passed a law, L.D. 416 that has restrictions. We need to work on trying to implement those. Why don't we take a look at this and make sure that we define this so that when people coming in, even our local people, know what

laws apply to what lakes and ponds. Why don't we follow the Coast Guard and the Federal laws and just merely say that all boats adhere to the U.S. Coast Guard boating laws. When we hauled our machines to Florida, the first thing that we did was call the Coast Guard and ask what applies to watercraft. The answer and the response was they are like any other boat. You just follow your boating laws. Now doesn't that make it a lot more easier and user friendly for our tourists and for our people who want to enjoy our lakes. Yes, protect in the LURC areas if you wish and I agree with you, however, make it all boats and I agree with your terminology on horse power. One of the Senators alluded to New Hampshire and their bans, but it's on horse power not just watercraft. Let's make sure that we broaden it and don't discriminate. And I'd ask you to join me in voting against the Ought to Pass Report "A".

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Butland.

Senator **BUTLAND:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I rise this morning in support of my good friend and colleague, the Senator from Piscataquis, Senator Hall in opposition to Committee Amendment "A". L.D. 1730 arrived in our Committee for Public Hearing very, very late in the First Session of the 118th Legislature. It's pretty evident with the high LD number that it was assigned and it was the product of a lot of work by a very diversified group. At that time, I felt very uncomfortable dealing with a Bill that I felt should have been in the Inland Fish & Wildlife Committee, and I was pleased when we held it over to the Second SESSION of the 118th Legislature. I think that it's important for you people to remember that last SESSION we did pass L.D. 80 which was a companion piece of sorts to L.D. 1730 and which restores funding for the Lakes Program for enforcement of the environmental laws on the lakes.

You know I think that from time to time as the SESSION goes on and we spend more and more time in this Chamber, we become estranged from our constituents back home. We become exiled from them, and it kind of changes our perspective and it's unfortunate that we lose that link and spend more time in this Chamber that is lined with State bureaucrats and journalists and paid lobbyists. I received a lot of correspondence on this particular issue, and it pretty much fell down into two areas. Probably twenty letters from folks from out of state who are offended by the fact that jet skis were a problem on the lakes when they came to spend their one or two or three weeks on "Golden Pond" in the state of Maine. I also received another group of letters from my constituents and the letter that the good Senator from Penobscot, Senator Mitchell read was from a constituent of mine, Walter Hiebold, matter of fact a fellow alumnus of Greeley High School in Cumberland. Mr. Hiebold has achieved a tremendous amount of success in a technology business in the town of Gray, and I respect his judgment and common sense tremendously. I received another letter from a couple in the state of Maine who live in Leeds, and I believe if my memory serves me correctly, that is in the good Senator from Androscoggin, Senator Nutting's District, from Gilbert and Muriel Knight. I just would like to read a couple of paragraphs because I think that it really talks to the feeling and the common sense attitude back on "Main Street". "We are senior citizens who, this summer, purchased a Personal Watercraft. This is the first and only watercraft of any kind that we have ever purchased or ever wanted to purchase. Our Personal Watercraft is somewhat

unique in that it is a side by side seater rather than in line seating. We are responsible riders and enjoyed our little boat this summer and hope to enjoy it many summers to come. We ride mostly on Taylor Pond in Auburn which is quite small and certain to be a target. The proposals before the Committee unfairly discriminate against Personal Watercraft owners and operators and make no attempt to distinguish between those who use them responsibly and those who abuse them. We have all seen and heard about the abusers but how many comments have you heard about those who ride responsibly." I guess in response to my good friend from Franklin, Senator Benoit, who said that this Legislation is an attempt to enforce manners. Unfortunately, we have tried in the past, on many occasions, to enforce manners and the only thing it seems to do is diminish the rights of those responsible people and that concerns me. And the comments from Mr. And Mrs. Knight also concern me, which is why I'm supporting Committee Amendment "B". Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you, Mr. President. There are so many comments that I should make now that I should have written them all down. It was mentioned that two or three states have banned these, and they haven't been challenged, so it's upheld. Well, it's upheld only because it hasn't been challenged, and I believe when and if it is challenged, they will find that their law is illegal. It concerns me that we are going to ban something in areas of this state, and you know think about it, next week when you are at your local coffee shop and everyone is talking about this Bill and you are saying, "hey, I helped ban those jet skis from Mount what's-her-name where the pond is you know". They are going to say you must have gotten up pretty early in the morning to come up with that one. You couldn't get a jet ski to that body of water.

