

TESTIMONY OF ERNEST W. HILTON, ESQ., P.E.

LD 928—Ought to Pass

**RESOLUTION, Proposing an Amendment to the Constitution of Maine
To Establish a Right to a Healthy Environment**

Joint Standing Committee on Environment and Natural Resources

March 22, 2023

Senator Brenner, Representative Gramlich, and distinguished members of the Committee on Environment and Natural Resources, greetings:

An amendment to the Maine constitution which would affirm and protect our right to a clean and healthy environment is under discussion in the Legislature. Briefly, the Pine Tree Amendment will initiate a process to amend the Maine constitution to provide that the State "shall conserve" our natural resources including air, water, land and ecosystems "for the benefit of all people", including future generations. As might be imagined, there is opposition to what would seem fairly straightforward.

While I grew up on a farm in Starks, Somerset County, where my family has lived for close to 250 years, I worked for a number of years in underground coal mines and later as a mining engineer primarily in Appalachian coal country. I've seen the multi-decade, multi-generational economic devastation from mis-guided, short-sighted regulatory practices- acid mine drainage damaging streams, mountains torn apart, water resources devastated, economic prospects diminished, health compromised. We've seen much the same here in Maine with toxic waste issues, including from past efforts at mining, and now, of course, the intractable problem of PFAS contamination of our soil, water and wildlife.

Regarding PFAS, we should all recognize the attraction to farmers of "free" nutrients in sludge as a very inviting prospect. But, nationwide, society is now facing a long term price tag in the billions of dollars as we discover the ubiquity of PFAS toxins throughout our lives.

Having kicked around for 70 years, I believe we need to look further down the road. As an attorney and an engineer here in Maine, as a staffer with the PUC and as a past member and chair of the Board of Environmental Protection, I've observed the results of

past poorly-visioned projects from a number of different perspectives. This poverty of vision usually arises out of a lack of long-term thinking. It arises out of a narrow focus on short term economics. The Pine Tree Amendment would help assure longer term thinking. It would assure the burden of proof of acceptability of a project started and remained on the applicant, would assure the burden remained appropriately significant, and would help blunt the political pressure which occasionally thwarts effective decision-making.

Are there concerns over the amendment becoming a source of litigation? Sure. But as an attorney, I wonder whether opponents aren't confusing or conflating real fact finding and discussion about the merits of a project, and pejoratively calling it litigation. We often determine in the aftermath that subjecting a project to greater scrutiny would have been a good thing.

Therefore, I urge you to vote 'ought to pass' on LD 928.

Thank you for your consideration,

Ernest W. Hilton, Esq., P.E.
Starks, ME 04911

Law Office of Ernest W. Hilton
4 Heald St., P.O. Box 162
Madison, ME 04950

Ernest Hilton
Starks
LD 928

TESTIMONY OF ERNEST W. HILTON, ESQ., P.E.

LD 928—Ought to Pass

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish
a Right to a Healthy Environment

Joint Standing Committee on Environment and Natural Resources

March 22, 2023

Senator Brenner, Representative Gramlich, and distinguished members of the
Committee on Environment and Natural Resources, greetings:

An amendment to the Maine constitution which would affirm and protect our right to
a clean and healthy environment is under discussion in the Legislature. Briefly, the
Pine Tree Amendment will initiate a process to amend the Maine constitution to
provide that the State "shall conserve" our natural resources including air, water, land
and ecosystems "for the benefit of all people", including future generations. As might
be imagined, there is opposition to what would seem fairly straightforward.

While I grew up on a farm in Starks, Somerset County, where my family has lived for close to 250
years, I worked for a number of years in underground coal mines and later as a mining engineer
primarily in Appalachian coal country. I've seen the multi-decade, multi-generational economic
devastation from mis-guided, short-sighted regulatory practices- acid mine drainage damaging streams,
mountains torn apart, water resources devastated, economic prospects diminished, health compromised.

We've seen much the same here in Maine with toxic waste issues, including from past efforts at
mining, and now, of course, the intractable problem of PFAS contamination of our soil, water and
wildlife.

Regarding PFAS, we should all recognize the attraction to farmers of "free" nutrients in sludge as a
very inviting prospect. But, nationwide, society is now facing a long term price tag in the billions of
dollars as we discover the ubiquity of PFAS toxins throughout our lives.

Having kicked around for 70 years, I believe we need to look further down the road. As an attorney
and an engineer here in Maine, as a staffer with the PUC and as a past member and chair of the Board
of Environmental Protection, I've observed the results of past poorly-visioned projects from a number
of different perspectives. This poverty of vision usually arises out of a lack of long-term thinking. It
arises out of a narrow focus on short term economics. The Pine Tree Amendment would help assure
longer term thinking. It would assure the burden of proof of acceptability of a project started and
remained on the applicant, would assure the burden remained appropriately significant, and would help
blunt the political pressure which occasionally thwarts effective decision-making.

Are there concerns over the amendment becoming a source of litigation? Sure. But as an attorney, I
wonder whether opponents aren't confusing or conflating real fact finding and discussion about the
merits of a project, and pejoratively calling it litigation. We often determine in the aftermath that
subjecting a project to greater scrutiny would have been a good thing.

Therefore, I urge you to vote 'ought to pass' on LD 928.

Thank you for your consideration,

Ernest W. Hilton, Esq., P.E.
Starks, ME 04911

Law Office of Ernest W. Hilton
4 Heald St., P.O. Box 162
Madison, ME 04950