

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1796

S. P. 714

In Senate, January 25, 1966

Reported by Majority from the Committee on Natural Resources and ordered printed under Joint Rules No. 10.

EDWIN H. PERT, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SIX

AN ACT Creating the Allagash Wilderness Waterway.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 12, c. 206, additional. Title 12 of the Revised Statutes is amended by adding a new chapter 206 to read as follows:

‘CHAPTER 206

ALLAGASH WILDERNESS WATERWAY

§ 661. Declaration of policy

Whereas the preservation, protection and development of the natural scenic beauty and the unique character of our waterways, wildlife habitats and wilderness recreational resources for this generation and all succeeding generations; the prevention of erosion, droughts, freshets and the filling up of waters; and the promotion of peace, health, morals and general welfare of the public is the concern of the people of this State, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State to establish an area known as the Allagash Wilderness Waterway.

§ 662. Definitions

The following terms as used in this chapter are defined as follows:

1. **Canoe.** “Canoe” means a form of small watercraft, long and narrow, sharp on both ends, or sharp on one end and blunt on the other end, usually propelled by paddles or small motors and having no rudders or sails.
2. **Commission.** “Commission” means the Maine State Park and Recreation Commission.

3. Control station. "Control station" means a regular stopping place maintained by the commission where users of the waterway may be registered.

4. Emergency use. "Emergency use" means a use resulting from an unforeseen combination of circumstances calling for immediate action to protect persons or property.

5. Lock Dam Lot. "Lock Dam Lot" means a certain lot or parcel of land described as follows:

Beginning at a point on the East town line of Township 7, Range 13 on the south bank of the thoroughfare between Chamberlain and Eagle Lakes, said point beginning 4 + 26.25 chains northerly of the southeast corner of the town;

Thence in a generally southwesterly direction a distance of 30 chains, more or less, to a point on the easterly shore of Chamberlain Lake, south of Lock Dam, so-called;

Thence northwesterly by and along the easterly shore of Chamberlain Lake about 13 chains, more or less to a point;

Thence northeasterly a distance of 40 chains, more or less, to a point on the east line of said township;

Thence southerly along said east line of the township to the point of beginning, containing 40 acres, more or less;

The aforesaid parcel of land containing 40 acres is that on which the said Lock Dam and improvements are presently located.

6. Management plan. "Management plan" means a plan of timber harvesting operations for areas within the Allagash Wilderness Waterway.

7. Restricted zone. "Restricted zone" means a land area of from 400 feet to 800 feet extending in all directions from the bounds of the watercourse, and includes all land areas within the bounds of the watercourse. The restricted zone shall also include all additional areas that may be added by mutual agreement between the commission and a private property owner.

8. Telos Dam Lot. "Telos Dam Lot" means a certain lot or parcel of land situated in Township 6, Range 11, WELS, being known as the Telos Dam lot, being a square lot 20 chains on each side. The aforesaid parcel of land, containing 40 acres, more or less, is that on which the said Telos Dam and improvements are presently located.

9. The bounds of the watercourse. "The bounds of the watercourse" means the high water marks of the shore lines of the lakes and ponds, intervening and connecting waters and the high water marks of either bank of the streams and rivers of the watercourse.

10. Watercourse. "The watercourse" means the bodies of water consisting of lakes, rivers and streams extending from Telos Lake Dam northerly to the confluence of West Twin Brook and Allagash River, a distance of approximately 85 miles, and bodies of water consisting of lakes and streams extending from where Allagash Stream crosses the west boundary of T. 8, R. 14 easterly to the

inlet of Allagash Stream with Chamberlain Lake, a distance of approximately 10 miles. The watercourse includes Telos Lake, Round Pond (T. 6, R. 11), Chamberlain Lake, Eagle Lake, Churchill Lake, the Allagash River, Umsaskis Lake, Long Lake, Harvey Pond, Round Pond (T. 13, R. 12), the Allagash Stream, Allagash Lake and all intervening and connecting bodies of water.

11. Use. "Use" means an activity of any form, kind or description.

12. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft used or capable of being used as a means of transportation on waters, other than a seaplane.

§ 663. Establishment; area

1. Allagash Wilderness Waterway. The Allagash Wilderness Waterway is established covering an area as defined in this section and shall hereinafter be called "the waterway." The area of the waterway means the bodies of water consisting of lakes, rivers and streams extending from Telos Lake Dam northerly to the confluence of West Twin Brook and Allagash River, a distance of approximately 85 miles, and bodies of water consisting of lakes and streams extending from where Allagash Stream crosses the West Boundary of T. 8, R. 14 easterly to the inlet of Allagash Stream with Chamberlain Lake, a distance of approximately 10 miles. The waterway includes Telos Lake, Round Pond (T. 6, R. 11), Chamberlain Lake, Eagle Lake, Churchill Lake, The Allagash River, Umsaskis Lake, Long Lake, Harvey Pond, Round Pond (T. 13, R. 12), the Allagash Stream, Allagash Lake and all intervening and connecting bodies of water. It shall include all land area and all waters within one mile of the high water mark of the shore lines of the aforementioned lakes and ponds, intervening and connecting bodies of water, and the high water marks of either bank of the aforementioned streams and rivers.

