

2005

Percival P. Baxter's Vision for Baxter State Park: An Annotated Compilation of Original Sources in Four Volumes. Vol 1

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Friends of Baxter State Park

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Percival P. Baxter's Vision for Baxter State Park

*An Annotated Compilation of Original Sources
in Four Volumes*

Volume I

Friends of Baxter State Park
Bangor, Maine

Percival P. Baxter's Vision for Baxter State Park

An Annotated Compilation of Original Sources

Volume I



Katahdin From Near Foster Field
Lou Mucci, 2004
Commissioned by Friends of Baxter State Park

Percival P. Baxter's Vision for Baxter State Park

An Annotated Compilation of Original Sources

Volume I

Compiled and Annotated by
Howard R. Whitcomb, Ph.D



Friends of Baxter State Park
Bangor, Maine

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Painting Opposite Title Page: *Katahdin from Near Foster Field* by Lou Mucci, Aina, Maine

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FOREWORD

Baxter State Park first inspired awe and fascination in me more than twenty years ago. It was then that my family and I first climbed Katahdin and camped at Roaring Brook. Subsequent treks to Russell Pond and Wassataquoik Lake, climbs up North Traveler and Doubletop, dips in the frigid kettles of Howe Brook and volunteer weeks at Daicey Pond deepened my respect for Baxter State Park, its visionary donor and the philosophy that guides its management.

The history of Baxter State Park is as complicated as it is remarkable. Governor Percival Baxter was not just a visionary. He was also one of the most determined, persistent and patient persons ever to live. It took him more than thirty-two years and more than two dozen separate land acquisitions to assemble all of the pieces of his “puzzle”. The acquisition process was marked not only by Governor Baxter’s tenacious persistence, but also by considerable negotiation and compromise. The result was one of the most unique public parks in the world: more than 200,000 acres of majestic mountains and forests.

Governor Baxter’s gift to the people of Maine included not only a vast wilderness sanctuary but also an area designated for scientific forestry management. The Governor knew that controversy, political and otherwise, would inevitably surround management of the Park. That is why in 1939, he had the Park’s enabling legislation amended so that responsibility for Park management would lie in the hands of the independent, three-person Baxter State Park Authority.

There have been, and undoubtedly will continue to be, controversies surrounding the wilderness concept that Governor Baxter evoked for much of the Park. The contextual meaning of trust phrases such as “natural wild

state” and “sanctuary for wild beasts and birds” has been the subject of a great many discussions over the years. So has the operation of scientific forest harvesting within Park confines. Until his death in 1969, Governor Baxter himself expressed his desires on the interpretation of the deeds of trust in a number of situations. Since his death, it has been necessary to research the various deeds of trust, a multitude of legal opinions and other documents in order to glean the Governor’s intent with respect to certain Park management issues. To conduct such research required substantial effort since not all of the source documents were easily accessible.

Now, thanks to the efforts of the independent group Friends of Baxter State Park, all of the source documents that chronicle Governor Baxter’s vision and intent for the Park have been collected and compiled in this four volume collection. The collection includes the deeds of trust, judicial opinions, Attorney General opinions, as well as Governor Baxter’s speeches and correspondence. The collection also includes annotations by Professor Howard R. Whitcomb.

This collection is important because it will increase the clarity of, and accessibility to, these primary source documents. Such documents are critical because they reveal Governor Baxter’s original thinking and trace its evolution over time. The collection will also increase the public’s understanding and appreciation for the detailed information gathering and analysis that have accompanied Park management decisions over the years.

On behalf of the Baxter State Park Authority and the People of Maine, I congratulate and thank the Friends of Baxter State Park for undertaking and successfully completing this project. I particularly recognize and thank Professor Whitcomb for his fine work in managing the project and authoring the annotations. These volumes of annotated materials will help future generations of Maine people to better understand, appreciate and protect the very special gift given to them by Governor Percival Baxter.

G. STEVEN ROWE
Maine Attorney General
Chair, Baxter State Park Authority
April 2005

Preface

Friends of Baxter State Park is enormously pleased to contribute to public discourse and scholarship this four-volume annotated compilation of original sources, collectively conveying Governor Percival P. Baxter's intent and vision for the park, his unparalleled gift to the people of Maine. Herein are gathered together for the first time in one source the Deeds of Trust, legislative interpretations, opinions of Attorneys General, appellate court opinions, and Baxter's voluminous speeches and correspondence.

Purpose

Baxter State Park is unique among parks. It was conceived and created by one man, Governor Percival P. Baxter, who today is the hero of park users and conservationists from near and far. It was Baxter who:

- Doggedly bought and paid for every single parcel, amounting to 201,000 acres as of his last gift in 1963,
- Specified the governing structure and ground rules for park management as he gifted his "building blocks" to the state,
- Capitalized a trust fund for its operation and long term survival, and
- Guided policy and operations until his death in 1969.

Baxter was both a visionary and pragmatist. The conditions upon which he gave the park to the State of Maine are specific. Even if some of his words are not always consistent, taken as a whole, they are clear: his foremost purpose was to retain and enhance the park's wild state, for nature itself, as it were. Within that context, he also wished to provide opportunities for the people of Maine to experience this wildness apart from development.

But what does this mean today, especially when few alive actually knew the man and heard his ideas, and when technology has changed the ways in which we use the out-of-doors? How may the public trust remain as true as possible to the Governor's wishes? While current Park Director Irwin "Buzz" Caverly certainly had the privilege of first-hand instruction from the Governor, his successors most surely will not. Nor will other officials and citizens involved in the administration, management, and safeguarding of the park.

Friends of Baxter State Park offers these annotated materials in the belief that this knowledge is vital to ensuring that the Governor's wishes continue to endure in park management and administration. Much of the material herein has not been previously available to the public. Locating and using it should be easy for anyone.

We first began the project as a means of understanding within our own organization the basis for the Governor's intent and actions in establishing a wilderness park, even as he made concessions for hunting and forestry in acquiring some parcels, to get the job done. Our mission as an independent citizen's group is to help preserve, support, and enhance the wilderness character of the park, in the spirit of its founder. In carrying out this mission, we must ensure that we have our facts straight. This valuable resource will help us immeasurably. We hope you likewise will find it useful.

Organization

The seven parts of this compilation are organized into four volumes. Each part begins with an "Overview;" followed by brief "Annotations." The "Documents," copied from copies of originals from the sources consulted, complete each part.

Volumes I — II, Parts 1-3: Legal Documents

The first three parts are legal documents through which the park was created and by which the Governor's intent and transactions have been interpreted. These include the Deeds of Trust and Judicial Opinions (Volume I, Parts 1-2), presented chronologically, and Attorney General Opinions (Volume II, Part 3), treated by subject matter.

Volumes III — IV, Parts 4-7: Speeches and Correspondence

Three of the last four parts contain private exhortations and ideas that the Governor expressed about the park in speeches and correspondence. Hopefully, most of the countless extant materials are contained herein. The other part, in addition to personal items pertaining to Baxter himself, consists of documents recognizing his accomplishments such as letters of commendation from former U.S. Secretary of the Interior Stewart L. Udall and former Associate Justice of the Supreme Court William O. Douglas.

Speeches about Katahdin comprise Part 4 (Volume III).

Correspondence related to the attempt in the mid-1930s to create a national park in the Katahdin area, that the Governor headed off, make up Part 5 (Volume III). This correspondence is separated from that of Part 7 (Volume IV) because of its particular content.

Part 6 (Volume III) includes personal items, including his will and trust documents, and awards bestowed upon Governor Baxter.

Part 7 (Volume IV) comprises the remainder of his correspondence, selected for its bearing on his vision and intent for Baxter State Park. It is organized by subject matter to aid the user.

Research Limitations

Professor Whitcomb attempted to avoid interpretative judgments in his annotations, leaving such to the users of the four volumes, and the courts and attorneys general of the state.

Professor Whitcomb was not asked, nor did Friends of Baxter State Park expect him to conduct, independent research as an historian might do. Friends directed his efforts to the documents willingly made available by the Office of the Attorney General of the State of Maine, Baxter State Park Headquarters, and the Maine State Library which holds the Percival P. Baxter Collection. The State Library's guide to that collection appears as an Appendix in Volume I of this compilation. Professor Whitcomb did not use the Baxter scrapbooks that were in the process of restoration. That restoration will be completed soon and interested parties should consult the excellent index that is included in the aforementioned guide.

Availability

Thanks to the generosity of the Davis Conservation Foundation and other donors including Jon Lund, Robert Morrell, and Rupert White, copies will be made available to the Office of the Attorney General and Baxter State Park Headquarters. The general public will have access to the four-volume set at the Maine State Library, Maine State Law Library, Cleaves Law Library (Cumberland County), Maine Historical Society, and public libraries in Bangor, Portland, and Presque Isle (Mark and Emily Turner Memorial Library).

A Word of Thanks

Finally, we acknowledge the extraordinary contribution of Dr. Howard Whitcomb, Emeritus Professor of Political Science of Lehigh University, in bringing the material to publication. With little compensation, but much support from state and park officials and others whom he has named in his Acknowledgments, and the Friends of Baxter State Park subcommittee who guided his effort, Dr. Whitcomb painstakingly compiled, organized, and annotated the 1500 page set. We are grateful to him and to all who have helped him in his research.

Friends also commissioned Lou Mucci to paint a watercolor reflecting the park's capacity to inspire. It is his watercolor that graces this work, and we thank him.

May Governor Baxter's beloved park remain forever wild!

Charlie Jacobi,
President, Friends of Baxter State Park
Bar Harbor, Maine

Acknowledgments

I was pleased to have been asked by the Friends of Baxter State Park (FBSP) to take primary responsibility for this documentary project. My half-century of hiking and camping experiences in Baxter State Park began as a 13 year-old when my summer camp party climbed Katahdin via the Cathedral Trail. I even had the good fortune a few years later to meet Governor Baxter. I have been drawn back regularly to explore some of the Park's more remote locations and in each of the intervening decades I have climbed Katahdin. As a retired political scientist, I felt comfortable accepting the FBSP's invitation to undertake this project, while at the same time hoping that my efforts would be worthy of the confidence that had been shown in me.

For the past several years, it has been a distinct pleasure to work closely with three of the founding members of the FBSP's Board of Directors — John Neff, Holly Dominie, and Don Hudson. They have provided valuable guidance and, at times, much needed prodding. John Neff's extensive knowledge of and research on Katahdin helped point me in the right direction on a number of occasions. Likewise, the Board of Directors provided encouragement and unflagging support. My son, Gerald R. Whitcomb, with whom I share wonderful memories of the Park, provided invaluable assistance by critiquing my annotations.

The compilation of materials was greatly facilitated by the cooperation of the State Library, the Department of the Attorney General, and Park Headquarters in Millinocket. In particular, I would like to thank Maine State Librarian, J. Gary Nichols, and his staff, notably Ben Keating, Elaine Stanley and Louise Hinkley, for the courtesies extended to me on my many visits to the Baxter Collection at the State Library. Attorney General Steven Rowe and his deputy, Paul Stern, shared documents in their possession that were unavailable elsewhere. Finally, Park Director Irvin C. (Buzz) Caverly, Jr. was of enormous assistance. The multi-colored maps that accompany the annotations for the deeds of trust (Vol. I), were produced specifically for this project by Director Caverly and his staff. Furthermore, it was Buzz's suggestion that I include Attorney General opinions in my annotated compilation (Vol. II). The project would have been much less comprehensive without the inclusion of those documents.

Lou Mucci of Alna, ME was commissioned by the FBSP to do a painting of Katahdin. His beautiful watercolor appears as the Frontispiece in each of the volumes. Lou also designed the miniature maps of the Park that identify the parcels affected by the twelve sets of Acts of Acceptance from 1931 – 1963.

The generous support of the Davis Conservation Foundation enabled the FBSP to think more expansively about both the appearance of the volumes and the scope of their distribution throughout the State of Maine. Additional contributions to help underwrite the publication of these Baxter materials have been received from Jon Lund, Robert Morrell and Rupert White.

I would be remiss if I failed to acknowledge the usefulness of John W. Hakola's *Legacy of a Lifetime* and Neil Rolde's *The Baxter's of Maine: Downeast Visionaries* in preparing the annotations. When I was uncertain about particular individuals or events, I invariably found the information I needed by consulting these excellent sources. Those two volumes, along with Trudy Irene Scee's *In the Deeds We Trust: Baxter State Park 1970 – 1994*, are the principal accounts of the Park's evolution and its benefactor's extraordinary life.

I would also like to thank Attorney General Steven Rowe for generously consenting to write the *Foreword*. Finally, I would like to acknowledge the invaluable assistance of Sandy Knowles and Sue Bulger at J.S. McCarthy Printers in Augusta. Sandy oversaw all phases of the volumes' production, whereas Sue's expertise in graphic design enhanced their appearance.

Howard R. Whitcomb
Georgetown, Maine
April, 2005

*Seldom has a more generous gift been presented
to a people than has been given by
Percival Proctor Baxter . . . to the State of Maine.*

*It is incumbent upon them, the recipients, to preserve
the trust impressed upon them, to ensure for themselves
and for future generations the fullest use of Baxter State Park
consistent with the desires of the donor.*

Public Laws, 1971, Chap. 477

Part 1

Deeds of Trust

Volume I

Deeds of Trust and Judicial Opinions

Part 1: Deeds of Trust

OVERVIEW

Over more than three decades, former Governor Percival P. Baxter (1921-1925) deeded to the State of Maine in excess of 200,000 acres that constitute the bulk of the present-day Baxter State Park. Baxter made his initial gift of nearly 6,000 acres, including the area immediately surrounding Mount Katahdin, in 1931 and deeded the final parcel to the state in 1963.

The core documents detailing the gifting of the 28 parcels¹ consist of two types, i. e., “Private and Special Laws” (abbreviated hereafter as “P & S Laws of ____”) and “Formal Communications of Governor Baxter Concerning the Creation of Baxter State Park” (abbreviated hereafter as “Formal Communications”). They consist of 147 numbered pages that were assembled by the Office of the Attorney General for its own use, as well as that of park personnel and the general public.

The annotations that follow are based exclusively on the information contained therein and the annotator makes no claim as to how these documents might be interpreted. The annotations are purely descriptive in nature and are intended to facilitate a greater appreciation of how Baxter assembled the park and the stipulations that he made for its use. For legal interpretations of the meaning of these documents and other extrinsic evidence, such as former Governor Baxter’s correspondence, one should examine the State of Maine judicial opinions that are reproduced and annotated in the second section of this first volume. In addition, one might find it helpful to examine the several dozen Opinions of the Attorney General, that provide yet another legal perspective on the former Governor’s intentions, viz., the administration of the park, including trust fund management. These opinions and the accompanying annotations can be found in the second volume of this four-volume compilation of Baxter materials.

Two color-coded maps of Baxter State Park (BSP), prepared by the Park Director, have been included to assist users of these annotations. One identifies the 28 parcels gifted by Baxter, “Location of Land Acquisitions with Date Granted to State –As of 1963.” The second, “Land Acquisitions with Date Granted to State –Revised 2003,” identifies the two additional parcels that were acquired after Baxter’s death. These maps also show the road network within the park as of 1963 and 2003, respectively. The annotations herein dovetail with the 1963 map. In addition, at the very end of this annotation there is a three-colored “BSP Use Zone Legend” that differentiates between areas dedicated to game sanctuary, forest management and hunting, and hunting.

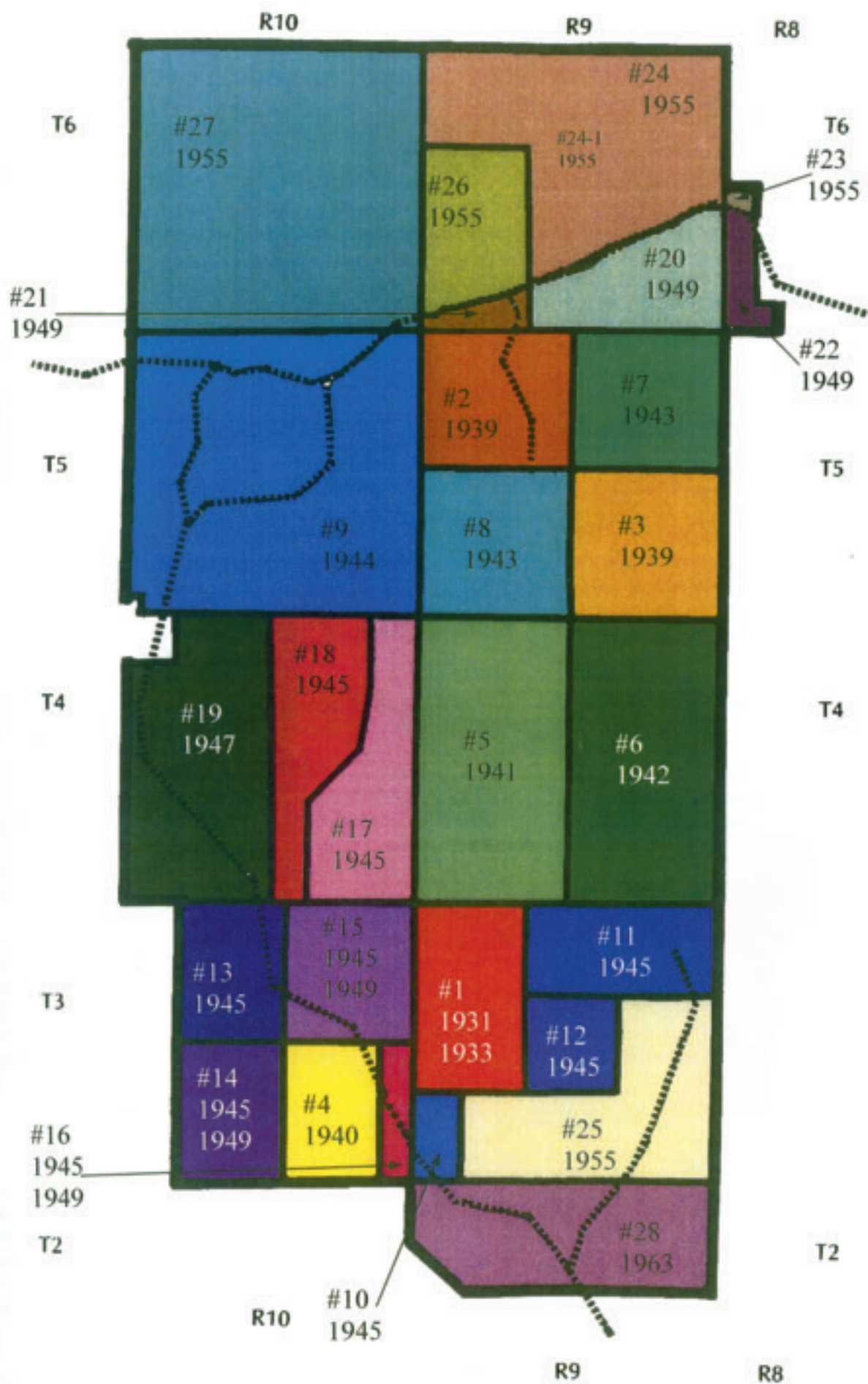
The Friends of Baxter State Park expect that these annotated documents will make it easier for the general public to understand the evolution of Baxter’s vision for the park and, more importantly, appreciate how that vision relates to the current administration of the park by the Baxter State Park Authority. If one wishes for an additional account as to how Baxter State Park was assembled, see John W. Hakola, *Legacy of a Lifetime: The Story of Baxter State Park*, Chapter III “Baxter State Park is Acquired,” pp. 73-99.

¹ Actually there were 29 separate parcels if one considers the fact that there is both a parcel #24 and #24-1.

Formal Communications
Percival Proctor Baxter to the
Honorable Edmund S. Muskie and the Honorable Senate
and House of Representatives of the 97th Legislature of the
State of Maine, 17 March 1955

“When you inspect this map it will be difficult for you to visualize how this has been accomplished, how my numerous purchases have been brought together into one solid area. I myself can hardly realize it. A map showing the different acquisitions both small and large over the years would remind you of your grandmother’s patchwork quilt, which finally in some mysterious way came out of the confusion into one large piece.”

LOCATION OF LAND ACQUISITIONS WITH DATE GRANTED TO STATE—AS OF 1963



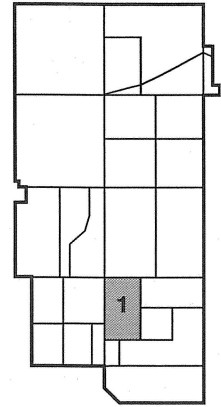
ANNOTATIONS

1.1

PARCEL # 1 (1931 and 1933) – T3 R9 (5,960 acres)

P & S Laws of 1931, Chap. 23 (pp. 1-2) and P & S Laws of 1933, Chap. 3 (pp. 3-4); and Formal Communications (pp. 83-85) and (pp. 86-88)

This initial gift, which included Mount Katahdin, consisted of two parcels of 3,840 and 2,120 acres. Baxter acquired the land from the Great Northern Paper Company (hereafter GNP) and transferred it to the State of Maine in two stages. The first parcel was accepted by an act of the legislature and approved by the Governor on 4 March 1931, i.e., P & S Laws of 1931, Chap. 23. After these actions in October of 1931, Baxter enlarged his gift with a second conveyance which was accepted for the state by the Forest Commissioner, the Attorney General, and the Governor and Executive Council. These officials were acting under the provisions of Chap. 11, Sections 15 and 16 of the Revised Statutes of 1930. Since the legislature had not participated in the acceptance of the second parcel, Governor Baxter deemed that an additional Act of Acceptance was necessary to legally authenticate and record the deeds of gift in the laws of the State of Maine. The resulting P & S Act of 1933, Chap. 3 accomplished that objective.



The deed of gift for this first parcel, dated 3 March 1931, provided the first expression of Baxter's intent. It read:

said premises shall forever be used for public park and recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds, that no roads or ways for motor vehicles shall hereafter ever be constructed therein or thereon, and that the grantor, during his lifetime, retains the right to determine, and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed.²

The former Governor reiterated these intentions in his letter of 3 March 1931 to Governor William Tudor Gardiner and the Senate and House of Representatives of the State of Maine.³

In the same correspondence, Baxter alluded to his ambition, beginning as a member of the House of Representatives, of having "the State of Maine own Mt. Katahdin," which he described as "the grandest and most beautiful of all the natural attractions of our State." He also expressed his interest in acquiring additional acreage in the immediate area and donating it to the state lest the "uncertainty of life" might thwart his plans. He concluded by noting that "[I]n making this gift I desire to show to the people of my native State my appreciation of the honors they conferred upon me in the years gone by."⁴

The second parcel, consisting of 2,120 acres, was conveyed to the state on 7 October 1931. This parcel, as noted above, was accepted by the Forest Commissioner and approved by the Governor and the Attorney General. The conveyance of this additional three square mile parcel meant that there had been a total of nine square miles, or 5,960 acres, transferred to the state. [Baxter had mistakenly identified, in his letter to Governor Gardiner of 3 March 31, the initial parcel as consisting of 16 square miles.⁵ Instead it had been approximately 6 square miles.⁶ Even though the combined acreage was 5,960 (9 square miles), one sees references to the 1931 gifts as consisting of 6,000 acres.]

