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RECOMMENDATIONS FOR  
FOREST LAND USE CONTROL AND TAX POLICY FOR MAINE

A REPORT TO KENNETH M. CURTIS, GOVERNOR

by

WOODLANDS TAXATION STUDY COMMITTEE



Typical Maine Woodland Scene

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1970

Augusta, Maine

December, 1970



State of Maine  
**FORESTRY DEPARTMENT**  
Augusta, Maine 04330

TEL. 207-289-2791

AUSTIN H. WILKINS  
FOREST COMMISSIONER

FRED E. HOLT  
DEPUTY FOREST COMMISSIONER



WHITE PINE CONE AND TASSEL  
STATE FLORAL EMBLEM  
ADOPTED BY THE LEGISLATURE - 1895

December, 1970

The Honorable Kenneth M. Curtis  
Governor of Maine  
State House  
Augusta, Maine 04330

Dear Governor Curtis:

We are pleased to submit a report of the Woodlands Taxation Study Committee established by your Executive Order and Charge of August 14, 1970.

The report is responsive to the several specific provisions in the Charge of focusing attention on present taxation practices, alternatives for reform, and achievement for a fair and productive woodlands taxation system which would encourage sound land use management.

Time prevented any in-depth study across-the-board of other state forest tax systems but the committee did benefit by expertise knowledgeable in this field.

In its deliberations, the committee was fully aware of the deep concern on the part of many interested groups of the state's forest taxation issues and problems. Attendance of the study group was excellent with lively discussion of diverse views but which were adjusted toward a general consensus. However, in all fairness, this report includes dissenting opinions by committee members which are identified with the recommendation in question.

Our recommendations consist of five basic concepts believed to be a unique and broad approach of land use control and tax policy each supplemented with a clear description of intent and purpose.

The Committee, in fulfilling its obligation, feels that the report presents a basis for possible implementation through legislative action at your discretion.

Respectfully,

*Austin H. Wilkins*

AUSTIN H. WILKINS  
Chairman

AHW:as

SEP 26 1984

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## ACKNOWLEDGEMENTS

This study represents the efforts of a committee of twenty citizens appointed by the governor and selected for the particular professional competence that they might impart to each other during the series of nine meetings over a period of three months. There was representation of large and small ownerships, state agencies, legislature, public-at-large, colleges with economics departments, surveying, and conservation.

The selflessness and dedication with which each individual member served prevents me from singling out any one individual for special mention for they all gave freely of their time and talent.

We do wish to recognize assistance received from personnel of agencies of the Maine Forestry Department, Bureau of Taxation, and the U. S. Forest Service, Northeastern Forest Experiment Station for their able assistance in gathering and transmitting data for the Committee. In particular we are indebted to vital contributions of Mr. Fred Holt, Mr. Joseph Lupsha, and Commissioner's Secretary Mrs. Anna Stanley, of the Maine Forestry Department; Mr. Ellis T. Williams of the Division of Forest Economics Research, United States Forest Service, Washington, D.C.; Mr. Zebulon White, School of Forestry, Yale University, New Haven, Connecticut; and Mr. Charles Conlon, Executive Director, National Association of Tax Administrators, Chicago, Illinois.

Finally, the Committee extends its appreciation to Staff Assistant, Mr. John Andrews, in the preparation of agenda, minutes of meetings, and participation in the drafting of the final report to the Governor.

## INTRODUCTION

The Woodlands Taxation Study Committee has examined the history of woodlands ownership and taxation in Maine with close attention to the impact of past and present taxation policies on the economically vital timber resources of the state. In addition, it has considered the problems which are inherent in the present system of woodlands taxation in both organized and unorganized towns.

The importance of a continued healthy and expanding timber industry has been recognized by the Committee. The latest surveys of the U. S. Forest Service and the Maine Forestry Department relative to timber growth and future timber products demand have led the Committee to believe that demands will be made upon the timber resources of Maine which cannot be met without encouragement of sound and intensive forest management practices. This encouragement is vital to the state in two ways. First, it will allow the timber industry itself to grow, thus preserving its key position in Maine's economic structure. Secondly, it will allow both state and local governmental units to share in the increased economic success of the industry to an extent not before considered possible and in a manner which is more equitable to both woodland owners and the other taxpayers of Maine.

The Committee has approached its tasks of determining the need for a new woodlands taxation policy for Maine and in choosing a policy for recommendation to the Governor with careful and detached deliberation. It has consulted with specialists in the fields of forest economics and woodlands management. It has compared and evaluated the policies of other states and the several theories of woodlands taxation.

