

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

CAMP LOTS LEASES ON
AND
ACCESS TO
PUBLIC RESERVED LANDS

Study of the Joint Standing Committee on
Energy and Natural Resources

Members:

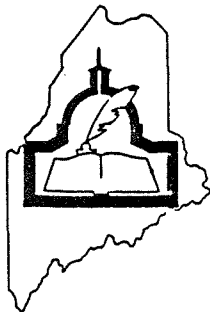
Senator Judy C. Kany, Chair
Rep. Donald M. Hall, Chair

Senator James A. McBreairty
Sen. Michael D. Pearson
Rep. Darryl N. Brown
Rep. Edward L. Dexter
Rep. Paul F. Jacques
Rep. Laurence L. Kiesman
Rep. Patrick K. McGowan
Rep. John M. Michael
Rep. Michael H. Michaud
Rep. James Mitchell
Rep. Vinton T. Ridley

Staff:

Martha E. Freeman, Legislative Counsel

Submitted to the Second Regular Session of the 111th Legislature



State of Maine
Office of Legislative Assistants
Room 101
State House--Station 13
Augusta, Maine 04333

January 1984

EXECUTIVE SUMMARY

The Joint Standing Committee on Energy and Natural Resources of the Maine Legislature undertook a study of the commercial and residential camp lot leases existing on public reserved lands in Maine. Summarized below are the findings and recommendations concerning public lots and access to public lands contained in the study report and transmitted to the Second Regular Session of the 111th Maine Legislature. Members of the Committee present at the final study meeting, and voting to accept this report, included: Sen. Judy Kany, Rep. Darryl Brown, Rep. Edward Dexter, Rep. Laurence Kiesman, Rep. Patrick McGowan, Rep. John Michael, Rep. James Mitchell, and Rep. Vinton Ridley. Sen. James McBreairty abstained from the vote.

PUBLIC LOTS

Legal and Factual Context

The Maine public reserved lands are held in trust by the State for the beneficial use of its people. "Public reserved lands" include those originally set aside and any acquired in exchange for public lands. Pursuant to this trust, the Bureau of Public Lands in the Department of Conservation is charged by statute with the management of these lands under principles seeking to provide opportunities for public enjoyment of all their available resources, including recreational activities. The Bureau administers seven commercial leases and 417 residential leases of camp lots on public lands. These leases, established prior to the existence of the Bureau, may be renewed. However, current policy prevents issuance of any new leases to private persons. Annual rental fees for these leases are increasing to eight percent of fair market value; this increase has already occurred for ninety percent of the leases. The statutes permit the Bureau to sell individual parcels of public lots, no larger than one-quarter acre in size, under certain conditions. Other proposed sales, exchanges, or relocations of public lots must be submitted to the Legislature for approval.

Moneys derived from public lots must, under the State's trust obligations, be applied to the purposes for which these lands were reserved. A Public Lands Management Fund and a Public Lands Acquisition Fund are established by statute. Proceeds from sales of public lands are credited to the Acquisition Fund. The interest earned on seventy-five percent of the gross income from residential leases on public lands in plantations in existence in 1974 is returned to those plantations for school support. Seventy-five percent of the gross income from residential leases on public lands in municipalities incorporated into a town from a plantation in existence in 1974 is returned to those towns for municipal purposes. Fifty percent of the net income from the camp lot leasing program must, by statute be used for development of camping and recreational facilities on public lots.

Finally, certain public lands are involved in proposed trades between the State and private landowners as a result of a court decision, favorable to the State, on public lands timber and grass rights once conveyed by the State. One aim of the trade negotiations is to consolidate the public lands holdings into larger, more manageable lots.

Recommendations

A. Commercial leases

1. No statutory or policy changes are needed to specifically address commercial leases.
2. The Bureau of Public Lands should report to the Legislature within one year on the role of commercial leases in providing public accommodations, access, and use of public lands.
3. Existing commercial leases should be modified upon renewal to expressly prevent a change in use without approval of the Bureau of Public Lands.
4. At the time of renewal of the Kennebago Lake Camps commercial lease, an undeveloped portion of the public lot with shore frontage, currently covered by the lease, should be removed from the lease, with control over that portion retained by the Bureau of Public Lands for the purpose of providing public access to the lake.

B. Residential leases

1. The State should not divest itself of every camp lot on public lands now covered by private leases and the policy of issuing no new residential leases on public reserved lands should continue.
2. Existing residential leases should be modified upon renewal to expressly prevent a change in use without approval of the Bureau of Public Lands.
3. Lessees of camp lots on public lands interested in purchasing the lots may, under current statutes, present proposals to the Bureau of Public Lands for conveyance of these lots. The Bureau should recommend such a proposal to the Legislature for approval if the public trust is furthered thereby and:
 - a. The proposed sale or exchange of public lands encompasses all leased camp lots within a given tract or parcel.
 - b. An agent representing all the interests involved in the proposed conveyance is available for negotiations with the Bureau.
 - c. The interested camp lot lessees create a thorough proposal to which the Bureau may respond.
 - d. The proposal, if possible,
 - (1) imposes expenses of the sale or exchange on the purchaser
 - (2) requires lots being sold or traded to be upgraded to meet current land use standards

(3) maintains public access to public lands and resources, where desirable

(4) provides for full fair market value in the sale or exchange of public lands

4. The Legislature should solicit and consider local sentiment when reviewing a proposed sale or exchange of camp lots on public lands in a particular locality.

C. Funds

1. All interest generated from the Public Lands Acquisition Fund or the Public Lands Management Fund should be credited to the appropriate public lands account (statutory change required).

2. All proceeds from the sale of camp lots in plantations or towns should be placed in the Public Lands Acquisition Fund (statutory change required).

D. Recreation

1. The Bureau of Public Lands should work with the Bureau of Parks and Recreation to create a recreation plan for the public reserved lands.

2. The Bureau of Public Lands should present a public lands recreation plan to the Legislature within one year.

ACCESS

Legal and Factual Context

The public lands statutes clearly contemplate public access to public lands. The statutes permit the Bureau of Public Lands to assess user fees to defray costs of construction and maintenance of camping and recreation facilities on public lots.

In some areas of the state, access to public lands is fairly available. In other areas, access over private roads is not permitted. In some instances, the State has negotiated public rights of way to public lots over private roads. In some areas no access exists because no roads exist. In the Northern Region, North Maine Woods, Inc., collects fees while managing access to public and private lands, over private roads, for the State and for private landowners. Seventy-five percent of the fees collected by North Maine Woods for public use of public lands are returned to North Maine Woods for management services provided.