² P & S Laws of 1931, Chap. 23, p. 2.

³ Formal Communications (1931), p. 85.

⁴ Formal Communications (1931), pp. 84-85.

⁵ *Ibid.*, p. 84.

⁶ Formal Communications (1933), p. 88.

In the second Act of Acceptance, P & S Laws of 1933, the Baxter deed differed slightly from its predecessor, namely:

said premises shall forever be used for State forest, public park and recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds, that no roads or ways for motor vehicles shall hereafter ever be constructed thereon or therein, and that the Grantor, during his lifetime, retains the right to determine, and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed.⁷

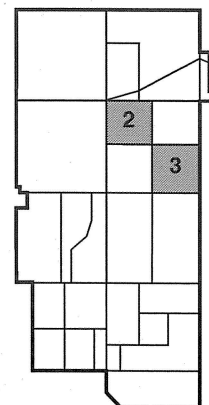
The only departure from the earlier terminology was the insertion of the words “State forest” as an additional purpose along with “public park and recreational purposes.”

1.2

PARCEL #2 and #3 (1939) — T5 R9 (11,508 acres)

P & S Laws of 1939, Chapter 1 (pp. 5-7); and Formal Communications (pp. 89 – 92)

These two parcels constituting the northwest (Parcel #2) and southeast (Parcel #3) quadrants of T5 R9 were acquired by Governor Baxter from the Piscataquis Land Company (a creation of the Pingree heirs) and St. John Smith of Portland. The northwest quarter of the township, consisted of approximately 6,000 acres, including Lower South Branch Pond. This parcel was initially accepted in late 1938 by Forest Commissioner Seavey, Attorney General Burkett, and Governor Barrows and the executive councilors. These officials were acting under the provision of Chap. 11, Sections 15 and 16 of the Revised Statutes of 1930. In January of 1939 when Baxter conveyed the third parcel consisting of approximately 6,000 acres in the southeast quarter of the same township, he sought, as he had in 1933, formal legislative action to further formalize the conveyances to the State, namely P & S Laws of 1939, Chapter 1.



In the deed, Baxter’s language was, once again, slightly different:

said land shall forever be used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds and that the grantor during his life time retains the right to determine and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed.⁸

The language prohibiting roads was not included in this deed.

In the spring of 1937 legislation was introduced in Congress to create a national park in the Katahdin region. That proposal will be treated exhaustively later in Part 5 (Volume III); however, one can sense Baxter’s vehement opposition to the potential intrusion by the federal government by the following comments in his letter to Governor Barrows and the legislature:

In conveying these lands to the State of Maine a definite Trust is created and I have the utmost confidence that the word of this Sovereign State as given by the Chief Executive and by the representatives of the people never will be broken and that this State never will violate the Trust provisions in the Deeds it accepts from me.⁹

He also indicated that he had acquired a total of 38,000 acres, including the 18,000 already gifted, and that from time to time additional acreage would be donated to the state.¹⁰

⁷ P & S Laws of 1933, Chap. 3, p. 4.

⁸ P & S Law of 1939, Chap. 1, pp. 6-7.

⁹ Formal Communications (1939), pp. 91-92.

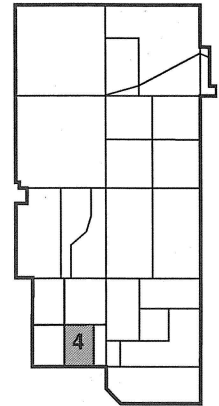
¹⁰ *Ibid.*, p. 91.

1.3

PARCEL #4 (1940) – T3 R10 (4,174 acres)

P & S Laws of 1941 (Special Session, 1939-1940), Chap. 122 (pp. 8-9); and Formal Communications (pp. 97-100)

This was the first parcel of land in T3 R10 to be deeded to the state. Baxter had acquired the land from GNP. The township was critical to Baxter's intentions because it contained lands that provided access to the initial (1931) parcels from the west. This particular parcel included the campsite at Katahdin Stream, the most frequented section of the Katahdin region for the ascent of the mountain via the Hunt Trail, and portions of the Millinocket-Sourdnahunc¹¹ road. The deed read, in part, as follows:



said land shall forever be retained and used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beast and birds and that the grantor during his life time retains the right to determine and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed.¹²

This was identically worded to that of the 1939 deed. The deed also acknowledged GNP's right of way on the Millinocket-Sourdnahunc road.¹³ This was the first instance in which Baxter granted a right of way to a former landowner.

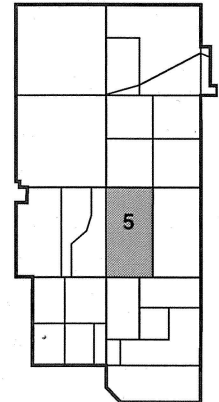
In his letter of 22 July 1940 to Governor Barrows, Baxter noted that he had either donated or acquired approximately 74,533 acres and that he would not consider the project complete until the park exceeded 100,000.¹⁴

1.4

PARCEL #5 (1941) – T4 R9 (11,441 acres)

P & S Laws of 1941, Chap. 1 (pp. 10-11); and Formal Communications (pp. 93-96)

This parcel of approximately 12,000 acres constituted the western half of T4 R9. Baxter acquired the parcel from the Eastern Manufacturing Company. The township, commonly called Traveler Town, contained within its boundaries Traveler Mountain and camps for mountain climbers. Baxter stated in his letter of 8 January 1941 to Governor Sewall that "[p]robably there is no section of Maine where there is a larger population of moose and bear than in this Traveler Town; it is one of the wildest portions of our State."¹⁵



The deed's statement of conditions for use of the land was identical to the proceeding gift, i.e., Parcel #4.¹⁶

Governor Baxter noted that he had conveyed approximately 35,000 acres of wild forest land, including Mt. Katahdin, and that he had already acquired an additional 64,000 acres. He went on to say, in his letter to Governor Sewall, that he was endeavoring to acquire additional land to straighten out boundaries and fill in certain gaps.¹⁷

¹¹ The spelling of Sourdnahunc varies throughout the deeds of trust and the associated gubernatorial correspondence. The commonly accepted spelling today is Nesowadnehunk.

¹² P & S Laws of 1941 (Special Session, 1939-1940), Chap. 122, p. 9.

¹³ *Ibid.*

¹⁴ Formal Communications (1943), p. 99.

¹⁵ Formal Communications (1941), p. 96.

¹⁶ P & S Laws of 1941, Chap. 1, p. 11.

¹⁷ Formal Communications (1941), p. 96.

1.5

PARCEL #6 (1942) – T4 R9 (11,441 acres)

P & S Laws of 1941 (Special Session, 1942), Chap. 95 (pp. 12-14); and Formal Communications (pp. 101-103)

This parcel of 11,441 acres, consisting of the eastern half of T4 R9, was also purchased from the Eastern Manufacturing Company. As a consequence of these most recent gifts, i. e., Parcels #5 and #6, the entire township became a part of Baxter State Park. The deed stipulations were, once again, identical to those of parcels #4 - #5.¹⁸

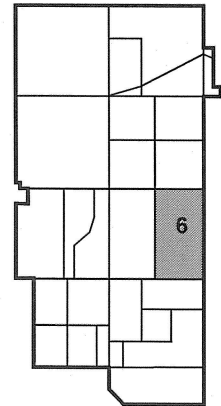
This gift raised the total acreage already conveyed to the state to 47,000 acres and the former Governor indicated that he had an additional 65,945 acres to donate in the future. Baxter took this occasion to explain his reasons for making these gifts separately, rather than by deeding at one legislative session all of his park land. He also revised upwards his goal to six complete townships, now that he had successfully completed the acquisition of the first entire township – T4 R9.

Baxter's point of reference, in his 12 January 1942 letter to Governor Sewall, was the national park proposal of the mid-1930s to take the land way from the state and have it administered by the Department of the Interior. Excerpts from his extended remarks follow:

After consulting with several of the leading judges and lawyers of our State a definite plan has been adopted under which I am to deed a considerable area to the State at each Legislative Session, each deed to be accepted in the form of a separate State law carefully worded into a binding and unbreakable Trust Deed. In this manner a long list of precedents is being established; precedents which, as time passes, will show that eight or ten different Governors and as many Legislatures, by laws duly passed and signed by these Governors, have entered into solemn pacts that create a succession of irrevocable trusts. These trusts, beginning with 1931, are printed in the Laws of Maine, and as each session enacts them they thus become public documents.

He would be a rash individual who in the years to come, even after I have passed away, would seek to take these lands from the State and would attempt to break these Trusts created not by one Governor or one Legislature but by several. While I live I can successfully oppose any such action; I seek to prevent it after I have gone. . . .

At the present time I am negotiating for additional land to be added to the Park, for ultimately I want this Park to contain at least six (6) complete townships of approximately twenty-four thousand (24,000) acres each.¹⁹

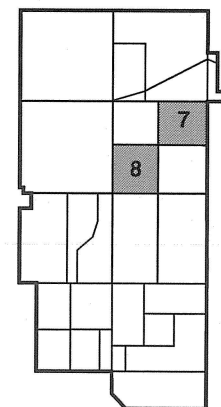


1.6

PARCELS #7 & 8 (1943) – T5 R9 (11,508 acres)

P & S Laws of 1943, Chap. 1 (pp. 15-22); and Formal Communications (pp. 103-109)

These parcels, constituting the NE and SW quadrants of T5 R9, respectively, were acquired from the Piscataquis Land Co. and St. John Smith. This completed the transfer of the entire township to the state. In 1939 Baxter had deeded the other two quadrants which had been acquired from the same parties. The deed's stipulations were somewhat more abbreviated than previously, and



¹⁸ P & S Laws of 1941 (Special Session, 1942), Chap. 95, p. 14.

¹⁹ Formal Communications (1943), p. 102.

read as follows: “said land shall forever be retained and used by said State for state forest, public park and public recreational purposes, shall forever be left in the natural wild state and shall forever be kept as a sanctuary for wild beasts and birds.”²⁰ One will note that there was no restatement of the grantor’s intent to oversee markers and inscriptions during his lifetime.

In Baxter’s letter of transmittal to Governor Sewall and the legislature, he referred to his communication of 12 January 1942 in which he had explained why he made the donations separately over a period of years instead of through a single deed. At this point, Baxter’s gifts constituted 59,000 acres, and he indicated that he had acquired and additional 54,000. His hope was to eventually add to that 31,000 acres for a grand total of 144,000 or six entire townships.²¹

Both sets of core documents, the P & S Laws of 1943, Chap. 1, and the Formal Communications, deal with an ancillary matter, namely the deeding of Mackworth Island in the Town of Falmouth to the State of Maine and the establishment of a Mackworth Island Trust Fund. Although these matters were not of immediate relevance to Baxter State Park, the trust fund would become so late in Baxter’s life when he asked that the remaining monies in that trust fund be transferred to the Baxter State Park Trust Fund.²²

Baxter’s aforementioned communication of 13 January 1943 with the Governor and legislature also affords insight into his philosophy of charitable giving. In response to his own rhetorical question of what the State will do with Mackworth Island, Baxter launched into a discussion of both his father’s philanthropy in Portland, specifically, the public library and Baxter Boulevard, and his own vision as a legislator of a state park at Katahdin. He noted:

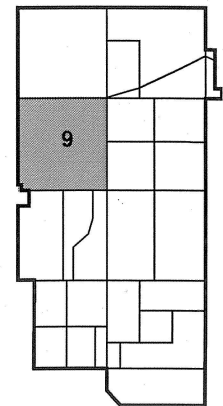
Twenty-six years ago when I first conceived the idea of a State Park at Katahdin there was determined opposition. I was attacked as a dreamer and branded as a socialist. Several of our newspapers came out against me. “We don’t want a Park, leave things as they are; what shall we do with it”, again was heard. Session after session I fought on and made speech after speech up and down the State. It was a long road to travel, but to-day the State Park is acknowledged to be one of the State’s great natural attractions and the people of the future will appreciate it even more than do those of to-day.²³

1.7

PARCEL 9 (1944) – T5 R10 (24,682 acres)

P & S Laws of 1943 (Special Session 1944), Chap. 91 (pp. 23-26); and Formal Communications (pp. 110-113).

This parcel constituted of the entirety of township T5 R10 save for 20 acres in the SW corner belonging to Charles A. Daisey, the owner of Camp Phoenix. The land was acquired from the Eastern Corporation, which retained the right to cut and remove timber and pulp until 7 August 1965. This was the first timbering exception made by Baxter per the deed from the Eastern Corporation to Baxter dated 7 August 1940. The deed specified, in addition to the access for timbering exception, that “said land shall forever be retained and used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state and shall forever be kept as a sanctuary for wild beasts and birds.”²⁴



In Baxter’s letter of 17 April 1944 to Governor Sewall and the legislature, he expounded on the reasons for reserving the Eastern Corporation’s timber rights until 7 August 1965:

²⁰ P & S Laws of 1943, Chap. 1, p. 17

²¹ Formal Communications (1943), pp. 104-105.

²² See, in particular, P & S Laws of 1943, Chap. 1, pp. 17-22 and Formal Communications (1943), pp. 106-109.

²³ Formal Communications (1943), p. 108-109.

²⁴ P & S Laws of 1943 (Special Session, 1944), Chap. 91, p. 25.

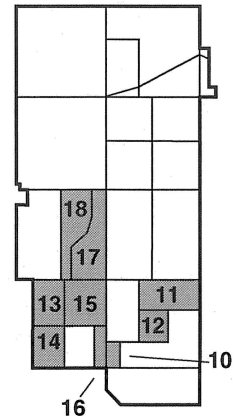
Naturally I preferred to buy this area without such a reservation, but was unable to do so. The Eastern Corporation very properly wished to conserve its timber supply for its mill, and a buyer can only purchase what a seller is willing to part with. This Corporation, however, acted in a liberal and sympathetic manner in selling me this township. It sold to me only because it was willing to help me carry out my Park project. . . . Although this township doubtless will be cut over during the above mentioned period, in a few years thereafter it will completely reforest itself and will then be covered with a new growth of trees. Nature will heal all the wounds.²⁵

1.8

PARCELS #10, #11 & #12 (1945) – T3 R9 (9,280 acres)
 PARCELS #13, #14, #15 & #16 (1945) – T3 R10 (14,654 acres)
 PARCELS #17 & #18 (1945) – T4 R10 (11,620 acres)

P & S Laws of 1945, Chap. 1 (pp. 27-34);²⁶ and Formal Communications (pp. 113-120)

No less than nine parcels constituting 35,554 acres were deeded to the state in this complex Act of Acceptance, i.e., P & S Laws of 1945, Chap. 1. In the first instance, Parcels #10, #11, and #12, a total of 9,280 acres in T3 R9 provided additional protection on the eastern and southern slopes of Mt. Katahdin. It would not be until 1955, however, that Baxter was able to acquire the last remaining parcel in that township.



The deeding of Parcels #13, #14, #15, and #16 began a process, which was technically not completed until 1949, of deeding the balance of T3 R10 to the state. These parcels containing 14,654 acres were critical to Baxter's intentions, because there were situated immediately to the west of Mt. Katahdin.

Parcels #17 and #18 in T4 R10 constituted the final 11,620 acres that were gifted to the state in 1945. Collectively, these nine parcels totaling 35,554 acres would prove to be Baxter's second largest single gift to the state.

There are numerous intricacies in this Act of Acceptance which warrant further explanation.

First, timber rights were reserved on three of the parcels. Parcel #10, consisting of 1,920 acres, was acquired from the GNP, which reserved timber rights on the property until 28 December 1954. Parcels #11 and #12, consisting of 7,360 acres, were acquired from Harry F. Ross, who reserved timber rights on 2,560 acres in parcel #12 until 13 February 1946. Parcel #18, consisting of 6,108 acres, was acquired from the GNP, which reserved timber rights until 28 December 1969. In addition, in Parcel #13, GNP reserved the right to erect and maintain dams and otherwise improve the Sourdnhunk Stream for the purpose of driving logs or pulpwood, and to use the Millinocket-Sourdnhunk road.

Second, the deed enumerated conditions that applied to the parcels "HEREIN" donated to the state as well as those "HERETOFORE" donated. They were to be "forever . . . kept for and as a State forest and public park and for public recreational purposes; . . . [and] forever shall be kept in their natural wild state and as a sanctuary for wild beast and birds, that the use of fire-arms, trapping and hunting, not including fishing, shall be forever prohibited within the same, and also that air-craft be forbidden to land on the ground or on the waters within the same."²⁷ This was the first time a deed explicitly included language prohibiting trapping and hunting, as well as aircraft within the park.

An additional condition was applied to the six townships in which land was "HEREIN or HERETOFORE" donated, namely "that no roads or ways for motor vehicles, horse-draw vehicles or other vehicles ever shall be constructed, permitted or maintained" except for the Millinocket-Sourdnhunk road (T3 R10 and T4 R10) and the road that

²⁵ Formal Communications (1945), p. 112.

²⁶ Note duplicative content from the bottom of page 34 to 40.

²⁷ P & S Laws of 1945, Chap. 1, p. 33.

extends from Togue Pond to Roaring Brook (T2 R9 and T3 R9). Finally, the lumbering road being constructed by the Eastern Corporation in T5 R10 [Parcel #9] “shall be closed and abandoned and shall be allowed to return to its original forest growth” upon the termination of the corporation’s right to remove timber on 7 August 1965.²⁸

For the sake of clarification, the 9 parcels, totaling 35,554 acres, are listed below with an indication of their acreage and the identification of the parties from whom they were acquired:

T3 R9 – 9,280 acres:

Parcel #10: Great Northern Paper Co.; 1,920 acres

Parcels #11 and #12: Harry F. Ross; cumulatively 7,360 acres;

T3 R10 –14,654 acres:

Parcel #13: Great Northern Paper Co.; 6,355 acres

Parcels #14, 15, and 16: Piscataquis Land Co. and the Cassidy Estate;
cumulatively 8,299 acres including a 750 acre public lot; and

T4 R10—11,620 acres:

Parcel #17: Great Northern Paper Co.; 5,512 acres

Parcel #18: Great Northern Paper Co.; 6,108 acres

In his 2 January 1945 communication with Governor Hildreth and the legislature, Baxter highlighted his progress in acquiring contiguous parcels to form a compact park. In Baxter’s words, “These ten additional parcels [counting the 750 acre public lot in T3 R10 as a tenth parcel] together with the land already donated constitute one area, unbroken by land of intervening owners except for one outstanding undivided interest of six thousand seventeen (6,017) acres.”²⁹ This acreage in T3 R10 would be formally deeded to the state in 1949 as a result of the 1948 settlement of the Cassidy Estate by Judge Raymond Fellows. Baxter indicated that he had also set his sights on acquiring the balance of townships T3 R9 and T4 R10. As of this point, however, he had deeded to the state all of townships T5 R9, T5 R10, T4 R9, one-half of T4 R10, all of T3 R9 except for 7,680 acres, and all of T3 R10 except for the aforementioned 6,017 acres. If he were successful in acquiring the remaining parcels in these three townships, the total area of the park would be 141,605 acres.³⁰

However, this communication is best known for Baxter’s reiteration of his position on the building of new roads and his further elaboration on the meaning of the phrases “natural wild state” and “as a sanctuary for wild beasts and birds.”

With regard to the former, Baxter pointed out that the P & S Laws of 1931, Chap. 23 contained a prohibition against the building of roads for motor vehicles. He believed that such a restriction should be included in the present deed of gift and be made retroactive to include all former gifts. As noted above, he did make exceptions for the Millinocket-Sourdnahunk and the Togue Pond-Roaring Brook roads. These two roads were “necessary and desirable” and should “be maintained in about their present condition, with ample turn-outs for passing cars and with only a graveled surface. I want no hard surfaced roads in this Park my object being to have it remain as nearly as possible in its natural wild state unimproved by man.”³¹

The following passages interpreting the phrases “natural wild state” and “sanctuary for wild beasts and birds” are reproduced in their entirety:

²⁸ *Ibid.*, pp. 33-34.

²⁹ Formal Communications (1945), p. 116.

³⁰ *Ibid.*, p. 117.

³¹ *Ibid.*, p. 118.

In all the deeds from me to the State the phrases “natural wild state” and “as a sanctuary for wild beast and birds” have been used. By these I do not intend that the Park forever shall be a region unvisited and neglected by man. I seek to provide against commercial exploitation, against hunting, trapping and killing, against lumbering, hotels, advertising, hot-dog stands, motor vehicles, horse-drawn vehicles and other vehicles, air-craft, and the trappings of unpleasant civilization. Nor is the Park to be kept exclusively for professional mountain climbers; it is for everybody.

I want pleasant foot-trails built and attractive camp-sites laid out in the valleys, by the brooks and on the shores of the waters. Sites where simple forest lean-tos and small log cabins are available for those who love nature and are willing to walk and make an effort to get close to nature. A suitable shelter also should be erected on the summit of Katahdin to give protection to those who climb the mountain and who may be caught in a storm or compelled to remain overnight.

With the protection of wild life the deer, the moose and the birds no longer will fear man and gradually they will come out of their forest retreats and show themselves. I want hunting with cameras to take the place of hunting with guns. Aircraft frighten wild life and disturb the peace and solitude of the wilderness. Would that the day may come when all of Maine will become [sic] a sanctuary for the beasts and birds of the forest and field and when cruelty to the humbler orders of life no longer stalks the land.

Everything in connection with the Park must be left simple and natural and must remain as nearly as possible as it was when only the Indians and the animals roamed at will through these areas. I want it made available to persons of moderate means who with their boys and girls, with their packs of bedding and food, can tramp through the woods, cook a steak and make flapjacks by the lakes and brooks. Every section of this area is beautiful each in its own way. I do not want it locked up and made inaccessible; I want it used to the fullest extent but in the right unspoiled way.³²

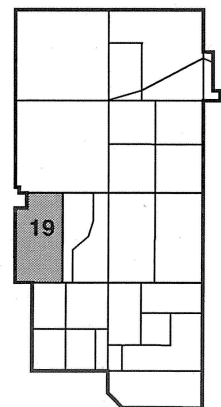
Baxter concluded this extended communication with Governor Hildreth by noting that “[H]uman life is both short and uncertain. This being so I wish to have this Park completed during my lifetime, in so far as I am able. . . .After my decease funds will be provided for enlarging the Park and making it more usable and desirable. That can be done without my personal supervision once the foundation is securely laid.”³³

1.9

PARCEL #19 (1947) – T4 R10 (10,740 acres)

L & S Laws of 1947, Chap. 1 (pp. 41-46); and Formal Communications (pp. 121-124)

This parcel constituted the western half of T4 R10, thereby completing the donation of a fourth township. This was the second instance in which Baxter had acquired land from GNP in exchange for land elsewhere. The previous instance had been with respect to Parcel #17 (1945).³⁴ In this piece of legislation there is a tabular listing of all of the “Acts of Acceptance and Communications to Governors and Legislatures: 1931 – 1947.” The aforementioned table also lists the deeds of gift in 1931 and 1938, accepted under Sections 15 and 16, Chap. 11 of the Revised Statutes of 1930, that were later ratified with formal action by both the legislatures and governors in 1933 and 1939, respectively. The total acreage of all of the Baxter gifts as of this 1947 parcel was 127,028.³⁵



The deed of gift reserved to GNP the right to cut and remove timber until 15 October 1951, as well as their right to

³² *Ibid.*, pp. 118-119.

