

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

March 9, 1985

The forty-fifth meeting of the Senate Judiciary Committee was called to order at 12:11 p.m. on March 9, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senators Blaylock and Shaw who were excused.

FURTHER CONSIDERATION OF HB 265: Chairman Mazurek asked if there was anything the committee members wanted done on HB 265. He asked Mr. Petesch to compile all of the amendments that have been proposed. Chairman Mazurek then appointed a subcommittee to go through all of the proposed amendments. Senator Yellowtail was appointed chairman of the stream access subcommittee, and Senators Crippen, Galt, and Towe were asked to serve on the subcommittee. Chairman Mazurek stated he would like the bill considered, revised, and a recommendation as to its disposal made as soon as possible and hopefully by the end of the next week.

Senator Towe stated George Rossiter had a good idea. A lot of comments were made that the beds, when there's no water on them, could be used to gain access to other people's property. He felt the committee should consider some language stating the beds of streams, when they have no water on them, could not be used.

Senator Mazurek stated another area to be considered is to make clear that the Fish and Game Department has the power to adopt rules and regulations to control the use of the streams, the beds, and the banks, if/by doing nothing more than readopting those that are in effect.

Senator Pinsoneault stated he is vehemently opposed to HB 265. He says the bill starts with the use and has gone from there to make all of these decisions. He believes we have made a great error in starting from that platform. He believes we should start from the property owners' rights and go from there. He stated it is a privilege to hunt, as it is a privilege to practice law, and that privilege should be kept in mind. Senator Mazurek stated it is a case of the Supreme Court's having established, by using the public trust doctrine, the right to use the streams, the beds, and the banks. If HB 265 isn't passed in some form where you have the landowner regulating the stream, you have taken

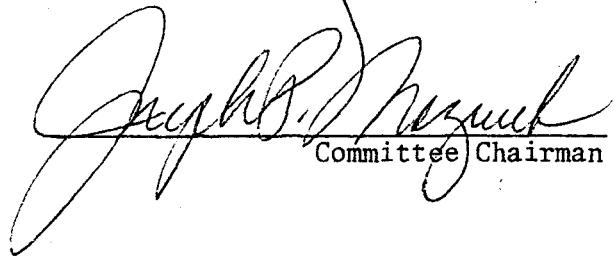
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the landowner out and no one is coming back in. Senator Pinsoneault stated he finds it offensive the way it has sprouted.

Senator Crippen stated the interesting thing of this is when they mentioned this would include Whitefish Lake. Senator Brown stated the stream, the bed, and the bank also apply to the shore, and he thinks that was unintended. He does not believe you should be able to share one-half of a guy's beach. Senator Brown stated this bill should not apply to the lakeshore.

Senator Towe stated he has some concerns about the definition regarding stock water ponds.

There being no further business to come before the committee, the meeting was adjourned at 12:20 p.m.

  
Committee Chairman

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 730985

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock			X
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw			X
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		