Eight gates on access routes to public lands are under State control or on public lands. These gates exist for various reasons, including protection from fire hazard and firewood theft, protection against travel on unsafe roads, and protection of a seed orchard and an arboretum.

Roads on public lands were developed as part of timber harvesting operations. No maintenance plan, apart from any connected to cutting activities, exists for these roads. The Bureau of Public Lands is currently developing such a plan.

Recommendations

1. No changes in current policy concerning user fees for and gates on public lands are needed.
2. The Bureau of Public Lands should develop a transportation plan for access roads on public lands.

MF-6

INTRODUCTION

The public lots in Maine began as reservations of land by Massachusetts, before Maine's independence, from its public domain. The lots were set aside from tracts of land divided into townships. When a township was sold, a lot within the township was reserved for public benefit. As a condition of its separation from Massachusetts, Maine continued the practice of public lot reservations. From 1824 until January 1, 1973, title to a public lot in a township vested in the township inhabitants upon incorporation of the township. Lots existing in unincorporated townships remained under State authority. Today, all public lots are subject to State controls and State imposed responsibilities. Title to public lots in townships incorporated after January 1, 1973, remains in the State. See 13 MRSA §3161; 30 MRSA §4151.

Prior to the establishment of the Bureau of Public Lands in 1973, the public lots were managed by the Maine Forest Service. During the tenure of the Forest Service as public lots manager, a program of leasing camp lots on public lands to private parties was begun. In the First Regular Session of the 111th Maine Legislature, LD 1277, AN ACT Relating to Camps on Leasehold Land Owned by the State, was heard by the Joint Standing Committee on Energy and Natural Resources. The bill proposed to require the Director of the Bureau of Public Lands to notify all lessees of camp lots on the public reserved lands of their right to obtain an option from the State to purchase their camp lot. Several leaseholders on the public lots spoke in favor of the bill. The Bureau of Public Lands, the Governor's Office, and others spoke in opposition. The Energy and Natural Resources Committee determined to study this subject of commercial and residential leasing of lots on the public reserved lands. The study, conducted by an eight-person subcommittee, was undertaken during the summer and fall of 1983, with approval of the Maine Legislative Council.

The following report contains the findings and recommendations from the public lots study. Included is a brief discussion of access to, and barriers to access on, the public reserved lands. Questions concerning public lands access arose upon the introduction of LD 1302, AN ACT to Prohibit the State from Charging Fees to the General Public for Access to Public Lands, during the last session of the Legislature. Consideration of access issues seemed appropriate in the public lots study.

PUBLIC LOTS

I. THE LEGAL CONTEXT

A. Case law

In 1973 several questions concerning public lots legislation were put to the Justices of the Maine Supreme Judicial Court for their opinion. The Opinion of the Justices, 308 A.2d 253 (1973), noted that, under the Maine Constitution, the public reserved lots are not part of the general public property over which the State exercises the authority of an absolute owner. Id. at, 269, 271. Rather, the public reserved lots are held in trust by the State for the beneficial use of the public. Id. at 269-70. The public uses for which the lands must be managed include not only schools and the ministry, specifically listed in the Maine Constitution, but other uses

generally reflecting the usage Massachusetts made of public reserved lands prior to Maine's independence. This included, according to the Justices, the advancement of protection of beaches and harbors, the benefit of public education in general, and other uses directed by the Massachusetts legislative body from time to time. Id. at 270-71. The Opinion also specifically states: that the public lots may be treated collectively if public uses are furthered thereby; that sales, purchases, and exchanges of public lots may occur if done to promote beneficial public uses for which the lots must be held; and that income from the public lots may be expended for management of public lots, and for acquisition of lands to be managed as public lots. Id. at 273. Finally, the Opinion of the Justices found constitutional a section of the bill requiring public lands to be managed for multiple use, including outdoor recreation, timber, watershed, fish, wildlife, and other public purposes. Id. at 261, 272.

In Cushing v. State, 434 A.2d 486 (1981), the case that returned timber cutting rights on public lots, once deeded to private parties, to the public, the Maine Supreme Judicial Court stated that it was not expressing any opinion on "the ultimate limits of the State's power to convey interests in the public reserved lots to private parties." The opinion did, however, recognize a possibility of such limits. Id. at 500. The author of an article on Maine's public lots, a former Assistant Attorney General and Director of the Bureau of Public Lands, discussed these constitutional limits: The limits

are directed ... not merely to sale of a public lot but to the purpose for which the sale is made and the use to which the proceeds are put. It seems clear that the lands may not be sold and proceeds placed in the general treasury of the state, though such a use of the lands, or their proceeds, would clearly be a "public use" of the lands.

Schepps, Maine's Public Lots: The Emergence of a Public Trust, 26 ME. L. REV. 217, 239 (1974).

B. Statutes

1. General organization and purposes

The Bureau of Public Lands is charged with managing the public reserved lands (see 12 MRSA §552(1)) "under the principles of multiple use" 30 MRSA §4162 (1). The public reserved lands are "to provide a sustained yield of products and services," and management of the public lands "should be effected by the use of both prudent business practices and the principles of sound planning." Id.

"Multiple use" means managing all renewable surface resources of the public lots. These include recreation, timber, watershed, fish, wildlife, and others. The statute recognizes that "some land will be used for less than all the resources," that productivity of the land should not be impaired, and that the resources must be valued on more than just the basis of greatest profitability. 30 MRSA §4162 (2) (A). "Public reserved lands" include not only those lands originally set aside, but all lands acquired from the sale, exchange, or relocation of public lots. 30 MRSA §4162 (2) (B).

A comprehensive plan for the management of public reserved lands is required by statute. Other state agencies, such as the Bureau of Parks and Recreation, the Land Use Regulation Commission, and the State Planning Office, are to cooperate in the development of the comprehensive management plan. 30 MRSAs §4162 (3); see also 12 MRSAs §551 (1) (B).

2. Camp lot leases

Under 30 MRSAs §4162 (4) (D), the Director of the Bureau of Public Lands may lease campsites for up to five years. Options to renew these leases for further terms, not to exceed fifteen years for commercial uses needing a longer term to secure financing for improvements or maintenance, may be granted. When leases are acquired by the State on lands exchanged for public reserved lands, the Director is to authorize, upon reasonable terms and conditions, a lessee of a residential campsite to transfer his leasehold interest to another.

The Director was required by 30 MRSAs §4162 (8) to enter into new leasehold agreements with persons holding residential leases on public lots on October 1, 1975. The statute provides for renewal of the leases with the possible application, from time to time, of reasonable terms and conditions. A lease may be renewed as long as the lessee complies with its terms and conditions, and with all applicable state laws and regulations.