³³ *Ibid.*, p. 119.

³⁴ See Hakola, *Legacy of a Lifetime*, pp. 86-87 and Table III – 1, p.74.

³⁵ P & S Laws of 1947, Chap. 1, pp. 42-43.

erect and maintain dams on Sourdnahunk Stream for the purpose of driving logs or pulpwood. A corollary right to use the Millinocket-Sourdnahunk Tote Road in the township was also reserved to GNP.³⁶

The format of Baxter's conditions to the gift of this land, if not their content, changed with five specifically enumerated items that appear below:

- 1 - forever shall be kept for and as a state forest and public park and for public recreational purposes;
- 2 - forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds;
- 3 - that the use of firearms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same;
- 4 - that aircraft forever be forbidden to land on the ground or on the waters within the same; and
- 5 - that no roads or ways for motor vehicles, horsedrawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the land herein donated and conveyed to said State . . . excepting the Millinocket-Sourdnahunk Tote Road so called as now constructed as a single track graveled surfaced road with frequent turnouts.³⁷

The Formal Communications accompanying this parcel included Baxter's letter of 8 January 1947 to Governor Hildreth in which he explained why the Act of Acceptance listed the previous gifts in such detail:

In order that there may be a complete and accurate record of my Gifts to the State over the years, I am including in the Act of Acceptance a list of the Gifts in detail so that in the years to come this will be available to those who may be interested to have the record spread before them. Those of the members of this Ninety-third Legislature who have served in previous Legislatures, no doubt are familiar with the procedure adopted in connection with these gifts.³⁸

Finally, Baxter once again described the land acquired since he began the project in 1917 as "a continuous unbroken area except for the fact that in the south-western corner there is still outstanding an undivided ownership of six thousand seventeen (6,017) acres which I have not yet acquired and which is not included in the total of one hundred twenty-seven thousand twenty-eight (127,028) acres."³⁹

1.10

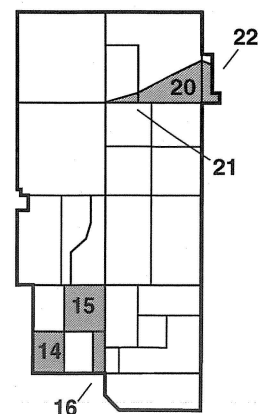
PARCELS #20 (1949) – T6 R9 (6,247)

PARCEL #21 (1949) – T6 R9 (536 acres)

PARCEL #22 (1949) – T6 R8 (1,486 acres)

PARCELS #14, #15, and #16 (1949) – T3 R10 (6,017 acres, i.e., acreage not acquired in 1945)

P & S Law of 1949, Chap. 1 (pp. 47-55) and Chap. 2 (pp. 56-60); and Formal Communications (pp. 125-129)



The legislation association with the 1949 deed of gift was complicated by two factors, namely the acquisition of the outstanding 6,017 acres within the previously gifted parcels #14 – #16 in T3 R10, and

³⁶ *Ibid.*, pp. 44-45.

³⁷ *Ibid.*, p. 45.

³⁸ Formal Communications (1947), p. 123.

³⁹ *Ibid.*

the amendment by mutual consent to the limitations on road building in the deeds of 2 January 1945 and 8 January 1947, respectively.

A parcel totaling 6,383 acres in T6 R9 was at issue in the gift of Parcel #20. Within the area there were 136 acres, constituting the Trout Brook Farm, which were explicitly excepted and reserved for the use of the Eastern Corporation. Hence the actual size of the gifted parcel was 6,247 acres. There were also provisions in the deed guaranteeing the Eastern Corporation and the Garfield Land Company the right to use Trout Brook Road in the township.

Parcel #21, also in T6 R9, consisted of 536 acres in the SW corner of the township. This area, more commonly described as being south of Wadleigh Brook and Trout Brook, respectively, was also subject to certain easements and rights granted to the Eastern Corporation.

Parcel #22 was a relatively small area consisting of 1,486 acres in SW corner of T6 R8. The parcel had two natural boundaries, the western shore of First Grand Lake and the East Branch of the Penobscot River, and also abutted the (Grand Lake) Dam Lot owned by the East Branch Improvement Company. The deed was subject to easements to the Garfield Land Company and the Eastern Corporation, and also to flowage rights conveyed to the East Branch Dam Company.

Baxter imposed four conditions on use of Parcels #20 - #22, namely:

- 1—shall forever be kept for and as a State Forest and Public Park and Public Recreational Purposes,
- 2—shall forever be kept in their natural wild state and as a sanctuary for wild beast and birds,
- 3 – that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same,
- 4 – that air-craft forever be forbidden to land on the ground or on the waters within the same,⁴⁰

The absence of the fifth condition regarding road construction was conspicuous; however, the explanation was forthcoming in an accompanying piece of legislation, P & S Laws of 1949, Chap. 2.⁴¹

The final acreage involved in the 1949 Act of Acceptance was the elusive 6,017 acres in T3 R10 that had not been part of the 1945 gifts of Parcels #14-#16. The settlement of the John Cassidy estate per the decree of the Honorable Raymond Fellows, Justice of the Supreme Judicial Court of the State of Maine in Equity, enabled Baxter to complete the gifts initiated in 1945.⁴² The 6,017 acres consisted of a 250 acre public lot; a parcel of 2,285 acres in the SW corner of the township (Parcel #14); and a combined total of 3,482 acres in the NE (Parcel #15) and SE (Parcel #16) corners of the township. No separate break down of the acreage in Parcels #15 and #16 was provided.

The four conditions attached by Baxter to this deed of gift were the same as above for parcels #20 - #22.⁴³

Chap. 2 of the P & S Laws of 1949 was an act amending by mutual consent the provisions of the deeds issued on 2 January 1945 and 8 January 1947, the immediately most recent gifts prior to 1949. The amendments marked an abrupt reversal by Baxter who had in those deeds placed "certain conditions, limitations and restrictions as to roads and ways to be constructed, permitted and maintained in the areas described in both said Acts."⁴⁴ Now he consented to legislative language that will make the park more accessible for public use and enjoyment:

⁴⁰ P & S Laws of 1949, Chap. 1, p. 52.

⁴¹ *Infra*, pp. 13-14.

⁴² P & S Laws of 1949, Chap. 1, pp. 52-55.

⁴³ *Ibid.*, p. 54.

⁴⁴ P & S Laws of 1949, Chap. 2, p. 56. See, *supra*, pp. 9-10, and 12.

I HEREBY AUTHORIZE AND EMPOWER the said State of Maine as said Trustee to construct and maintain within the areas described in said Deeds dated January 2, 1945 and January 8, 1947 and also within the other areas of land theretofore donated to the State of Maine IN TRUST by said Baxter and known as BAXTER STATE PARK, such roads and ways as said State as such Trustee shall deem to be in the public interest and for the proper use and enjoyment of those citizens of said State who may visit the area known as BAXTER STATE PARK, subject however to the conditions, limitations and restrictions that said roads and ways be constructed and maintained in a manner not to interfere with the natural wild state now existing in said areas.⁴⁵

In his 3 January 1949 letter to Governor Payne, Baxter described the evolving park in the following terms: "we now have a Park with its northeast corner bordering on the East Branch of the Penobscot River and on First Grand or Matagamon Lake. Its southwest corner borders on the West Branch of that River. Mount Katahdin, Traveler Mountain and the other thirty peaks and mountains in the Park lie between these two branches of this river."⁴⁶ Baxter also expressed his intention to purchase an additional 75 acre tract in Penobscot County which would complete his acquisitions in T6 R8.

The most noteworthy passages in this letter were those regarding his change of heart viz., road restrictions:

On mature deliberation I now have come to the conclusion that my restrictions as to roads are somewhat too severe. Without proper access roads the number of persons who would enjoy the Park would be limited. In view of this I deem it best to allow the existing roads to remain open and to permit the State in the years to come to construct such additional roads as may be necessary to accommodate those persons who wish to enjoy the great, unspoiled area that now is the property of our State.

He did, however, add a caveat: "In order, however, that there may be some reasonable check in the future on the construction and maintenance of roads in the Park it is provided in these Amendments that no roads or ways shall be constructed or maintained that will interfere with or detract from 'the natural wild state' of this region."⁴⁷

One additional matter regarding this correspondence warrants discussion, namely the size of BSP after the 1949 deed of gift. Baxter stated that the additional 14,286 acres would expand the park to 141,712 acres. If, however, one were to take the figure of 127,028 cited in the 1947 legislative tabulation of all of the Acts of Acceptance to that date, the new figure should be 141,314 with the addition of the 14,286 acres. Hakola's discussion of this lack of consistency is instructive. He concluded that the precise acreage of the park "must await more definitive surveys."⁴⁸

Formal Communications, 1953 (pp. 130-133)

Prior to his next set of gifts in 1955, Baxter had further communication with the Governor and legislature regarding the Mackworth Island property that he deeded to the state in 1943. He also at created a Mackworth Island Trust Fund with an initial donation of \$10,000.

Baxter, under the provisions of the deed of trust, continued to live on the island under a lease arrangement with the state; however, in 1949 he moved from the island and the state assumed full ownership and responsibility. In his letter of 4 March 1953 to Governor Burton Cross, Baxter indicated that he was prepared to offer the state \$500,000 for the construction of a new school for the deaf, i.e., Baxter School for the Deaf, and \$125,000 for the construction of a new bridge to the island.

⁴⁵ P & S Laws of 1949, Chap. 2, p. 58.

⁴⁶ Formal Communications (1949), p. 128.

⁴⁷ *Ibid.*

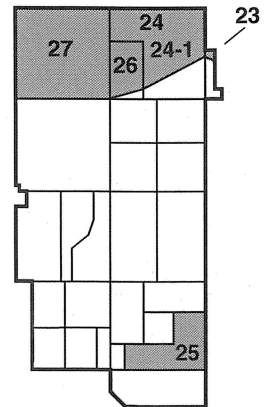
⁴⁸ Hakola, *Legacy of a Lifetime*, pp. 98-99.

As had been pointed out previously in these annotations,⁴⁹ this matter had no immediate relevance to the creation of BSP; however, at a later date the Macworth Island Trust Fund would be dissolved and the proceeds transferred to the BSP Trust Fund.

1.11

PARCEL #23 (1955) – T6 R8 (76.8 acres)
 PARCEL #24 (1955) – T6 R9 (14,005 acres)
 PARCELS #24-1 (1955) – T6 R9 (2,000 acres)
 PARCEL #25 (1955) – T3 R9 (8,000 acres)
 PARCEL #26 (1955) – T6 R9 (3,569 acres)
 PARCEL #27 (1955) – T6 R10 (25,025 acres)

P & S Laws of 1955, Chap. 1 (pp. 61-62); P & S Laws of 1955, Chap. 2 (pp. 63-64); P & S Laws of 1955, Chap. 3 (pp. 65-72); P & S Laws of 1955, Chap. 4 (pp. 73-75); P & S Laws of 1955, Chap. 61 (pp. 76-77); and P & S Laws of 1955, Chap. 171 (pp. 78-79); and Formal Communications (pp. 134-142)



The 1955 legislative action regarding the gifts of former Governor Baxter to the State of Maine was the most complicated in the history of the creation of BSP. Seven new parcels, totaling 52,675.8 acres, were added to the park. There were six pieces of legislation including four Acts of Acceptance as well as statutory provisions dealing with the interpretation “natural wild state” and “sanctuary,” and modification of the “no hunting” provisions. In addition, scientific forestry was introduced with respect to Parcels #26 and #27. The eight pages of formal communications between Baxter and Governor Muskie and the legislature shed additional light on Baxter’s intentions on these wide-ranging topics. The following annotations, not necessarily in chronological order, are designed to sort out the complexities of these transactions.

PARCEL #23

In 1949 at the time of his gifting of Parcel #22, Baxter indicated that there was still a small parcel of approximately 75 acres along the western shore of First Grand Lake that he intended to purchase. In actuality, this new Parcel #23 consisted of two small lots totaling 76.8 acres. These purchases were made subject to easements reserved to Sada Coe Robinson and Irving Pulp and Paper Company of St. John, New Brunswick, respectively. Parcel #23, along with the 1,486 acres in Parcel #22 (1949), completed Baxter’s efforts to acquire land in the southwestern corner of T6 R8.⁵⁰

PARCEL #24

This parcel was acquired from the Eastern Corporation. It consisted of well over half of the township and much of the land north of Trout Brook. Included in this parcel’s 14,005 acres were Trout Brook Farm (136 acres) and a public lot (1,000 acres). As had been the case in earlier purchases from the Eastern Corporation, certain rights and privileges were retained by that corporation as well as Bangor Hydro, and the East Branch Improvement Company, respectively.⁵¹ These were necessary accommodations that Baxter was required to agree to, so as to complete the transactions. The intricacies of the rights that were conveyed to both the East Branch Improvement Company and Bangor Hydro-Electric Company are spelled out in detail by Hakola.⁵² In brief, if the Eastern Branch Improvement Company were to exercise its right to raise the level of First Grand Lake by ten feet to 665 feet above sea level, an estimated 2,000 acres of land would be flooded.

⁴⁹ *Supra*, p. 8.

⁵⁰ *P & S Laws of 1955, Chap. 3, pp. 65-68.*

⁵¹ *Ibid.*, pp. 65, 68-70.

⁵² Hakola, *Legacy of a Lifetime*, pp. 94-95.

This would necessitate Baxter's acquisition of Parcel # 24-1, discussed below.

PARCEL #25

The third parcel, #25, deeded to the state in the P & S Laws of 1955, Chap. 3, consisted of 8,000 acres in the southeastern corner of the T3 R9. The land had been acquired from GNP; however, the corporation reserved the right to cut and remove timber until 1 December 1973. This gift completed the state's acquisition of T3 R9.⁵³

Baxter imposed the same four conditions on Parcels #23, #24, and #25 as he had on parcels #20-#22; however, he added a fifth condition with respect to Parcel #24, namely "that the same shall forever be named BAXTER STATE PARK."⁵⁴

PARCEL #24-1

Chap. 1 of P & S Laws of 1955 dealt with Parcel # 24-1, an estimated 2,000 acres in T6 R9 that would be flooded if the level of First Grand Lake were raised by ten feet to 665 feet above sea level. In essence, Baxter purchased the flowage rights for the land in question. The act of acceptance described the situation that necessitated Baxter's purchase of the additional acreage, as follows:

So much of the land together with the buildings thereon situated in said township as would be flowed to an elevation not exceeding six hundred sixty-five (665) feet above sea level United States Geodetic Survey, by the existing Dam of the East Branch Improvement Company herein located in township six (6) range eight (8) at the outlet of First Grand Lake so called, or any replacement thereof and any necessary related dams, dykes or other structures at any location the land hereby conveyed being estimated to contain two thousand (2000) acres more or less.⁵⁵

This conveyance was made subject to the rights of both the East Branch Improvement Company and the Eastern Corporation.

The wording of Baxter's conditions for this parcel was as follows: "shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, shall forever be named Baxter State Park, shall forever be kept in their natural wild state."⁵⁶ This much more abbreviated statement of conditions notably did not preclude hunting. [More discussion of this issue will appear below when P & S Laws of 1955, Chap. 4 is examined.]

PARCEL #26

This parcel consisted of the remaining 3,569 acres of T6 R9 yet to be transferred to the state. Roughly speaking, it was in the southwestern corner of the township north of the Wadleigh and Trout brooks. Baxter acquired this land from GNP after a trade with the Eastern Corporation. This act of acceptance, Chap. 61 of the P & S Laws of 1955, is most noteworthy for the introduction of the practice of scientific forestry practices in BSP. The new language incorporating this practice read, as follows: "shall forever be named BAXTER STATE PARK and shall forever be kept for and as a State Forest, Public Park and Public Recreational Purposes and for the practice of Scientific Forestry, reforestation and the production of forestry wood products. All harvesting of said products shall be done according to the most approved practices of Scientific Forestry and all revenue derived from the sale of said products shall be used by said State for the care, management and protections of Baxter State Park as now or hereafter defined."⁵⁷ One should note that there is no reference to either "natural wild state" or "sanctuary for wild beasts and birds," meaning that hunting was to be permitted in this scientific forestry area.

⁵³ P & S Laws of 1955, Chap. 3, pp. 65, 71-72.

⁵⁴ *Ibid.*, p. 70.

⁵⁵ P & S Laws of 1955, Chap. 1, p. 62.

⁵⁶ *Ibid.*

⁵⁷ P & S Laws of 1955, Chap. 61, p. 77.

PARCEL #27

The last parcel transferred to the state by Baxter in 1955 was the entirety of T6 R10, a total of 25,025 acres. It was acquired from the Eastern Corporation. In addition to the rights and privileges retained by the Eastern Corporation, Bangor Hydro Electric Company retained important storage and power generating rights within the township, i.e., Webster Lake/Brook area. Baxter's conditions for the parcel were an abbreviated form of that of Parcel #26 which also was dedicated to scientific forestry, namely, "shall forever be named Baxter State Park, shall forever be held for and as a State Forest, Public Park and Public Recreational Purposes and for the practice of Scientific Forestry and Reforestation."⁵⁸

The remaining two statutory measures of 1955, Chapters 2 and 4, were not Acts of Acceptance. The principal purpose of Chapter 2 was to clarify the meaning of the phrases "Natural Wild State" and "Sanctuary for Wild Beasts and Birds" as used in the various deeds from Baxter to the state. Baxter thought it would be advisable to agree upon an interpretation of these phrases relating to the care and management of the park and to secure both gubernatorial and legislative approval. In his letter to Governor Muskie of 11 January 1955 Baxter stated:

In consultation with our Forest and Game officials and with the Attorney General's Department it seems desirable to provide for an understanding as to what is required under the Trust Deeds. Under the Act now submitted to you the powers of State management are broadened and made more flexible in order that the Trusts will not be violated in the years to come. As all my Trusts have been made for perpetuity great care has to be taken to make them understandable and enforceable.⁵⁹

It was the intent of all parties concerned, that these interpretations of said phrases shall be accepted and applied to all of the Deeds and Conveyances.⁶⁰

The verbatim language of both interpretative passages is as follows:

NATURAL WILD STATE

The State of Maine is authorized to clear, protect and restore areas of forest growth damaged by ACTS OF NATURE such as blowdowns, fire, floods, slides, infestation of insects and disease or other damage caused by ACTS OF NATURE in order that the forest growth of the Park may be protected, encouraged and restored.

The State is authorized to build trails and access roads to camp sites, to use timber from this area for fire control and firewood and to construct shelters and lean-tos for mountain climbers and other lovers of nature in its wild state.

This area is to be maintained primarily as a Wilderness and recreational purposes are to be regarded as of secondary importance and shall not encroach upon the main objective of this area which is to be "Forever Wild."

The existing leases of the land and buildings at Kidney Pond, Daisey Pond and on the shores of Matagamom Lakes may be continued by and in the discretion of the Baxter State Park Authority.

SANCTUARY FOR WILD BEAST AND BIRDS

The State is authorized to maintain the proper balance of nature among the different species of wild life; to control predators that may become a menace to other species; to control disease and epidemics of the wild

⁵⁸ P & S Laws of 1955, Chap. 171, p. 79.

⁵⁹ Formal Communications (1955), p. 136.

⁶⁰ P & S Laws of 1955, Chap. 2, p. 63.

life of the Park. Such control shall be exercised by the Baxter State Park Authority. The destruction of any specie of wild life shall be carried on exclusively by the Personnel of said Authority and the Forest and Fish and Game Departments.

All work carried on by the State in connection with the above shall be in accordance with the best forestry and wild life practices and shall be undertaken having in mind that the sole purpose of the donor in creating this Park is to protect the forests and wild life therein as a great wilderness area unspoiled by Man. Nothing shall be done for the purpose of obtaining income but should there be incidental income it is to be used solely for the care, operation and protection of this Wilderness area.⁶¹

The year's final legislative enactment was P & S Laws of 1955, Chap. 4. This was an act amending, by mutual consent between Baxter and the State of Maine, the deed of gift for Parcel #24 in T6 R9. In that deed of gift Baxter had prohibited hunting and the aircraft from landing on the ground or waters of the 14,005 acre parcel. According to Baxter "it now appears to be in the public interest and for the benefit of the People of the State of Maine" that the above quoted conditions be removed insofar as they apply to this parcel.⁶² Thus, Baxter has decided to permit hunting north of Wadleigh and Trout brooks in T6 R9 and in the entirety of T6 R10.

In his 11 January 1955 letter to Governor Muskie, Baxter elaborated further in noting that "when I learned that the closing of this area [Parcel #24] might be detrimental to the citizens of Patton and surrounding territory who operate stores and camps I was pleased to yield to their appeals."⁶³

The same letter occasioned the following reflection on his quest since 1917 to create a park at Katahdin: "In the years to come when the Forests of our State have been cut off and disappeared, when civilization has encroached upon the land we now refer to as 'Wild Land', this Park will give the people of succeeding generations a living example of what the State of Maine was 'in the good old days' before the song of the woodsman's axe and the whine of the power saw was heard in the land."⁶⁴

In yet another letter to Governor Muskie, dated 17 March 1955, Baxter alluded to his travels to foreign countries where he had observed the benefits of the practice of scientific forestry. He now hoped that a major experiment would yield similar benefits in the State of Maine.⁶⁵

This letter also included his description of three-colored map of BSP that he had placed in the lobby between the Senate Chamber and the Hall of Representatives:

These three colored areas comprise the entire Park. Fishing is allowed throughout the Park but in the red portion hunting is prohibited. In the blue and orange areas hunting is allowed. The new orange area of 3,569 [Parcel #26] is where I suggest that scientific forestry be practiced by the State.

When you inspect this map it will be difficult for you to visualize how this has been accomplished, how my numerous purchases have been brought together into one solid area. I myself can hardly realize it. A map showing the different acquisitions both small and large over the years would remind you of your grandmother's patchwork quilt, which finally in some mysterious way came out of the confusion into one large piece."⁶⁶

Finally, on 2 May 1955 he wrote Muskie yet again when he presented the entirety of T6 R10 to the state. In Baxter's words: "It contains twenty-five thousand twenty-five (25,025) acres and its acquisition by the State will increase the

⁶¹ *Ibid.*, pp. 63-64.

⁶² P & S Laws of 1955, Chap. 4, pp. 73-75.

⁶³ Formal Communications (1955), p. 136.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, pp. 138-139.

⁶⁶ *Ibid.*, p. 139. See the "BSP Use Zone Legend" at the end of this annotation for a contemporaneous version of Baxter's three-colored map.

