

NOTES

The notes included in the printed article were shortened to meet space requirements. Here are the full notes as the authors prepared them.

- 1 <https://legislature.maine.gov/lawlibrary/sections-of-the-maine-constitution-omitted-from-printing/9296/>
- 2 In 1824 the legislature declared, “There shall be reserved in every township, suitable for settlement, one thousand acres of land to average in quality and situation with the other land in such township, to be appropriated to such public uses for the exclusive benefit of such town” (Chapter 280, Maine Public Laws of 1824).
- 3 Henry David Thoreau reported on his journeys to “Ktaadn, Chesuncook, and the Allegash and East Branch,” where he navigated in part based on then-current maps of Maine’s public domain. Encountering timber thieves along the way, Thoreau observed, “Much timber has been stolen from the public lands. (Pray, what kind of forest-warden is the Public itself?) I heard of one man who, having discovered some particularly fine [pine] trees just within the boundaries of the public lands, and not daring to employ an accomplice, cut them down, and by means of block and tackle, without cattle, tumbled them into a stream, and so succeeded in getting off with them without the least assistance” (Thoreau 1864: 74).
- 4 A Maine plantation is a populated township with intermediate legal status granted by the legislature short of an organized municipality.
- 5 In a 1956 speech to Bucks County, Pennsylvania, Democrats, Coffin elaborated, “Lincoln believed a man’s legs should be long enough to reach the ground. We believe government should be big enough to do whatever job needs to be done by it. It is a tool to help mankind in a society growing more complex, to help him live the good life” (Coffin 2004: 372).
- 6 For Wilkins’ perspective on the matter, see Maine Forest Commissioner (1963).
- 7 In 1898, Austin Cary of East Machias and Bowdoin College was hired by the Berlin Mills (later Brown Paper) Company of New Hampshire as the first company forester in North America. Research-based, scientific forestry was pioneered in Maine and throughout New England by the inspired work of Cary, largely in collaboration with the Brown and Great Northern Paper companies (Smith 1972).
- 8 Later published as “Maine’s Public Lots: The Emergence of a Public Trust,” *Maine Law Review* 26(2), 1974.
- 9 The joint select committee was cochaired by Senator Harrison Richardson of Cumberland County and Representative Elmer Violette of Aroostook County and staffed by Herb Hartman and Nancy Ross, both CETA employees. The federal Comprehensive Employment and Training Act (Public Law 93–203) was signed into law by President Richard Nixon in December 1973 to train workers and provide them with jobs in the public service. At one time in the late 1970s, the Bureau of Public Lands had as many as 70 CETA employees working on projects under the general supervision of Joseph B. Coffey. Herb Hartman would go on to become director of the Bureau of Parks and Recreation; and Nancy Ross, the executive director of the Maine Organic Farmers and Gardeners Association (MOFGA).
- 10 LD 1812, An Act to Organize the Unorganized and Deorganized Territories of the State of Maine and to Provide for Management of the Public Reserved Lands, was introduced on May 3, 1973, by its House sponsor, Democratic Minority Leader John L. Martin of Eagle Lake, who has now served with distinction for more than 50 years in the Maine Legislature.
- 11 The carefully watched case was entitled *Cushing v. Lund*. Charles S. Cushing Jr, a Portland native, had a minor stake in the litigation’s outcome. He allowed use of his name as the first plaintiff so the case might appear to the court as one of David v. Goliath, a Common Man v. The State.
- 12 Estoppel, latches, acquiescence, and prescription are equitable (or, fairness) doctrines that prevent a party from asserting a legal right or claim if a long delay in doing so has prejudiced the other party. Inaction and silence can result in the application of these doctrines where a party has unknowingly acted in a manner inconsistent with the rights of the party who remained silent or failed to assert its rights. (For more, see Note 17, below).
- 13 The BPL was assisted in the consolidation proposal by two college student interns, Vicki Parker of Colby College and Elizabeth Swain of Hampshire College, the latter of whom would later become the first chairwoman of the Maine Land Use Regulation Commission for the Unorganized Territory. Walker would later serve as director of the Maine Forest Service, and Hinckley, the first manager of Maine’s Bigelow Preserve. Other notable contributors to the BPL’s early years include David T. Flanagan who later became president of the Central Maine Power Company; Barbara Cottrell who later served as director of the Maine Office of Economic and Community Development; and Linda Harvell who went on to a distinguished career in the Maine State Planning Office and Department of Administrative and Financial Services. Maps of the public lots before and after consolidation are available as Appendix 2 (<https://digitalcommons.library.umaine.edu/mpr/vol29/iss2/9/>).
- 14 Schepps would be succeeded as director of the BPL by forest economist Lloyd Irland, Bernie Schruender (on loan from USFS), and Rob Gardiner, formerly of Maine Public Television and NCRM, each of whom reinforced and advanced the collaborative principles, practices, and procedures developed within the bureau.
- 15 For the list of companies involved here, see Appendix 1 (<https://digitalcommons.library.umaine.edu/mpr/vol29/iss2/9/>), entries for 1975–78. The release was given to GNP in the original trade in 1974 and extended to all other parties that elected to enter into trades with the state prior to settlement of the court case. It was expected that if the state were to prevail in the litigation, it would seek damages, so this release created an incentive for the companies to settle before final resolution of the case. GNP also took a tax deduction for a gift of the value of the timber and grass