The annual fee for camp lot leases may not exceed ten percent of the fair market value of the land leased. The State Tax Assessor is charged with the biennial determination of fair market value. 30 MRSAs §4162 (9).

3. Sales

Under 30 MRSAs §4169 (1), the Director may recommend the sale, exchange, or relocation of public reserved lands to the Legislature for its approval. An exception is made for the sale of any parcel of public reserved land no larger than one-quarter acre. These sales must only be reviewed by the State Government Committee and approved by the Governor. The sale must be to an owner of private land adjoining the parcel being sold, may occur if the Director determines that the parcel has no use or value except to the adjoining private property, and must be for fair market value as determined by the Director. The Director must make written findings. 30 MRSAs §4169 (1-A). For all sales, exchanges, or relocations of public reserved lands, the Director must give notice and may hold, or must hold if a party so requests, a public hearing. 30 MRSAs §4169 (1-B).

4. Recreation

The Director has the authority to construct and maintain overnight campsites, as well as other camping and recreational facilities. The Director may charge reasonable fees to assist with the construction and maintenance costs of these facilities. 30 MRSAs §4162 (4) (E).

5. Funds

Most income derived from the public lands is placed in the Public Reserved Lands Management Fund. This is a nonlapsing dedicated fund, available to the Director for all of the statutory purposes for which the public lands are to be managed. 30 MRSa §4163.

Three exceptions exist to the general use of income from the public reserved lands. One concerns moneys acquired from public lands located in certain plantations and towns. The income from the camp lot leasing program is reduced as follows: Seventy-five percent of any income from residential leases on camp lots on public lands in plantations, organized as of March 1, 1974, is held by the State Treasurer in the Organized Township Fund. The interest earned on that portion of the moneys in the Fund belonging to each plantation is paid over annually to each plantation for support of schools. Twenty-five percent of the income from any other activities, authorized under 30 MRSa §4162 (4), on public lands in these plantations is also credited as above and expended for support of schools. 30 MRSa §4166. Seventy-five percent of any income from residential leases on camp lots on public lands in plantations organized as of March 1, 1974, which subsequently incorporate into towns, is returned to those towns for use for municipal purposes. Twenty-five percent of any other income from public reserved lands located in these towns is similarly returned to the towns. 12 MRSa §557(3).

Another limitation on public lots funds exists for the net income from the camp lot leasing program. Fifty percent of this net income must be used for the development of campsites and other camping and recreational facilities on the public lands. 30 MRSa §4163. The remaining net income from the public lots leases is credited to the Management Fund. 30 MRSa §4163.

Finally, as another exception to the deposit of moneys into the Management Fund, all income or proceeds from the sale, exchange, or relocation of public reserved lands is placed in the Public Reserved Lands Acquisition Fund. Acquisition Fund moneys may be expended only to purchase and assemble lands to be held and managed as public lands. 30 MRSa §4169 (2) & (3).

C. Policy

In 1981-1982 a reassessment of camp lots on public reserved lands occurred. As a result, the Bureau of Public Lands is increasing the annual fee for all leases to eight percent of fair market value. Approximately ninety percent of the fees have been increased to this level to date. Also, the 1981-1982 Maine State Government Annual Report states that, because leased camp lots provide for a private and exclusive use of public lands, the Bureau, while maintaining existing leases, does not issue new leases.

II. THE FACTUAL CONTEXT

A. Commercial leases

The Bureau of Public Lands currently is involved in seven commercial

leases of public reserved lands. The land area of all seven combined is less than 100 acres. The seven commercial leases are to:

Red River Camps. This is a sporting camp of approximately twenty-five acres, located in the Northern Region, near Deboullie Mountain and Deboullie Pond, in Township 15, Range 9 WELS. Though the Bureau has provided other camping sites in the area, this is the only place on these public lands providing indoor facilities.

Natanis Point Campground. This commercial campground provides tenting sites and drive-in sites in the Western Region at Chain of Ponds. Natanis provides the only facilities at Chain of Ponds.

Kennebago Lake Camps. Located in the Western Region in Davis Township, this is an old sporting camp now operated as an association. The approximately twenty-five cabins are apparently being converted to private residential control through purchases of shares in the association. However, the Bureau has not yet been approached to change the terms of the lease from commercial to residential.

Grants Kennebago Camps. This commercial operation is also located near Davis Township in the Western Region, in Township 3, Range 4 WEKP. This is run as a traditional sporting camp, with approximately fourteen cabins. It provides the only facility available to the public in the Kennebago area. The only access allowed through the private gate in this area is for guests at Grants Camps.

Bosebuck Camps. This sporting camp is located in Lynchtown Township on Aziscohos Lake in the Western Region. The camp is the primary access to the lake and public lands in the area.

South Arm Campground. This is a very small operation in the Western Region, located on Lower Richardson Lake. The recently proposed public lots trade between the State and the Pingrees includes this land. Much other public activity occurs in the area around this campground.

South Inlet Campsites. Located in the Western Region in Frenchtown Township, this was once a campground operated by the Maine Forest Service. It sits on a small lot, providing sites for tenting. Other sporting and tenting opportunities are available in the area.

The commercial leases listed above supply approximately \$4600 per year in income for the public lands program. Further, more detailed, information concerning location and rental fees for these leases can be found in the appendices.

B. Residential leases

The residential leased camp lots exist on public lands, but all structures and improvements made on the lands by the lessees are owned by them. There are 417 residential leases currently in existence under the public lots leasing program. Most of the residential camp lots are one-quarter to one acre in size. Most do not meet the land use standards established by the Land Use Regulation Commission for the unorganized territory. Three-quarters of the residential camp lots have water frontage.

Most are developed, with just a few remaining as a lot with no improvements. In 1983 the income from all residential leases will be approximately \$84,000.

Reference to the appendices will provide detailed information concerning the configuration of and income from residential camp lot leases in the three regions of public lands. Certain areas deserve specific mention here because they represent large tracts of residential camp lot leaseholds, with the camp lots concentrated rather than scattered. These areas include:

Westmanland. These camp lots in a town in the Northern Region are situated around a lake. Sixty-two leases for lots, ranging in size from just over a tenth of an acre to approximately one half of an acre, currently exist in this area.

Winterville Plantation. Also located in the Northern Region, this tract involves twenty-seven leases for lots of a little over one-tenth to a little over one half of an acre in size. These camp lots are also situated on a lake.

Carrabassett Valley. This town in the Western Region is the site of residential camp lots on public lands ranging in size from one-twelfth of an acre to a little less than one half of an acre. Forty-nine camp lot leases have been granted in this area.

