



COMMUNITY ♦ ADVOCACY ♦ KNOWLEDGE ♦ LEGACY

Board of Directors

Tom Allen
President

Seth Sprague
1st Vice-President

Jennifer Dann
2nd Vice-President

Jeff Williams
Secretary

John Melrose
Treasurer

Doug Baston

Kyle Burdick

Hannah Carter

Jim Clair

Mark Doty

Richard Nass

Paul Sampson

Chapter Leaders

Si Balch

Larry Beauregard

Ernest Carle

Jim Ferrante

Jason Hilton

Lauren Ouellette

Merle Ring

Andy Shultz

Andrew Smart

Jeff Williams

Testimony of Tom Doak

Executive Director

Maine Woodland Owners

In opposition to

LD 928

An Act to Maintain Public Access to Town Ways in Maine

Senator Baldacci, Representative Salisbury and Members of the Joint Standing Committee on State and Local Government, my name is Tom Doak, I am the Executive Director of Maine Woodland Owners speaking today in opposition to LD 928 “An Act to Maintain Public Access to Town Ways in Maine.”

The issue of discontinued and abandoned roads has a tortured history, as members who have served on this Committee in the past probably already know. There have been incremental steps taken over the last several legislative sessions to deal with some of the issues around these roads but much remains to be done. In 2021, the Legislature, at the urging of this Committee, established the Maine Abandoned and Discontinued Roads Commission and charged that group with developing further statutory changes. That Commission has developed several recommendations, which are included in a report, to this Committee, which will be discussed later this session. I serve on the Maine Abandoned and Discontinued Roads Commission, but my comments are solely those of the organization I represent.

It is important, as a start to be clear, that a public easement on an abandoned or discontinued road is held by a municipality (and occasionally a county). The primary purpose of retaining a public

easement is to avoid landlocking owners of property along the old road. However, it is rare that a municipality maintains, manages, or takes responsibility for the easement. The landowners who need the road to access their property end up maintaining the road, but because it has a public easement, everyone gets to use the road. This is, in my view, the biggest source of conflict with these easements.

There are several reasons why access to a public easement on an abandoned or discontinued road might be barred, including:

- For decades, roads have been discontinued or abandoned with a public easement retained. Just because there is a public easement retained, does not mean there is a passable road or even a road.
- If there is a road, it may be unsafe to use or easily damaged.
- The actual legal status of the road may be in question. Municipal records are often unclear or lost. Some roads have been discontinued more than once.
- Private owners actually hold the land on which the public easement crosses. There are unresolved legal issues regarding the public use of these easements on abandoned and discontinued roads.

I am not sure what is important about the 15-year time frame called for in this bill. However, implementing this provision would create two standards, further complicating an extremely complicated and contentious subject which many of us are trying to resolve.

I would urge the Committee not to pass this proposal, and if there is an issue that needs further consideration, it could be brought to the Maine Abandoned and Discontinued Roads Commission.