I'm still waiting for the list of ponds. They surely didn't get them to us in Committee, and they seem to be having a hard time with the copier because we still don't have them on our desks. A little bit ridiculous! One of those lakes mentioned where they want to ban them I believe is in the neighborhood of the size of 2000 acres. That's a pretty good size lake. Pretty good size lake! They were unsure whether they had a public boat launch area there. Apparently I've been told that they don't have anyway. That's fine. Then they never will have probably because I don't know of any boat launching area in the State of Maine that's been put in without Federal money or Federal help. And there will be no more of that if specific watercraft is banned from a body of water. It obviously is a move to ban places that people can't get to as a start till people get used to it. Maybe some people will go home and say I did a good thing. They will be back next year to ban every other body of water that there is in LURC jurisdiction, and we will take them one at a time from there throughout the rest of the State. One at a time! If you pass this Report "A", they have got to amend it. They have got to amend it because of the fiscal note on it. I guess there is a letter out already. But you know when you work for somebody and they tell you to do something, you will either do it or you won't work for them tomorrow morning. That is the case referenced here. More details to come later. There is even a couple of more pieces of this Report, I'm sure that you have all read it but nobody has discussed it yet so I'm just going to throw it out to you, that there is a noise limit, Section 7, I believe. Yes, take a look at Section 7 and then I would like someone to jump up to

their microphone and tell me how you expect the Game Wardens in this State to enforce that. They can't do it. I challenge anyone in this room to tell me how they are going to do it. And if someone dares do that they are going to say that they've got meters that read this. No kidding. They do, I think! Then I want you to tell me how much they cost, and if you can't tell me then you haven't done your homework. Then I want to know how much it's going to cost to train these Game Wardens. I also want to know how much it's going to cost for the renter of all watercraft. What's it going to cost the Department to pass out all the written material that this law says that they have to make available. Give me those figures. And then show me that all those costs can be absorbed by a Department that can't even absorb a new set of tires. You really need to be thinking about this piece of Legislation. Seriously! I don't think you want to go home and listen to the comments that you are going to get. There will be few that will pat you on the back, but there will be many more that are going to think that you don't know what you are doing. I urge you one last time, vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President. Ladies and gentlemen of the Senate. I'd like to address a couple of specific points that have been raised. The first being about tourists and how Personal Watercraft could potentially enhance the tourist business in Maine. And that may well be true and for areas who choose to focus on that use as a draw for tourism that is fine with me. My own support for this Committee Report is driven by the fact that my island has made some decisions about tourism, and we are attempting to market and promote ourselves as something of an island of tranquillity and that may seem ludicrous given the volume of people that we get there during the summer, but we are really trying hard to make it an experience that is pleasant for the people who come, and because of the wonderful asset of Acadia National Park, the second most visited park in the National system, one that is really focused on nature and is focused on enjoyment of the natural environment. This particular type of watercraft is really not compatible with that. I'm basing my opinion on surveys that have been done on our island in which we have a significant return and these are not from people from away but these are people who live there and within that significant return, very strong support for the actions that are proposed in this Legislation.

The other point that I want to address is there was a suggestion from the Senator of Kennebec, Senator Carey that land ownership stops at the waters edge and that water resource belongs to all of us and that is absolutely true and that is my point. It also addresses the statement of the good Senator from Penobscot, Senator Mitchell that these are boats like any other and should be treated like any other boats and I would submit, Mr. President, that they are not and that is the source of my objection to these watercraft. They are not boats like any other and what is unique about them is that they tend to preclude other uses so that it is not simply the lakefront owner, in the camp that is fortunate to live on the pond for the summer, who objects to their use. They actually preclude most of the other uses of whoever comes to that lake to enjoy that on a day in the spring or summer and that includes swimmers, fly fishermen, canoeists, birdwatchers, and the birds themselves. This is the one type of watercraft that makes it difficult for any of those other user groups to safely or enjoyably use that body of water. And that is

why I am suggesting that it is a perfectly legitimate thing to treat them somewhat differently.