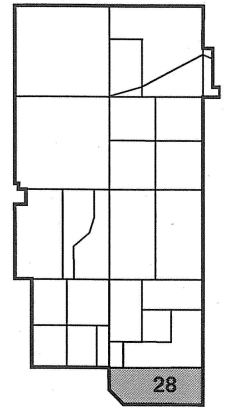
Park to one hundred ninety-three thousand two hundred fifty-four (193,254) acres, or three hundred and two (302) square miles the same being eight (8) entire townships and a portion of a ninth township on the shore of Matagamon Lake.”⁶⁷

1.12

PARCEL #28 (1963) –T2 R9 (7,764 Acres)

P & S Laws of 1963, Chap. 1 (pp. 80-82); and Formal Communications (pp. 143-145)

Governor Baxter’s final gift to the state was a 7,764 acre parcel in T2 R9. This parcel included the junction of the Roaring Brook and Millinocket-Sourdnahunc roads just north of the Upper and Lower Togue ponds, including the site of the current Togue Pond Gate. The land was acquired from GNP which reserved the right to timber and use the Togue Pond-Roaring Brook road for access to T3 R9 until 1 December 1973. The conveyance was also subject to three existing camp leases, i.e., the Fin and Feather Club, Abol Pond Scout Camp Committee, and Ronald Budreau et al. The deed of gift listed the following conditions: “1—shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, 2 – shall forever be kept in their natural wild state, 3 – that aircraft forever be forbidden to land on the ground or on the waters of the same.”⁶⁸



In Baxter’s letter to Governor John Reed, dated 3 January 1963, he noted that:

[t]he acceptance of this gift will add to this Park 7,764 acres of forest land and will complete the record of my 31 years’ (1931 – 1962) gifts of 201,018 acres made to and accepted by the people of the State of Maine. . . . It is interesting to note that in my formal letter to Governor Gardiner in 1931, when my first gift was about 6,000 acres, I said “I expect some day to see my ambition realized.” (Laws of Maine 1931). This brings to an end an interesting incident in Maine history.”⁶⁹

Formal Communications, 1965 (pp. 146-147)

The final document in the Office of the Attorney General’s compilation of the deeds of trust and associated formal communications is another letter from Baxter to Governor Reed, dated 1 March 1965. In this letter Baxter made an additional gift of \$1,106,213.42 to the Baxter State Park Trust that he had created with a gift of securities valued at \$488,942.64 as of 31 December 1960. He made this gift “to share with the State in part the cost of caring for, protecting and operating said area of land [BSP] in accordance with the conditions in the several acts of the Legislature accepting said gifts as recorded in the Laws of Maine 1930-1963.”⁷⁰

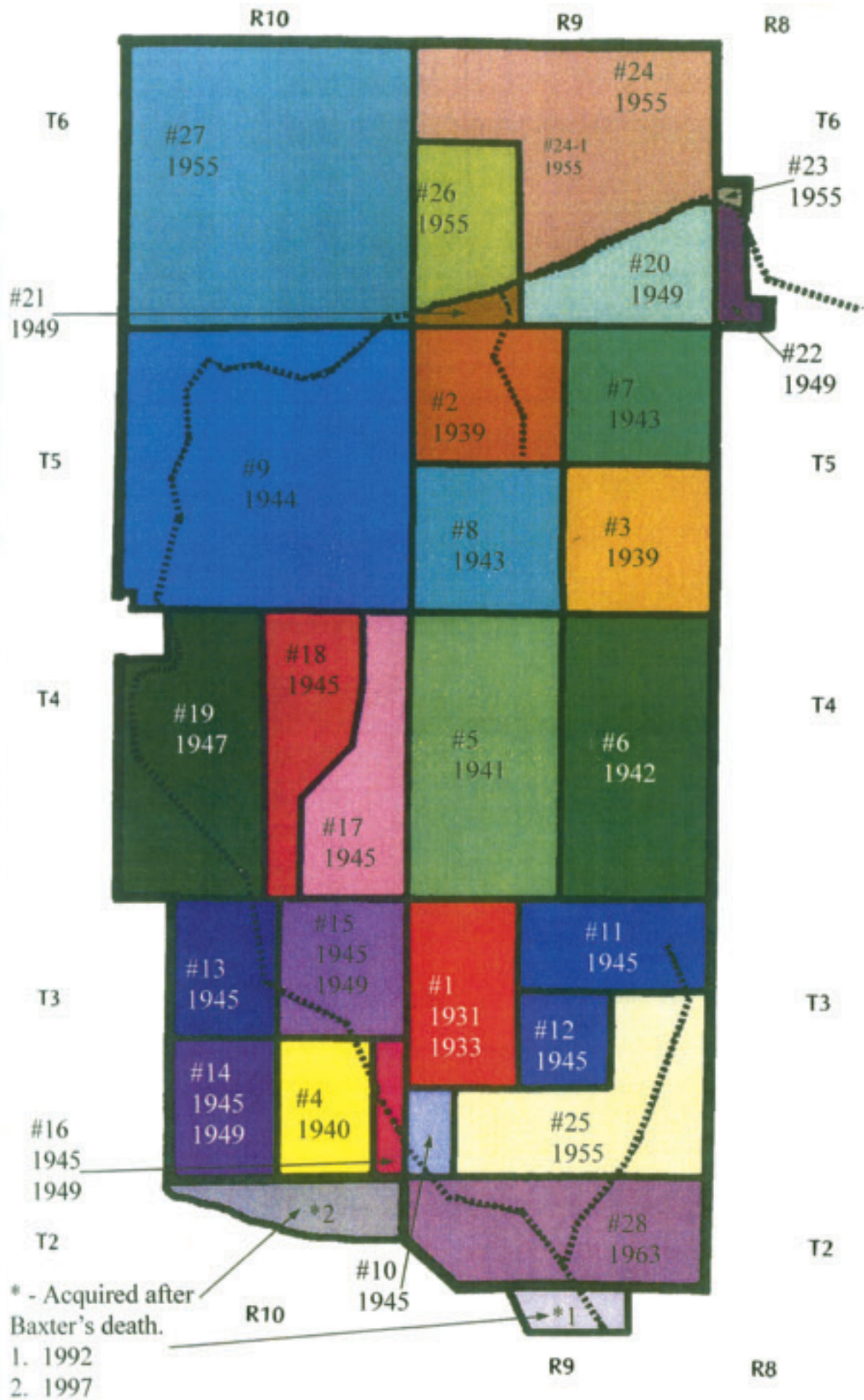
⁶⁷ *Ibid.*, p. 141.

⁶⁸ P & S Laws of 1963, Chap. 1, p. 82.

⁶⁹ Formal Communications (1963), p. 144.

⁷⁰ Formal Communications (1965), p. 147.

LAND ACQUISITIONS WITH DATE GRANTED TO STATE—REVISED 2003



BSP USE ZONE LEGEND



Forest Management &
Hunting Allowed
29,584 acres



Hunting Allowed
23,043 acres



Game Sanctuary
152,106 acres

Total Acres: 204,733

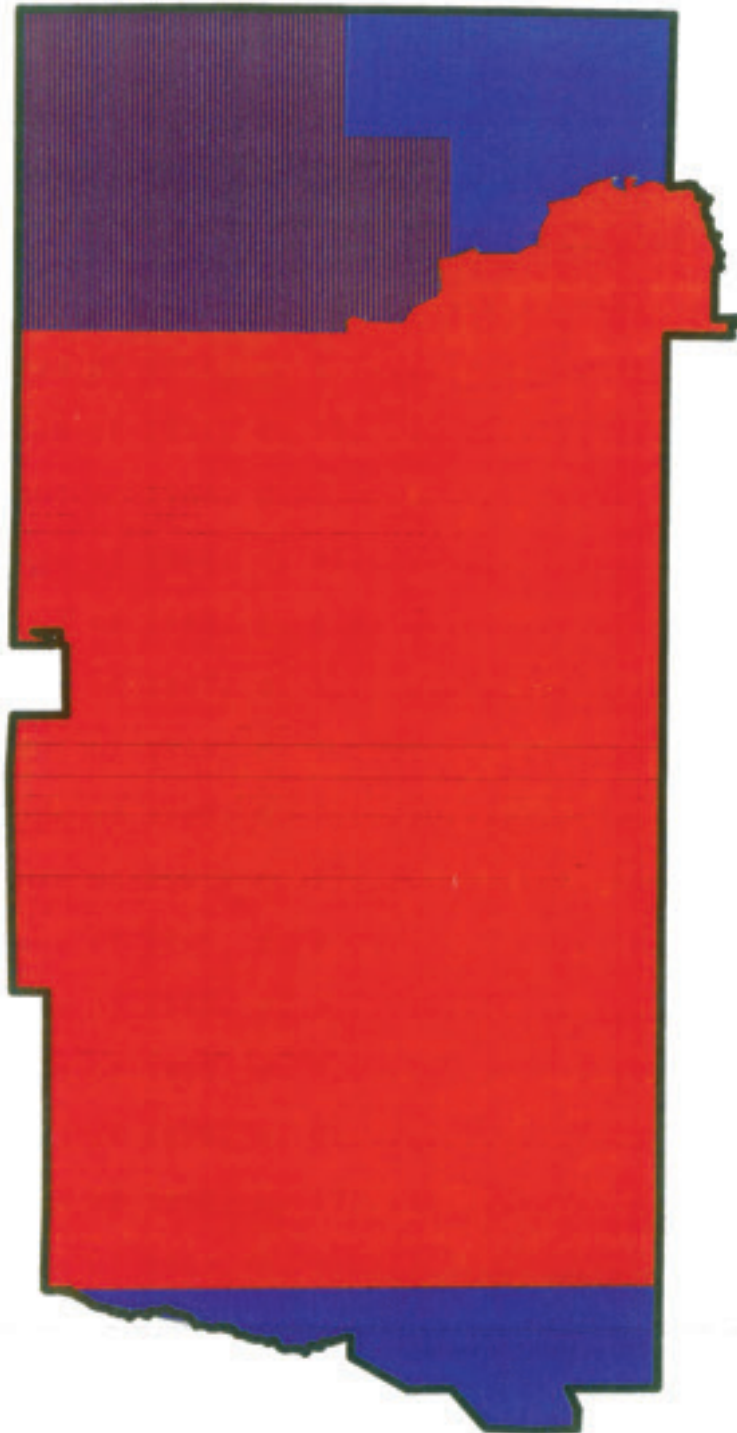


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Chapter 23.

*AN ACT Accepting from Percival Proctor Baxter a Deed of Gift of a Portion of Mount Katahdin.

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

Whereas Percival Proctor Baxter, Governor of the State of Maine, 1921 to 1924 inclusive, has acquired an undivided three-eighths ($\frac{3}{8}$) interest in and to the West two-thirds ($\frac{2}{3}$) of the North two-thirds ($\frac{2}{3}$) of Township three (3), Range nine (9) W. E. L. S. Piscataquis County in this State, within which is situated Mount Katahdin, and

Whereas the said Baxter is desirous that the State of Maine shall become the owner of, and shall forever hold for public park and recreational purposes, that portion of said Township in which is situated the said Mount Katahdin, and

Whereas the said Baxter now offers to donate and convey to the State of Maine his said undivided three-eighths ($\frac{3}{8}$) interest in said Township upon the following conditions, in so far as such conditions can be legally imposed upon an undivided interest, namely: the said tract so donated and conveyed shall forever be used for public park and recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds, that no roads or ways for motor vehicles shall hereafter ever be constructed thereon or therein, and that he be allowed to retain during his lifetime the right to determine, and to place whatever markers or inscriptions shall be maintained or erected on or within the said donated area;

Now therefore, the State of Maine by Act of the Legislature hereby accepts from the said Percival Proctor Baxter the said undivided three-eighths ($\frac{3}{8}$) interest in said West two-thirds ($\frac{2}{3}$) of the North two-thirds ($\frac{2}{3}$) of said Township three (3), Range nine (9) W. E. L. S. Piscataquis County in which is situated the said Mount Katahdin, for public park and recreational purposes, and subject to the conditions above set forth and expressed in the following deed of conveyance.

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland, in the County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable con-

*A message, Percival Proctor Baxter to William Tudor Gardiner, Governor and Senate and House of Representatives accompanied the deed of the above gift and by order of the Senate and House of Representatives is printed in this volume. It will be found immediately following the miscellaneous communications by the Governor.

GIFT OF MOUNT KATAHDIN.

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CHAP. 23

siderations paid by the State of Maine, the receipt whereof is hereby acknowledged, and in furtherance of my wish that the State of Maine shall become and forever remain the owner of the area of land in which is located Mount Katahdin, do hereby remise, release, bargain, sell, convey and forever QUIT-CLAIM unto the said State of Maine three-eighths ($\frac{3}{8}$) in common and undivided of certain real estate to wit: the West two-thirds ($\frac{2}{3}$) of the North two-thirds ($\frac{2}{3}$) of Township numbered three (3) in the ninth (9) Range, W. E. L. S. in the County of Piscataquis and State of Maine, excluding the soil in the public lots, but including the right to cut the grass and timber upon said public lots, subject however to the following conditions, in so far as such conditions can be legally imposed upon an undivided interest, namely: said premises shall forever be used for public park and recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds, that no roads or ways for motor vehicles shall hereafter ever be constructed therein or thereon, and that the grantor, during his lifetime, retains the right to determine, and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine subject to the above mentioned conditions, in so far as such conditions can be legally imposed upon an undivided interest, and I, the said Baxter, COVENANT with the said State of Maine that I will WARRANT AND DEFEND the said premises to the State of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this third day of March in the year of our Lord one thousand nine hundred thirty-one.

PERCIVAL PROCTOR BAXTER L. S.

Signed sealed and delivered
in the presence of
CLEMENT F. ROBINSON

STATE OF MAINE:
CUMBERLAND: SS.

March 3, 1931.

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS Notarial
Notary Public Seal

Approved March 4, 1931.

Chapter 3.

AN ACT Accepting From Percival Proctor Baxter the Conveyance and Deed of Gift of Mount Katahdin.

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

Whereas Percival Proctor Baxter on March third 1931 conveyed to the State of Maine certain real estate to wit: three-eighths ($\frac{3}{8}$) in common and undivided of the West two-thirds ($\frac{2}{3}$) of the North two-thirds ($\frac{2}{3}$) of Township three (3) Range nine (9) W. E. L. S. in the County of Piscataquis and State of Maine, within which is situated Mount Katahdin, the said conveyance being subject to the conditions therein specified, and

Whereas the said State by Act of the Legislature (Chapter 23 of the Private and Special Laws of 1931) Approved March fourth 1931, accepted said conveyance, and

Whereas subsequent to said March 3, 1931 there was effected a division of the said Township under which the said Baxter acquired full title to a certain area of land therein, which said full title he conveyed to the State on October 7, 1931 including in said second conveyance additional land to the extent of three (3) square miles, and

Whereas the said State by its Forest Commissioner accepted said conveyance on said October seventh, approval thereof being given by the Governor and Executive Council and by the Attorney General, all acting under the power conferred upon them by Sections fifteen (15) and sixteen (16) Chapter eleven (11) of the Revised Statutes of 1930, and

Whereas the said Baxter is desirous of having the Governor and the State Legislature as the direct representatives of the People of Maine accept the entire area of nine (9) square miles,

Now therefore the State of Maine by Act of the Legislature hereby accepts from the said Percival Proctor Baxter the land in Township three (3) Range nine (9) W. E. L. S. (Mt. Katahdin) Piscataquis County described in the following deed of conveyance, the same to be forever held by the said State in Trust for the People of Maine for State forest, public park and recreational purposes, and subject to the conditions set forth and expressed in the said following deed of conveyance.

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland in the County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my wish that the State of Maine shall become and forever remain the owner of the area of land in which is located MOUNT KATAHDIN do hereby remise, release, sell, and forever QUIT-CLAIM unto the said State a parcel of land located in the northerly two-thirds ($\frac{2}{3}$) of Township three (3) Range nine (9) W. E. L. S. in the County of Piscataquis and State of Maine specifically bounded and described as follows: Beginning at the northwest corner of said Township three (3) Range nine (9), thence Easterly as the course may be, along the line between Townships three (3) and four (4) Range nine (9) a distance of two and twenty-five one hundredths (2.25) miles to a point; thence Southerly parallel to the Easterly line of said Township three (3) Range nine (9) a distance of four (4) miles to a point; thence Westerly at a right angle to the Easterly line of said Township a distance of two and twenty-five one hundredths (2.25) miles more or less to a point in the

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DEED OF GIFT OF MOUNT KATAHDIN.

CHAP. 3

line between Townships three (3) Ranges nine (9) and ten (10); thence Northerly as the course may be along said line a distance of four (4) miles more or less to the Northwest corner of said Township three (3) Range nine (9) the place begun at, subject however to the following conditions, namely: said premises shall forever be used for State forest, public park and recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds, that no roads or ways for motor vehicles shall hereafter ever be constructed thereon or therein, and that the Grantor, during his lifetime, retains the right to determine, and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine in Trust for the People of Maine forever, subject to the above mentioned conditions, and I the said BAXTER COVENANT with the said State of Maine that I will WARRANT AND DEFEND the said premises to the State of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this second day of February in the year of our Lord one thousand nine hundred thirty-three.

Signed, Sealed and Delivered
in the presence of
CLEMENT F. ROBINSON

PERCIVAL PROCTOR BAXTER (Seal)

STATE OF MAINE:
CUMBERLAND; SS

Portland, February 2, 1933.

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS,

Notary Public.

NOTARIAL
SEAL

Approved February 9, 1933.

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Eighty-ninth Legislature

1939

Chapter 1

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift of 12,000 Acres of Land in Piscataquis County.

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

Whereas, Percival Proctor Baxter of Portland, Cumberland county by deed dated February 2, 1933 donated and conveyed to the state of Maine as trustee in trust certain real estate of an area of 6,000 acres more or less in township 3, range 9, W. E. L. S., Piscataquis county, state of Maine (Mt. Katahdin) the said gift and conveyance being subject to the trust and to the conditions therein specified; and

Whereas, the said state by act of the legislature (chapter 3 of the private and special laws of 1933) approved by the governor February 9, 1933 accepted said conveyance and gift in trust; and

Whereas, said Baxter by deed dated November 9, 1938 donated and conveyed to the state of Maine as trustee in trust certain other real estate of an area of 6,000 acres more or less being the northwest $\frac{1}{4}$ of township 5, range 9, W. E. L. S., Piscataquis county, north of Mt. Katahdin, said gift and conveyance being subject to the trust and to the conditions therein specified; and

Whereas, said last mentioned gift and conveyance was accepted on behalf of and in the name of the state by Hon. Waldo N. Seavey its forest commissioner on November 9, 1938 approval of said acceptance being given by Hon. Franz U. Burkett, attorney general on November 9, 1938 and by Hon. Lewis O. Barrows, governor and the executive councilors on Novem-

CHAP. 1

ber 22, 1938 all acting under the power conferred upon them by section 15 and section 16, chapter 11 of the revised statutes of Maine of 1930; and

Whereas, the said Baxter is desirous of having the governor and the state legislature as the direct representatives of the people of Maine accept the conveyance and deed of gift in trust of the said northwest $\frac{1}{4}$ of township 5, range 9 conveyed by deed of November 9, 1938 and accepted and approved November 9, 1938 and November 22, 1938 respectively as aforesaid; and

Whereas, the said Baxter now further desires to convey and donate to the state of Maine as trustee in trust a 3rd and additional area of 6,000 acres more or less the same being the southeast $\frac{1}{4}$ of said township 5, range 9, W. E. L. S., Piscataquis county;

Now therefore, the state of Maine by act of the legislature hereby accepts from the said Percival Proctor Baxter the deed of gift and conveyance of the northwest $\frac{1}{4}$ and the southeast $\frac{1}{4}$ of township 5, range 9, W. E. L. S., Piscataquis county, the same containing 12,000 acres more or less together with $\frac{1}{2}$ the right to cut the timber and grass on the public lots in said township all as described in the following deed of conveyance the same to be held forever by the said state as trustee in trust for the benefit of the people of Maine for state forest, public park and public recreational purposes and also to be held forever by said state as trustee in trust subject to the conditions set forth and expressed in the following deed of conveyance.

DEED

Know all men by these presents that I Percival Proctor Baxter of Portland in the county of Cumberland, state of Maine, in consideration of one dollar (\$1.00) and other valuable considerations paid by the state of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the state of Maine an extensive area of land in the Mount Katahdin region to be held forever by the state as trustee in trust for the benefit of the people of Maine do hereby remise, release, sell and forever quit-claim unto the said state of Maine the following described land in township five (5) range nine (9) W. E. L. S. Piscataquis county, Maine:—

the northwest one-quarter ($\frac{1}{4}$) and the southeast one-quarter ($\frac{1}{4}$) of said township five (5) range nine (9) W. E. L. S. containing twelve thousand (12,000) acres more or less together with one-half ($\frac{1}{2}$) the right to cut the timber and grass on the public lots in said township subject however to the following conditions namely said land shall forever be used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds and that the grantor during his

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CHAP. 2

life time retains the right to determine and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed:

To have and to hold the above described premises with all the privileges and appurtenances thereto to the state of Maine as trustee in trust for the benefit of the people of Maine as a state forest, public park and for public recreational purposes the same forever to be kept in its natural wild state and as a sanctuary for wild beasts and birds all as above defined and subject to the above mentioned conditions and I the said Baxter covenant with the said state of Maine that I will warrant and defend the said premises to the state of Maine against the lawful claims and demands of all persons claiming by, through or under me.

In witness whereof I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this seventeenth day of January in the year of our Lord one thousand nine hundred thirty-nine.

Signed and Sealed
in the presence of

FRANZ U. BURKETT

PERCIVAL PROCTOR BAXTER (Seal)

STATE OF MAINE:

CUMBERLAND: SS.

Portland, January 17, 1939.

Personally appeared the above Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS

Notary Public

(Seal)

Approved January 19, 1939.

CONVEYANCE AND DEED OF GIFT OF PERCIVAL PROCTOR BAXTER 45
CHAP. 122

Chapter 122

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift of Four Thousand One Hundred Seventy-four (4,174) Acres of Land in Piscataquis County.

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

Whereas, Percival Proctor Baxter of Portland in the county of Cumberland by deeds dated February second, 1933 and January seventeenth, 1939 donated and conveyed to the state of Maine as trustee in trust certain real estate in townships three (3) and five (5) range nine (9) W. E. L. S. Piscataquis county, state of Maine (Mt. Katahdin) the said gifts and conveyances being subject to the trusts and to the conditions therein specified; and

Whereas, the said state by acts of the legislature (chapter three (3) of the private and special laws of 1933 and chapter one (1) of the private and special laws of 1939) approved by the governor February ninth, 1933 and January nineteenth, 1939 respectively accepted said conveyances and gifts in trust subject to the conditions therein specified; and

Whereas, the said Baxter now desires to convey and donate to the state of Maine as trustee in trust an additional area of approximately four thousand one hundred seventy-four (4,174) acres the same being a portion of the southeast quarter of township three (3), range ten (10), W. E. L. S. Piscataquis county;

Now therefore, the state of Maine by act of the legislature hereby accepts from the said Percival Proctor Baxter the deed of gift and conveyance of a portion of the southeast one-quarter of said township three (3), range ten (10), W. E. L. S. Piscataquis county, the same containing four thousand one hundred seventy-four (4,174) acres more or less as described in the following deed of conveyance the same to be held forever by the said state as trustee in trust for the benefit of the people of Maine for state forest, public park and public recreational purposes and also to be held forever by said state as trustee in trust subject to the conditions set forth and expressed in the following deed of conveyance.

