

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth  
Legislature*

OF THE

STATE OF MAINE

**Volume III**

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Index

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Index

KENNEBEC JOURNAL  
AUGUSTA, MAINE

The SPEAKER: You want to withdraw House Amendment "A"?

Mr. JALBERT: I would withdraw it so I can make a motion to —

The SPEAKER: The gentleman withdraws House Amendment "A".

Mr. JALBERT: Could I now make a motion to reconsider our action whereby we adopted Committee Amendment "A"?

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, moves that the House recede from the adoption of Committee Amendment "A". Is this the pleasure of the House?

Whereupon, Mr. Bragdon of Perham moved that the matter be tabled pending the motion of Mr. Jalbert of Lewiston to recede from adoption of Committee Amendment "A" and later today assigned.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, could I ask for a one minute recess?

The SPEAKER: The Chair would advise the gentleman that there is a motion on the floor to table.

Whereupon, the same gentleman requested a vote on the tabling motion.

The SPEAKER: A vote has been requested on the tabling motion. All those in favor of this matter being tabled until later in today's session will vote yes; those opposed will vote no.

A vote of the House was taken. 76 having voted in the affirmative and 41 having voted in the negative, the motion to table did prevail.

The Chair laid before the House the following matter:

Bill "An Act to Correct Errors and Inconsistencies in the Public Laws" (H. P. 1412) (L. D. 1779) which was tabled earlier in the day and later today assigned, pending passage to be engrossed.

Mr. Dam of Skowhegan offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-711) was read by the Clerk and adopted.

On motion of Mr. Kelley of Southport, the House reconsidered its action whereby the House adopted Committee Amendment "A".

The same gentleman offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-709) was read by the Clerk.

The SPEAKER: The pending question is the adoption of House Amendment "B" to Committee Amendment "A". The gentleman may proceed.

Mr. KELLEY: Mr. Speaker and Members of the House: The Legislature passed on January 29, 1970, and the Governor signed L. D. 1781 dealing with the dredging on state lands in any stream flowing into a great pond or in a great pond. L. D. 1781 says that you cannot dredge, build docks, et cetera on such state lands without a permit from the State Forestry Commissioner — this is sensible. But L. D. 1781 further redefines a great pond to include an artificially created pond over 30 acres. This was all right as long as it was limited to state lands.

Section 11-A of 1846 extends the power of the Forestry Commissioner to all lands, not just state lands. In other words, if a man wants to dredge, fill, build a dock for his canoe on a stream, totally on his own land which at some point flows into a great pond, because of this little amendment he would have to see the Forestry Commissioner.

This bill would also apply to man made ponds over 30 acres in size, or maybe a third of an acre soon the way certain interests want to take over property rights.

I believe that this is too much power to give the Forestry Commissioner. We may not always have as fine a man for Forestry Commissioner, and this would give the office too much power.

The errors and inconsistency bill is no place to have such legislation. It should have been given a decent public hearing, if the sponsors of this change want to let them get it honorably in the next regular session.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker, Members of the House: I arise

this afternoon with some reluctance because it is apparent that the so-called omnibus bill is being opened up. Some days ago on this particular point I sought the advice of the State's Attorneys office, and one of the very estimable gentlemen down there wrote me somewhat to this effect. "You have asked for some legal authorities in support of the extension of the Forest Commissioner's authority over the great ponds to the tributary rivers or streams. And on the definition of great ponds to include ponds artificially formed or increased from natural size which have a surface area in excess of 30 acres which, of course, are all in private ownership.

It seems apparent that this legislation does not attempt to convert private lands to state ownership. To do so would require the process of eminent domain in the payment of compensation to the private owners of such land. Rather, it is the imposition of certain controls over private property in the nature of zoning; for example, the coastal wetlands act. Cases which support the validity of the laws include the following: York Harbor Village Corporation vs. Libby, 126 Me. 537."