The Committee has felt that its responsibility to the Governor and to the citizens of Maine would be met by reporting policy recommendations broad enough to allow the details of their implementation to be worked out in the give and take of the democratic process, yet narrow enough to meet in considerable measure the criteria mentioned in the Governor's Charge.

The following policy recommendations are closely interrelated; piecemeal implementation could well work against the Committee's objective of woodlands taxation reform.

It, therefore, is strongly urged by the Committee that any proposed legislation implementing its land use control and forest tax policy recommendations be drafted, introduced, and passed as an integrated package.

## POLICY RECOMMENDATIONS

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### 1. LAND USE CONTROL AND TAX POLICY

ALLOCATIONS OF LAND BETWEEN FOREST PRODUCTION USES AND OTHER USES ARE NECESSARY AND SHOULD BE ACCOMPLISHED PRIMARILY THROUGH LAND USE CONTROLS AND NOT BY TAXATION DEVICES.

This recommendation is intended to set the tone for the package of five policy recommendations of the Committee. The Committee stands firm against relying on taxation to effect land use decisions. To rely on taxation is in a sense to dodge the issue of public decision on land use; it leaves the initiative in large part in the hands of the landowner; it gives rise to the probability of conflict between land use and equity criteria for taxation; finally, the evidence is unclear whether tax devices are effective in achieving the stated purpose. Implicit in our recommendation is the Committee's support of land use controls, including, but not limited to, easements and open space proposals, and strengthening of agencies such as the Environmental Improvement Commission and Land Use Regulatory Commission. The lack of land use controls poses problems in both organized and unorganized areas. The capacity of the State Legislature to create such controls should be immediately utilized.

While the order of presentation of the next four policy recommendations is immaterial as far as their priority in the mind of the Committee is concerned, such is not the case with the Committee's recommendation on land use controls. It is the opinion of the Committee that direct land use controls be given top priority. The other recommendations should be seen in this context.

### 2. STATE-LEVEL ASSESSMENT

THE STATE OF MAINE SHOULD EFFECT MANDATORY STATE-LEVEL ASSESSMENT AT ONE HUNDRED PER CENT OF VALUE OF WOODLANDS.

By recommending mandatory state-level assessment of woodlands, the Committee suggests a policy which would bring us closer to the impartiality of professional assessment desired by all taxpayers. Professional assessment is also considered by the Committee and its consultants to be fundamental to the goal of achieving more equitable revenue returns to both state and local governmental units.



Implicit in this policy recommendation is the necessity of authorizing the State Tax Assessor to hire necessary consultant and staff personnel and appropriation of funds for such purpose.

One very important detail which will have to be worked out before implementation is definition of the term woodlands, including such factors as location, utilization, and minimum acreage. Mandatory assessment rather than optional is recommended because of the ease and uniformity of administration that will result.

### 3. APPLICATION OF MILL RATES

IN ORGANIZED TOWNS, THE LOCAL ASSESSORS SHOULD APPLY THE TOWN'S MILL RATE, ADJUSTED BY THE STATE AS IF ALL PROPERTY WERE VALUED BY THE TOWN AT ONE HUNDRED PER CENT OF VALUE, AND COLLECT AND RETAIN THE REVENUES REALIZED THEREFROM.

This recommendation allows the organized town full local control and responsibility over the actual administration of its tax collection procedures without the problems of local woodland assessment. While assessments would be set at the state level, the organized towns would continue to raise needed revenue by establishing the mill rate. An added feature of this recommendation would be to obviate the need for assessment appeals for woodlots at the local level.

IN UNORGANIZED TOWNS, THE STATE TAX ASSESSOR SHOULD APPLY A MILL RATE EQUAL TO THE STATE ADJUSTED WEIGHTED AVERAGE OF THE MILL RATES OF ALL THE ORGANIZED TOWNS AND COLLECT FOR THE GENERAL FUND THE REVENUES REALIZED THEREFROM.

This policy recommendation allows an objective determination of mill rates in unorganized towns. By this self-adjusting approach, one relates the rates between organized and unorganized areas and stabilizes the tax rate for the unorganized towns for a period longer than two years.

It is understood that this method of taxation will supplant the present special property taxes in unorganized towns and that General Fund appropriations, at levels deemed appropriate by the Legislature, will be made to finance activities presently financed through those taxes levied in the unorganized towns.



### DISSENT WITH RESPECT TO RECOMMENDATION NO. 3

I agree with the concepts expressed in recommendation number three except I feel that the concept of adjusted weighted average of mill rates on the "organized towns" should be reduced by a figure representing services performed in the organized towns, such as road building and repair, which are not available in the unorganized territories.