DEED

Know all men by these presents that I, PERCIVAL PROCTOR BAXTER of Portland in the county of Cumberland, state of Maine, in consideration of one dollar (\$1.00) and other valuable considerations paid by the state of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the state of Maine an extensive area of land in the Mount Katahdin region to be held forever by the state as trustee in trust for the benefit of the people of Maine do hereby remise, release, sell and forever quit-claim unto the said state of Maine the following described land in township three (3), range ten (10), W. E. L. S. Piscataquis county, Maine:

All that portion of southeast quarter of township three (3), range ten (10), W. E. L. S. Piscataquis county, state of Maine, lying west of a line beginning at a cedar post marked "N. M. L. Co. X 1908" on its northwest face, standing on the south line of said township, and two (2) miles sixty-four (64) rods more or less east of west line of said southeast quarter, thence north eighteen (18°) degrees twenty (20') minutes east three (3) miles eleven (11) rods more or less, parallel to said west line to a spruce post marked "N. M. L. Co. X 1908" on its southwest face, standing in the north line of said southeast quarter, and two (2) miles sixty-four (64) rods more or less east of the northwest corner of said southeast quarter, but not including that portion of Public lot lying in said southeast quarter (See Partition Proceedings recorded in Piscataquis Registry, Vol. 161, page 265); subject to the right of the Great Northern Paper Company, its successors and assigns to pass and re-pass on and over the Millinocket-Sourdnahunc road so-called, which said road passes through the area herein conveyed. This conveyance is made subject to the following conditions namely said land shall forever be retained and used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds and that the grantor during his life time retains the right to determine and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed:

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the state of Maine as trustee to be forever held in trust for the benefit of the people of Maine for and as a state forest, public park and for public recreational purposes the same forever to be kept in its natural wild state and as a sanctuary for wild beasts and birds all as above defined and subject to the above mentioned reservations and conditions and I the said BAXTER COVENANT with the said state of Maine that I will WARRANT AND DEFEND the said premises to the state of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this twenty-second day of July in the year of our Lord one thousand nine hundred forty.

Signed and Sealed
in the presence of

FRANZ U. BURKETT
STATE OF MAINE:
CUMBERLAND : SS.

PERCIVAL PROCTOR BAXTER (Seal)
Portland, July 22, 1940.

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me,

CHARLES J. NICHOLS (Seal)
Notary Public

Approved July 28, 1940

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninetieth Legislature

1941

Chapter 1

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift of twelve thousand (12,000) acres of land in Piscataquis County.

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

WHEREAS, Percival Proctor Baxter of Portland in the county of Cumberland by deeds dated February second, 1933, January seventeenth, 1939 and July twenty-second, 1940, donated and conveyed to the state of Maine as trustee in trust certain real estate in townships three (3) and five (5) range nine (9) and in township three (3) range ten (10) W. E. L. S. all in Piscataquis County, state of Maine (Mt. Katahdin) the said gifts and conveyances being subject to the trusts and to the conditions therein specified; and

WHEREAS, the said state by acts of the legislature (chapter three (3) of the private and special laws of 1933, chapter one (1) of the private and special laws of 1939 and chapter one hundred twenty-two (122) of the private and special laws of 1939-1940) approved by the governors February ninth, 1933, January nineteenth, 1939 and July twenty-sixth 1940 respectively accepted said conveyances and gifts in trust subject to the conditions therein specified; and

WHEREAS, the said Baxter now desires to convey and donate to the State of Maine as trustee in trust an additional area of approximately twelve thousand (12,000) acres the same being the westerly half ($\frac{1}{2}$) of township four (4) range nine (9) W. E. L. S. Piscataquis county, together with one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township.

Now therefore, the state of Maine by act of the legislature hereby accepts from the said Percival Proctor Baxter the deed of gift and conveyance of the westerly one-half ($\frac{1}{2}$) of township four (4), range nine (9) W. E. L. S. Piscataquis county, the same containing twelve thousand (12,000) acres more or less together with one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township as described in the following deed of conveyance the same to be held forever by the said state as trustee in trust for the benefit of the people of Maine for state forest, public park and public recreational purposes and also to be held forever by said state as trustee in trust subject to the conditions set forth and expressed in the following deed of conveyance.

DEED

Know all men by these presents that I PERCIVAL PROCTOR BAXTER of Portland in the county of Cumberland, state of Maine, in consideration of one dollar (\$1.00) and other valuable considerations paid by the state of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the state of Maine an extensive area of land in the Mount Katahdin region to be held forever by the state as trustee in trust for the benefit of the people of Maine do hereby remise, release, sell and forever quit-claim unto the said state of Maine the following described land in township four (4) range nine (9) W. E. L. S. Piscataquis county, Maine:—

the westerly one-half ($\frac{1}{2}$) of township numbered four (4) in the ninth (9th) range of townships west from the east line of said state in the county of Piscataquis in said state including one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township. This conveyance is made subject to the following conditions namely said land shall forever be retained and used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds and that the grantor during his life time retains the right to determine and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed:

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the state of Maine as trustee to be forever held in trust for the benefit of the people of Maine for and as a state forest, public park and for public recreational purposes the same forever to be kept in its natural wild state and as a sanctuary for wild beasts and birds all as above defined and subject to the above mentioned reservations and conditions and I the said BAXTER COVENANT with the said state of Maine that I will WARRANT AND DEFEND the said premises to the state of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this eighth day of January in the year of our Lord one thousand nine hundred and forty-one.

Signed and Sealed
in the presence of

NATHANIEL TOMPKINS

PERCIVAL PROCTOR BAXTER (Seal)

STATE OF MAINE:

CUMBERLAND: SS

Portland, January 8, 1941.

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS
Notary Public

(NOTARY SEAL)

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Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninetieth Legislature

AT THE
SPECIAL SESSION, JANUARY 12-24, 1942

1942

Supplementary to Private and Special Acts of 1941

Chapter 95

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift of Twelve Thousand (12,000) Acres of Land in Township 4, Range 9 W. E. L. S. Piscataquis County.

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

Whereas, Percival Proctor Baxter of Portland in the county of Cumberland by deeds dated March third, 1931, February second, 1933, January seventeenth, 1939, July twenty-second, 1940 and January eighth, 1941, donated and conveyed to the state of Maine as trustee in trust certain real estate in townships three (3), four (4) and five (5) range nine (9) and in township three (3) range ten (10) W. E. L. S. all in Piscataquis county, state of Maine (Mt. Katahdin) the said gifts and conveyances being subject to the trusts and to the conditions therein specified; and

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Whereas, the said state by acts of the legislature, chapter twenty-three (23) of the private and special laws of 1931, chapter three (3) of the private and special laws of 1933, chapter one (1) of the private and special laws of 1939, chapter one hundred twenty-two (122) of the private and special laws of 1939-1940 and chapter one (1) of the private and special laws of 1941, approved by the governors March fourth, 1931, February ninth, 1933, January nineteenth, 1939, July twenty-sixth, 1940, and January fifteenth, 1941, respectively accepted said conveyances and gifts in trust subject to the conditions therein specified; and

Whereas, the said Baxter now desires to convey and donate to the state of Maine as trustee to be held in trust an additional area of approximately twelve thousand (12,000) acres the same being the easterly half ($\frac{1}{2}$) of township four (4) range nine (9) W. E. L. S. Piscataquis county, together with one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township;

Now therefore, the state of Maine by act of the legislature hereby accepts from the said Percival Proctor Baxter the deed of gift and conveyance of the easterly one-half ($\frac{1}{2}$) of township four (4) range nine (9) W. E. L. S. Piscataquis county, the same containing twelve thousand (12,000) acres more or less together with one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township as described in the following deed of conveyance the same to be held forever by the said state as trustee in trust for the benefit of the people of Maine for state forest, public park and public recreational purposes and also to be held forever by said state as trustee in trust subject to the conditions set forth and expressed in the following deed of conveyance.

DEED

Know all men by these presents that I PERCIVAL PROCTOR BAXTER of Portland in the county of Cumberland, state of Maine, in consideration of one dollar (\$1.00) and other valuable considerations paid by the state of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the state of Maine an extensive area of land in the Mount Katahdin region to be held forever by the state as trustee in trust for the benefit of the people of Maine do hereby remise, release, sell and forever quit-claim unto the said state of Maine the following described land in township four (4) range nine (9) W. E. L. S. Piscataquis county, Maine:—

the easterly one-half ($\frac{1}{2}$) of township numbered four (4) in the ninth (9th) range of townships west from the east line of said state in the county of Piscataquis in said state including one-half ($\frac{1}{2}$) the right to cut and

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CHAP. 95

carry away the timber and grass from the public lot in said township. This conveyance is made subject to the following conditions namely said land shall forever be retained and used by the said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state, shall forever be kept as a sanctuary for wild beasts and birds and that the grantor during his life time retains the right to determine and to place whatever markers or inscriptions shall be maintained or erected on or within the area hereby conveyed:

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the state of Maine as trustee to be forever held in trust for the benefit of the people of Maine for and as a state forest, public park and for public recreational purposes the same forever to be kept in its natural wild state and as a sanctuary for wild beasts and birds all as above defined and subject to the above mentioned reservations and conditions and I the said BAXTER COVENANT with the said state of Maine that I will WARRANT AND DEFEND the said premises to the state of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this twelfth day of January in the year of our Lord one thousand nine hundred and forty-two.

SIGNED AND SEALED

in the presence of

CHARLES J. NICHOLS

PERCIVAL PROCTOR BAXTER (Seal)

STATE OF MAINE

CUMBERLAND: SS.

Portland, January 12, 1942.

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me,

FRANK I. COWAN,
Justice of the Peace.

Effective April 3, 1942

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninety-first Legislature

1943

Chapter 1

AN ACT Accepting from Percival Proctor Baxter the conveyance and Deed of Gift of twelve thousand (12,000) acres of land in township five (5) range nine (9) W. E. L. S. Piscataquis County, and the conveyance and Deed of Gift of Mackworth Island in the town of Falmouth, Portland Harbor, Casco Bay, and establishing the Mackworth Island Trust Fund.

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

N. E. $\frac{1}{4}$ and S. W. $\frac{1}{4}$ of township five (5) range nine (9) W. E. L. S.

WHEREAS, Percival Proctor Baxter of Portland in the county of Cumberland, state of Maine, donated and conveyed to the state of Maine as trustee in trust certain real estate in townships three (3), four (4) and five (5) range nine (9) and in township three (3) range ten (10) W. E. L. S. all in Piscataquis county, state of Maine, (Mt. Katahdin)

1—by deeds dated March 3, 1931 (Chapter 23 of the private and special laws of 1931), February 2, 1933 (Chapter 3 of the private and special laws of 1933), January 17, 1939 (Chapter 1 of the private and special laws of 1939), July 22, 1940 (Chapter 122 of the private and special laws of 1939-40), January 8, 1941 (Chapter 1 of the private and special laws of 1941), January 12, 1942 (Chapter 95 of the private and special laws of 1941-42) all of which were accepted by acts of the several state legislatures in Trust and were approved by the respective governors March 4, 1931, February 9, 1933, January 19, 1939, July 26, 1940, January 15, 1941 and January 16, 1942, and also.

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DEED OF GIFT

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2—by deeds dated October 7, 1931 and November 9, 1938, which were accepted on behalf of the state of Maine by the forest commissioner with the approval of the governor and executive council and the attorney general all acting under the power conferred upon them by sections fifteen (15) and sixteen (16) of chapter eleven (11) of the revised statutes of 1930, all the said gifts and conveyances being subject to the trust and to the conditions therein specified, and all the said deeds having been recorded in the Piscataquis county registry; and

WHEREAS, the said Baxter now desires to convey and donate to the state of Maine as Trustee to be held by said state in Trust an additional area of approximately twelve thousand (12,000) acres the same being the northeasterly one-quarter ($\frac{1}{4}$) and the southwesterly one-quarter ($\frac{1}{4}$) of township five (5) range nine (9) W. E. L. S. Piscataquis County together with one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township;

NOW THEREFORE, the state of Maine by act of the legislature hereby accepts from the said Percival Proctor Baxter the deed of gift and conveyance of the northeasterly one-quarter ($\frac{1}{4}$) and the southwesterly one-quarter ($\frac{1}{4}$) of township five (5) range nine (9) W. E. L. S. Piscataquis county, the same containing twelve thousand (12,000) acres more or less together with one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township as described in the following deed of conveyance, the same to be forever held by the said state as trustee in trust for the benefit of the people of Maine for state forest, public park and public recreational purposes and also to be held forever by said state as trustee in trust subject to the conditions set forth and expressed in the following deed of conveyance.

DEED

KNOW ALL MEN BY THESE PRESENTS that I Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be held forever by the State as Trustee in Trust for the benefit of the People of Maine do hereby remise, release, sell and forever QUIT-CLAIM unto the said State of Maine the following described land in township five (5) range nine (9) W. E. L. S. Piscataquis county, Maine—

the northeasterly one-quarter ($\frac{1}{4}$) and the southwesterly one-quarter ($\frac{1}{4}$) of township five (5) in the ninth (9th) range of townships west from the east line of said State in the County of Piscataquis in said State includ-

DEED OF GIFT

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ing one-half ($\frac{1}{2}$) the right to cut and carry away the timber and grass from the public lot in said township.

This conveyance is made subject to the following reservations and conditions namely said land shall forever be retained and used by said State for state forest, public park and public recreational purposes, shall forever be left in the natural wild state and shall forever be kept as a sanctuary for wild beasts and birds.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be held forever in Trust for the benefit of the People of Maine for and as a state forest, public park and for public recreational purposes, the same forever to be kept in its natural wild state and as a sanctuary for wild beasts and birds all as above defined and subject to the above mentioned reservations and conditions, and I the said Percival Proctor Baxter covenant with the said State of Maine that I will WARRANT AND DEFEND the said premises to the said State against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this thirteenth day of January in the year of our Lord one thousand nine hundred and forty-three.

Signed and Sealed
in the presence of

CHARLES J. NICHOLS

PERCIVAL PROCTOR BAXTER (SEAL)

State of Maine }
Cumberland } SS

Portland, January 13, 1943.

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me

FRANK I. COWAN
Notary Public
(Notarial Seal)

MACKWORTH ISLAND, TOWN OF FALMOUTH, CASCO BAY

WHEREAS, Percival Proctor Baxter also desires to convey and donate to the state of Maine as trustee to be held by said state in trust the island called Mackworth Island situated in the town of Falmouth in Portland Harbor, Casco Bay, the same being one hundred (100) acres more or less

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in extent, together with Mackworth or Half-way rock situated southerly of said island and also together with the bridge connecting said island with the mainland of said Falmouth, the right-of-way leading from said Falmouth end of said bridge across the Look Estate so called as defined in deed from Ensena L. and Frederick H. Wilson to said Baxter dated July 27, 1911 and recorded in Cumberland registry book 879, page 108, and certain pole rights as described in deed from Emma L. Webber to said Baxter dated August 2, 1916 and recorded in said registry book 975, page 119;

NOW THEREFORE, the state of Maine by act of the legislature hereby accepts from said Percival Proctor Baxter the deed and gift of said Mackworth Island, said Mackworth or Half-way rock, said bridge, said right-of-way and said pole rights all as described in the following deed of conveyance the same to be held forever by the said state of Maine as trustee in trust for the benefit of the people of Maine for state public purposes, and also to be held forever by said state as trustee in trust subject to the conditions and reservations set forth and expressed in the following deed of conveyance.

DEED

KNOW ALL MEN BY THESE PRESENTS that I Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine, in consideration of one dollar and other valuable considerations paid by the State of Maine, the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine, Mackworth Island with the buildings thereon, Mackworth or Half-way rock and the bridge, right-of-way and pole rights all as hereinafter described to be held forever by the State of Maine as Trustee in Trust for the benefit of the People of Maine, do hereby remise, release, sell and forever QUIT-CLAIM unto the said State of Maine the following described real estate in the town of Falmouth, Portland Harbor, Casco Bay:—

Mackworth Island with the buildings thereon the same being one hundred (100) acres more or less in extent together with Mackworth or Half-way rock situated southerly of said Island and also together with the bridge connecting said Island with the mainland of said Falmouth, the right-of-way leading from said Falmouth end of said bridge across the Look Estate so called as defined in deed from Ensena L. and Frederick H. Wilson to Percival Proctor Baxter dated July 27, 1911, recorded in Cumberland Registry Book 879, Page 108, and the pole rights as described in deed from Emma M. Webber to Percival Proctor Baxter dated August 2, 1916, recorded in Cumberland Registry of Deeds Book 975, Page 119.

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This conveyance is made subject to the following reservations and conditions namely;

said State forever shall maintain the small cemetery for animals and the bronze tablets on the boulder therein situated on the easterly point of said Island;

said Island, rock, bridge, right-of-way and pole rights forever shall be retained and used by said State of Maine for State Public Purposes only, but the same never shall be used for corrective or penal institutions, nor for any purpose connected with the enforcement of the laws of the State relating to criminals;

said Island and the surrounding waters as described in Revised Statutes chapter 38 section 85 as amended by chapter 184 of the laws of Maine 1935 forever shall be maintained as a sanctuary for wild beasts and birds;

said State by the hand of the Governor and Executive Council may lease said Mackworth Island and the bridge leading thereto to said Baxter in accordance with the terms of a lease hereinafter described;

said Island is and shall be subject to four (4) easements as follows—

1—easement for certain pole rights granted to the Cumberland County Power and Light Company by deed dated July 3, 1916, recorded in Cumberland County Registry Book 971, Page 465;

2—easement for a water pipe line granted to the United States of America by deed dated June 22, 1918, recorded in Cumberland County Registry Book 1005, Page 150;

3—easement for a water pipe line granted to the Portland Water District by deed dated July 25, 1929, recorded in Cumberland County Registry Book 1341, Page 319;

4—and an easement shall be granted by said State to the United States of America for the construction of a twelve (12") inch water main across the Island; the deed for said easement shall be signed by the Governor acting for and in the name of said State, and whatever sum shall be paid to said State as damages for said easement shall be paid to the said Baxter;

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be held forever in Trust for the benefit of the People of Maine the same forever to be used for State public purposes all as above defined and subject to the above mentioned reservations and conditions and I the said PERCIVAL PROCTOR BAXTER COVENANT with the said State of Maine that I will WARRANT AND DEFEND the said premises to the

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State of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this thirteenth day of January in the year of our Lord one thousand nine hundred and forty-three.

Signed and Sealed
in presence of
CHARLES J. NICHOLS.

PERCIVAL PROCTOR BAXTER (SEAL)

STATE OF MAINE }
CUMBERLAND } SS

Portland, January 13, 1943

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

FRANK I. COWAN
Notary Public (Notarial Seal)

WHEREAS, in the above described deed and conveyance it is provided that the state may lease to the said Baxter the island and bridge described therein,

NOW THEREFORE, the governor and executive council of the state acting for and in behalf of said state are hereby authorized and empowered to execute and deliver to said Baxter a lease of said island and bridge of the following tenor—

LEASE

This Indenture made this thirteenth day of January, 1943, WITNESSETH that the State of Maine by the hand of its Governor and Executive Council hereunto duly authorized by Act of the Ninety-first Legislature does hereby let, demise and lease to Percival Proctor Baxter, Mackworth Island situated in the Town of Falmouth, Casco Bay, Maine, and the bridge leading thereto from the Falmouth shore near Martin's Point so-called;

TO HOLD for the term of fifteen (15) years beginning January 13, 1943, and ending January 12, 1958, subject to termination previous to that date as herein provided, and lessee shall have the right to renew this lease upon the same terms and conditions for an additional period of fifteen (15) years beginning January 13, 1958 and ending January 12, 1973, subject to termination previous to that date as herein provided, provided lessee gives

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written notice of his intention so to renew said lease at least sixty (60) days before January 12, 1958, yielding and paying therefore an annual rental of one (\$1.00) dollar in advance on the thirteenth (13th) day of January of each year during the term of this lease and any renewal thereof.

Lessee at his expense shall make such repairs on the leased premises as he deems advisable and at his expense shall insure the said premises for the benefit of lessee in such amounts as lessee in his discretion may determine. The leased premises shall be free from all taxes.

This lease may be terminated at any time by lessee by written notice given by the lessee to the Governor and Executive Council of the State, and in case of the decease of lessee this lease thereupon shall terminate, and upon such termination, either by notice from or by decease of lessee said State thereupon shall take immediate possession of the leased premises and shall administer them under the provisions of the Trust created in the deed to said State and the Act of Acceptance thereof.

IN WITNESS WHEREOF the said State of Maine by the hand of its Governor and Executive Council hereunto duly authorized by Act of the Ninety-first Legislature, and the said Percival Proctor Baxter have set their hands and seals this thirteenth day of January, 1943.

In the presence of

STATE OF MAINE

By

Governor

.....

.....

.....

..... (STATE SEAL)

.....

.....

.....

Executive Council

PERCIVAL PROCTOR BAXTER (SEAL)

MACKWORTH ISLAND TRUST FUND

WHEREAS, PERCIVAL PROCTOR BAXTER desires to establish a TRUST FUND the same to be held by the state of Maine as trustee in trust the principal and income thereon to be used by the state of Maine in the discretion of the governor and executive council for some state public purpose in connection with said MACKWORTH ISLAND;

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NOW THEREFORE, the state of Maine by act of the legislature hereby accepts from PERCIVAL PROCTOR BAXTER the preliminary gift of ten thousand (\$10,000.) dollars and the same, together with such additional gifts and bequests as the said Baxter later may make to the state for said purpose, shall be held by said state as trustee in trust as a separate and distinct trust fund to be known as the MACKWORTH ISLAND TRUST FUND, the principal and income thereon to be used by said state of Maine, in the discretion of the governor and executive council, for some state public purpose in connection with said Mackworth Island. Until such time as this fund shall be used by the state as herein provided this fund shall be safely invested by the governor and executive council in bonds of the United States of America or of the state of Maine or shall be deposited in savings banks of the highest standing, the income thereon to be added to and become part of said trust fund.

Effective July 9, 1943

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninety-first Legislature

AT THE
SPECIAL SESSIONS, APRIL 17-19, 1944 AND
SEPTEMBER 18-20, 1944

1944

Supplementary to Private and Special Acts of 1943

Chapter 91

AN ACT Accepting from Percival Proctor Baxter the conveyance and Deed of Gift of twenty-four thousand six hundred and eighty-two (24,682) acres of land in township five (5) range ten (10) W. E. L. S. Piscataquis County, BAXTER STATE PARK.

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

Township five (5) range ten (10) W. E. L. S. Piscataquis County.