My final comment is in response to the Senator from Piscataquis, Senator Hall who said that when you work for someone and they tell you to do something, you'd better do it or you won't work for them in the morning. I work for the people of District 5. They have asked me very clearly to pass Legislation of this nature and I want to be working in the morning and for many mornings to come. And I am supporting this Committee Report.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President. Men and women of the Senate. I'm not sure that there is anyone who raised this issue left in the Chamber to hear the answer, but I would like to address a couple of points that have come up. Several persons have made the statement that basically we are banning Personal Watercraft. I want to put this in a little perspective. There are 5,540 lakes in the State of Maine. This Bill proposes to restrict Personal Watercraft on 245. Actually, I misspoke. There are 5,785 lakes. I did my math and I subtracted 245 lakes out of 5,785 and got 5,540. Which means that there are still 5,540 lakes in the State of Maine where anyone can go out with Personal Watercraft and do whatever they want as long as they are age sixteen, they comply with the overall decibel limits which not only apply to Personal Watercraft but also to all watercraft, and they comply with the law that we passed last year on nuisance behavior. That's a lot of lakes. Now what the Majority Report does is set up a process through recommendations at the local level. Restrictions may happen in the future but that is down the road, and it very much tracks what they do in Florida, which is the suggestion of the Senator from Penobscot, Senator Mitchell. It very much tracks what they do in Florida which is to basically provide for local restrictions to be done. Here, in Maine, we don't give our municipalities the authority to regulate these things. This Bill takes a step toward that and again this is a section that is proposed to the Amendment, and we want to talk about that later. This Bill is a very different Bill from the original proposal. Both Committees listened very carefully to the lobbyists on this Bill. But we also listened to people calling and writing from our Districts, and I have to say that I got more letters and calls on this than anything else I've been peripherally involved in, and they did not all come from out of state. There were certainly some people calling and writing from out of state and those, of course, are tourists that spend money in the State of Maine. But there were at least hundreds of calls and letters that I got from people in the State of Maine that included my District and beyond that very much wanted us to take some steps towards limiting Personal Watercraft. And that's what this Majority Report does. It is a very limited approach. It's not at all that was originally in the Bill but it is a very good start. And again it leaves well over 5,000 lakes untouched by regulation. Mr. President, I would request the Yeas and Nays when the vote is taken.

On motion by Senator **TREAT** of Kennebec, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Ruhlin.

Senator **RUHLIN**: Thank you, Mr. President. Ladies and gentlemen of the Senate. First of all, I wish we could change the sequence of speakers because the good Senator from Kennebec just gave you all the information that I was going to give you, but I probably have a couple of things that I want to add. First of all, you say "who wants it?" Let me tell you something. The people who come into this state to enjoy our special way of life, bring in money with them. It keeps the Mom and Pop grocery stores going. It keeps the gas stations going. It keeps the motels going. It's our largest industry. They want it. They come here for the very thing that we have. I think most of us saw "On Golden Pond". Close your eyes for a moment and just think of "On Golden Pond" for the evening, the sun going down, the loons out there, sitting in the boat fishing and all of a sudden "whrrr" comes a jet ski. Nice! That's really the way life should be isn't it! People in my District have told me overwhelmingly that we have enough natural resources that jet skis can be used on. Let's take a small percentage of these very unique, wonderful places that are ours and preserve them so that the people can go there and enjoy Maine, the way life should be. I think when you talk about certain ponds in certain areas such as Taylor Pond in Auburn that, obviously, is in an organized township. It's not impacted here. The list of those ponds did get around to you ultimately. You have them on your desk. Those are the class 1, 2 and 6 ponds in our unorganized townships that are on those lists because they are special. They have values that are unique and should be preserved. That's what this Bill is all about. I hope you will vote with the Report "A".

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL**: Thank you, Mr. President. I did want to address the question or statement that the good Senator Treat made when I was out of the room about Florida. I did not want to take your time to go into the regulations there. I had mentioned to you that we go by the U.S. Coast Guard, however. But the other regulation that has been stipulated is strictly the Florida Manatee Sanctuary Act which declares the entire State of Florida to be a Manatee sanctuary, which we all know, as a refuge. To protect the Manatees from harmful collisions the Legislature authorized the regulation of the operation and speed of motor boat traffic, but only where there are Manatee sightings and where scientific information supports an assumption that they inhabit the area on a continuous basis. The Legislature wanted to make sure, however, that they did not unduly interfere with the rights of fishers, boaters, and water skiers using the area for recreational and commercial purposes. And they also wanted to make sure that the navigational channels and the inter-coastal waterways in the area within a 100 feet always go by the Coast Guard regulations. So the only difference, they are very prone to declaring all boats again and horse power. It is not stipulated at all against Personal Watercraft.