- rights, subject to the outcome of the litigation. All subsequent landowners who entered into trades with the state prior to the outcome of the litigation did the same, and all were ultimately obliged to repay the IRS for the deduction previously taken.
- 16 The only significant opposition to resolves submitted to consummate all exchanges came from lawmakers who expressed hope there might one day be settlement and organization of the townships in the Unorganized Territory and from people who lived in or near a Maine plantation. As a result, today there remain some 40 original and located public lots scattered across the UT, most in plantations and ranging in size from 300 to 1200 acres. All are included in the same BPL management planning process as the consolidated parcels within a geographic region. When a plan is established or updated, all original public lots remaining within the region are included in the management plan.
 - 17 Importantly, the issues of laches, acquiescence, estoppel, and prescription were reserved. All are complex equitable doctrines that are highly fact dependent, requiring extensive evidence. The case would have been difficult and costly for both parties had these issues been brought before the court. In addition, the plaintiffs were confident that they would prevail on the two narrow issues agreed upon (as they would do before Justices Webber and Wathen), and that by reserving all other issues for another day, they would be able to assert them in a follow-up case if they lost on the narrow issues.
 - 18 David C. Smith was author of the widely respected and authoritative *A History of Lumbering in Maine, 1861–1970*.
 - 19 See Office of Governor Joseph E. Brennan, “State of Maine Public Reserved Lands: Consolidation Proposal,” May 4, 1982, https://digitalmaine.com/parks_docs/41/.
 - 20 Edward (Ted) Leonard III of the law firm Eaton Peabody.
 - 21 The list of consolidated parcels may be found at <https://www.maine.gov/cgi-bin/online/doc/parksearch/index.pl> using the Public Lands dropdown. Each has a 15-year management plan guided by a citizen advisory committee and reviewed every five years, with a hierarchy of dedicated uses and objectives for forestry, recreation, wildlife, and ecology, and recommendations for infrastructure needs and objectives.
 - 22 Both bills were introduced to the legislature by House Speaker John L. Martin of Eagle Lake. They became law without the signature of Governor Longley, who in general opposed expansion and refinement of governmental authority. His failure to veto was likely due to the positive and supportive intercession of his chief of staff, Allen G. Pease of Salmon Falls, who had also served Governor Curtis as chief of staff. The two laws are now incorporated as 12 MRSA Part 2, Chapter 220, Subchapter 4. The required annual reports to the Maine Legislature for the public reserved lands may be found at https://www.maine.gov/dacf/parks/publications_maps/annual_reports.html
 - 23 Beyond protecting the forest environment and the many ecosystem services it provides, exemplary forestry (1) enhances wildlife habitat for the full range of species present; (2) increases the quality and quantity of the wood produced and retained in forest stands over time; and (3) enhances the role forests play to mitigate climate change by increasing resilience, facilitating adaptation to future climate conditions, and management to sequester more carbon in the forest and in forest products, and to use the other influences of forests on climate change in positive ways (Giffen and Perschel 2019).
 - 24 The management plan for each consolidated parcel may be found at https://www.maine.gov/dacf/parks/get_involved/planning_and_acquisition/management_plans/index.html
 - 25 Maine Supreme Judicial Court, Opinion of the Justices, 308 A2d 253 (1973). Written in response to questions posed by the Senate of the 106th Maine Legislature respecting the grand plantation bill before it, the opinion enabled consolidation of the public lots and extension of their benefits to the Maine population at large.
 - 26 The other types of public lands managed today by BPL are the nonreserved public lands, primarily institutional lands considered surplus by other state agencies and assigned to the bureau for natural resource management; state-owned coastal islands; and the state's submerged lands. The nonreserved lands do not enjoy the same constitutional protections as do the public reserved lands.
 - 27 Opinion dated December 15, 1992.
 - 28 In 2013, with legislative approval, Governor LePage merged the Department of Conservation with the Department of Agriculture to create the Department of Agriculture, Conservation and Forestry.
 - 29 According to its website, Efficiency Maine is “the independent administrator for programs to improve the efficiency of energy use and reduce greenhouse gases in Maine. The Trust does this primarily by delivering financial incentives to purchase of high-efficiency equipment or changes to operations that help customers save electricity, natural gas and other fuels throughout the Maine economy” <https://www.efficiencymaine.com/about/>.
 - 30 Drafted by Lloyd Irland and Richard Barringer, the letter is available at https://digitalmaine.com/irland_group/1/, courtesy Adam Fisher of the Maine State Library.
 - 31 Public recreational use of the consolidated parcels varies greatly with relatively heavy use only in such units as the Bigelow Preserve, Nahmakanta, and Debouille. The BPL in general does not have specific recreational use figures for the units, though it occasionally uses trail counters on specific hiking trails. Recreational trends reported in the biennial Statewide Comprehensive Outdoor Recreation Plan (or, SCORP) inform recreational management decision-making.