Actually the adjusted weighted average should be reduced by the level of special property taxes in the unorganized territory such as forestry district, and disease control, but not including education, and these special taxes should be paid in the special funds as is the present practice. Of course, the functions of fire fighting and disease control would continue to be handled by appropriations from these special funds by the Forestry Department.



SENATOR JAMES MARTIN

### 4. DETERMINATION OF ASSESSED VALUES

#### ALL ASSESSMENT OF WOODLANDS SHOULD BE ON THE BASIS OF TIMBER PRODUCTIVITY UNTIL ACTUAL DEVELOPMENT FOR OTHER USE OCCURS.

This policy recommendation would allow a productivity tax to be levied on property designated by an appropriate public land use control authority for timber production thus relating taxation to the income, actual or potential, produced by the timber itself. Where woodlands support mixed uses, the Committee recommends that that portion of the lot used for other than timber production be assessed at market value. Such assessment would remain in the hands of local officials in the organized towns.

Productivity taxation, predicated on the variation in forest types, estimations of growth rate and differences in the stumpage value of different species, will allow landowners a fair return on their timber production activity and the State (including municipalities) at the same time to impose a fair tax burden.

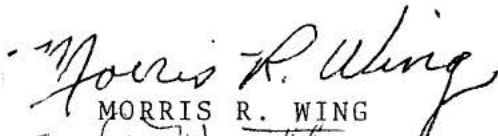
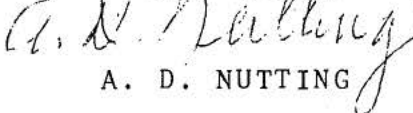
A mandatory input in the administration of the program is a periodic review and establishment of growth data and capitalization rates after hearing by the State Tax Assessor.


DISSENT WITH RESPECT TO RECOMMENDATION NO. 4

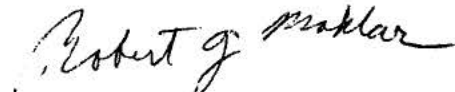
Productivity taxation is highly desirable in that it recognizes present uses of land and their capacity to produce income. Such an approach to assessment ought not to be contingent upon public bodies enacting land use controls. Policy recommendation number one to which we all strongly subscribe may not become a reality for some time particularly in organized townships. During this intervening period, the landowner undertaking timber production ought not to be faced with the vagaries of "highest and best use" as determined by state or local assessors. Actual use for timber production even without public zoning of the land for timber production ought to give rise to productivity taxation.

  
THOMAS S. PINKHAM

  
RAND N. STOWELL, JR.

  
MORRIS R. WING  
  
A. D. NUTTING

  
ORLANDO E. DELOGU

  
ROBERT G. MOHLAR

  
VLADEK KOLMAN

DISSENT WITH RESPECT TO RECOMMENDATION NO. 4

I dissent from recommendation number four and believe that timber producing land, like all real estate in the State, should be taxed by market value and consideration should also be given to adding a yield tax or a sales tax on stumpage by the seller.

  
SENATOR JAMES MARTIN

DISSENT WITH RESPECT TO RECOMMENDATION NO. 4

I am unwilling to depart from the concept of just value with the exception of special relief for hard-pressed family farmers of small farms and small family-owned wood lots. I believe that the statute enacted by the 104th Legislature which defined the concept of just value by restricting it to legally permissible uses only, tied with a comprehensive forestry zoning plan administered by a public agency would be fairer to all concerned.



PATRICK N. McTEAGUE

5. LAND USE CHANGES AND TAX RECOVERY

ALL CHANGES IN LAND USE FROM TIMBER PRODUCTION TO OTHER USES SHOULD BE SUBJECT TO SUBSTANTIAL RECOVERY PROVISIONS.

Adoption of the productivity tax implies the class of property labeled "timber production property" will be treated in a different manner from that accorded other classes of real property. By the same token, it is felt that when property is taken out of this use and is developed the citizens of Maine should be allowed to share in this unearned appreciation in value in return for their special treatment of the property while it is used exclusively for timber production.

The crux of this policy recommendation is the term "substantial;" this means more than a recovery of taxes foregone on a woodlot. One possibility would be to apply some percentage to the new land value or the value of the development package at the time the change in land use occurs.

DISSENT WITH RESPECT TO RECOMMENDATION NO. 5

Because of my position on recommendation number four, I dissent from recommendation number five in that I view it as unworkable and unnecessary considering my position on recommendation number four.