THE PRESIDENT: The Chair recognizes the Senator from Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER**: Thank you, Mr. President. Perhaps I was wrong, or my hearing was bad earlier, but I thought it was mentioned here that this list of lakes was a list that was presently not accessible and that no boat landings existed here. That certainly is not the fact at all. Gracious, just in glancing over this,

Munsungan Lake for example has had a big public boat launch built there within the past ten years. Certainly, Umsaskis Lake on the Allagash, that's one of the prime places for launching boats and canoes on the Allagash. There's a large campground there. There are two public boat landings and they are located aside of the Warden camp there on Umsaskis Lake. I'm not sure that statement is true and that's just a mere glance at these. Churchill Lake is another one as well as Chesuncook Pond. Unless my hearing was bad that was not a true statement.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING**: Thank you, Mr. President. I'm glad the good Senator from Aroostook, Senator Kieffer raised this point. There seems to be some confusion on this issue. You cannot have a restriction on jet skis on any lake or pond where the boat launch has been constructed using Federal Sport Fisheries Act money. There's only thirty-five of those in Maine and none of those are on the list of 245. The Department of Conservation has different funds to build boat launches and that's not a conflict. The conflict only is in the 35 ponds that have Federal Sport Fisheries Act boat launch moneys to build those boat launches. That's the clarification that I want to point out to everyone in this Chamber. Inland Fisheries and Wildlife also has other funds for boat launches and they do not use Federal Sport Fisheries Act funds. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer who requests unanimous consent of the Senate to address the Senate for a third time. Is this the pleasure of the Senate? It's a vote. The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER**: Thank you, Mr. President. I will be brief. I would like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **KIEFFER**: Does the prohibition against the use of these funds also include the maintenance of these existing sites?

THE PRESIDENT: The Senator from Aroostook, Senator Kieffer poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY**: Thank you, Mr. President. Clarification of that question, please.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER**: I'll try to clarify it. I understood that any boat launch could not be built by IF&W or assume anyone else if it included any funding from the Sport Fishery Act. Does that extend also to the maintenance of existing boat launches or facilities as they presently exist? If funds through IF&W, for example, were obtained through the Sport Fishery Act, does that prohibit IF&W then from maintaining boat launching facilities?

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. In response to the question, it's my understanding that the prohibition comes from the funds that are used to create those boat launches. In terms of funding, and certainly IF&W would be in a position to use other funds to do maintenance, but it is my understanding also that there are thirty-five boat launches in the State that, in fact, have used the Federal money and that, in fact, prohibits us because of agreements that we enter with the Federal Government by using those dollars that we agree that we will not limit the types of watercraft on those waters. There are only thirty-five lakes in that category.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HARRIMAN, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MACKINNON, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: BUTLAND, CAREY, CASSIDY, HALL, KIEFFER, LIBBY, MICHAUD, MITCHELL

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **KILKELLY** of Lincoln to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-600)**, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-600) **READ.**

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (S-600).**

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **PINGREE** of Knox, **RECESSED** until 1:00 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Implement the Recommendations of the Great Pond Task Force"

S.P. 573 L.D. 1730

Tabled - April 1, 1998, by Senator **PINGREE** of Knox.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-600)**

(In Senate April 1, 1998, on motion by Senator **KILKELLY** of Lincoln, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-600) ACCEPTED. READ ONCE.** Committee Amendment "A" (S-600) **READ.**)