I bring this to the attention of the House this afternoon. There may be other people who are more knowledgeable in the field of coastal wetlands than I am who may speak to you on the problem, and I do hope that you won't go along and adopt the proposed amendment by the estimable gentleman from Southport, Mr. Kelley.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker and Members of the House: I move the indefinite postponement of the pending amendment and would speak to my motion.

The SPEAKER: The gentleman from Augusta, Mr. Lund, moves the indefinite postponement of House Amendment "B" to Committee Amendment "A" and the gentleman may proceed.

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I make this motion reluctantly knowing of the great interest of

the gentleman from Southport, Mr. Kelley, in the problems of conservation this state is facing. If you will look at your copy of Legislative Document 1781, and look on page 2 of that document, you will see that the Natural Resources Committee had before it a bill which they thought regulated not only certain activities on great ponds but also on any such body of water artificially formed or increased from natural size. So all that the Errors and Inconsistencies Bill does, it seeks to carry out what the Natural Resources Committee thought they were carrying out and we thought we were carrying out in enacting 1781. Therefore, this is a proper correction of an error which apparently occurred in the drafting of L. D. 1781.

I would like to just comment very briefly on the reason that it is important for us to be able to control certain activities on these flow ponds as well as the described activities on what we normally consider a great pond. We have a sudden interest in Maine in all kinds of land development, as you well know. We have interest in land development of the type which is described as the pink panther development on Ossipee flowage where a developer has acquired a substantial amount of land and seeks to lay out some 1,500 house lots on a portion of this land. Unless the Errors and Inconsistencies Bill is allowed to remain to stand, other property owners on such a flowed pond will be unable to have any way of preventing developments that could be extremely harmful to their ownership interest as well as the interest of down stream shoreland owners.

And you will note that in its present form in the Errors and Inconsistencies Bill, this regulation is only applied to those flowed ponds which are in multiple ownership. In other words, this doesn't pose a problem in the case of a flowed pond with only one owner. I therefore feel that if we are to be consistent with what we thought we were doing in L. D. 1781, we should vote for the indefinite postponement of the pending amendment.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Mr. Speaker and Members of the House: I being a member of the Natural Resources Committee knew full well what I was doing when I signed that particular bill out "ought to pass." If you remember, last winter we had our inland wetlands control bill, and some of you may remember that I opposed this very vigorously. This bill which was practically the same thing, but only applied to state-owned lands, I had no objection to. But to bring something like this back into the Errors and Inconsistencies Bill when it is somewhat more than an error, now it is legislation by injection in the Omnibus Bill. I just don't believe it should happen this way.

The SPEAKER: The Chair recognizes the gentleman from Freedom, Mr. Evans.

Mr. EVANS: Mr. Speaker, Ladies and Gentlemen of the House: I doubt very much if this intent was supposed to be in the bill when we enacted it before. And this looks like a case of trying to expand with this law without proper hearing, proper consideration and the chance to vote on it. And I hope you vote against the motion of the gentleman from Augusta, Mr. Lund.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen of the House: I interpreted the remarks of the gentleman from Augusta that this was a special interest bill relative to Representative Kelley. I propose that this is not only of interest to Representative Kelley, it is something that we all should consider if we ever have, or hope to have a cottage where we might have a driveway that we might want to build without consulting the Forest Commissioner, or if we want to drain a driveway, or if we want to build a dock in front of our cottage. This goes far too far without proper hearing and consideration. I move that we go along with Representative Kelley.

The SPEAKER: The Chair will order a vote. All in favor of the

motion to indefinitely postpone House Amendment "B" to Committee Amendment "A" will vote yes; those opposed will vote no.

A vote of the House was taken. 34 having voted in the affirmative and 82 having voted in the negative, the motion did not prevail.

Thereupon, House Amendment "B" to Committee Amendment "A" was adopted.

The SPEAKER: The pending question is the adoption of Committee Amendment "A" as amended.

The Chair recognizes the gentleman from Manchester, Mr. Rideout.