Lincoln Plantation. Forty-nine leases are also held by camp lot lessees in this area. The lots leased have lake frontage and are from approximately one-tenth of an acre to one-quarter of an acre in size.

Little Squaw. This tract in the unorganized territory in the Western Region is the site of thirty-nine leases for residential camp lots. The lots range in size from one-quarter of an acre to seven-tenths of an acre.

Frenchtown. These thirty-three leases around a lake in the unorganized territory of the Western Region involve camp lots of a little over one-tenth of an acre to one half of an acre in size. This tract is included in the recently proposed trade between the State and the Pingrees.

C. Recreation

In previous years the activities undertaken by the Bureau of Public Lands to provide public recreational opportunities have not been accounted for separately from other activities, such as timber harvesting. The Bureau is currently working to separate its recreational management from other public lands management programs. Time accounting is being instituted to evidence employees' time spent on recreation as opposed to other management activities, and the Bureau is hoping to employ a recreation specialist. The Bureau is developing a work program that will present its recreation goals for each year. The recreation program will include development of remote and drive-in campsites, boat launches, and trails. The Bureau seeks to encourage more public use of public lands, but not in the intensive and managed manner of the state parks. The camp lot leasing program is the current major source of funding for the Bureau's recreational efforts.

D. Funding

Under statutory requirements, seventy-five percent of the residential rental income from public lots in certain plantations and towns is set aside for these plantations and towns, with the remaining twenty-five percent placed in the state-wide public lands fund. For 1983, \$22,904 will be returned to plantations and towns. With this adjustment, then, and accounting for administrative costs of \$30,998 (none of which is taken from the plantations' or towns' share), \$30,219 will remain for use by the Bureau from the 1983 camp lot leasing program. One half of this amount must, by statute, be used for recreational and camping facilities on public lands. The other fifty percent is used for general management of the public lands by the Bureau. Finally, the interest from all public lands accounts held by the State is credited to the General Fund.

E. Public lands trades

As a result of the decision in the Cushing case, which stated that timber and grass rights on the public lots deeded to private parties in the 1800's covered only the vegetation standing at the time of the sale, the State of Maine and various private landowners are engaged in negotiations for land exchanges. The Governor appointed a special task force to carry on these negotiations. One aim of the exchanges is to consolidate the public land holdings of the State into larger, more manageable parcels rather than scattered lots. The Governor has recently approved an exchange negotiated by the task force with the Pingrees on behalf of the State. This proposed swap will be presented to the Legislature for its approval. The suggested trade involves lands in Aroostook County, around the Deboullie and Eagle Lake area, Squa Pan Lake, and the Allagash. The other land involved is in the Adamstown/Richardstown area in Franklin County.

III. THE PROBLEM AND SUGGESTED SOLUTIONS

A. The Problem

1. Lessees

Lessees of camp lots on public reserved lands are concerned that their interests in the lots are threatened. They are concerned that the policy of the Bureau of Public Lands against establishing new leases but continuing existing leases may some day be discontinued. If this were to happen, the lessees might lose the value of investments in buildings and improvements they have made on the lots, and they would lose the enjoyment of a place to which they have become attached. Though the lessees hold, in general, only five-year leases on the camp lots, they have come to expect their interests to continue. Mixed signals given by the State regarding its public lands policy over the last nine years have led to feelings by lessees of being in an insecure position. Some lessees also question the value of certain leased camp lots to the public given the areas that some of this land is in and the development that has occurred.

Another concern is the recent reassessment of camp lots and increase of lease prices to eight percent of fair market value. Lessees worry that this price will continue to increase. Also, holders

of commercial leases have additional concerns about ability to acquire financing when property is leased rather than owned. Finally, some lessees are concerned that they may be required to purchase their camp lot. These lessees can continue to afford a leased lot, but not to buy the land.

2. The Bureau

The Bureau of Public Lands is charged with managing the public reserved lands consistently with the State's role as trustee for the people of Maine. These lands exist for public benefit. The Maine Supreme Judicial Court has upheld the generation of income, such as the leases produce, to be used for the benefit of the public reserved lands as consistent with the State's obligations as trustee. However, it may be argued that, in fulfilling its fiduciary duty to the people, the State must lease these lands with a fair return based on their value. Also, under the Maine Constitution and current statutes concerning public reserved lands, these lands are held for public use. It may be argued that leases to private individuals which preclude public use of, for example, waterfront parcels of public reserved lands may not be of benefit to the public.

Similarly, sales or exchanges of the currently leased camp lots to private parties may pose problems. While the State may constitutionally sell public lands if the proceeds are used to buy other lands to be held for the public, the State must still be acting primarily to benefit the public. If in selling or exchanging certain lots the State releases land that offers exceptional recreational opportunities, loses valuable timber lands, or creates management or access problems, it may not be acting responsibly as trustee for the public.

B. Suggested solutions

Various solutions have been proposed over the years to concerns raised on both sides of the camp lot leases argument, among them the following:

Sale. The most discussed solution to the concerns surrounding camp lots leased on public reserved lands is the sale of these camp lots to the current leaseholders.

Life estate. Another suggestion has been for the Bureau to convey to the current leaseholders a life estate in the camp lot each now leases. This would give current lessees greater rights and control in the land for their lives, while leaving final authority over the land, after the deaths of current lessees, in the hands of the Bureau.

Longer leases. Another possible solution is to amend current statutes to permit, or require, longer term leases to be given to current camp lot leaseholders. This might provide lessees with more security, while providing the Bureau with continued control over conditions of the lease.

Commercial or residential leases. Some have suggested that either commercial or residential leases are more appropriate for the public reserved lands. Commercial leases may provide greater public access to the

land. Residential leases may generate greater income for public lands programs.

Termination of leases. A possible solution is for the Bureau to abandon its camp lot lease program entirely.

IV. THE STUDY RECOMMENDATIONS

A. Commercial leases

The study committee recommends no statutory changes to specifically address commercial leases of public lots, nor do they recommend any significant changes in the current policy of the Bureau of Public Lands as applied to commercial leases.

The study committee does recommend that, as part of its planning for future management of the public lands for public benefit, the Bureau specifically examine the use of commercial leases. Do commercial leases, currently existing or possibly newly created, offer important opportunities for public access to and public accommodations on public lands? Can commercial operations contribute to the management of public lands for public recreation? The study committee recommends that within a year the Bureau present a report on public lands management that addresses these concerns.

The study committee further recommends that existing commercial leases be modified upon renewal so that uses of public lots may not be altered without consultation with and approval of the Bureau. This is consistent with the current policy against issuing new, as opposed to renewing existing, private leases for public lands.