On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "B" (S-677) to Committee Amendment "A" (S-600) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President. I am presenting this Amendment at the request of the National Park and two towns on Mt. Desert Island with my full support for it. It addresses one more pond that is not entirely within the boundary of Acadia National Park but does border on that park. The Committee chose to address the ponds entirely within the park and this one did not meet the criteria. However, by way of a survey done on our island, and by way of letters that I have from the towns of Mt. Desert and Southwest Harbor, in which this pond is located, they would like to do a similar ban on operation of Personal Watercraft on Long Pond, and that is what this Amendment would accomplish. I would stress to the Members of the Body that this is the only way that this can be done. The existing law with the parameters in that do not allow for application to make this change. So it is with the advice of some people who helped me look at this, determining that this is the only way we have to address this that I bring this Amendment before you. Long Pond is indeed a long pond and rather narrow. It is the favorite place for people to go and swim across the pond and back which is certainly not a safe use of that pond if there are Personal Watercraft traveling at fairly high rates of speed there. There are some residential camps along the pond. This has been agreed to by both towns in which this pond is located. It is supported by Acadia National Park and I would request your support for this Amendment.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you, Mr. President. I have a question that I would like to direct through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **MITCHELL**: Can you tell if all boats are not going to be allowed on Long Pond, and where the Personal Watercraft are boats, why the language doesn't say all boats to be eliminated from Long Pond? Why the distinction? Why can't we just make it boats?

THE PRESIDENT: The Senator from Penobscot, Senator Mitchell poses a question through the Chair to anyone who be able to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT**: Thank you, Mr. President. In response to the question I would offer two answers. The first is that the Amendment as I presented it is as the towns requested me to present it. I felt that I didn't have the latitude to make that change. And I will repeat the comments that I made earlier when the good Senator from Penobscot, Senator Mitchell was not in the room regarding her earlier testimony on this Bill. It is my feeling that there is good reason to treat these watercraft in a different manner from others because there is one aspect where they are not like other boats and that is that most often their use on a pond precludes other uses. It precludes swimming, bird watching, birds themselves, canoeing and fly fishing. All of these less intense uses of that water body are often discouraged by the presence of Personal Watercraft which are usually moving at high speeds on those. So this is a specific request of those towns. There are boats on that pond for fishing purposes. Those boats are not causing any problem. People are respectful of the other uses. They don't travel at an unreasonable rate of speed, and unfortunately, we have found that Personal Watercraft do. So this is tailored to the specific requests of these two towns, and in my opinion is what local control is about. I have had some different requests from other towns on the island to make various sorts of restrictions. All those requests vary to some degree, but it's my understanding that that's what local control is all about. This is the restriction that these two towns of jurisdiction and Acadia National Park prefer to have.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL**: Thank you, Mr. President. Ladies and gentlemen. A couple of hours ago I made the statement that you would have a hundred of these next year and I really didn't think you would start off by having the first one today. But, here's your first one! Prepare for the next hundred. Thank you.

At the request of Senator **KIEFFER** of Aroostook a Division was had. 23 Senators having voted in the affirmative and 3 Senators having voted in the negative, the motion by Senator **GOLDTHWAIT** of Hancock to **ADOPT** Senate Amendment "B" (S-677) to Committee Amendment "A" (S-600), **PREVAILED**.

On motion by Senator **KILKELLY** of Lincoln, Senate Amendment "C" (S-686) to Committee Amendment "A" (S-600) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY**: Thank you, Mr. President and Members of the Senate. This Amendment is obviously an effort to reach a compromise that removes a fiscal note from this particular Legislation. There are a couple of things that the people working on the Bill were very concerned about. One, as I mentioned earlier this morning when we first started talking about this, is the unique aspect of each of the more than 5,000 lakes and ponds in this State and that some of them may, in fact, be quite appropriate and the people who live around them may be quite happy to have any number of watercraft on them and others where people are not so happy to have any types of watercraft on them. And so we decided that we wanted to find some way to be a bottom up process. If we were to look just at lakes of 200 acres or less, that would end up including lakes where people were, as I said, very satisfied to have Personal Watercraft, and we felt that was too broad for us to approach. So we tried to look at a number of things and what we ended up with was a process where a report would come from a municipality to the Department. The Department would then review those requests for a use or limitation of type of watercraft on a pond within that jurisdiction, and then the report would come to the Legislature for final action. There's also a provision in here to allow the Commissioner to initiate that process if he were to determine that there was a particular wildlife issue or traditional use issue. I said this morning sporting camp owners were particularly concerned about their economic viability in light of concerns that they have about some of the uses of the ponds where their camps are. Two reports would come back to the Legislature. One would be a report that listed all of the requests. The second would be Legislation that listed those that in fact had met the criteria established in law and approval of the Department. I circulated a memo to you from the Department of Inland Fisheries & Wildlife saying that they were comfortable with this Amendment. They were certainly a party to helping to work it out as well as a number of other people. There is a concern that we are going to see a lot of these requests. We may or may not. It's important that we put some process in place. The Bill that we have passed at this point does not, in fact, deal with the organized territory. A number of people were concerned that we have some way to address the issues that people have raised in that area. So this is a carefully thought out compromise that, in fact, does not put an unfair burden on the Department but does, in fact, provide for local control, local support and I think that the Amendment that you just adopted previous to this is a perfect example of how this can work where the municipalities in this case heard from their people, held Public Hearings and made a decision that is best for their local area. I know that I served as a Selectman for four years, and for any of those of you who have served in local government, you know that particularly on that level you are very responsive and very much listen to the concerns of the people within your municipality or within your area. And so we felt that this was a good way to move forward on this issue and as I said the previous Amendment really followed that process and I think that it has worked out very well. So I would urge you to allow us to adopt this Amendment. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL**: Thank you, Mr. President. I'm going to ask the Body to oppose this Amendment for a couple of reasons. Number one, before lunch, truly more than a majority felt that this

