

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 763

S. P. 629

In Senate, March 15, 1935.

Reported by Senator Martin from Committee on Legal Affairs and laid on table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT Creating a State Park Commission.

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

Sec. 1. Definitions. As used in this act, the term "park" shall mean:

(a) Any area of considerable extent but not exceeding 10,000 acres in which are combined either superlative or distinctive scenic characteristics and either a reasonably varied or extensive or exceptional opportunity for active recreation.

(b) Any area not exceeding 1,000 acres, with or without distinctive characteristics but containing such natural features as afford ample opportunity for development and use as an active recreational area.

(c) Any area included above within easy access of any road or highway, except extensions to road or highway rights-of-way, turn-outs, loops, or other additions to roads or highways the primary purpose of which is to preserve the natural beauty of lands bordering such roads or highways or to afford temporary stopping points along such roads or highways.

(d) Any strip or strips of land, with or without roads, highways and/or improvements required for ingress and egress to or from any of the areas above described and not exceeding in length the distance required to connect such areas with the nearest arterial or trunk-line highway, railroad line or terminal, or other public transportation facility or way.

The term "memorial" shall mean any area of land, with or without buildings, improvements, or other structures established as hereinafter provided, for public use wholly or primarily because of its historic, archeological or scientific interest or value.

Sec. 2. Park commission; creation and powers. The Maine state park commission is hereby created and established, consisting of 5 members, namely, the commissioner of inland fisheries and game, the commissioner of forestry and 3 citizen members, not more than 2 of whom shall be of the same political party, to be appointed by the governor and approved by the council, 1 for 3 years, 1 for 2 years and 1 for 1 year and thereafter the appointment of citizen members shall be for 3 years, which commission shall have jurisdiction, custody and control in, over and upon all state parks and memorials and national parks which are under control and management of the state, excepting however, Baxter State Park. It is not the intention of this act to include any national parks now existing or which may be hereafter created under national management and/or control. Vacancies or removals shall be filled by appointment for the unexpired term of the retiring member. For cause the governor and council may, upon notice and hearing, remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. The headquarters of the commission shall be at Augusta, but the commission may meet and transact its business at any other place within the state of Maine. Each member shall be paid the sum of \$5 per diem for the time actually spent by each in transacting official business of the commission, payment to be made from funds in the manner hereinafter provided for. Said commission shall have and exercise the following powers and authority:

(a) With the consent of the governor and council, to acquire in behalf of the state, land or any interests therein, within this state, with or without improvements, by purchase or gift, and by eminent domain subject to proviso hereinafter set forth, and with like consent to sell and convey such lands or interests therein, or lease the same, or by revocable license or agreement, or grant to any person, firm or corporation exclusive rights and privileges to the use and enjoyment of portions of such lands, provided, however, that no lease hereunder shall be for a term longer than 1 year, and any such license, lease or agreement granted or entered into hereunder shall be cancelled or revoked after due notice of intention to cancel or revoke the same by action of the commission, when the use for which said license was given shall have been abandoned, materially modified, or whenever the conditions imposed in any license, lease or agree-

ment shall have been broken; provided, however, that the right of eminent domain shall not be exercised to take any area or areas in any one park which singly or collectively exceed 200 acres, nor shall it be exercised to take any developed or undeveloped mill site or water power privilege in whole or in part or any land used or useful in connection therewith, or any land being utilized for any industrial enterprise.

(b) To study and ascertain as nearly as possible and report to the governor and council from time to time, (1) the state's actual and potential outdoor recreational park resources and facilities, (2) the needs of the people of this state and out-of-state visitors for such park resources and facilities, (3) the kinds of resources and facilities best suited to and required for such park needs, (4) the extent to which such park needs are being currently met whether by publicly owned or privately owned facilities, (5) the location and probable cost of acquisition, development and operation of parks, which if acquired, developed and operated under this act could satisfy such needs, and (6) the several public purposes to which such parks or portions thereof might be put. Such studies and reports shall be accompanied by other information, statistics, and charts as will adequately inform the governor and council of the character, condition and needs of this state of park recreational resources and facilities, and may be accompanied by specific recommendations for new legislation or other action to be taken with respect to the same.