Finally, the study committee recommends that steps be taken to provide public access to Kennebago Lake now precluded by the Kennebago Lake Camps commercial lease. At the time of renewal of the Kennebago Lake Camps commercial lease, the Bureau of Public Lands should seek to regain control of an undeveloped shorefront portion of the public lot currently covered by the lease. With such a piece of land removed from the lease the Bureau will be able to provide for public access to the lake.

B. Residential leases

The study committee does not recommend that the State undertake to divest itself of every camp lot on public lands now covered by a private lease. The study committee does recommend that existing residential leases be modified upon renewal to prevent changes in use without the approval of the Bureau.

The study committee also recommends that lessees of camp lots on public lands interested in purchasing the lots develop a proposal for the sale or exchange of land that they may present to the Bureau of Public Lands. The Bureau, in considering any such proposals, will be operating under the following guidelines:

-- Sales or swaps of public lands should usually be considered only when the proposal encompasses all leased camp lots within a given

public lands tract or parcel. Proposals covering individual, small numbers of, or scattered camp lots are not encouraged. The creation of private inholdings within public lands is discouraged.

-- Camp lot lessees should select an agent to approach the Bureau with a proposal for the sale or exchange of land. The Bureau is not to undertake negotiations with a group that does not speak with one voice.

-- The burden should not be upon the Bureau to generate proposals for the sale or trade of public lands to camp lot lessees. The Bureau's position will be to respond to thorough proposals offered by those seeking to purchase camp lots they currently lease.

-- In negotiating sales or exchanges of public lands to camp lot lessees the Bureau should seek

- to impose the expenses of any sale or exchange on the purchaser, rather than on the public
- to, where possible, require that lots being sold or traded be upgraded to meet current land use standards
- to maintain public access to public lands and resources where possible and desirable
- to receive full fair market value in the exchange or sale of public lands.

Under current statutes, any proposed sale or exchange of public lands, larger than one-quarter acre in size, may be put before the Legislature by the Director of the Bureau of Public Lands for the Legislature's approval. Any proposal generated as outlined above will be carefully reviewed by the Legislature. Local sentiment will be solicited and considered in the Legislative review of any proposed trade or swap in a particular locality.

C. Funds

The study committee recommends that all proceeds and income from the sale of public lands to current camp lot lessees be placed in the Public Lands Acquisition Fund. The statutes should be changed to require all interest generated from this, or any other public lands account, to be credited to the appropriate public lands fund. Use of the interest income in this way appears not only wise, but may be constitutionally mandated. Finally, the statutes should clearly state that, when camp lots on public lands located in plantations or towns are sold, all of the proceeds shall be placed in the Acquisition Fund. While certain plantations and towns will be losing rental income from leases of residential lots, income required by statute to be used for school support or municipal purposes, they will be gaining property tax revenues when the camp lots are transferred from public to private ownership. Legislation necessary to implement these recommendations appears in the appendices.

D. Recreation

The study committee recommends that the Bureau of Public Lands undertake new, and continue any existing efforts, to work with the Bureau of Parks and Recreation to develop a recreation plan for the public reserved lands. The study committee strongly believes that recreational opportunities are one of the primary benefits offered to the public by the existence of the public reserved lands. The Bureau of Public Lands should report within a year on recreation plans for public lands.

ACCESS

I. THE LEGAL CONTEXT

The public lots are held by the State in trust for the benefit of the public. The types of public beneficial uses contemplated by the reservation of these public lands is determined by the types of historical uses made of public lands in Massachusetts. See Opinion of the Justices, *supra* at 270-71. However, current Maine statutes clearly contemplate the opportunity for the people of Maine to enjoy the recreational resources offered by the public lands. See 30 MRSA §4162 (2) (A). The statutes also provide that the Bureau of Public Lands may charge reasonable fees to defray the costs of construction and maintenance of camping and other recreational facilities on public lands. 30 MRSA §4162 (4) (E). Provision for public access, then, to public lots seems, at the least, a necessary element of the State's policy favoring recreational uses of these lands. Whether or not the public has a right to access, independent of statute and based on the constitutional requirements of the public lands trust, is a difficult, and at this point unnecessary, question to answer. See generally Waite, *Public Rights in Maine Waters*, 17 ME. L. REV. 161, 185-188 (1965), for a discussion of the parallel considerations of public access rights to Maine waters and tidelands.

II. THE FACTUAL CONTEXT

A. Is there access?

A first question is: Can the public, by some means, gain access to various public lots? In many areas access is available with no fee collected. In others an avenue for access exists, but is not available to the public because the private owners of the access road do not permit public use. In some instances, for example in the Richardstown area involved in the proposed Pingree trade, the State has negotiated a right of way for the public. In other areas no access exists simply because no roads exist. Finally, in the Northern Region, access is available to much of the public lands over private roads. Fees are collected in this area.

B. North Maine Woods

North Maine Woods, Inc., established in 1972, manages gates and campsites for private landowners in the Northern Region. The State also contracts with North Maine Woods for assistance with fire protection, litter control, public safety, and rules enforcement on the public lands in the North Maine Woods area. Access to both the private and public lands in this region is over private roads.

North Maine Woods collects fees at gates in the Northern Region for use of both private and public lands. The fees for public use collected by North Maine Woods are turned over to the Bureau of Public Lands. The Bureau retains twenty-five percent of these moneys, returning seventy-five percent to North Maine Woods for the maintenance services provided. In fiscal year 1983-1984 approximately \$7500 in user fees for public lots will be collected, \$3625 returned to North Maine Woods and \$1875 retained by the Bureau.

C. Gates on public lots

Some gates barring access to public lots are within State control. These gates are in the following areas:

North. No publicly controlled gates exist in northern Maine. While the Telos Gate sits at the entrance to a public parcel, the right of way blocked by the gate is owned by Great Northern Paper Company.

East. One gate is located along a road on public lands to Rocky Lake. The gate is one half mile up the road; the road does not provide the major access to the Lake, since another, better road runs through the parcel to the water. The gated road is a woods management road. The gate is in place to protect against fire hazard and firewood theft. The gate is open, however, during hunting season.

Another gate exists in Mawahoc Plantation, at the beginning of a woods management road which travels through a 1000 acre lot where significant timber harvesting operations occur. The gate primarily protects against fire hazards. The public may turn off the public highway and park cars in front of the gate.

West. A gate exists in Riley township, but is never closed.

Near Lower Cupsuptic Lake a gate was mistakenly built on public land by private landowners, the Kennebago Campowners Association, seeking to control access to their land. The gate is manned and does control access beyond the public lot.

Near Upper Cupsuptic Lake a gate blocks access to an unsafe bridge. Other roads do provide access in this area.