Bill was an excellent Bill and, whoops the people on the Majority Report now are telling you that it wasn't quite what we said it was. We want you to change it. But in changing it, we want you to pass the buck. Pass the buck back to the municipalities. Let's let them fight. Let's let the people fight amongst themselves first. And then, oh by the way, we don't want to enforce this either. We want the towns to enforce it now because it's so unpopular and if they are going to have anything to do with passing something unpopular, we don't want to do it. We don't want to spend our money enforcing these regulations. Well, they have done that in hopes of two reasons. Number one to get the Bill passed because they thought it was sure death with a quarter of a million dollar fiscal note on it. But secondly, it's unpopular. We don't want to deal with the people on this issue so we are going to throw it right back in their lap. But we will take a little responsibility once a town goes to the expense of having a Public Hearing and tells us how they are going to pay to enforce it. Then we will look at it. Then we will allow that to come before you people next time and decide whether you want to pass restrictions or not. But you have already proven that you do want that. You will do that. So that's fine but why pass the buck? Let's be men and women enough to stand up to the plate and if we are going to pass something, let's fund it. Let's enforce it. I think this is very irresponsible because you don't want to deal with it. Let the towns deal with it. Let the "donnybrooks" happen in the Town Hall and you will pit neighbor against neighbor. And they will do that, and it will hit the press a few times and the other communities will probably bow out and say the heck with it, we don't want this. You really need to read this before you vote on it to see if this is really what you want to do because you are not living up to your oath to do the people's business. You are going to let them have it back in their own lap. I don't think they are going to like it. I hope you will oppose this Amendment.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you, Mr. President and men and women of the Senate. I just wanted to give you the additional information. I do support this Amendment and so did the fifteen Members of the Majority Report all support this Amendment which they think is an improvement. We didn't all prefer this approach but we are comfortable with it and compromise is sometimes the name of the game and this is a good step forward. I hope that you will support the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. Men and women of the Senate. I just want to address the issue of enforcement which I'm sure can be of concern for some. One of the things that is required in this process that comes to the Commissioner is for the community to address how they would assist in enforcement. We know that there are some towns, for example, that have Harbormasters. There are some towns that have seasonal people that assist in boating enforcement because boating is an important part of the economic engine that drives this particular community. What's really important in terms of abrogating responsibility is that can go in both directions. It can go up and it can go down. And our concern that it is very easy for municipalities to say, well go ahead and just do it, and,

in fact, there aren't the resources to do it. There aren't the resources to do it because the Department of Inland Fisheries and Wildlife is, in fact, supported by hunting and fishing license fees and very few other fees. Our concern from the Department's perspective is that we not burden folks who buy hunting and fishing licenses with lots of additional regulation in terms of boating. It needs to be a partnership, and that partnership is developed by assisting local communities in enforcement and by also asking them to assist us as well. And I think it has also developed when, in fact, communities have the ability to look at their own circumstances, their own lake or pond, their own situation, and determine what is best for them. We hear often in this Body that the Legislature tends to think that it has all the answers. That the Legislature can say this is what needs to be in all cases. We worked very hard not to take that patriarchal attitude and say, we've got the answer for you. We want communities to work with the Department and with the Legislature to determine what's best for them and I think in the long run that really makes a lot of sense. I would urge you to support this Amendment. Thank you.

