

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume III

Second Regular Session

March 19, 1998 - March 31, 1998

Second Special Session

April 1, 1998 - April 8, 1998

Appendix
House Legislative Sentiments
Index

Yes, 89; No, 54; Absent, 8; Excused, 0.

89 having voted in the affirmative and 54 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

(S.P. 573) (L.D. 1730)

(S. "C" S-686 and S. "F" S-691 to C. "A" S-600)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative CLARK of Millinocket, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Madam Speaker, Men and Women of the House. It is not fair to change the rules in the middle of the game and that is what apparently happened to residents in Donelle Pond and Tunk Lake. They experienced that famous law of intended consequences. They played by the rules. They operate their personal water craft within the law. They don't make noise and they don't do doughnuts, but they did buy those PWCs and spent quite a bit of money for them and now they find that the passage of LD 1730 as amended that that investment can't be used on their pond. Of course they have assured me that they are going to move over the Georges Pond where I have a camp and do doughnuts around my wharf. I laughed and I said I was sorry, I tried and I did not succeed. The law of unintended consequences was that somebody, an activist on Mooselookmeguntic loathed this, they are known as, lake lice and hired an expensive lawyer and that lawyer did a heck of a job and pretty much caused this to come through and that process scooped up Tunk Lake and Donnell Pond. The rest of the bill is super. It does the job. We went too far and that is not fair. In the mind of many of my friends on Donnell Pond and Tunk Lake, they said it doesn't speak for the way we do business here. They said, shame on us. I think we didn't serve these folks real well. I don't think we are going to send this bill back and do it right, but I had to go on record and support all folks who use our lakes, streams and ponds. I feel that we took a bit of their rights away today. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Madam Speaker, Men and Women of the House. Just a couple of comments. I don't think we should have done what we did last evening. Just because a couple of people were reckless in PWCs, we don't have to outlaw certain great ponds and lakes because of their attitudes. I hope that you guys will join me in not enacting LD 1730. It just goes way too much, way to soon. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative **LAYTON**: Madam Speaker, Men and Women of the House. I would just like to remind you that both Tunk Lake and Donnell Pond both are in my district. I would like to remind you that when this was put on as a floor amendment that there was no public hearing process for these people to come up and defend their rights. I want to say today that I really take issue with the good Representative from Rockland's comments yesterday about how he went to Tunk Lake, I believe

for one day for enjoyment out on the lake and to behold some locals came in with their water craft and kind of upset his day. It is this kind of attitude that exacerbates the problem between the two Maines concept. People from away can come up to a remote area, like Tunk Lake, and be offended that people who live on that lake year round are out there driving around on their water craft. I feel that this is not good. Again, this just exacerbates that problem. I guess the fact that the good people from Sullivan and the good people from Franklin had no opportunity to come in here and fight for their cause on this issue during any committee hearings or work session or what have you. I hate to use the term "fair," but it is just not right. It is not the way the system is supposed to be handled and I ask that you defeat the pending motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Mechanic Falls, Representative Underwood.

Representative **UNDERWOOD**: Madam Speaker, Men and Women of the House. I hope that you will join with me and vote against the pending motion. I am not going to talk long. I talked long enough yesterday, I think, on my objections to this bill. There is a couple of pieces of information I would like to give you though. I got a phone call last night from a dealer that sells personal water craft in my district. This dealer called me to tell me to tell me how upset he was about the way this bill had gone and also to tell me that he had two machines that he had deposits on. This is in southern Maine where there are no bans going on. There were two machines that people had put deposits on that were going to purchase these machines that have backed out because of what we did here last night. The word I got from him is that he will not be selling personal water craft any longer because the way that this law is written, he doesn't know whether or not anywhere in Oxford County you are going to be able to have a personal water craft in the next two or three years or whatever. Once this petition process begins every rich lake owner on every pond in this State of Maine is going to be working towards eliminating these machines. In doing so, we are going to be eliminating the small business in the state. This is the wrong thing to do and the wrong time to do it.

The other thing I wanted to bring up to you is there are several lawsuits going on across this country on similar bans to this. I do not believe that it is legal to single out a certain type of water craft as we are doing here. We are saying that a personal water craft, which is 40 to 80 to 120 horsepower cannot be on these lakes, but we can have a ski boat with the same horsepower on these lakes or a bass boat or any other type of boat with the same horsepower can go on these lakes. We are going to single out these little gnats, as they are called at times. We are going to single out these little nuisances that middle class people can afford to buy and be able to enjoy our lakes. These rich landowners are going to single these people out and try to eliminate them from their lakes. These lakes are for all of us, not just for the wealthy few. I ask you to oppose Enactment of this bill. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative **BARTH**: Madam Speaker, Ladies and Gentlemen of the House. When will the class action suit be filed under the Americans for Disabilities Act? Our state parks, Baxter State Park, the remote ponds that we are talking about, the great ponds, are for all of the people of Maine. When is that suit going to be filed to make these remote camping areas wheelchair accessible? That is where we are headed. I hate to see that day, but that day is coming. Our lakes, our great ponds, are for everybody. Let's get to the real problem that started all of this. The few irresponsible personal water craft operators. Just like the drunken snowmobilers, there are not many of them, but there

are a few and it seems like everything we do here in Augusta is aimed at pretty much a minority. A minority of irresponsible people so we end up enacting laws that affect everybody. Think very long and hard about this. I would ask you to defeat this bill.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Colleagues of the House. This bill isn't perfect. We talked about it yesterday or last night. It has some flaws. One of them is that we included Donnell Pond and Tunk Lake. Definitely those two should not have been in there. We tried to get those out last night. It was a pretty close vote. I kind of hoped somebody else would amend it today to try again, but we didn't. My hope is if we enact this, that maybe another time down the road or next year those people that live down there can make an appeal somehow and take it off.

