

To: Members of the Agriculture, Conservation and Forestry Committee

Re: LD 471

From: Brenda Cummings, Bath, Maine and Charlene Cummings, Phippsburg, Maine

We support LD 471, the bill that requires legislative approval for certain leases of public lands.

Many of the public lands we are discussing today are protected and managed by the State of Maine because of the work of Bob Cummings, our father, the journalist who first told Maine people in March of 1972 that we had over 400,000 acres of publicly owned land that we didn't even know existed. It wasn't until 1981 that the Maine Supreme Court finally affirmed the State's right to these lands, removing them from the de facto control of paper companies that had purchased cutting rights to the lands in the 1800s. It took until 1993 for Maine voters to step in and amend the constitution of the State to protect our public lands from the whims of whatever party faction controlled the Blaine House, by requiring a 2/3rds legislative approval for any sale or substantial change in use of our public lands, and insisting that the proceeds of public land sales must be used to acquire other public lands in the same county.

The struggle to reconcile the use of public lands for private benefit is not a new one. The first public lands story Bob wrote for the Maine Sunday Telegram was headlined, "Public Land Sold and Given Away," and it noted that public lands in the Carrabassett Valley near Sugarloaf had been sold for an average price of 11 cents a square foot (\$5,000/acre). Later stories revealed the actual price had been \$2,000 an acre, or 4.6 cents per square foot. [See attached articles]

Another Sunday Telegram article, "Public Land: A Double Standard" (April 16, 1972) discusses problems caused when the State bases its lease rates and sales prices on the timber valuation alone when the recreational value or commercial value of the land in question may be much greater. The article questioned whether the State could afford to lease our public lands for below-market rates, while simultaneously purchasing similar lands for much more.

Though we have come a long way since 1972 – winning back the rights to our public lands in the Maine Supreme Court, and in a constitutional amendment, there remains a need for constant vigilance to ensure no one person, no one governor or political party, can substantially change, sell or give away our lands without our consent.

Although the use of leases, rather than sales, to transfer public lands might make it seem that there are no losses to the public, it is crucial that each lease be examined with an eye to its actual long-term impacts. When the changes proposed by a lessee are of a basically permanent nature, which applies to any lessee who proposes significant utility construction on our public lands, the fact that the lease has a 25 year term is, essentially, a legal fiction. In what world will the town of Flagstaff ever reemerge from Flagstaff Lake? What is the typical lifespan of a transmission corridor, a railroad track or a pipeline? Much longer than the maximum 25 year lease agreement offered by the State of Maine. Thus, all such leases are creating substantial changes in the use and purposes of our public lands and are required to undergo legislative scrutiny. LD 471 clarifies and codifies this.

In the 1981 Supreme Court decision that finally resolved the public lands cases, the key issue was whether the cutting rights sold in the 1800s were perpetual – the right to harvest all trees on the lots, forever – or

were temporary, covering only the trees in existence at the time of the sale. The court held these cutting rights were temporary, clearing the way for Mainers to regain control over our public lands.

In some sense, the questions raised today by LD 471 and last year's bill, LD 1893, are pretty much the same ones that led to the struggle in the 1970s to regain control of our lands. When a lessee of public lands proposes changes whose economic life is longer than the maximum term of the lease, legislators should remember the paper companies who bought cutting rights in 1850 and then claimed to still own and control our lands in 1980. These are lands that belong to the people of Maine, and we hire you, our legislators, to ensure our intentions, enshrined in the Constitution in 1993 are fulfilled.

That is the purpose of this legislative proposal – to protect the legacy of the people of Maine, our public lands. It is a purpose that our father would endorse, and we are here to do so in his memory.

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Attachments:

November 26, 1972, Maine Sunday Telegram. Public Lots – Maine's chance to right a history of wrongs, by Bob Cummings.

December 22, 1974, Maine Sunday Telegram. Best of gifts – land for Maine people, editorial.

August 30, 1981, Maine Sunday Telegram. Our public lots: State's scenic jewels had a long journey home, by Bob Cummings.