Both the parcels around the Lower and Upper Cupsuptic are being proposed for trade because they represent scattered, unconsolidated lots providing no major public benefit.

South. In Southern Maine gates are located on public lands in Augusta and Skowhegan. One gate in Augusta controls through traffic, the other protects trees in the State arboretum.

The Skowhegan gate protects a seed orchard from vandalism and other damage.

D. Roads on public lots

Existing public roads on public lots were developed as part of timber harvesting operations. When the cutting stopped, maintenance of the roads ceased. The Bureau of Public Lands currently has no road maintenance program, but is developing one.

III. THE STUDY RECOMMENDATIONS

The study committee does not recommend any changes in the current policy of the Bureau of Public Lands concerning user fees for and gates on public lands. The study committee does encourage the Bureau to continue to develop a transportation plan for access roads on public lands.

mf-6

APPENDICES

The appendices, other than the legislation, were prepared by the Bureau of Public Lands.

BUREAU OF PUBLIC LANDS
CAMP LEASE DATA

LOCATION	# OF LEASES	LAKE/POND/RIVER FRONTAGE	ACCESS	DENSITY OF LOTS	LOT SIZES	RENTAL FEES		MUNICIPAL STRUCTURE
						LOWEST/CURRENT/FULL	HIGHEST AT ASSESSED VALUE	
<u>Northern Region</u>								
Oxbow Plt.	4	River	Dirt Rd	Concentrated	.17-.23 AC	\$101 / \$120		Plt.
St. John Plt.	2	NA	Limited Dirt Rd	Concentrated	.10	56 / 84		Plt.
Westmanland	62	Lake	Dirt Rd	Concentrated	.16-.47	96 / 264		Town
Winterville Plt.	27	Lake	Dirt Rd	Concentrated	.17-.53	162 / 275 / 384		Plt.
Squapan*	2	Lake (1)	Boat	Concentrated	.34-.46	38 / 200		Unorg.
T13 R8 WELS	2	Pond	Boat	-	.23-.96	85 / 230		Unorg.
T7 R7 WELS	2	Pond	Dirt Rd	-	.46	120		Unorg.
T7 R8 WELS* (Scraggly)	5	Lake (3)	Dirt	Scattered	.26-2.56	84 / 350		Unorg.
Chesuncook*	4	Lake	Boat		.62-1.5	98 / 165		Unorg.
T6 R11 WELS	1	Lake			.25	186		Unorg.
T8 R9 WELS	1	Brook	Boat	-	.46	120		Unorg.
<u>Eastern Region</u>								
Glenwood Plt.	3	Lake	Boat	Concentrated	.17-.97	120 / 216		Plt.
Great Pond Plt.	1	Lake	Boat	-	.46	160		Plt.
Lakeville Plt.	2	Lake	Boat (1)	Scattered	.46-1.0	275 / 392		Plt.

*Consolidated Trade Parcels

BUREAU OF PUBLIC LANDS
CAMP LEASE DATA

LOCATION	# OF LEASES	LAKE/POND/RIVER FRONTAGE	ACCESS	DENSITY OF LOTS	LOT SIZES	RENTAL FEES		MUNICIPAL STRUCTURE
						LOWEST/CURRENT/FULL ASSESSED VALUE	HIGHEST HIGHEST AT ASSESSED VALUE	
<u>Eastern Region</u> (cont)								
Codyville Plt.	1	NA	Blacktop (BT) Rd. (Rte. 6)	-	.46 AC	\$80		Plt.
Eastbrook	1	Lake	Boat	-	.46	160		Town
Molunkus	10	Lake	Dirt Rd	Concentrated	.23-.98	84 / 344 / 445		Unorg.
T4 ND*	8	Lake	Boat (5) Dirt Rd (3)	Scattered (5) Concentrated (3)	.23-4.5	142 / 267 / 626		Unorg.
T41 MD*	2	Lake	Dirt Rd (1)	Scattered	.46-.92	120 / 294		Unorg.
Grindstone	10	River	BT Rd (Rte. 11)	Concentrated	.46-.92	80 / 250 / 268		Unorg.
T4 R9 NWP*	17	Lake	Boat	Scattered	.46	168 / 240		Unorg.
T18 ED*	5	Lake	Dirt Rd	Scattered	.09-.52	38 / 275 / 368		Unorg.
T42 MD*	2	Lake	Boat	Scattered	.46	160		Unorg.
<u>Western Region</u>								
Carrabassett	49	NA	BT Rd/Dirt Rd (Rte. 27)	Concentrated	.08-.46	101 / 300		Town
Rangeley Plt.	2	NA	BT Rd (Rte. 17)	Concentrated	.15-.46	47 / 80		Plt.
Sandy River Plt.	9 12	Pond	Dirt Rd	Concentrated	.16-.46	168 / 412 / 442		Plt.

*Consolidated Trade Parcels

BUREAU OF PUBLIC LANDS
CAMP LEASE DATA

LOCATION	# OF LEASES	LAKE/POND/RIVER FRONTAGE	ACCESS	DENSITY OF LOTS	LOT SIZES	RENIAL FEES		MUNICIPAL STRUCTURE
						HIGHEST LOWEST/CURRENT/FULL	HIGHEST AT ASSESSED VALUE	
<u>Western Region (cont)</u>								
Lincoln Plt.	49	Lake	Dirt Rd	Concentrated	.12-.28 AC	\$ 90 / \$256 / \$274		Plt.
Magalloway Plt.	1	NA	Walk-in	-	.46	48		Plt.
Elliotsville Plt.	1	Lake	Boat	-	1.0	250		Plt.
Chain of Ponds*	10	Pond	BT Rd (Rte. 27)	Scattered	.92	84 / 375 / 442		Unorg.
D & E Twps.*	24	Lake	Walk-in	Scattered	.17-.54	76 / 149		Unorg.
Twp. C	1	Lake	Dirt Rd	-	.13	120		Unorg.
Stetsontown	4	Lake	Dirt Rd	Concentrated	.21-.68	161 / 403		Unorg.
Adamstown	7	Lake	BT Rd/Dirt Rd (Rte. 16)	Scattered	.25-1.56	155 / 425 / 826		Unorg.
Lower Cupsuptic	3	River	Dirt	Scattered	.50-1.0	120 / 208		Unorg.
Bowdoin Coll. E	1	Brook	Walk-in	-	.46	120		Unorg.
Frenchtown	33	Lake	Dirt Rd	Concentrated	.14-.48	151 / 442		Unorg.
Little Squaw*	39	NA	BT Rd (Rte. 6)	Concentrated	.23-.68	59 / 283		Unorg.
Alder Brook	1	Pond	Dirt Rd	-	.83	225 / 323		Unorg.