2. Watercourse. The watercourse within the waterway is established covering an area as defined in section 662, subsection 10.

3. Restricted zone. A restricted zone within the waterway is established covering an area as defined in section 662, subsection 7. The boundaries of the restricted zone shall be determined by the commission after survey. The restricted zone shall preserve, protect and develop the maximum wilderness character of the watercourse. The commission shall establish a minimum width of 400 feet from the bounds of the watercourse as the width of the restricted zone if in the commission's discretion such 400 foot width can preserve, protect and develop the maximum wilderness character of the watercourse. The commission shall determine a greater width up to 800 feet as the width of the restricted zone if in the commission's discretion the greater width is necessary to preserve, protect and develop the maximum wilderness character of the watercourse.

§ 664. Administration

The State Park and Recreation Commission shall administer the waterway under this chapter, except for the power to control activities previously delegated by law to the Departments of Forestry and Inland Fisheries and Game and to the Water Improvement Commission.

§ 665. Control of water areas; permitted and prohibited uses

1. **Power Watercraft.** The use of power watercraft in the waterway shall be as follows:

A. Watercraft equipped with power propulsion of any kind or any other motorized equipment shall be allowed on Telos Lake, Round Pond (T. 6, R. 11) and Chamberlain Lake as permitted by rule and regulation of the commission.

B. Canoes equipped with one motor not to exceed 10 horsepower shall be allowed in the waterway.

C. Except as permitted by paragraphs A and B of this subsection and subsection 3, no watercraft equipped with power propulsion or any other motorized equipment shall be allowed in the waterway.

2. **Landing of aircraft.** The landing use of aircraft shall be prohibited within the waterway, except for

A. Emergency use;

B. Necessary use by state agencies and departments;

C. Use within such landing areas and for such purposes as may be designated by the commission;

D. The commission may by rule and regulation permit landing of aircraft during such times as the water areas are frozen.

3. **Motor-driven snowsleds.** The use of motor-driven snowsleds shall be prohibited within the waterway except as permitted by rule and regulation of the commission.

§ 666. Control of land areas

1. **Structures.** No new structures or expansion of existing structures shall be permitted within the restricted zone, except those structures essential to state service agencies, those structures determined by the commission to be essential in maintaining water level controls, and such temporary structures as may be determined by the commission to be necessary for watercourse crossing and access. All existing structures are to be removed except those deemed necessary by the commission to carry out the intent of this Act.

2. **New construction.** Any new construction within $\frac{1}{4}$ mile of the restricted zone shall be done only with the prior approval of the commission.

3. **Camps.** Other than structures permitted under subsection 1, camps shall be prohibited within the restricted zone. Existing commercial sporting camps shall be acquired and may be leased back to present owners or others on terms and conditions determined by the commission.

§ 667. Authority to acquire property by eminent domain or otherwise

The commission is empowered to acquire on behalf of the State, land, improvements or any interest therein, water and power rights, within the boundaries of

the waterway or adjacent thereto, by purchase, lease or gift and to enter into agreements concerning the same. Any land adjacent to the waterway so acquired shall become part of the waterway. The commission is authorized to accept and receive gifts and bequests of money or other property, including funds from the Federal Government, for purposes consistent with the intent of the Legislature in establishing the waterway.

Within the restricted zone, the commission is empowered to acquire by eminent domain on behalf of the State, land, improvements or any interest therein, water and power rights; specifically excluding from the power to acquire by eminent domain the Telos Dam Lot and Lock Dam Lot and water and power rights connected therewith, however, the power and authority of the commission as otherwise provided to accomplish the purposes of this chapter shall apply to the Telos Dam Lot and Lock Dam Lot.

§ 668. Manner of acquisition by eminent domain

Any acquisition of property by the commission by eminent domain pursuant to the provisions of section 667 shall be made in the manner provided in Title 35, chapter 263.

§ 669. Initial plan for acquisition

As soon as possible after availability of funds after the effective date of this Act the commission shall proceed to acquire title in fee simple to land within the restricted zone. The commission shall also acquire within the restricted zone such other rights as the commission shall determine necessary or convenient to accomplish the purposes of this chapter; provided, that neither anything in this section contained nor any action under this section shall in any way limit any of the powers or authority of the commission under this chapter or the exercise thereof by the commission.

§ 670. Control of timber-harvesting operations

1. Limitations. No timber-harvesting operation shall be permitted within the restricted zone, except

A. By direction of the commission for the purpose of maintaining healthy forest conditions, or

B. By direction of the commission for the purpose of correcting situations arising from natural disasters.

2. Exceptions. Subject to limitation set forth in subsection 1, timber-harvesting operations shall be permitted within the waterway provided as follows:

A. A management plan shall be submitted to and approved by the commission before cutting. Such plan shall designate:

(1) The amount of timber to be removed, and

(2) The time of cutting and removal;

(3) The location of principal haulroads and crossings of the waterway;

(4) The plan for reforestation.