WHEREAS, Percival Proctor Baxter of Portland in the county of Cumberland, state of Maine, heretofore has donated and conveyed to the state of Maine as trustee in trust certain real estate in townships three (3), four (4) and five (5) range nine (9) and in township three (3) range ten (10) W. E. L. S. all in Piscataquis county, state of Maine, BAXTER STATE PARK,

1—by deeds dated March 3, 1931 (Chapter 23 of the private and special laws of 1931), February 2, 1933 (Chapter 3 of the private and special laws of 1933), January 17, 1939 (Chapter 1 of the private and special laws of 1939), July 22, 1940 (Chapter 122 of the private and special laws of 1939-40), January 8, 1941 (Chapter 1 of the private and special laws of 1941), January 12, 1942 (Chapter 95 of the private and special laws of 1941-42), January 13, 1943 (Chapter 1 of the private and special laws of 1943), all of which were accepted by acts of the several state legislatures in Trust and were approved by the respective governors March 4, 1931, February 9, 1933, January 19, 1939, July 26, 1940, January 15, 1941, January 16, 1942 and January 20, 1943, and also

2—by deeds dated October 7, 1931 and November 9, 1938, which were accepted on behalf of the state of Maine by the forest commissioner with the approval of the governor and executive council and the attorney general all acting under the power conferred upon them by sections fifteen (15) and sixteen (16) of chapter eleven (11) of the revised statutes of 1930, all the said gifts and conveyances being subject to the trust and to the conditions therein specified, and all the said nine (9) deeds herein mentioned having been recorded in the Piscataquis county registry; and

WHEREAS, the said Baxter now desires to convey and donate to the state of Maine as Trustee to be held by said state in Trust an additional area of twenty-four thousand six hundred and eighty-two (24,682) acres the same being all of township five (5) range ten (10) W. E. L. S. Piscataquis County, excepting an area of twenty (20) acres in the southwest quarter of said township owned by and belonging to Charles A. Daisey, together with the right to cut and carry away the timber and grass from the public lot in said township, reserving therefrom the right of the Eastern Corporation, its successors and assigns, to cut and remove from said township the timber and pulpwood as hereinafter described;

NOW THEREFORE, the state of Maine by act of the legislature hereby accepts from the said Percival Proctor Baxter the deed of gift and conveyance of township five (5), range ten (10) W. E. L. S. Piscataquis County, excepting therefrom the twenty (20) acres in the southwest quarter thereof owned by and belonging to Charles A. Daisey, the same containing twenty-four thousand six hundred and eighty-two (24,682) acres more or less together with the right to cut and carry away the timber and grass from the public lot in said township as described in the following deed of conveyance the same being subject, however, to the right of the Eastern Corporation its successors and assigns, to cut and remove from said property the timber and pulpwood growth thereon all as described in the fol-

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lowing deed of conveyance, and the land herein conveyed to said state is to be forever held by the said state as trustee in trust for the benefit of the people of Maine, the same forever to be kept in its natural wild state and for state forest, public park and public recreational purposes and as a sanctuary for wild beasts and birds and also is forever to be held by said state as trustee in trust subject to the conditions and reservations set forth and expressed in the following deed of conveyance.

DEED

I KNOW ALL MEN BY THESE PRESENTS that I Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be held forever by the State as Trustee in Trust for the benefit of the People of Maine do hereby remise, release, sell and forever QUIT-CLAIM unto the said State of Maine all of township five (5), range ten (10) W. E. L. S. Piscataquis County, Maine, excepting an area of twenty (20) acres in the southwesterly quarter thereof owned by and belonging to Charles A. Daisey, together with the right to cut and carry away the timber and grass from the public lot in said township except as hereinafter provided:

This conveyance is made subject to the following conditions and reservations namely said land shall forever be retained and used by said state for state forest, public park and public recreational purposes, shall forever be left in the natural wild state and shall forever be kept as a sanctuary for wild beasts and birds, and furthermore this conveyance also is made subject to the right of the Eastern Corporation its successors and assigns 1- to cut and remove from said property at any time or times all or any part of the timber and pulpwood growth now standing or growing thereon, or hereafter standing or growing thereon within the period beginning April seventeenth (17), nineteen hundred forty-four (1944) and ending August seventh (7), nineteen hundred sixty-five (1965), without the payment to said state of Maine of any stumpage charge or other consideration therefor and 2 - to enter upon said property during said period with a sufficient force of men and equipment to cut and remove the said growth, all as described and reserved in the deed from the Eastern Corporation to Percival P. Baxter, dated August seventh (7), nineteen hundred forty and recorded in Piscataquis Registry of Deeds, book 264, page 425.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the state of Maine as trustee to be

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held forever in trust for the benefit of the People of the state of Maine for and as a state forest, public park and for public recreational purposes, the same forever to be kept in its natural wild state and as a sanctuary for wild beasts and birds all as above defined and subject to the above mentioned reservations and conditions, and I the said Percival Proctor Baxter covenant with the said state of Maine that I will WARRANT AND DEFEND the said premises to the said state against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this seventeenth day of April in the year of our Lord one thousand nine hundred forty-four.

Signed and Sealed
in the presence of
ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (Seal)

State of Maine:SS
Cumberland :

Portland, April 17, 1944.

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me

(Seal)

CHARLES J. NICHOLS
Notary Public.

Effective July 19, 1944

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninety-second Legislature

1945

Chapter 1

AN ACT ACCEPTING from PERCIVAL PROCTOR BAXTER the Conveyance and Deed of Gift of thirty-five thousand five hundred fifty-four (35,554) acres of land in townships three (3) range nine (9), three (3) range ten (10) and four (4) range ten (10) W. E. L. S. Piscataquis County, BAXTER STATE PARK, State of Maine.

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

Nine thousand two hundred eighty (9,280) ACRES TOWNSHIP THREE (3) RANGE NINE (9), six thousand three hundred fifty-five (6,355) ACRES TOWNSHIP THREE (3) RANGE TEN (10), eight thousand two hundred ninety-nine (8,299) ACRES in common and undivided in TOWNSHIP THREE (3) RANGE TEN (10), eleven thousand six hundred twenty (11,620) ACRES TOWNSHIP FOUR (4) RANGE TEN (10).

WHEREAS Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine, has heretofore donated and conveyed to the State of Maine as trustee in trust certain real estate in townships three (3), four (4) and five (5) range nine (9), and in townships three (3) and five (5) range ten (10) W. E. L. S. all in the Mount Katahdin area in Piscataquis County, State of Maine, BAXTER STATE PARK (see Laws of Maine 1931-1944), all the said gifts and conveyances being subject to the trusts

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and conditions therein specified, and all the said deeds having been accepted by Acts of the several Legislatures of Maine and approved by the several Governors and all having been recorded in the Piscataquis County Registry, and

WHEREAS the said Baxter now desires to convey and donate to the State of Maine as Trustee to be held by said State in Trust an additional area of thirty-five thousand five hundred fifty-four (35,554) acres, the same being nine thousand two hundred eighty (9,280) acres in township three (3) range nine (9), six thousand three hundred fifty-five (6,355) acres in township three (3) range ten (10), eight thousand two hundred ninety-nine (8,299) acres in common and undivided in township three (3) range ten (10), and eleven thousand six hundred twenty (11,620) acres in township four (4) range ten (10) W. E. L. S. Piscataquis County together with the right to cut and carry away the timber and grass from the public lots or portions thereof in townships three (3) range nine (9) and three (3) range ten (10) as hereafter described, subject, however, to the right of Harry F. Ross former owner of Bangor to cut and remove the timber from an area of two thousand five hundred sixty (2,560) acres in township three (3) range nine (9) up to February thirteenth (13th), 1946, but not thereafter, and also subject to the right of the Great Northern Paper Company, former owner, 1—to remove the timber from an area of one thousand nine hundred twenty (1,920) acres in township three (3) range nine (9) up to December 28, 1954, and 2—to remove the timber from an area of six thousand one hundred eight (6,108) acres in township four (4) range ten (10) up to December 28, 1969 but not thereafter.

NOW THEREFORE the State of Maine by Act of the Legislature hereby accepts from PERCIVAL PROCTOR BAXTER by Deed of Gift and conveyance the land in township three (3) range nine (9), township three (3) range ten (10) and township four (4) range ten (10) and the right to the timber and grass on the Public Lot in township three (3) range nine (9) and three-fourths ($\frac{3}{4}$) of the timber and grass on the Public Lot in township three (3) range ten (10) all as described in the following deed of conveyance, the same to be forever held by said State as Trustee in Trust for the benefit of the People of Maine, the same to be forever kept by said State in its natural wild state and free from roads or ways for motor vehicles, horse drawn vehicles and other vehicles except as herein stated, the same to be forever held by said State for state, forest, public park and public recreational purposes and as a sanctuary for wild beasts and birds, and also to be held forever by said State as Trustee in Trust subject to the conditions set forth and expressed in the following deed of conveyance, but the trusts and conditions herein imposed upon the State of Maine shall

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in no way restrict or interfere with the rights of the co-owners of the land in township three (3) range ten (10) or with the rights of the co-owners in the timber and grass in said township three (3) range ten (10).

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland in the County of Cumberland, State of Maine, in consideration of one dollar (\$1.00) and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by the State as Trustee in Trust for the benefit of the People of Maine do hereby remise, release, sell and forever quit-claim unto the said State of Maine the following described land in townships three (3) range nine (9), three (3) range ten (10) and four (4) range ten (10) W. E. L. S. Piscataquis County, Maine, and the following described rights in the timber and grass in townships three (3) range nine (9) and three (3) range ten (10) all as hereafter described, and subject to the conditions herein imposed;

1—a certain lot or parcel of land situated in township three (3) range nine (9) (twp. 3, R. 9) in Piscataquis County State of Maine, beginning at a point in the westerly line of said township, said point being the southwest corner of the parcel of land heretofore conveyed to Percival P. Baxter the grantor herein by the Great Northern Paper Company by deed dated September 15, 1931, recorded in Piscataquis Registry Book 239, Page 82; thence easterly along the southerly line of said land conveyed to said Baxter in 1931, a distance of one and fifty one hundredths (1.50) miles to a point; thence southerly parallel to the easterly line of said township a distance of two (2) miles more or less to a point in the southerly line of said township; thence westerly as the course may be, along the said southerly line of said township a distance of one and fifty one hundredths (1.50) miles to the southwest corner of said township; thence northerly, as the course may be, along the westerly line of said township a distance of two (2) miles more or less to the point of beginning said parcel of land hereby conveyed containing one thousand nine hundred twenty (1,920) acres more or less the same being subject to the right of the Great Northern Paper Company to cut and remove the timber therefrom up to December 28, 1954, but not thereafter.

2 & 3—Two certain lots or parcels of land situated in township three (3) range nine (9) west of the east line of the State, Piscataquis County,

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State of Maine, the same being designated as "First Lot A" and "Second Lot B" bounded and described as follows:—

FIRST LOT A. (2) Beginning at a point in the northerly line of said township three (3) range nine (9) which said point is the northeast corner of land conveyed to Percival Proctor Baxter by deed of Great Northern Paper Company dated September 15, 1931, recorded in Piscataquis Registry of Deeds in book 239, page 82, and later conveyed to the State of Maine as Trustee in Trust by said Baxter by his deed dated February 2, 1933, recorded in said Piscataquis Registry in book 241, page 303; thence from said point southerly along the easterly line of said land conveyed to said State as Trustee above referred to a distance of two (2) miles to a point; thence easterly parallel with the northerly line of said township three (3) range nine (9) a distance of three and three-quarters ($3\frac{3}{4}$) miles more or less to the easterly line of said township three (3) range nine (9) which said line also is the easterly line of Piscataquis County; thence northerly along the easterly line of said township three (3) range nine (9) and along the said County line a distance of two (2) miles to the northeast corner of township three (3) range nine (9); thence westerly a distance of three and three-quarters ($3\frac{3}{4}$) miles more or less along the northerly line of township three (3) range nine (9) to the point of beginning.

SECOND LOT B. (3)

Beginning at the southwesterly corner of the lot of land first above described as "FIRST LOT A", the said corner being in the easterly line of the said land conveyed to the State of Maine as Trustee by Percival Proctor Baxter by his deed of February 2, 1933 as above mentioned; thence southerly along said easterly line of land of said State a distance of two (2) miles to the southeasterly corner of said land conveyed to said State as aforesaid; thence easterly parallel with the northerly line of said township three (3) range nine (9) a distance of two (2) miles to a point; thence northerly parallel with the easterly line of said township three (3) range nine (9) a distance of two (2) miles to a point in the southerly line of the lot of land herein above described as "FIRST LOT A"; thence westerly along the southerly line of said "FIRST LOT A" above described a distance of two (2) miles to the point of beginning; subject to the right of Harry F. Ross of Bangor for himself and his heirs and assigns to cut, operate and take away the timber and lumber on said "SECOND LOT B" of four (4) square miles in extent for the period ending February 13, 1946, but not thereafter. Said "FIRST LOT A" and "SECOND LOT B" contain seven thousand three hundred sixty (7,360) acres more or less and

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the Grantor herein hereby conveys to the State of Maine the right to cut and carry away the timber and grass from the Public Lot in said township three (3) range nine (9) W. E. L. S.

4—the northwest one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W. E. L. S. Piscataquis County, State of Maine, the same containing six thousand three hundred fifty-five (6,355) acres more or less, subject to the same rights which were excepted and reserved in the deeds from the Great Northern Paper Company to Percival P. Baxter, one dated May 22, 1939 recorded in Piscataquis Registry of Deeds book 262, page 464, and the other dated December 18, 1939 recorded in said Registry book 263, page 262, namely; reserving to the Great Northern Paper Company its successors and assigns, (1) the right to erect and maintain dams, abutments, piers and booms and otherwise improve Sourdnehunk Stream for the purpose of driving logs or pulpwood, and (2) the right to use the Millinocket-Sourdnehunk road so-called, all set forth in the said deeds from said Great Northern Paper Company to said Baxter above referred to.

5—three-fourths ($\frac{3}{4}$) in common and undivided of the right to cut and carry away the timber and grass on the Public Lot in said township three (3) range ten (10) W. E. L. S. Piscataquis County, State of Maine, said three-fourths ($\frac{3}{4}$) represents seven hundred fifty (750) acres more or less;

6—one hundred forty-four two hundredths fifty-fourths ($\frac{144}{254}$ ths) in common and undivided of the southwest one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W. E. L. S. in Piscataquis County, State of Maine;

7—one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) in common and undivided of the northeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W. E. L. S. in Piscataquis County, State of Maine;

8—one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) in common and undivided of that portion of the southeast one-quarter ($\frac{1}{4}$) of said township three (3) range ten (10) lying EAST of the following described line, the description of said line being as follows—

Beginning at a cedar post marked "N. M. L. Co. 1908 ∇° X" on its northwest face standing on the south line of said township and two (2) miles sixty-four (64) rods more or less east of the west line of said southeast one-quarter ($\frac{1}{4}$); thence north eighteen (18°) degrees twenty (20) minutes east three (3) miles eleven (11) rods more or less, parallel to the west line to a spruce post marked "N. M. L. Co. ∇° X 1908" on its southwest face, standing in the north line of said southeast one-quarter ($\frac{1}{4}$) and

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two (2) miles sixty-four (64) rods more or less east of the northwest corner of said southeast one-quarter ($\frac{1}{4}$); the said one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) fractional interests in the land in the southwest one-quarter ($\frac{1}{4}$) and in the northeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) and in the strip of land in the southeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) as described in paragraphs numbered six (6), seven (7) and eight (8) herein represent in case of the division of said township an ownership of seven thousand five hundred forty-nine (7,549) acres of land more or less;

9—a certain lot or parcel of land situated in township four (4) range ten (10) (twp. 4, R. 10) in Piscataquis County State of Maine, beginning at the northeast corner of said township; thence southerly as the course may be along the easterly line of said township to the southeast corner thereof; thence westerly as the course may be along the southerly line of said township a distance of two hundred and fourteen (214) chains to a point; thence northerly parallel to the said easterly line a distance of one hundred fifty-four (154) chains to a point; thence easterly parallel to said southerly line to a point in the height of land forming the westerly bound of the watershed of Wassataquoick Stream; thence northerly along the said height of land to the northerly line of said township; thence easterly as the course may be along said northerly line to place of beginning, containing five thousand five hundred and twelve (5,512) acres more or less.

10—a certain lot or parcel of land situated in township four (4) range ten (10) in Piscataquis County State of Maine, bounded and described as follows:

Beginning at a point in the northerly line of said township which point is the northwesterly corner of the lot of land conveyed to Percival P. Baxter by the Great Northern Paper Company by deed dated February 15, 1939, recorded in the Piscataquis Registry of Deeds in Book 260, page 497; thence westerly along the northerly line of said township to a point in the center of said northerly line, i. e. to the point that is midway between the northeasterly and the northwesterly corners of said township; thence southerly by the center line of said township a distance of six (6) miles, more or less to a point in the center of said southerly line of said township; thence easterly along said southerly line to the southwest corner of the land conveyed to said Baxter by said Great Northern Paper Company by said deed of February 15, 1939; thence northerly and easterly and northerly along the line of said Baxter land to the northerly line of said township and the point of beginning meaning and intending to convey to said State of Maine all the easterly one-half ($\frac{1}{2}$) of said township four (4) range ten (10) not previously conveyed to said Baxter by said deed of the

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Great Northern Paper Company dated February 15, 1939, containing six thousand one hundred eight (6,108) acres, more or less, subject to the right of the said Great Northern Paper Company its successors and assigns, to cut and remove the merchantable timber and standing growth on the land herein conveyed up to and including DECEMBER 28th, 1969, and not thereafter.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be forever held in Trust for the People of Maine upon the following conditions,

(1) that the premises HEREIN donated and conveyed to the State of Maine together with all the lands HERETOFORE donated and conveyed to said State in township three (3), township four (4) and township five (5) range nine (9) and in township three (3) and township five (5) range ten (10) by the grantor herein, forever shall be kept for and as a State forest and public park and for public recreational purposes ;

(2) that the said WITHIN donated and conveyed premises and also the said premises HERETOFORE donated and conveyed forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds, that the use of fire-arms, trapping and hunting, not including fishing, shall be forever prohibited within the same, and also that air-craft be forbidden to land on the ground or on the waters within the same;

(3) that the lumbering road now being constructed by the Eastern Corporation in township five (5) range ten (10) upon the termination on August 7, 1965 of the right of said corporation to remove the timber on said township, shall be closed and abandoned and shall be allowed to return to its original forest growth;

(4) that no roads or ways for motor vehicles, horse-drawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the said land HEREIN donated and conveyed to the said State by the grantor herein, or upon ANY of the lands in townships three (3), four (4) and five (5) range nine (9) or townships three (3), four (4) and five (5) range ten (10) HEREIN or HERETOFORE donated to the State of Maine by the grantor herein, EXCEPTING

A—the Millinocket-Sourdnahunk road so-called as now constructed as a single track graveled surface road with frequent turn-outs, which passes through townships three (3) range ten (10) and four (4) range ten (10), and EXCEPTING

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B—that short portion of the road on the land herein deeded to said State in township three (3) range nine (9) which road extends from Togue Ponds in township two (2) range nine (9) to its terminus on the land of the State at Roaring Brook in township three (3) range nine (9) all as above defined, and EXCEPTING

C—that the conditions and reservations imposed upon the State of Maine in this Deed of Gift and conveyance shall in no way restrain or interfere with the rights of the co-owners with the State in the land in township three (3) range ten (10) or with the rights of the co-owners with the State in the Public Lot in said township three (3) range ten (10), and I the said PERCIVAL PROCTOR BAXTER covenant with the State of Maine that I will WARRANT AND DEFEND the said premises to the said State against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this second day of January in the year of our Lord one thousand nine hundred forty-five.

Signed and Sealed
in the presence of
ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (Seal)

State of Maine:
Cumberland : SS

Portland, January 2, 1945

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me

(Notarial Seal)

CHARLES J. NICHOLS
Notary Public

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland in the County of Cumberland, State of Maine, in consideration of one dollar (\$1.00) and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by the State as Trustee in Trust for the benefit of the People

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of Maine do hereby remise, release, sell and forever quit-claim unto the said State of Maine the following described land in townships three (3) range nine (9), three (3) range ten (10) and four (4) range ten (10) W. E. L. S. Piscataquis County, Maine, and the following described rights in the timber and grass in townships three (3) range nine (9) and three (3) range ten (10) all as hereafter described, and subject to the conditions herein imposed;

1—a certain lot or parcel of land situated in township three (3) range nine (9) (twp. 3, R 9) in Piscataquis County State of Maine, beginning at a point in the westerly line of said township, said point being the southwest corner of the parcel of land heretofore conveyed to Percival P. Baxter the grantor herein by the Great Northern Paper Company by deed dated September 15, 1931, recorded in Piscataquis Registry Book 239, Page 82; thence easterly along the southerly line of said land conveyed to said Baxter in 1931, a distance of one and fifty one hundredths (1.50) miles to a point; thence southerly parallel to the easterly line of said township a distance of two (2) miles more or less to a point in the southerly line of said township; thence westerly as the course may be, along the said southerly line of said township a distance of one and fifty one hundredths (1.50) miles to the southwest corner of said township; thence northerly, as the course may be, along the westerly line of said township a distance of two (2) miles more or less to the point of beginning said parcel of land hereby conveyed containing one thousand nine hundred twenty (1,920) acres more or less the same being subject to the right of the Great Northern Paper Company to cut and remove the timber therefrom up to December 28, 1954, but not thereafter.

2 & 3—Two certain lots or parcels of land situated in township three (3) range nine (9) west of the east line of the State, Piscataquis County, State of Maine, the same being designated as "First Lot A" and "Second Lot B" bounded and described as follows:—

FIRST LOT A. (2) Beginning at a point in the northerly line of said township three (3) range nine (9) which said point is the northeast corner of land conveyed to Percival Proctor Baxter by deed of Great Northern Paper Company dated September 15, 1931, recorded in Piscataquis Registry of Deeds in book 239, page 82, and later conveyed to the State of Maine as Trustee in Trust by said Baxter by his deed dated February 2, 1933, recorded in said Piscataquis Registry in book 241, page 303; thence from said point southerly along the easterly line of said land conveyed to said State as Trustee above referred to a distance of two (2) miles to a point; thence easterly parallel with the northerly line of said township three (3)

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range nine (9) a distance of three and three-quarters ($3\frac{3}{4}$) miles more or less to the easterly line of said township three (3) range nine (9) which said line also is the easterly line of Piscataquis County; thence northerly along the easterly line of said township three (3) range nine (9) and along the said County line a distance of two (2) miles to the northeast corner of township three (3) range nine (9); thence westerly a distance of three and three-quarters ($3\frac{3}{4}$) miles more or less along the northerly line of township three (3) range nine (9) to the point of beginning.