*Consolidated Trade Parcels

BUREAU OF PUBLIC LANDS
CAMP LEASE DATA

<u>LOCATION</u>	<u># OF LEASES</u>	<u>LAKE/POND/RIVER FRONTAGE</u>	<u>ACCESS</u>	<u>DENSITY OF LOTS</u>	<u>LOT SIZES</u>	<u>RENTAL FEES</u>		<u>MUNICIPAL STRUCTURE</u>
						<u>HIGHEST</u>	<u>HIGHEST AT</u>	
						<u>LOWEST/CURRENT/FULL</u>	<u>ASSESSED VALUE</u>	
<u>Western Region (cont)</u>								
Chase Stream	1	NA		-	.46 AC		\$48	Unorg.
Holeb*	6	Pond	Dirt Rd/Boat	Scattered	.46	48 / 260 / 328		Unorg.
T5 R6 BKPWKR	2	NA	Dirt Rd	Concentrated	.46		84	Unorg.

477

*Consolidated Trade Parcel

BUREAU OF PUBLIC LANDS

COMMERCIAL LEASE DATA

1. Red River Camps. T15 R9 WELS
Sporting Camp rental \$575

2. Natanis Point Camp Ground. Chain of Ponds
Camping rental \$988.54

3. Kennebego Lake Camps. Davis twp T3 R3 WBKP
An Association rental \$1035

4. Grants Kennebego Camps. T3 R4 WBKP
Sporting Camp rental \$1006

5. Bosebuck Camps. T5 R4
Sporting Camps rental \$750

6. South Arm Campground. TWPC
Campground very small rental \$165

7. South Inlet Campsites. Frenchtown
Campgrounds small lot rental \$100

1983 CAMP REVENUE

	<u>PLT 75%</u>	<u>BPL 25%</u>	<u>BPL 100%</u>
Glenwood Plt.	\$ 350.00	\$ 116.00	\$
Oxbow Plt.	157.00	52.00	
St. John Plt.	105.00	35.00	
Westmanland	10,238.00	3,412.00	
Winterville Plt.	3,959.00	1,320.00	
Molunkus			1,936.00
Squapam			258.00
TWP 13 R8 WELS			315.00
T15 R9			387.00
Carrabassett Valley			11,073.00
Rangeley Plt.	133.00	44.00	
Sandy River Plt.	1,577.00	525.00	
Chain of Ponds			3,660.00
Letter D			120.00
Davis Township			878.00
Letter E			2,411.00
Stetsontown			2,099.00
Eastbrook			320.00
Great Pond Plt.	120.00	40.00	
TWP 4ND			1,740.00
TWP 41MD			414.00
Lincoln Plt.	5,531.00	1,844.00	
Magalloway Plt.	36.00	12.00	
Adamstown			2,284.00
Lower Cupsuptic			357.00
Lynchtown			750.00
TWPC			110.00
Lakeville Plt.	450.00	150.00	
Grindstone			1,300.00
TWP7 R7 WELS			250.00
TWP7 R8 WELS			697.00
Elliottsville	188.00	62.00	

	<u>PLT 75%</u>	<u>BPL 25%</u>	<u>BPL 100%</u>
T7 R10;	\$	\$	\$ 120.00
T5 R13			573.00
Frenchtown			7,939.00
Little Squaw			6,470.00
TWP 4 R9			4,128.00
TWP 6 R11			186.00
TWP 8 R9			120.00
TWP 3 R3			225.00
Chase Stream			48.00
Holeb TWP			1,028.00
TWP 5 R6			163.00
Codyville Plt.	60.00	20.00	
TWP 18 ED			916.00
TWP 42 MD			320.00
	<u>\$22,904.00</u>	<u>\$7,632.00</u>	<u>\$53,585.00</u>
Total Plt.	\$22,904	Total BPL	\$61,217.00

BUREAU OF PUBLIC LANDS
CAMP PROGRAM
ADMINISTRATIVE COST

POSITION	TIME INVOLVED	SALARY	BENEFITS	TOTAL DOLLARS
PLANNING ASSISTANT	50%	\$ 6,569	\$1,413	\$ 7,982
PLANNING SUPERVISOR	10%	\$ 1,509	\$ 314	\$ 1,823
SECRETARY	10%	\$ 1,512	\$ 325	\$ 1,837
ACCOUNTANT	15%	\$ 2,352	\$ 548	\$ 2,900
RESOURCE ADMINISTRATOR	20%	\$ 4,413	\$ 854	\$ 5,267
DIRECTOR	10%	\$ 2,299	\$ 729	\$ 3,028
REGIONAL MANAGERS (3)	5%	\$ 3,478	\$ 685	\$ 4,163
TOTAL SALARIES AND BENEFITS		\$22,139	\$4,868	\$27,000
ALL OTHER				<u>2,000</u>
TOTAL				\$29,000
STA CAP				<u>\$ 1,998</u>
TOTAL				\$30,998

1983 Camp Revenue	\$84,121
Towns/Plantations Share	<u>-22,904</u>
GROSS TO BPL	\$61,217
Salaries/Benefits/Other Expenses	<u>-30,998</u>
NET TO BPL	\$30,219
Less 50% Camp Recreation Fund	<u>-15,110</u>
BALANCE BPL	\$15,109

BUREAU OF PUBLIC LANDS
CAMP PROGRAM
ADMINISTRATIVE COST

POSITION	TIME INVOLVED	
PLANNING ASSISTANT	50%	problem solving, planning records, valuation with taxation, letters, on site visit, LURC--DEP regulations, meetings, transfers
PLANNING SUPERVISOR	10%	recreational planning
SECRETARY	10%	typing letters, leases, transfers, forms
ACCOUNTANT	15%	posting income statements, billing, deposits, corrections to computer program, revenue sharing
RESOURCE ADMINISTRATOR	20%	policy, procedures, problem solving, legislation, legal problems, financial problems, meetings both public and private
DIRECTOR	10%	legislation, policy, procedures, problem solving, public and private meetings
REGIONAL MANAGERS	05% each	on-site inspections, problem solving, crew supervision, public and private meetings

ALL OTHER

PHONE CALLS	\$ 200.00
POSTAGE	300.00
COMPUTER PROGRAM	500.00
SUPPLIES	500.00
MILEAGE VEHICLE	<u>500.00</u>
TOTAL	\$2,000.00

INTERNAL GATES MAINTAINED BY THE
BUREAU OF PUBLIC LANDS

<u>LOCATION</u>	<u>PURPOSE</u>
18ED	Gated because of fire hazard and firewood theft. Opened for hunting.
MAWAHOC PLT.	Gated slash area, open during hunting season.
LOWER CUPSUPTIC	Manned gate by Kennebago Campowners Association. Controls access beyond public lot.
UPPER CUPSUPTIC	Gate across unsafe bridge for public safety. Other roads provide access around this location. Gate will be removed when bridge is rebuilt.
AUGUSTA	Two gates. One controls through traffic as needed, the other protects plantings in Pine Tree State Arboretum from damage by trail bikes and snowmobiles.
SKOWHEGAN	Farm road gated by Bureau of Forestry to protect seed orchard planting. General public access is not affected.