§ 671. Use of roads

1. New roads. The commission shall have sole control of access to the waterway from any public road.

2. Existing roads. Existing private roads within the waterway shall remain privately owned as existing. The commission may direct the discontinuance and relocation of such portions of said roads as may be within the restricted zone, such relocation to be at the expense of the commission.

§672. Access points and control stations

Access points, control stations and watercourse crossings may be located at such places as may be determined by the commission.

§ 673. Rules and regulations

The commission may from time to time establish such rules and regulations as it deems necessary and desirable for the protection and safety of the public, and for the proper observance of the conditions and restrictions of this chapter. The rules and regulations shall provide for proper observance of rules of human behavior to preserve the natural beauty and wilderness character of the waterway. The rules and regulations may provide for the registration of users of the waterway and the commission may collect fees for the use of the waterway and its services.

Before promulgating rules and regulations, they shall be submitted to the Attorney General, and if he shall certify that in his opinion they are in conformity with the law, they shall thereupon be published once a week for 2 successive weeks in the state newspaper, and posted in at least 4 places within said waterway, whereupon they shall take effect. A certificate of such publication and posting shall be executed by a majority of the members of the commission and filed with the Secretary of State, who shall record the same.

§ 674. Penalties

Whoever violates any provision of this chapter except section 670, or whoever violates any rules and regulations of the commission promulgated in conformity with section 673, other than those properly promulgated rules and regulations pertaining to section 670, shall be punished by a fine of not more than \$50 for each day of such violation or by imprisonment for not more than 30 days, or by both.

Any person, corporation or other legal entity who shall violate any of the provisions of section 670 or any properly promulgated rule and regulation pertaining to section 670 shall be punished by a fine of not less than \$200 nor more than \$1,000 for each day of such violation.

§ 675. Police supervision

The commission shall exercise police supervision over the waterway with the powers and in the manner provided in Title 12, section 602, subsection 5.

§ 676. Jurisdiction

The District Court and the Superior Court shall have original and concurrent jurisdiction in all prosecutions under any provisions of this chapter, or the rules and regulations promulgated in conformity with section 673. Any person arrested as a violator of said chapter, or the rules and regulations promulgated in conformity with section 673 may be taken before the District Court in the division where the offense was committed, or if the District Court in an adjoining division is the nearest court to the place of violation, original and concurrent jurisdiction is given to such District Court to hear and try such case.

§ 677. Employees

The commission shall fix the duties of and employ permanently or part-time such employees and other personnel, subject to the Personnel Law, as the commission may from time to time deem necessary in the discharge of its duties under this chapter.

§ 678. Allocation of funds

All moneys received by the commission shall be deposited with the Treasurer of State to be credited to the General Fund.

§ 679. Payments to Maine Forestry District

Within the one-mile area encompassed in the total boundary of the waterway, the commission shall make payments to the Maine Forestry District, in respect to that part of the waterway to which the State holds title, on the same basis per acre per year as it does in other state park areas within the Maine Forestry District.

§ 680. Appeals

Any owner of land within the waterway or any timber harvester within the waterway aggrieved by order of the commission relating to timber-harvesting operations within the waterway may appeal therefrom to the Superior Court. Such appeal must be taken within 30 days of the date of the order appealed from unless the court shall for cause shown allow a longer time. The appellant shall file with the court a complaint, setting forth the grounds for appeal, and the court shall fix the time and place for hearing and cause notice thereof to be given the commission and other interested parties. The appeal shall be heard de novo and after such hearing the court may affirm, modify or reverse the decision of the commission, and may award such damages to the appellant as the court finds legally results from the enforcement of the aforesaid order.

Any party may appeal from the decision of the Superior Court to the Supreme Judicial Court as in other civil cases.'

Sec. 2. R. S., T. 12, §§ 651-658, repealed. Sections 651 to 658 of Title 12 of the Revised Statutes are repealed.

Sec. 3. Contingent upon authorization and ratification of bond issue. This Act, with the exception of section 4, shall not become effective unless the Legislature adopting this Act shall have by legislation authorized a bond issue in the

amount of \$1,500,000 to develop the maximum wilderness character of the Allagash Waterway, and unless and until the people of the State of Maine shall have ratified the issuance of bonds as set forth in such Act.

Sec. 4. Appropriation. There is appropriated from the General Fund to the Maine State Park and Recreation Commission the sum of \$65,250 and to the Department of Attorney General the sum of \$9,750 for the administration of this Act. The breakdown of expenditures shall be as follows:

| | 1965-66 | 1966-67 |
|---|---------------|----------------|
| STATE PARK AND RECREATION COMMISSION | | |
| Personal Services | (2) \$1,000 | (2) \$14,000 |
| All Other | 3,000 | 24,000 |
| Capital Expenditures | 3,250 | 20,000 |
| | <hr/> \$7,250 | <hr/> \$58,000 |
| DEPARTMENT, ATTORNEY GENERAL | | |
| Personal Services | (1) \$ 600 | (1) \$ 8,000 |
| All Other | 150 | 1,000 |
| Capital Expenditures | — | — |
| | <hr/> \$ 750 | <hr/> \$ 9,000 |