Basically, it is a good bill. We heard previous speakers say that a couple of people canceled their purchase order for these machines based on the fact that we banned them from 240 remote lakes in Maine. There are still something like 5,000 that remain. What is going to become of the surface use on those will be determined by the people who live in the area. I think that is the only way to go. It is common property, but it is still a democracy here were the majority rules. I don't know who else is better able to make those decisions than the local people. They can't make the decision to ban them. They have to all agree and then they petition the Commissioner of Fish and Wildlife. I would like to remind people on the bigger lakes that have three or four towns around them, we heard that there are going to be floods of petitions. Can you imagine big lakes with three or four towns that have to come to an agreement on these recommended restrictions and how difficult it is going to be? It should be difficult. It still should be possible. I hope you vote for Enactment.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Madam Speaker, Men and Women of the House. I have heard a couple of comments about three of the great ponds that were going to be included in this. I happen to live near the third one. What I find interesting about this is that because this particular lake has some public access land around it, that we shouldn't have personal water craft. There are two more lakes adjacent to it that are equally as big, equally as remote and equally as inaccessible. As a matter of fact, you can see from one to the other. It escapes me how it makes any sense to ban personal water craft in Mooselook when there are two other lakes that are just as close that it is okay to use them on. The bill doesn't make sense ladies and gentlemen. The one person who has continuously called me about personal water craft lives on a pond that won't be covered by this. So, based on my experience, if you think you are going to go home and you are not going to hear from your constituents this summer about jet skis, I hate to be the one to give you the bad news, but you are still going to hear about jet skis because the problem with jet skis is noise and stupid drivers. We cannot legislate brains, unfortunately. This analogous to a unsafe 18 wheeler driver doing something on Route 2 and banning them on Route 95. Because they do something stupid on one pond, we are now going to ban them on 250 others and we have got 4,500 that they are still going to be able to do it on. We are not enforcing the laws we have now. The issue is driving recklessly and the issue is too much noise. The manufacturers are working on the noise. We need more Game Wardens, we don't need more laws. This law will not solve the problem.

I say again as I said to yesterday and you have heard a bit of it here today, most of us will never be able to own shorefront

property. Most of the shorefront property is going to people who don't live in Maine. It is certainly not going to the lower income people in the State of Maine who we say we are so concerned about. Many of these people, this is the only way they are ever even going to see the water and be able to enjoy it. This is the wrong way to go. It is CarTest all over again. If we are going to have every town to be able to petition for us to do something, I would submit to you that next December instead of having 2,000 bills before us, then we are going to have 3,000 bills before us because it only takes one person on that pond to start a petition and people will sign almost anything if you just leave them alone. They can get signatures enough to get it to us and then we are going to have to deal with the real problem, which is noise, unsafe driving, people driving under the influence and the real route of the problem is not enough Game Wardens to enforce the laws that presently have. If you enforce the laws we presently have, for example, they couldn't run on almost any river in Maine. If you enforce the 250 foot limit of headway speed along the shore, that takes out most of the rivers in Maine. We don't have enough people to enforce the law now. Please, please don't let this law go into affect. It will be CarTest all over again. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, Men and Women of the House. I don't want to prolong this debate. It is quite obvious from the vote from yesterday that most of you do support the Great Pond Task Force Bill. I am very happy about that. Just to respond to my good colleague, Representative Povich, who made reference to the expensive lawyer who came and lobbied for this bill. Let me just remind you that that person, as I believe, did run for the US Senate and is a very honorable person. In fact, for the past two decades, as I understand, has worked to help the benefactor who gave more than 20 miles of shoreland on Mooselookmeguntic to the people of the State of Maine. I am not rich. I don't even live on a lake. I don't want to, but I am proud that some rich people do give their money away to those of us who can't own property on a lake. Mrs. Phillips did do that and it will provide you and I with a campsite, access to the water and perpetuity. Second, I would remind you that 300,000 people live on those shorefronts. Four hundred thousand people in the State of Maine depend of those lakes for drinking water and 150,000 youngsters every year camp on those shores. All of these people bring in huge amounts of money to us and I won't go into that because we already did that before. Please join me in supporting the Enactment of this very important bill for the lakes of the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. Recently we have just passed a new law dealing with franchises for snowmobiles and these vehicles. We did it to improve the lot of our dealers, your dealers, my dealers that sell these vehicles. It was done because of abuse by manufacturers. It was done to help these people conduct business in the State of Maine. On the one hand we provide for improving conditions for conducting business in the State of Maine, then on the other hand we do this where we are going to have an adverse effect on every one of our small businesses that sell these vehicles in the State of Maine. Last year, we sold, in the State of Maine, 75,000 of these vehicles. We were fourth in the country in terms of total number of sales. This is tremendous. This is a big business. If we go along with this, you are going to be harming your businesses. You are going to have to go back and face it. You are going to be harming your businesses.