SENATOR JAMES MARTIN

No. 5. Elaboration by Professor Coupe, with which Professor Shipman has asked to be associated.

When a land use change occurs, the appropriate public land use control authority must be notified of the new use. Provisions for recovery should commence at this time. I favor the application of a percentage (possibly, between 2% and 10%, or a schedule in this range) be applied to the value of the development package. The justification for this approach is not merely that special tax treatment has been granted, but, more important, that some of our resources and environment are no longer for use by the public. Compensation for this trade-off is necessary given our interest in conserving natural resources and the environment. This tax would be levied at the time of project approval, or the beginning of construction. If the construction time were long, a schedule of payments could be arranged with the final payment due at completion time.

A roll-back approach to recovery may not be justifiable because new use values projected backward in time are arbitrary. Also, land values are not separable from the total value of the new use. The simplest approach to recovery is as described above. It should be noted that users of the development would end up paying the recovery tax and that care must be exercised in establishing the rates so that development is not suppressed.

MAINE WOODLANDS TAXATION STUDY COMMITTEE

This order creates the Maine Woodlands Study Committee.

The Committee shall include representatives from the Legislature, landowners, taxation specialists, municipalities and the general public to provide a broad-based and balanced view.

The purpose of this study is to examine the broad scope taxation of the forest lands of Maine both in the organized and unorganized areas. The Committee should consider our present taxation practices and various alternatives with the aims for fair and productive taxation and the effect of tax policy in producing desirable land use.

By December 1, 1970, the Committee shall submit to the Governor a written report of its findings and conclusions to assist in preparing legislative and budget recommendations to the 105th Legislature.

The Committee shall have the necessary authority to carry out the purpose of this Order and to hold public hearings. Executive and staff members of all State agencies are directed to cooperate fully as requested in carrying out this study.

The Chairman of the Committee will be Mr. Austin H. Wilkins, Maine Forestry Commissioner.

The Committee is authorized to obtain such professional and clerical assistance as may be required to carry out this Order.

The members of the Committee shall serve without special compensation but shall be reimbursed for their expenses incurred in the performance of their duties under this Order.

WOODLANDS TAXATION STUDY COMMITTEE

*Austin H. Wilkins*

AUSTIN H. WILKINS, CHAIRMAN  
Forest Commissioner  
Augusta

*John D. Coupe*

DR. JOHN D. COUPE, Chairman  
Department of Economics  
University of Maine, Orono

*Orlando E. DeLogu*

ORLANDO E. DELOGU  
Professor of Law  
University of Maine, Portland

*Madeleine R. Freeman*

MADELEINE R. FREEMAN  
League of Women Voters  
Orono

*Ernest H. Johnson*

ERNEST H. JOHNSON  
State Tax Assessor  
Augusta

*Vladek Kolman*

VLADEK KOLMAN, President  
Kolman Timberland Consultants, Inc.  
Brewer

*James K. Martin*

JAMES K. MARTIN  
Senator, District 23  
Guilford

*Patrick N. McTeague*

PATRICK N. McTEAGUE  
Representative  
Brunswick

*Robert G. Mohlar*

ROBERT G. MOHLAR, M.D.  
Augusta

*Albert D. Nutting*

ALBERT D. NUTTING, Director  
School of Forest Resources  
University of Maine, Orono

*Harold C. Pachios*

HAROLD C. PACHIOS  
Attorney at Law  
Portland

*Thomas S. Pinkham*

THOMAS S. PINKHAM, Owner  
Pinkham Lumber Company  
Ashland

*John L. Salisbury*

JOHN L. SALISBURY, Exec. Secretary  
Maine Municipal Association  
Hallowell

*Philip M. Savage*

PHILIP M. SAVAGE, Director  
State Planning Office  
Augusta

*William D. Shipman*

DR. WILLIAM D. SHIPMAN, Chairman  
Department of Economics  
Bowdoin College, Brunswick

*John G. Sinclair*

JOHN G. SINCLAIR, V. Pres. & Mgr.  
Seven Islands Land Company  
Bangor

*Rand N. Stowell, Jr.*

RAND N. STOWELL, JR., President  
Timberlands, Inc.  
Dixfield

WOODLANDS TAXATION STUDY COMMITTEE


(Continued)




ROBERT S. STUART  
Senator, District 11  
Brunswick



ELMER H. VIOLETTE  
Senator, District 24  
Van Buren



DR. HARRY J. WATERS, Exec. Dir.  
ESCO Research, Inc.  
Portland



MORRIS R. WING, Regional Mgr.  
International Paper Company  
Livermore Falls

CONSULTANTS

ELLIS T. WILLIAMS  
Division of Forest Economics  
and Marketing Research  
U.S. Department of Agriculture,  
Forest Service  
Washington, D.C.