Mr. RIDEOUT: Mr. Speaker, is this bill debatable at this point? Is the amendment debatable?

The SPEAKER: Does the gentleman offer House Amendment "A" to Committee Amendment "A"?

Mr. RIDEOUT: No.

The SPEAKER: The gentleman may proceed.

Mr. RIDEOUT: Mr. Speaker, Ladies and Gentlemen of the House: Last night over in the unmentionable body they adhered to their position on the school subsidy bill. This morning I thought I was quite smart and found in the initial legislative document that this amendment refers to a section that said "notwithstanding any other provision of this title, the apportionment of the state aid, the school subsidy for this period beginning January 1, 1970, ending June 30, 1970, shall be half the apportionment computed for the first year of the biennium." Now this would put it back into Column 1. That was amended out in the amendment L. D. 1846. So I thought I was going to be clever and try to amend it back in.

If we had plenty of time, I would offer this amendment. And to those in this House that I have talked to that were going to support me on this, I ask your forgiveness. I am not turning chicken. If we had plenty of time I would love to do battle with those fellows down the hall, but I have been assured that it would be wasting time and I know that we all want to get out of here. I don't like to go down in defeat without flying some flag, so I just wanted to offer this explanation.

Mr. Richardson of Cumberland then offered House Amendment "C" to Committee Amendment "A" and moved its adoption.

House Amendment "C" (H-714) was read by the Clerk.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. RICHARDSON: Mr. Speaker and Members of the House: In the process of printing the committee amendment, they committed a typographical goof, and this is simply to straighten it out so that the thing reads properly. It does not affect the substantive change in the law.

Thereupon, House Amendment "C" to Committee Amendment "A" was adopted. Committee Amendment "A" as amended by House Amendments "B" and "C" thereto was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendments "B" and "C" thereto and House Amendment "B" and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act Providing for Moratorium on Construction of Certain Industries" (S. P. 661) (L. D. 1843) which was tabled earlier in the day and later today assigned, pending further consideration.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Snow.

Mr. SNOW: Mr. Speaker, I move that we adhere to our former action.

The SPEAKER: The gentleman from Caribou, Mr. Snow, moves that the House adhere to its former action.

The Chair recognizes the gentleman from Southwest Harbor, Mr. Benson.

Mr. BENSON: Mr. Speaker, I have an amendment to offer.

The SPEAKER: The Chair understands that the gentleman from Southwest Harbor, Mr. Benson, moves that the House recede. Is this the pleasure of the House?

(Cries of "Yes" and "No").

The SPEAKER: The Chair will order a vote. All in favor of re-

ceding will vote yes; those opposed will vote no.

A vote of the House was taken.

43 having voted in the affirmative and 82 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Southwest Harbor, Mr. Benson.

Mr. BENSON: Mr. Speaker and Members of the House: I haven't had an opportunity in the last few minutes to talk with the gentleman from Caribou, Mr. Snow, but I think his motion would kill the bill. As I said yesterday, I think that the Moratorium Bill is an important measure, I think it gives us pause to collect our thoughts to take the several actions that are necessary to straighten out the problem which is a very serious problem facing the coastal area of the State of Maine. I hope that you do not move at this time to adhere. I would like to see the Moratorium Bill enacted.

I had hoped to get an amendment on the bill which would have stipulated the period of moratorium to end March 31st. If that is not your wish, I ask you to go along with the bill in its present form, defeat the motion to adhere, and we will pass this piece of legislation on to glory along with the other conservation measures that have already been enacted and signed by the Governor. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: I would heartily concur with our eminent assistant floor-leader. I would like to make this very brief, we have debated this to quite some extent, and read to you a portion of an article which appeared in today's Portland Press Herald on page 16, which will give you an idea just how far the oil industry will go unless we step in and complete our regulatory practices.

"Mr. McNamara is connected with the King syndicates, as you know, in an executive position, and stated before the Associated Fishing Industry last night in his