(c) With the consent of the governor and council, to set apart and publicly proclaim areas of land in this state including improvements, or other structures thereon, title to which has been acquired hereunder, as parks and/or memorials within the meaning of this act, and (1) the commission may from time to time, establish such rules and regulations as they deem necessary for the protection and preservation of state parks and not parks under state control; and (2) for the protection and safety of the public, and (3) for observances of the conditions and restrictions expressed in deeds of trust, or otherwise, of the parks of the state, and of monuments thereon, and (4) before promulgating the same, 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, together with paragraph "d" of this section, be published once a week for 2 successive weeks in a newspaper published in the towns or counties of this state wherein parks are located and posted in at least 3 conspicuous places in or about said park or parks whereupon they shall take effect, and (5) a certificate of such publication and posting shall be executed by one of the members of said commission and filed with the secretary of state, who shall record the same.

(d) Whoever violates any of the rules and regulations, or any notices posted in conformity with the provisions of this act by said commission or wilfully mutilates, defaces or destroys any monument or marker lawfully erected within the borders of said parks shall be punished by a fine of not more than \$50 and costs, or by imprisonment for not more than 30 days, or by both fine and imprisonment.

(e) Trial justices and municipal courts within their county shall have concurrent jurisdiction with the superior court in all prosecutions under any provision of this act and, (1) any person arrested as a violator of this act, may be taken before any trial justice, or any municipal court in the county where the offense was committed, or in any adjoining county, and (2) jurisdiction in such cases is hereby granted to all trial justices and all other courts to be exercised in the same manner as if the offense had been committed in that county.

(f) The powers and duties of the Maine state park commission as set forth in this act, shall not be construed so as to interfere or conflict in any way with the powers and duties of the United States and its national park areas under national control, Baxter State Park, inland fisheries and game department or the forestry department and their duly appointed wardens, and the enforcement of the inland fisheries and game and forestry laws in respect to state parks or to the state generally.

(g) Limitations or interpretations as set forth in chapter 2 of the revised statutes, which are inconsistent with or repugnant to the powers and duties of the said commissioners as set forth in this act, shall not be construed so as to apply to state parks.

(h) The commission shall, with approval of the governor and council, establish and maintain adequate provisions for the prevention, suppression and control of fires within said park areas.

(i) With the consent of the governor and council, to negotiate and execute any lease or other agreement for the administration, maintenance, supervision, use and development of state parks, within the meaning of this act, acquired and owned by the government of the United States, upon such terms and conditions as may be deemed advantageous to the people of the state of Maine and consistent with the provisions of this act; and with like consent, to accept on behalf of the state, deeds of gift or other conveyances to lands or interests therein suitable for administration, maintenance, supervision, use and development as state parks or memorials under this act. Such lands or interest therein, when so acquired whether title thereto be in the United States or otherwise, shall be and remain subject to administration, maintenance, supervision, use and development by said commission under this act during the terms of any such lease or agreement,

provided, however, that with respect to lands or interest therein, included in any park or parks acquired and owned by the government of the United States, and administered under this act, the state of Maine shall retain concurrent jurisdiction with the United States in and over all such lands. Any civil and criminal process issuing under the authority of this state may be executed on said lands in the same manner and to the same effect as if the same were privately owned, and exclusive jurisdiction in and to said lands shall revert to the state of Maine when said lands shall cease to be owned by the United States, and provided further, that such lands owned by the United States shall be exempt from all taxes and assessments so long as the same shall be the property of the United States.

(j) To fix the qualifications and duties of, and to employ permanently or part time, such employees and other personnel as the commission may from time to time deem necessary in the discharge of its duties under this act; salaries, fees and other compensations to be fixed by the governor and council.

(k) All monies received by the commission shall be deposited with the treasurer of state, who shall maintain a separate fund which shall be used for the continued maintenance and development of said park areas.

(l) To have and use an official seal which shall be in custody of the secretary of said commission.

(m) There is hereby appropriated the sum of \$1500 to be used in carrying out the purposes of this act.

(n) Immediately upon appointment the commission shall meet, elect a chairman, arrange for suitable headquarters and otherwise act to perfect its organization.

Sec. 3. Real estate subject to flowage. All real estate acquired under the provisions of this act, shall be and remain subject to flowage under the provisions of chapter 106 of the revised statutes, known as the Mill act, and any amendment now or hereafter made thereto, or under any special charter heretofore or hereafter granted by the state of Maine, notwithstanding title thereto may be in the state of Maine.

Sec. 4. All other acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.