SECOND LOT B. (3)

Beginning at the southwesterly corner of the lot of land first above described as "FIRST LOT A", the said corner being in the easterly line of the said land conveyed to the State of Maine as Trustee by Percival Proctor Baxter by his deed of February 2, 1933 as above mentioned; thence southerly along said easterly line of land of said State a distance of two (2) miles to the southeasterly corner of said land conveyed to said State as aforesaid; thence easterly parallel with the northerly line of said township three (3) range nine (9) a distance of two (2) miles to a point; thence northerly parallel with the easterly line of said township three (3) range nine (9) a distance of two (2) miles to a point in the southerly line of the lot of land herein above described as "FIRST LOT A"; thence westerly along the southerly line of said "FIRST LOT A" above described a distance of two (2) miles to the point of beginning; subject to the right of Harry F. Ross of Bangor for himself and his heirs and assigns to cut, operate and take away the timber and lumber on said "SECOND LOT B" of four (4) square miles in extent for the period ending February 13, 1946, but not thereafter. Said "FIRST LOT A" and "SECOND LOT B" contain seven thousand three hundred sixty (7,360) acres more or less and the Grantor herein hereby conveys to the State of Maine the right to cut and carry away the timber and grass from the Public Lot in said township three (3) range nine (9) W. E. L. S.

4—the northwest one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W. E. L. S. Piscataquis County, State of Maine, the same containing six thousand three hundred fifty-five (6,355) acres more or less, subject to the same rights which were excepted and reserved in the deeds from the Great Northern Paper Company to Percival P. Baxter, one dated May 22, 1939, recorded in Piscataquis Registry of Deeds book 262, page 464, and the other dated December 18, 1939, recorded in said Registry book 263, page 262, namely; reserving to the Great Northern Paper Company its successors and assigns, (1) the right to erect and maintain dams, abutments, piers and booms and otherwise improve Sourdnhunk Stream for

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the purpose of driving logs or pulpwood; and (2) the right to use the Millinocket-Sourdnahunk road so-called, all set forth in the said deed from said Great Northern Paper Company to said Baxter above referred to.

5—three-fourths ($\frac{3}{4}$) in common and undivided of the right to cut and carry away the timber and grass on the Public Lot in said township three (3) range ten (10) W. E. L. S. Piscataquis County, State of Maine, said three-fourths ($\frac{3}{4}$) represents seven hundred fifty (750) acres more or less;

6—one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) in common and undivided of the southwest one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W. E. L. S. in Piscataquis County, State of Maine;

7—one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) in common and undivided of the northeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W. E. L. S. in Piscataquis County, State of Maine;

8—one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) in common and undivided of that portion of the southeast one-quarter ($\frac{1}{4}$) of said township three (3) range ten (10) lying EAST of the following described line, the description of said line being as follows—

Beginning at a cedar post marked "N. M. L. Co. 1908 N° X" on its northwest face standing on the south line of said township and two (2) miles sixty-four (64) rods more or less east of the west line of said southeast one-quarter ($\frac{1}{4}$); thence north eighteen (18°) degrees twenty (20) minutes east three (3) miles eleven (11) rods more or less, parallel to the west line to a spruce post marked "N. M. L. Co. N° X 1908" on its southwest face, standing in the north line of said southeast one-quarter ($\frac{1}{4}$) and two (2) miles sixty-four (64) rods more or less east of the northwest corner of said southeast one-quarter ($\frac{1}{4}$); the said one hundred forty-four two hundred fifty-fourths ($\frac{144}{254}$ ths) fractional interests in the land in the southwest one-quarter ($\frac{1}{4}$) and in the northeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) and in the strip of land in the southeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) as described in paragraphs numbered (6), seven (7) and eight (8) herein represent in case of the division of said township an ownership of seven thousand five hundred forty-nine (7,549) acres of land more or less;

9—a certain lot or parcel of land situated in township four (4) range ten (10) (twp. 4, R 10) in Piscataquis County State of Maine, beginning

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at the northeast corner of said township; thence southerly as the course may be along the easterly line of said township to the southeast corner thereof; thence westerly as the course may be along the southerly line of said township a distance of two hundred and fourteen (214) chains to a point; thence northerly parallel to the said easterly line a distance of one hundred fifty-four (154) chains to a point; thence easterly parallel to said southerly line to a point in the height of land forming the westerly bound of the watershed of Wassataquoick Stream; thence northerly along the said height of land to the northerly line of said township; thence easterly as the course may be along said northerly line to place of beginning, containing five thousand five hundred and twelve (5,512) acres more or less.

10—a certain lot or parcel of land situated in township four (4) range ten (10) in Piscataquis County State of Maine, bounded and described as follows:

Beginning at a point in the northerly line of said township which point is the northwesterly corner of the lot of land conveyed to Percival P. Baxter by the Great Northern Paper Company by deed dated February 15, 1939, recorded in Piscataquis Registry of Deeds in Book 260, page 497; thence westerly along the northerly line of said township to a point in the center of said northerly line, i. e. to the point that is midway between the northeasterly and the northwesterly corners of said township; thence southerly by the center line of said township a distance of six (6) miles, more or less to a point in the center of said southerly line of said township; thence easterly along said southerly line to the southwest corner of the land conveyed to said Baxter by said Great Northern Paper Company by said deed of February 15, 1939; thence northerly and easterly and northerly along the line of said Baxter land to the northerly line of said township and the point of beginning meaning and intending to convey to said State of Maine all the easterly one-half ($\frac{1}{2}$) of said township four (4) range ten (10) not previously conveyed to said Baxter by said deed of the Great Northern Paper Company dated February 15, 1939, containing six thousand one hundred eight (6,108) acres, more or less, subject to the right of the said Great Northern Paper Company its successors and assigns, to cut and remove the merchantable timber and standing growth on the land herein conveyed up to and including DECEMBER 28th, 1969, and not thereafter.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be forever held in Trust for the People of Maine upon the following conditions,

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(1) that the premises HEREIN donated and conveyed to the State of Maine together with all the lands HERETOFORE donated and conveyed to said State in township three (3), township four (4) and township five (5) range nine (9) and in township three (3) and township five (5) range ten (10) by the grantor herein, forever shall be kept for and as a State forest and public park and for public recreational purposes;

(2) that the said WITHIN donated and conveyed premises and also the said premises HERETOFORE donated and conveyed forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds, that the use of fire-arms, trapping and hunting, not including fishing, shall be forever prohibited within the same, and also that air-craft be forbidden to land on the ground or on the waters within the same;

(3) that the lumbering road now being constructed by the Eastern Corporation in township five (5) range ten (10) upon the termination on August 7, 1965 of the right of said corporation to remove the timber on said township, shall be closed and abandoned and shall be allowed to return to its original forest growth;

(4) that no roads or ways for motor vehicles, horsedrawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the said land HEREIN donated and conveyed to the said State by the grantor herein, or upon ANY of the lands in townships three (3), four (4) and five (5) range nine (9) or townships three (3), four (4) and five (5) range ten (10) HEREIN or HERETOFORE donated to the State of Maine by the grantor herein, EXCEPTING

A—the Millinocket-Sourdnahunk road so-called as now constructed as a single track graveled surface road with frequent turn-outs which passes through townships three (3) range ten (10) and four (4) range ten (10), and EXCEPTING

B—that short portion of the road on the land herein deeded to said State in township three (3) range nine (9) which road extends from Togue Ponds in township two (2) range nine (9) to its terminus on the land of the State at Roaring Brook in township three (3) range nine (9) all as above defined, and EXCEPTING

C—that the conditions and reservations imposed upon the State of Maine in this Deed of Gift and conveyance shall in no way restrain or interfere with the rights of the co-owners with the State in the land in township three (3) range ten (10) or with the rights of the co-owners with the

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State in the Public Lot in said township three (3) range ten (10), and I the said PERCIVAL PROCTOR BAXTER covenant with the State of Maine that I will WARRANT AND DEFEND the said premises to the said State against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this second day of January in the year of our Lord one thousand nine hundred forty-five.

Signed and Sealed
in the presence of
ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (Seal)

STATE OF MAINE:
CUMBERLAND: SS

Portland, January 2, 1945

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS,
Notary Public.
NOTARIAL
SEAL

Effective July 21, 1945

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninety-third Legislature

1947

Chapter 1

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift of Ten Thousand Seven Hundred Forty (10,740) Acres of Land in the West One-Half ($\frac{1}{2}$) of Township Four (4) Range Ten (10) W.E.L.S. Piscataquis County Baxter State Park, State of Maine.

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

Ten Thousand Seven Hundred Forty (10,740) Acres Township Four (4) Range Ten (10) W.E.L.S. Piscataquis County, State of Maine:

WHEREAS, PERCIVAL PROCTOR BAXTER of Portland in the County of Cumberland, State of Maine, has heretofore donated and conveyed to the State of Maine as trustee in trust certain real estate in townships three (3), four (4) and five (5) range nine (9) and in townships three (3), four (4) and five (5) range ten (10) W.E.L.S. all in the Mount Katahdin area in Piscataquis County, State of Maine, and known as BAXTER STATE PARK, all the said gifts and conveyances being subject to the trusts and conditions therein specified;

WHEREAS, all of the above mentioned gifts of land have been accepted by the State of Maine as trustee in trust subject to the Trusts and conditions therein specified, according to the following list of the Acts of Acceptance (1931-1947 inclusive), all of which have been passed by the Several Legislatures of Maine and Approved by the Several Governors in

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office at the time of said Acceptances and all the same having been recorded in the Piscataquis Registry of Deeds as listed in the following schedules:

Acts of Acceptance and Communications to Governors and Legislatures:

1931-1947.

Item:		Location	Area
1.	Laws of Maine 1931 P. & S. Chap. 23, page 346 Communication Mar. 3, 1931, page 725 This 3840 acre tract is included in the larger area in Item 2.	Township 3, Range 9 Book 236 Page 438	
2.	Laws of Maine 1933 P. & S. Chap. 3, page 460 Communication Feb. 2, 1933, page 859 includes 3840 acres in Item 1, & is same land as in Item 11.	Township 3, Range 9 Book 241 Page 303	5960
3.	Laws of Maine 1939 P. & S. Chap. 1, page 337 Communication Jan. 17, 1939, page 846 includes 5754 acres in Item 12.	Township 5, Range 9 Book 260 Page 457	11508
4.	Laws of Maine 1941 P. & S. Chap. 122, page 45 1940 Session Communication July 23, 1940, page 698	Township 3, Range 10 Book 264 Page 438	4174
5.	Laws of Maine 1941 P. & S. Chap. 1, page 403 Communication Jan. 8, 1941, page 760	Township 4, Range 9 Book 264 Page 379	11441
6.	Laws of Maine 1943 P. & S. Chap. 95, Page 61 1942 Session Communication Jan. 12, 1942, page 700	Township 4, Range 9 Book 202 Page 202	11441
7.	Laws of Maine 1943 P. & S. Chap. 1, page 451 Communication Jan. 13, 1943, page 703 Mackworth Island, Falmouth, 100 acres, included in this Act of Acceptance but not in the 11508 acreage.	Township 5, Range 9 Book 203 Page 334	11508
8.	Laws of Maine 1945 P. & S. Chap. 91, page 11 1944 Session Communication Apr. 17, 1944, page 982	Township 5, Range 10 Book 273 Page 88	24702
9.	Laws of Maine 1945 P. & S. Chap. 1, page 523 Communication Jan. 2, 1945, page 985	Township 3, Range 9 Township 3, Range 10 Township 4, Range 10 Book 285 Page 84	9280 14654 11620
10.	Laws of Maine 1947 P. & S. Chap. Communication Jan. 8, 1947, page	Township 4, Range 10 To be recorded	10740

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DEED OF LAND FOR BAXTER STATE PARK 561
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Deeds of Gift under Section 15/16, Chap. 11: Revised Statutes of 1930 as Accepted by the Forest Commissioner and Governor and Council: later Accepted by the Legislatures and Approved by the Governor under Item 2 and Item 3.

- | | |
|-------------------------------------|---------------------|
| 11. Deed dated Oct. 7, 1931 | Township 3, Range 9 |
| this 5960 acre tract is the same | Book 239 Page 109 |
| tract as in Item 2 | |
| 12. Deed dated Nov. 9, 1938 | Township 5, Range 9 |
| this 5754 acre tract is included in | Book 260 Page 388 |
| the larger area in Item 3 | |

and

WHEREAS, the said Baxter now desires to convey and donate to the State of Maine as Trustee to be held by the said State in Trust, an additional area of ten thousand seven hundred forty (10,740) acres in township four (4) range ten (10) W.E.L.S. in said County together with the right to cut and carry away the timber and grass from the public lot in said township.

NOW THEREFORE, the State of Maine by Act of the Legislature hereby accepts from PERCIVAL PROCTOR BAXTER by Deed of Gift and conveyance the land in township four (4) range ten (10), and the right to cut and carry away the timber and grass on the Public Lot in said township, all as described in the following deed of conveyance, the same to be forever held by said State as TRUSTEE in TRUST for the benefit of the PEOPLE of MAINE, the same forever to be kept by said State in its natural wild state and free from roads or ways for motor vehicles, horse-drawn vehicles and other vehicles except as herein stated, the same to be forever held by said State for state forest, public park and public recreational purposes and as a sanctuary for wild beasts and birds, and also forever to be held by said State as TRUSTEE in TRUST subject to the conditions set forth and expressed in the following deed of conveyance:

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland in the county of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged, and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by said State as TRUSTEE in TRUST for the benefit of the PEOPLE of MAINE do hereby remise, release, sell and forever quit-

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claim unto the said State of Maine the following described land in township four (4) range ten (10) W.E.L.S. Piscataquis County, Maine, together with the right to cut and carry away the timber and grass in said township, all as hereinafter described and subject to the conditions herein imposed; to wit

A PART of the West one-half ($\frac{1}{2}$) of the township four (4) range ten (10) W.E.L.S. Piscataquis County, Maine, bounded and described as follows, to wit:

BEGINNING AT A POINT in the north town line of township four (4) range ten (10) said point being eighty (80) chains east of the northwest corner of said town; thence southerly parallel with west town line one hundred and ten (110) chains to a point; thence at right angles westerly eighty (80) chains to the west town line of township four (4) range ten (10); thence southerly on the west town line to the southwest corner of said town; thence easterly a distance of three thousand six hundred ninety-eight (3,698) feet more or less on the north line of township three (3) range eleven (11) to a point in the west line of township three (3) range ten (10); thence northerly along the west town line of township three (3) range ten (10) twenty-eight hundred (2800) feet more or less to the northwest corner of township three (3) range ten (10); thence easterly on the south town line of said township four (4) range ten (10) to the center line of said town; thence northerly along said center line to the north town line; thence westerly along north town line to the point of beginning, together with the timber and grass on the Public Lot in said township four (4) range ten (10), being the same premises conveyed to the grantor herein under the same description as in the deed of the said Great Northern Paper Company to said Percival Proctor Baxter dated October 23, 1946 and recorded in Piscataquis Registry of Deeds book 280, page 456 to which reference is had for said description;

EXCEPTING and RESERVING to the Great Northern Paper Company its successors and assigns the right to cut and remove the merchantable timber and standing growth on the land herein conveyed up to and including October 15, 1951 and not thereafter, and also excepting and reserving to said Paper Company its successors and assigns any and all rights it now has to erect and maintain dams, abutments, piers and booms or otherwise improve Sourdnahunk Stream for the purpose of driving logs or pulpwood, and also excepting and reserving to said Paper Company its successors and assigns, the right to use that portion of the Millinocket-Sourdnahunk Tote Road that now passes through the southwesterly section of said township four (4) range ten (10) said portion beginning at the northerly line of township three (3) range ten (10) and extending

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northerly to Sourdnahunk Field or Pasture and thence extending westerly across Sourdnahunk Stream to the easterly line of township four (4) range eleven (11) where said Tote Road connects with the Ripogenus Road;

the said described reservations and exceptions being those reserved and excepted to said Paper Company in the deed from said Paper Company to the Grantor herein, PERCIVAL PROCTOR BAXTER, dated October 23, 1946 and recorded in Piscataquis Registry of Deeds, book 280, page 456.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be forever held in Trust for the People of Maine upon the following CONDITIONS that the premises herein donated and conveyed to the State of Maine

1 - forever shall be kept for and as a state forest and public park and for public recreational purposes;

2 - forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds;

3 - that the use of firearms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same;

4 - that aircraft forever be forbidden to land on the ground or on the waters within the same; and

5 - that no roads or ways for motor vehicles, horsedrawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the land herein donated and conveyed to said State by the Grantor herein excepting the Millinocket-Sourdnahunk Tote Road so called as now constructed as a single track graveled surfaced road with frequent turnouts, which said Tote Road now passes through the southwesterly section of said township four (4) range ten (10), beginning at the northerly line of township three (3) range ten (10) and extending northerly to Sourdnahunk Field or Pasture and thence extending westerly across Sourdnahunk Stream to the easterly line of township four (4) range eleven (11) where it connects with the Ripogenus Road, and I the said PERCIVAL PROCTOR BAXTER COVENANT with the State of Maine that I will WARRANT and DEFEND the said premises to the said State against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this

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eighth day of January in the year of our Lord one thousand nine hundred forty-seven.

Signed and Sealed
in the presence of

ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (Seal)

State of Maine: SS
Cumberland :

Portland, January 8, 1947

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS (Notarial Seal)
Notary Public

Effective August 13, 1947

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninety-fourth Legislature

1949

Chapter 1

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift of Six Thousand Two Hundred Forty-seven (6,247) Acres and Five Hundred Thirty-six (536) Acres of Land in Township Six (6) Range Nine (9) W.E.L.S. Piscataquis County, and One Thousand Four Hundred Eighty-six (1,486) Acres of Land in Township Six (6) Range Eight (8) W.E.L.S. Penobscot County, and Also Accepting from Percival Proctor Baxter as Trustee the Conveyance and Deed of Gift of Six Thousand Seventeen (6,017) Acres of Land in Township Three (3) Range Ten (10) W.E.L.S. Piscataquis County, Baxter State Park, all in the State of Maine.

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

WHEREAS, Percival Proctor Baxter of Portland in the County of Cumberland State of Maine has heretofore donated and conveyed to the State of Maine as Trustee in Trust certain real estate in townships three (3), four (4) and five (5) range nine (9), and in townships three (3), four (4) and five (5) range ten (10) all W.E.L.S. in the Mount Katahdin area in Piscataquis County, State of Maine and known as BAXTER STATE PARK, all the said Gifts and Conveyances being subject to the Trusts and Conditions specified in the said Deeds of Conveyance; and

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WHEREAS, all of the above mentioned Gifts of land have been accepted by the State of Maine as Trustee in Trust subject to the Trusts and Conditions therein specified, the list of said Gifts being recorded in Chapter 1 Private and Special Laws of 1947; and

WHEREAS, the said Baxter both as an individual and as Trustee now desires to convey and donate to the State of Maine as Trustee to be held by the said State in Trust, four (4) additional areas or parcels of land, two (2) of said areas being in Piscataquis County in township six (6) range nine (9) containing six thousand two hundred forty-seven (6,247) acres and five hundred thirty-six (536) acres respectively, one (1) of said areas of land being in township six (6) range eight (8) Penobscot County containing one thousand four hundred eighty-six (1,486) acres and one of said areas of land being in township three (3) range ten (10) Piscataquis County, containing six thousand seventeen (6,017) acres, all W.E.L.S.;

NOW THEREFORE the State of Maine by Act of the Legislature hereby accepts from Percival Proctor Baxter by Deeds of Gifts and Conveyances the said lands in township six (6) range nine (9), in township six (6) range eight (8), and in township three (3) range ten (10) all as described in the following Deeds of Conveyance, the same to be forever held by said State as TRUSTEE in TRUST for the benefit of the PEOPLE of MAINE, the same to be forever kept by said State in its natural wild state, the same to be forever held by said State for State Forest, Public Park and Public Recreational purposes and as a Sanctuary for wild beasts and birds, also forever to be held by said State as Trustee in Trust subject to the conditions set forth and expressed in the following Deeds of Conveyance.

DEED of PERCIVAL PROCTOR BAXTER

6,247 ACRES and 536 ACRES in TOWNSHIP 6 RANGE 9 PISCATAQUIS COUNTY and 1,486 ACRES in TOWNSHIP 6 RANGE 8 PENOBSCOT COUNTY.

KNOW ALL MEN BY THESE PRESENTS that I Percival Proctor Baxter of Portland, County of Cumberland, State of Maine in consideration of one dollar (\$1.00) and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged, and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by said State as TRUSTEE in TRUST for the benefit of the PEOPLE of MAINE, do hereby remise, release, sell and forever quit-claim unto said State of Maine the following described three (3) parcels of land in township six (6) range nine (9) Piscataquis County W.E.L.S. Maine, and in township six (6)

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range eight (8) Penobscot County W.E.L.S. Maine, all as hereinafter described, and subject to the conditions as herein imposed: to wit

PARCEL 1—6,247 ACRES TOWNSHIP 6 RANGE 9

Certain real estate situate in the County of Piscataquis State of Maine and being located in the southeast corner of township six (6) range nine (9) bounded and described as follows:

The southeasterly portion of township six (6) range nine (9) Piscataquis County W.E.L.S. State of Maine, bounded and described as follows:

Beginning at the southeast corner of township six (6) range nine (9) W.E.L.S. Piscataquis County; thence westerly along the south line of said township six (6) a distance of four (4) miles more or less, to the southeast corner of lot No. 32 in said township; thence northerly along the east line of said Lot No. 32 and along the east line of Lot No. 26 in said township six (6) to Trout Brook so called both said Lots No. 32 and No. 26 formerly belonging to the Great Northern Paper Company; thence from the point where the east line of Lot No. 26 intersects said Trout Brook by and along the thread of said Trout Brook in a northeasterly direction following the meanderings of its course to a point in the First Grand Lake so called where said Trout Brook enters said Lake; thence easterly in a straight line parallel with said south line of said township six (6) range nine (9) across said Lake to the dividing line between said township six (6) range nine (9) and township six (6) range eight (8); thence southerly along said dividing line to the southeasterly corner of said township six (6) range nine (9) the point of beginning. The same containing six thousand three hundred eighty-three (6,383) acres more or less.

There is, however, expressly and specifically excepted and reserved to the Eastern Corporation its successors and assigns, the following properties, rights and easements, namely:

TROUT BROOK FARM (136 ACRES)

1—the following described land being that part of Trout Brook Farm properties lying within the granted premises as above described, the same being bounded and described as follows: Commencing at a point on the southerly bank of Trout Brook and on the fence line at the west end of the McCarthy Field so called on Trout Brook Farm; thence in a generally easterly direction following the various courses of said fence line fifty-two (52) chains more or less to a point at an angle in said fence line near the west edge of the pasture on said farm; thence south 21° west twenty-five (25) chains to a point; thence south 69° east (in a course par-

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allel to the south line of the town) twenty (20) chains to a point; thence north 21° east (in a course parallel with the east line of the town) fifty-six (56) chains more or less to a point on the southerly bank of said Trout Brook; thence in a generally southwesterly direction following the south bank of said Brook to the point of beginning, containing one hundred thirty-six (136) acres more or less and known as Trout Brook Farm, which said one hundred thirty-six (136) acres are subject to the right of the State of Maine to use in common with others lawfully entitled thereto for all purposes of a way that portion of Trout Brook Road so called that crosses the above described reserved parcel of one hundred thirty-six (136) acres all as provided in Deed of Eastern Corporation to Percival Proctor Baxter of August 30, 1947, recorded in Piscataquis Registry book 289, page 174, and THIS CONVEYANCE of said 6.247 acres also is made subject to all the rights, privileges and easements excepted and reserved to said Eastern Corporation in said Deed to said Baxter dated August 30, 1947 and recorded as aforesaid and SUBJECT ALSO to the right of the Garfield Land Company and others to use the said Trout Brook Road in said township six (6) range nine (9) as described in the PERMISSION given by said Baxter dated December 12, 1947 and recorded in Piscataquis Registry book 289, page 334, to both of which Deeds reference is hereby made for a more particular description.