This morning in the paper there was a Snow and Neily Company out of Hampden, Maine. They have been in this state for 100 years and presently they are looking at New Hampshire because they are being wined and dined about going into New Hampshire and they have a tremendous amount of goodies they are going to give them by bringing them down there. This is a company that makes items that we pride in being part of the State of Maine, axes, shovels, items that are used for farming. Now they are going to leave after 100 years because of conditions in the state. Ladies and gentlemen, this is not going to help our businesses. I would ask you to oppose the pending motion and go on defeat it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. No, I am not quite as disgusted as I was yesterday, but I am still a little upset. Here we are on the verge of Enactment. LD 1730 has been thoroughly debated amongst 186 legislators. I still feel we are on the wrong path and we should still put the breaks on this and bring it up in January and do it right. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Madam Speaker, Men and Women of the House. We talk about this bill and how it started out and what it has become. To a lot of people as I look down through my phone calls, all two of them, it has become the jet ski bill, the personal water craft bill. We talk about how disruptive it is to the serenity of our ponds and even our rivers. I remember in 1981 when I built my house, I built my house on a snowmobile trail. For the first three winters before I built my garage, those snowmobiles would come up my driveway and out through the woods just like they always had. Since then, the organizations and snowmobile clubs have become much more respectful of people's rights, property and the ownership of the forests. They have essentially self-enforced themselves. They became more organized. They have gotten more respectful. One of the two callers is a snowmobile enthusiast, a motorcycle enthusiast and a personal water craft enthusiast. He said, just enforce the laws you have. Give us time. Let us do the same thing we did with snowmobiles. We have heard that the manufacturers are trying to work on the noise. We know that the participants who are abiding by the laws are trying to encourage others to do the same thing. The manufacturers are trying to encourage those who purchase to treat people and their property with respect.

We talk about noise pollution. Soon after I had built my house, the winters got more quiet. The snowmobiles went to a power line 1,500 feet down the road and then a subdivision began its construction. Just about the time I could open my windows in the spring I heard the trucks starting in and the noise from the clanging of the bell as they backed up at 6:30 in the morning. That took one summer and then the subdivision had 40 lots. As the houses started being built, I heard the chain saws. Then I heard the hammers and the building and that went on until the subdivision was built out. We talk about noise pollution. We have it all around us. Is this the first step? Is the chain saw next? Is it the lawnmower? Are we going to regulate ourselves right out of existence? I think it is time that the industry, the owners and the citizens of Maine worked together to self-police and not regulate the whole state on what one thinks one can do and what one thinks one shouldn't do. I hope you would join me in opposing this bill. I thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BARTH: Thank you Madam Speaker. I noticed in Committee Amendment "A" that the amendment also prohibits motorboats with internal combustion motors on five ponds on Mt. Desert Island that are entirely within Arcadia National Park. I am just curious. I can't imagine the federal government leaving it up to the states to regulate a National Park, but perhaps I am wrong. If someone can enlighten me as to why that is in there, I would appreciate it.

The SPEAKER: The Representative from Bethel, Representative Barth has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Madam Speaker, Men and Women of the House. Under statutes that go back before the Constitution of this state, all great ponds are the jurisdiction of the State of Maine and the property of the people.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 610

YEA - Bagley, Baker, Berry DP, Berry RL, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Carleton, Chartrand, Chizmar, Colwell, Cowger, Davidson, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagnon, Gamache, Gieringer, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Lindahl, Mailhot, Marvin, Mayo, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Brien, O'Neil, Ott, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Spear, Stevens, Tessier, Thompson, Townsend, Tripp, True, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Ahearn, Barth, Belanger DJ, Belanger IG, Bigl, Bragdon, Bunker, Cameron, Campbell, Chick, Cianchette, Clark, Cross, Desmond, Dexter, Donnelly, Driscoll, Foster, Gagne, Gerry, Goodwin, Gooley, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Layton, Lemke, MacDougall, Mack, Madore, McAlevey, Nickerson, O'Neal, Paul, Perry, Pinkham WD, Plowman, Poulin, Sirois, Snowe-Mello, Stanley, Stedman, Taylor, Tobin, Treadwell, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Winsor.

ABSENT - Clukey, Dutremble, Fisk, Joyner, Lane, Lovett, McElroy, Sanborn.

Yes, 87; No, 56; Absent, 8; Excused, 0.

87 having voted in the affirmative and 56 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Have a Referendum on Whether or Not an Independent Public Commission Should be Established to Set Legislative Pay"

(S.P. 781) (L.D. 2108)

Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on April 3, 1998.

Came from the Senate with that Body having **INSISTED** on its former action whereby Report "A" (6) **OUGHT TO PASS AS**