CHARLES F. CONLON, Exec. Dir.,  
National Association of Tax  
Administrators  
Chicago, Illinois

ZEBULON WHITE, Professor 1/  
School of Forestry  
Yale University  
New Haven, Connecticut

1/ Consultant to Paper Industry Information Office.



## THE GOVERNOR'S CHARGE

Statement by Governor Kenneth M. Curtis to:

### WOODLANDS TAXATION STUDY COMMITTEE

Council Chamber  
Friday, August 14, 1970  
11:00 a.m.

"I want to thank each of you for the fine response to my invitation to serve on a Woodlands Taxation Study Committee. You represent a variety of interests which can make important contributions to the vital task before you.

"It is not going to be an easy task, and I am mindful of some of the problems. However, those of you who are interested in the development and prosperity of Maine are concerned about the future and the overall picture of land use and taxation. In view of the existing situation and the importance of taxation, both for landowners and for the support of public programs, the need for a woodlands taxation study is clear.

"Such a study would involve the broad scope of forest land taxation of all the forest lands of Maine. This would include both organized and unorganized territory. Your study should also focus, it seems to me, on present taxation practices and the various alternatives for reform, with the objective of achieving a fair and productive woodlands taxation system, and one which, at the same time, encourages desirable land use practices.

"I realize the time is short, but I would like the Committee to submit to me a written report of findings and conclusions by December 1, 1970. This report will then assist me in preparing legislative and budget recommendations to the 105th Legislature."

## MAINE WOODS

A study of Maine woodland taxation must begin with an understanding of the unique nature of the Maine woods which cover 87% of our state and are divided into the wildlands of the unorganized territories and forest lands of the organized areas of the state. Assurance of their continuing value as the state's largest renewable resource is dependent on an appreciation of the importance of the Maine woods to the people of Maine both for the timber they produce and the recreation opportunities they provide. It was within this framework that the Woodlands Taxation Study Committee undertook its task.

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A unique feature of Maine timberlands today is the fact that 99% of the 17,400,000 acres is in private ownership. There are 77,424 individual ownerships ranging from thousands of small woodlot owners to the few large private management units and corporate interests.

This ownership pattern is a transition extending over three and a half centuries from a once vast public domain to private enterprise. Sizeable tracts were conveyed by the early English Kings as charters, deeds, grants and patents. Later the Commonwealth of Massachusetts and the State of Maine, through legislative action, also conveyed lands to colleges, schools, academies, mills, roads, railroads, lottery and private enterprise. By 1873 practically all of the public domain had been sold except for a few small parcels.

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In 1969 the value of products manufactured from Maine's forests exceeded \$800 million (34% of state product value). Over 28,000 employees (24%) received wages of \$187 million (28%) in this harvesting and manufacturing process

## CONCLUSION

It is the considered opinion of the Woodlands Taxation Study Committee that adoption of its policy recommendations, herein contained, will place the State of Maine in the position of taking that first step forward that is always necessary in any new venture.

The Committee recognizes that problems will arise in the implementation of its recommendations, but it feels that they will be amenable to administrative resolution.

## APPENDIX

The Woodlands Taxation Study Committee was formed and given its charge by Governor Kenneth M. Curtis on August 14, 1970. At that initial meeting, the Committee decided to forego the holding of public hearings and joint meetings with other study groups. Facts, data, and opinions considered by the Committee as basis for its policy recommendations were brought to the Committee's attention through its members, its consultants, and its guest speakers.

The Committee felt that for purposes of this report, it was not considered necessary to include in the Appendix the voluminous material received and reviewed. Such material and other reference data is available in the office of the Forest Commissioner, State Office Building, Augusta, Maine.

A series of meetings of the Committee were held on August 14, September 14, September 28, October 12, October 26, November 9, November 23, December 7, and January 4. The following is a digest by title of material presented by both members and guests:

"Brief History of Forest Ownership Pattern"

"Comparison of Taxation in Organized and Unorganized Towns"

"A Summary of Wildland Taxation"

"The Value of Forests to the Economy"

"A Review of What Other States Are Doing in the Forest Taxation Field"

"Problems and Abuses in Forest Taxation"

"Suggested Tax Alternatives"

"A Comparison of Actual Tax Per Acre for Organized and Unorganized Towns"

"The Property Tax and Timberlands"

"Statement on Yield Tax Law in New Hampshire"

"Statement on Open Space Law in Connecticut"