On motion by Senator **HALL** of Piscataquis, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: **BENOIT, CAREY, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HARRIMAN, JENKINS, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE**

NAYS: Senators: **ABROMSON, AMERO, BENNETT, BUTLAND, CASSIDY, HALL, KIEFFER, MICHAUD, MITCHELL**

ABSENT: Senator: **RUHLIN**

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **KILKELLY** of Lincoln to **ADOPT** Senate Amendment "C" (S-686) to Committee Amendment "A" (S-600), **PREVAILED.**

Senate at Ease

Senate called to order by the President.

Senator **PINGREE** of Knox moved to **TABLE** until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (S-600) AS AMENDED BY SENATE AMENDMENTS "B" (S-677) AND "C" (S-686)** thereto.

At the request of Senator **HALL** of Piscataquis a Division was had. 16 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **TABLE** until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (S-600) AS AMENDED BY SENATE AMENDMENTS "B" (S-677) AND "C" (S-686)** thereto, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (3/25/98) Assigned matter:

Bill "An Act to Implement Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Review of the Department of Agriculture, Food and Rural Resources under the State Government Evaluation Act"

H.P. 1654 L.D. 2284

Tabled - March 25, 1998, by Senator **KILKELLY** of Lincoln.

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In House, March 24, 1998, **PASSED TO BE ENGROSSED**.)

(In Senate, March 25, 1998, **READ A SECOND TIME**.)

On motion by Senator **KILKELLY** of Lincoln, the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/30/98) Assigned matter:

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Require All Regulated Public Utilities to Report to the Public Utilities Commission the Sale, Lease or Other Transfer of Assets Paid for by Ratepayers"

H.P. 1477 L.D. 2076

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-906)** (7 Members)

Minority - **Ought Not to Pass** (6 Members)

Tabled - March 30, 1998 by Senator **PINGREE** of Knox.

Pending - **FURTHER CONSIDERATION**

(In House, March 23, 1998, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **accepted** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906)**.)

(In Senate, March 24, 1998, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.)

(In House, March 27, 1998, that Body **INSISTED**.)

Senator **CLEVELAND** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Harriman.

Senator **HARRIMAN:** Thank you, Mr. President. Good afternoon ladies and gentlemen of the Senate. I hope that you will join me this morning in opposing the pending motion. As we discussed on the first time that this Bill was before us that this Legislation, if passed, would require the utilities to go back retroactively and report to the Public Utilities Commission on the sale, lease or transfer of assets. And I just want to remind you that our utilities in Maine already report and must receive written Public Utilities Commission approval for all asset transfers to affiliates and subsidiaries. Our utilities must already report and must receive approval whenever they transfer assets that materially affect the operation of the company. They already report gains and losses on property sales each year. The Maine Public Utilities Commission already can inspect the books of utilities and their subsidiaries and affiliates at anytime they wish. In fact the Public Utilities spokesperson in our Committee, Mr. Gill Brewer, repeatedly said to the Committee that we do not need this Legislation. It is unnecessary. The PUC has the power to ask for any information it wished at anytime for any reason. And to go back as far as the company's inception, almost 100 years ago in the case of one utility, if it so chooses. For me, Mr. President, this is clearly an ongoing, unnecessary reporting requirement on utilities supposedly in the new world of deregulation. I don't understand how that meshes. We are telling utilities that it's time to deregulate and we are piling on the regulations. In my view this is not the time to add even more regulatory burdens on the PUC which is, maybe aware through Legislation this Session, picking up another \$1.2 million in taxes from ratepayers to undergo thirty-four or thirty-five separate PUC proceedings to get ready to deregulate. And what this Legislation says is that we want you to do even more reporting of information that they can already ask for which is unnecessary. I do hope that you will join me in opposing the motion to Recede and Concur. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you, Mr. President. Men and women of the Senate. This Bill as stated simply asks that a report information currently available to the utilities, no new information, need be prepared, developed or compiled. It's information that they currently have available to them at the utilities. But it requires that the report be filed here in Maine at the Public Utilities Commission not at the Federal Regulatory Commission in Washington, D.C. Some place that's available to people in Maine to be able to look and inspect the files if they wish for any particular purpose and make it more readily available as well to Members of the Public Utilities Commission. And it goes back to 1992, which is approximately the time when