No formal authorization procedures were followed in establishing these gates, an oversight I intend to correct.

AN ACT Concerning Income Derived from Public Reserved Lots

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

Sec. 1. 12 MRSA §557, sub-§3, as last amended by PL 1979, c. 683, §1, is further amended to read:

3. Compensation to municipalities. Notwithstanding the other provisions of this section, 25% of the net revenues from any public lands, excluding submerged lands and proceeds from the sale of land, located in municipalities and managed by the Bureau of Public Lands, other than public reserved lands, shall be returned by the Treasurer of State to the municipality wherein the land generating the income is located, to be used for municipal purposes. With respect to those public reserved lands which were located in townships or tracts organized into plantations as of March 1, 1974, when any such plantation, subsequent to that date, becomes incorporated into a town, 75% of any income from residential leasehold camps, excluding any income or proceeds from the sale, exchange or relocation of any of these camps under Title 30, section 4169, and 25% of any other income from such public reserved land shall be returned by the Treasurer of State to the municipality wherein such public reserved land is located, to be used for municipal purposes. With respect to stumpage income from timber located on public reserved lands and leased pursuant to Title 30, section 4162, subsection 4, paragraph L, 50% of the income shall be returned by the Treasurer of State to the lessee for its own purposes. The director may approve the handling of income from sales or permits for up to \$500 by the lessees. The lessees shall submit a semiannual accounting of this income and payment for the state's share of the income.

Sec. 2. 30 MRSA §4163, 1st paragraph, as repealed and replaced by PL 1975, c. 623, §47, is amended to read:

All income received by the Director of the Bureau of Public Lands from the public reserved lands, except income provided for in section 4166, shall be deposited with the Treasurer of State, to be credited to a Public Reserved Lands Management Fund which is hereby established as a non-lapsing dedicated fund. Any interest earned on these moneys shall also be credited to the Public Reserved Lands Management Fund. Moneys credited to the Public Reserved Lands Management Fund shall be available for expenditure by the Director of the Bureau of Public Lands for the purposes set forth in section 4162 without limitation as to fiscal year.

Sec. 3. 30 MRSA §4166, 1st paragraph, as last amended by PL 1977, c. 57, §§2, 3, is further amended to read:

There shall continue in existence the Organized Townships Fund which shall include the principal of said fund arising from the public reserved lots prior to October 3, 1973 and accrued but unexpended income of said fund as of said date. The State shall allow income annually as earned. Said fund shall be held and administered by the Treasurer of State. The income of the Organized Townships Fund shall be added to the principal of the funds, until the inhabitants of such township or tract are incorporated into a municipality, unless previously expended according to law. When any such township or tract is incorporated as a town, said funds belonging to it shall be paid by the Treasurer of State to the treasurer of the trustees of

the ministerial and school funds therein, to be added to the funds of that corporation and held and managed as other school funds of that town are required to be held and managed. Notwithstanding the foregoing, 75% of any income from residential leasehold camps, excluding any income or proceeds from the sale, exchange or relocation of any of these camps under section 4169, and 25% of any other income arising from activities under section 4162, subsection 4, on public reserved lands located in townships or tracts organized into plantations as of March 1, 1974, shall be held by the Treasurer of State in the Organized Townships Fund. The income from that portion of the fund belonging to each plantation shall be paid annually by the Treasurer of State to the treasurer of such plantation to be applied toward the support of schools according to the number of scholars in each school. Said income shall be computed to the first day of each January by the Treasurer of State. The Commissioner of Educational and Cultural Services shall file in the office of the State Controller a list of such plantations with the amount due for income for the preceding year according to a record of such amounts to be furnished to him by the Treasurer of State. The Commissioner of Educational and Cultural Services shall be satisfied that all such plantations are organized, and that schools have been established therein according to law, that assessors are sworn and qualified and that the treasurers of such plantations have given bonds as required by law. The State Controller shall thereupon insert the name and amount due such plantations in one of the first warrants drawn in that year.

Sec. 4. 30 MRSA, §4169, sub-§2, as enacted by PL 1975, c. 339, §12, is amended to read:

2. Public Reserved Lands Acquisition Fund. To accomplish the purposes of this chapter, there is established a Public Reserved Lands Acquisition Fund. Notwithstanding the provisions of section 4163, all income or proceeds received by the Bureau of Public Lands from the sale, exchange or relocation of any public reserved lands shall be recorded on the books of the State in a separate account and shall be deposited with the Treasurer of State to be credited to the Public Reserved Lands Acquisitions Fund. Any interest earned on these moneys shall also be credited to the Public Reserved Lands Acquisition Fund.

STATEMENT OF FACT

The purpose of this bill is to clarify certain provisions concerning income or proceeds derived from the public reserved lands.

Sections 1 and 3 of the bill make it clear that, if a camp lot on public reserved lands in a municipality or plantation, currently leased for private residential purposes, is sold, the proceeds of that sale are credited to the Public Reserved Lands Acquisition Fund. While current law states that 75% of any income from residential leasehold camps on public reserved lands in certain municipalities or plantation is to be returned to those municipalities or plantations, this is not intended to mean that proceeds from the sale of these camps should be treated differently from the sale of any public reserved lands simply because the land is in a municipality or plantation. When a public lot in a municipality or plantation is sold, the municipality or plantation gains the benefit of

property taxes paid on this now private land. As contemplated by current law, when public reserved lands are sold the proceeds should be used to acquire new public lands. See 30 MRSA §4169.

Section 2 of the bill amends the section of current law establishing the Public Reserved Lands Management Fund. The amendment makes it clear that interest earned on moneys credited to this Fund must also be credited to the Fund. Crediting this interest to the Public Reserved Lands Management Fund, rather than to the General Fund, provides one means of meeting the State's obligation as trustee of the public reserved lands for the beneficial public uses and purposes specified in the Maine Constitution. See Opinion of the Justices, 308 A.2d 253 (Me. 1973).

Section 4 of the bill makes provisions for crediting interest earned on the Public Reserved Lands Acquisition Fund similar to those made in Section 2 for the Public Reserved Lands Management Fund.

mf-7