PARCEL 2—536 ACRES TOWNSHIP 6 RANGE 9

Certain land situate in township six (6) range nine (9) W.E.L.S. County of Piscataquis State of Maine, bounded and described as follows, viz:

Beginning at the southwest corner of township six (6) range nine (9) W.E.L.S.; thence north along the west line of township six (6) range nine (9) to the center of Wadleigh Brook; thence east and northeast along the thread of Wadleigh Brook and Trout Brook to the point in the east line of Lot No. 26 where said Trout Brook crosses said east line; thence southerly on the east line of lots 26 and 32 to the south line of said township; thence westerly along said township line to the point of beginning. Said parcel containing five hundred thirty-six (536) acres more or less, and the same is subject to certain easements and other rights granted by the within named Percival Proctor Baxter to the within named Eastern Corporation by deed dated November 1, 1948 recorded in Piscataquis Registry book 290 page 380 to which reference is made for a more particular description.

PARCEL 3—1486 ACRES TOWNSHIP 6 RANGE 8

Nineteen twentieths (19/20ths) in common and undivided in and to two (2) certain lots or parcels of land in township six (6) range eight (8)

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W.E.L.S. in the County of Penobscot and State of Maine, being all wild lands, bounded and described as follows:

FIRST LOT OF PARCEL 3: Beginning at the southwest corner of said township; thence running north along the west line of said township which is also the east line of land conveyed to the Grantor herein by Eastern Corporation by Deed dated August 30, 1947, and recorded in the Piscataquis County Registry of Deeds in book 289, page 174, three miles more or less to a small cove on the west side of First Grand Lake so called; thence running easterly and southerly along the west shore of said Lake to the point where the said west shore intersects the north line of the Dam Lot so called which was conveyed to the East Branch Dam Company by Deed dated October 28, 1902 and recorded in the Penobscot County Registry of Deeds in book 727, page 335, and reputed to be now owned by the East Branch Improvement Company; thence running west along the north line of said Dam Lot to the northwest corner thereof; thence running south along the west line of said Dam Lot to the southwest corner thereof; thence running east along the south line of said Dam Lot to the East Branch of the Penobscot River; thence running south by said East Branch to a point in the south line of said township where the said East Branch intersects the same; thence running west along the said south line of said township to the point of beginning.

SECOND LOT OF PARCEL 3: A small point of land, likewise part of said township six (6) range eight (8) W.E.L.S. located immediately north of the northwest corner of said FIRST LOT hereinbefore described, and bounded on the west by the west line of said township, on the north and east by said First Grand Lake and on the south by the said small cove immediately north of the parcel hereinbefore described. The two (2) parcels or lots hereby conveyed contain one thousand four hundred eighty-six (1,486) acres more or less:

The CONVEYANCE of said FIRST and SECOND LOTS of Parcel 3 is made subject to all the rights, privileges and easements excepted and reserved to the Garfield Land Company, a Maine Corporation, and to the other Grantors in said Garfield Deed to said Baxter dated December 12, 1947 and recorded in Penobscot Registry book 1282, page 2, and the said lots also are subject to the flowage rights conveyed to the East Branch Dam Company by Deed dated October 28, 1902 recorded in Penobscot Registry book 727, page 335, and the said lots also are subject to certain easements and other rights granted by the within named Percival Proctor Baxter to the within named Eastern Corporation by Deed dated November 1, 1948, recorded in Penobscot Registry of Deeds volume 1295, page 1 to which Deeds reference is made for a more particular description.

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TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as TRUSTEE to be forever held in Trust for the PEOPLE of MAINE upon the following conditions, that the premises herein donated and conveyed to the State of Maine, 1—shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, 2—shall forever be kept in their natural wild state and as a sanctuary for wild beasts and birds, 3—that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same, 4—that air-craft forever be forbidden to land on the ground or on the waters within the same, and I the said Percival Proctor Baxter COVENANT with the State of Maine that I will Warrant and Defend the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this third day of January in the year of our Lord one thousand nine hundred forty-nine.

Signed and Sealed in the presence of
ALICE M. GURNEY.

PERCIVAL PROCTOR BAXTER.
Seal

State of Maine:
Cumberland: SS.

Portland, January 3, 1949

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS,
Notary Public.

Seal

DEED of PERCIVAL PROCTOR BAXTER as TRUSTEE UNDER THE DECREE of HONORABLE RAYMOND FELLOWS, JUSTICE OF THE SUPREME JUDICIAL COURT OF THE STATE OF MAINE IN EQUITY dated AUGUST 11, 1948.

PARCEL 4—6,017 ACRES TOWNSHIP 3 RANGE 10, PISCATAQUIS COUNTY

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland County of Cumberland, State of Maine, as TRUSTEE UNDER A DECREE of Honorable Raymond Fellows, Jus-

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rice of the Supreme Judicial Court of the State of Maine in Equity, dated August 11, 1948, and recorded in Piscataquis County Registry book 294, page 44, and IN COMPLIANCE with the mandate of said Decree and also IN CONSIDERATION of one dollar (\$1.00) and other valuable considerations paid by the State of Maine, and also IN FURTHERANCE of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by said State as Trustee in Trust for the benefit of the PEOPLE of MAINE, DO HEREBY REMISE, RELEASE, SELL AND FOREVER QUIT-CLAIM unto the State of Maine the following described lands in township three (3) range ten (10) W.E.L.S. Piscataquis County, Maine, together with the right to cut and carry away the timber and grass in a portion of said township, which said lands and right were purchased by me from Honorable Edward P. Murray and Lucille C. O'Brien, both of Bangor in the County of Penobscot, sole acting Trustees under the last Will and Testament of John Cassidy late of Bangor, deceased, by Deed of said Trustees dated August 23, 1948, recorded August 25, 1948 in Piscataquis Registry book 290, page 294, the said Deed being in compliance with the Mandate of said Decree of said Honorable Raymond Fellows, Justice of the Supreme Judicial Court of the State of Maine in Equity, dated August 11, 1948, to wit:

THREE CERTAIN AREAS OF WILD LANDS TOTALING 6,017 ACRES LOCATED IN TOWNSHIP THREE (3) RANGE TEN (10) AND THE RIGHT TO CUT AND CARRY AWAY THE TIMBER AND GRASS FROM THE PUBLIC LOT IN SAID TOWNSHIP ALL AS HEREINAFTER DESCRIBED AND LOCATED IN TOWNSHIP THREE (3) RANGE TEN (10) PISCATAQUIS COUNTY, STATE OF MAINE W.E.L.S. as follows:

(A) one-fourth ($\frac{1}{4}$) in common and undivided of the right to cut and carry away the timber and grass on the Public Lot in said township three (3) range ten (10) W.E.L.S. Piscataquis County, State of Maine, said one-fourth ($\frac{1}{4}$) represents an undivided ownership of two hundred fifty (250) acres more or less out of a total area in said Public Lot of one thousand (1,000) acres;

(B) one hundred ten two hundred fifty-fourths ($\frac{110}{254}$ ths) in common and undivided of the southwest one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W.E.L.S. in Piscataquis County, State of Maine, said one hundred ten two hundred fifty-fourths ($\frac{110}{254}$ ths) represent an undivided ownership of two thousand two hundred eighty-five (2,285) acres more or less out of a total area in said southwest one-quarter ($\frac{1}{4}$) of five thousand two hundred seventy-six (5,276) acres;

(C) one hundred ten two hundred fifty-fourths ($\frac{110}{254}$ ths) in com-

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mon and undivided of the northeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) W.E.L.S. Piscataquis County, State of Maine; together with

(D) one hundred ten two hundred fifty-fourths ($\frac{110}{254}$ ths) in common and undivided of that portion of the southeast one-quarter ($\frac{1}{4}$) of said township three (3) range ten (10) lying EAST of the following described line, the description of said line being as follows:

Beginning at a cedar post marked "N. M. L. Co. 1908 ∇° X" on its north-west face standing on the south line of said township and two (2) miles sixty-four (64) rods more or less EAST of the west line of said southeast one-quarter ($\frac{1}{4}$); thence north eighteen (18°) degrees twenty (20) minutes EAST three (3) miles eleven (11) rods more or less, parallel to the west line to a spruce post marked "N. M. L. Co. ∇° X 1908" on its southwest face, standing in the north line of said southeast one-quarter ($\frac{1}{4}$) and two (2) miles sixty-four (64) rods more or less EAST of the northwest corner of said southeast one-quarter ($\frac{1}{4}$); THE SAID one hundred ten two hundred fifty-fourths ($\frac{110}{254}$ ths) fractional interests in the land in the northeast one-quarter ($\frac{1}{4}$) of township three (3) range ten (10) AND in the two hundred fifty (250) rod strip of land in the southeast one-quarter ($\frac{1}{4}$) of said township three (3) range ten (10) as described in PARAGRAPHS NUMBERED C and D herein represent an undivided ownership of three thousand four hundred eighty-two (3,482) acres of land more or less out of a total area of eight thousand forty (8,040) acres more or less in said northeast one-quarter ($\frac{1}{4}$) and in said two hundred fifty (250) rod strip in the southeast one-quarter ($\frac{1}{4}$) both as described in paragraphs C and D herein.

The total area of the land purchased from the said Cassidy Estate (A B C D) herein described and conveyed by the grantor herein to the State of Maine including the two hundred fifty (250) acres in the Public Lot is six thousand seventeen (6,017) acres more or less.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be forever held in Trust for the PEOPLE of MAINE upon the following conditions that the premises herein donated and conveyed to the State of Maine 1—forever shall be kept for and as a State Forest and Public Park and for Public Recreational purposes, 2—forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds, 3—that the use of firearms, trapping and hunting not including fishing, shall forever be prohibited upon or within the same, 4—that aircraft forever shall be forbidden to land on the ground or on the waters within the same.

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And I the said Percival Proctor Baxter do covenant with said State that I am the lawful Trustee under the said Decree of Honorable Raymond Fellows, Justice of the Supreme Judicial Court of the State of Maine in Equity, dated August 11, 1948 and that in making this conveyance I have acted in all respects in pursuance of the Mandate of said Court both in purchasing the land herein described from the said Trustees of the said Estate of John Cassidy and also in conveying and donating the same to the State of Maine for the purposes herein described.

IN WITNESS WHEREOF I the said Percival Proctor Baxter in my said capacity as Trustee under the Mandate of the Supreme Judicial Court of the State of Maine in Equity dated August 11, 1948 have hereunto set my hand and seal this third day of January 1949.
In the presence of

Seal

ALICE M. GURNEY.

PERCIVAL PROCTOR BAXTER
As Trustee under the Decree of Honorable
Raymond Fellows, Justice of the Supreme
Judicial Court of the State of Maine in
Equity dated August 11, 1948.

State of Maine:
Cumberland: SS

Portland, January 3, 1949

Then personally appeared the above named Percival Proctor Baxter and acknowledged the foregoing instrument to be his free act and deed in his said capacity as Trustee:

Before me

CHARLES J. NICHOLS
Notary Public.

Seal

Effective August 6, 1949

Chapter 2

AN ACT Amending by Mutual Consent of Percival Proctor Baxter and the State of Maine the Two Deeds of Gift of Lands in Piscataquis County One Dated January 2, 1945 and the Other Dated January 8, 1947 Made by Said Percival Proctor Baxter to the State of Maine as Trustee and Accepted by Said State in Trust Under Chapter 1 Private and Special Laws of Maine 1945 and Under Chapter 1 Private and Special Laws of Maine 1947 and Accepting the Deeds of Gift of Said Lands as Modified and Amended by Deed of Said Baxter Dated January 3, 1949.

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

WHEREAS Percival Proctor Baxter donated and conveyed by Deeds dated January 2, 1945 and January 8, 1947 certain lands in Piscataquis County (Baxter State Park) to the State of Maine IN TRUST for the public purposes as stated in the Acts of Acceptance, Private and Special Laws Chapter 1 of 1945 and Private and Special Laws Chapter 1 of 1947, and

WHEREAS said Deeds and Acts of Acceptance contained certain conditions, limitations and restrictions as to roads and ways to be constructed, permitted and maintained in the areas described in both said Acts, and

WHEREAS it now appears to be in the public interest to modify said conditions, limitations and restrictions in order to make more accessible for public use and enjoyment the lands so donated and conveyed, and

WHEREAS said Percival Proctor Baxter has duly executed and delivered to the State of Maine a Deed releasing the lands described in the said two Deeds from the conditions, limitations and restrictions as to the construction and maintenance of roads and ways on and over said lands, a copy of said Deed being as follows:

DEED OF JANUARY 3, 1949

WHEREAS I Percival Proctor Baxter of Portland, Cumberland County, State of Maine donated and conveyed certain lands in Piscataquis County, Maine, known as BAXTER STATE PARK, to the State of Maine IN TRUST for certain public purposes by two (2) Deeds one dated January 2, 1945 and the other January 8, 1947 the same being recorded in Piscataquis County Registry book 285 page 84 and book 289 page 14 respectively, and

WHEREAS said above mentioned Deeds contained certain conditions, limitations and restrictions as to roads and ways being constructed, permitted and maintained within the lands so conveyed and donated to said State as therein stated, to wit:

THE DEED dated January 2, 1945 contains the following conditions, limitations and restrictions:

"that the lumbering road now being constructed by the Eastern Corporation in township five (5) range ten (10) upon the termination on August 7.

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1965 of the right of said corporation, to remove the timber on said township, shall be closed and abandoned and shall be allowed to return to its original forest growth;

"that no roads or ways for motor vehicles, horse drawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the said land HEREIN donated and conveyed to the said State by the grantor herein, or upon ANY of the lands in township three (3), four (4) and five (5) range nine (9) or townships three (3), four (4) and five (5) range ten (10) HEREIN or HERETOFORE donated to the State of Maine by the grantor herein, EXCEPTING

"the Millinocket-Sourdnahunk road so called as now constructed as a single track graveled surface road with frequent turn-outs, which passes through townships three (3) range ten (10) and four (4) range ten (10) and EXCEPTING

"that short portion of the road on the land herein deeded to said State in township three (3) range nine (9) which road extends from Togue Ponds in township two (2) range nine (9) to its terminus on the land of the State at Roaring Brook in township three (3) range nine (9) all as above defined",

THE DEED dated JANUARY 8, 1947 contains the following conditions, limitations and restrictions:

"that no roads or ways for motor vehicles, horse drawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the land herein donated and conveyed to said State by the grantor herein excepting the Millinocket-Sourdnahunk Tote Road so called as now constructed as a single tract graveled surfaced road with frequent turn-outs, which said Tote Road now passes through the southwesterly section of said township four (4) range ten (10), beginning at the northerly line of township three (3) range ten (10) and extending northerly to Sourdnahunk Field or Pasture and thence extending westerly across Sourdnahunk Stream to the easterly line of township four (4) range eleven (11) where it connects with the Ripogenus Road";

WHEREFORE it now appears to be in the public interest and for the benefit of the People of the State of Maine, to whom these several gifts were made and for whose benefit the Trusts in said Deeds are created, that the above mentioned restrictions, limitations and conditions as to roads and ways in each of said Deeds, as enumerated herein, be removed and cancelled

NOW THEREFORE in consideration of one (\$1.00) dollar and other

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valuable considerations paid by the State of Maine to me, I PERCIVAL PROCTOR BAXTER hereby release and relieve the State of Maine as Trustee for the benefit of the People of the State of Maine from each and all of the above mentioned conditions, limitations and restrictions as to roads and ways made in said deeds of January 2, 1945 and January 8, 1947, and

I HEREBY AUTHORIZE AND EMPOWER the said State of Maine as said Trustee to construct and maintain within the areas described in said Deeds dated January 2, 1945 and January 8, 1947 and also within the other areas of land heretofore donated to the State of Maine IN TRUST by said Baxter and known as BAXTER STATE PARK, such roads and ways as said State as such Trustee shall deem to be in the public interest and for the proper use and enjoyment of those citizens of said State who may visit the area known as BAXTER STATE PARK, subject however to the conditions, limitations and restrictions that said roads and ways be constructed and maintained in a manner not to interfere with the natural wild state now existing in said areas,

AND I the said PERCIVAL PROCTOR BAXTER hereby ratify and confirm the conveyance of said lands described in said within mentioned Deeds of Trust of 1945 and 1947 but with the conditions, limitations and restrictions as to the building and maintenance of roads and ways removed and cancelled from said Deeds as specified herein, but all the other terms, conditions, limitations, restrictions and Trusts in said Deeds of 1945 and 1947 shall remain in full force and effect.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and affixed my seal this third day of January one thousand nine hundred forty-nine.

In the presence of
ALICE M. GURNEY

Seal

PERCIVAL PROCTOR BAXTER

State of Maine:
Cumberland: SS

Portland, January 3, 1949

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

CHARLES J. NICHOLS
Notary Public

Seal

Now by mutual consent between said Percival Proctor Baxter and said State of Maine the said Deeds and Acts of Acceptance of 1945 and 1947 are

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hereby amended by repealing from the said Deeds and Acts of Acceptance the several conditions, limitations and restrictions as to roads and ways that appear in the lines and paragraphs as follows:

From CHAPTER 1 PRIVATE AND SPECIAL LAWS OF 1945 the following words beginning on page 524 line 35 "and free from roads or ways for motor vehicles, horse drawn vehicles and other vehicles except as herein stated", also from said Chapter 1 Private and Special Laws of 1945 the following four (4) paragraphs beginning on page 529 line 22 and the same four (4) paragraphs beginning on page 535 line 13—" (3) that the lumbering road now being constructed by the Eastern Corporation in township five (5) range ten (10) upon the termination on August 7, 1965 of the right of said corporation to remove the timber on said township, shall be closed and abandoned and shall be allowed to return to its original forest growth;

"(4) that no roads or ways for motor vehicles, horse drawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the land HEREIN donated and conveyed to the said State by the grantor herein, or upon Any of the lands in townships three (3), four (4) and five (5) range nine (9) or in townships three (3), four (4) and five (5) range ten (10) Herein or Heretofore donated to the State of Maine by the grantor herein, EXCEPTING

"A—the Millinocket-Sourdnahunk road so called as now constructed as a single track graveled surface road with frequent turnouts, which passes through townships three (3) range ten (10) and four (4) range ten (10), and EXCEPTING

"B—that short portion of the road on the land herein deeded to said State in township three (3) range nine (9) which road extends from Togue Ponds in township two (2) range nine (9) to its terminus on the land of the State at Roaring Brook in township three (3) range nine (9) all as above defined, and EXCEPTING"

From CHAPTER 1 PRIVATE AND SPECIAL LAWS OF 1947 the following words beginning on page 561 line 25 "and free from roads or ways for motor vehicles, horse drawn vehicles and other vehicles except as herein stated", and also from said Chapter 1 Private and Special Laws of 1947 the paragraph beginning on page 563 line 22

"(5) that no roads or ways for motor vehicles, horse drawn vehicles or other vehicles ever shall be constructed, permitted or maintained upon the land herein donated and conveyed to said State by the grantor herein excepting the Millinocket-Sourdnahunk Tote Road so called as now constructed as a single track graveled surfaced road with frequent turn-outs,

which said tote road now passes through the southwesterly section of said township four (4) range ten (10), beginning at the northerly line of township three (3) range ten (10) and extending northerly to Sourdnehunk Field or Pasture and thence extending westerly across Sourdnehunk Stream to the easterly line of township four (4) range eleven (11) where it connects with the Ripogenus Road",

NOW THEREFORE the State of Maine be and is hereby empowered to construct and maintain within the areas described in said Deeds dated January 2, 1945 and January 8, 1947 and also within the other areas of land heretofore donated to the State IN TRUST by said Baxter and known as BAXTER STATE PARK, such roads and ways as said State as such Trustee shall deem to be in the public interest and for the proper use and enjoyment of those citizens of said State who may visit the area known as BAXTER STATE PARK subject however to the conditions, limitations and restrictions that said roads and ways be constructed and maintained in a manner not to interfere with the natural wild state now existing in said areas; and

NOW THEREFORE the State of Maine by Act of the Legislature HEREBY ACCEPTS from Percival Proctor Baxter by Deed of Gift and conveyance the land described in the within mentioned Deeds of January 2, 1945 and January 8, 1947 subject to the conditions, limitations and restrictions as to the building and maintenance of roads and ways as modified and amended by the within Deed of January 3, 1949, the said last mentioned Deed hereby being accepted by said State and being made a part of this Act of Amendment and Acceptance.

Effective August 6, 1949

Private and Special Laws
OF THE
STATE OF MAINE

As Passed by the Ninety-seventh Legislature

1955

Chapter 1

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift in Trust of Two Thousand (2000) Acres in Township Six (6) Range Nine (9) W.E.L.S. Piscataquis County, State of Maine.

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

WHEREAS Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine, has heretofore donated and conveyed to the State of Maine as TRUSTEE IN TRUST certain real estate in townships three (3), four (4), five (5) and six (6) range nine (9) and in townships three (3), four (4) and five (5) range ten (10) and in township six (6) range eight (8) all W.E.L.S. in the Mount Katahdin area in Piscataquis and Penobscot Counties, State of Maine, known as BAXTER STATE PARK all the said gifts and conveyances being subject to the Trust and Conditions specified in said Deeds of Conveyance, and

WHEREAS all the above gifts of land have been accepted by the State of Maine as Trustee in Trust subject to the Trusts and Conditions therein specified, and

WHEREAS the said Baxter now desires to donate and convey to the State of Maine as TRUSTEE to be held by said State in Trust an additional area of land in township six (6) range nine (9) Piscataquis County containing two thousand (2000) acres more or less,

NOW THEREFORE the State of Maine by Act of the Legislature hereby accepts from Percival Proctor Baxter a Deed of Gift and Conveyance of said two thousand (2000) acres more or less in township six (6) range nine (9) all as described in the following Deed of Conveyance the same to be held by said State as TRUSTEE IN TRUST for the benefit of the PEOPLE OF MAINE the same to be forever kept by said State in its natural wild state, the same to be forever held by the said State for State Forest, Public Park and Public Recreational Purposes, the same forever to be named BAXTER STATE PARK and forever to be held by said State as TRUSTEE IN TRUST subject to the conditions set forth and expressed in the following Deed of Conveyance.

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland County of Cumberland State of Maine in consideration of one (\$1.00) dollar and other valuable considerations paid to me by the State of Maine, the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by said State as TRUSTEE IN TRUST for the benefit of the PEOPLE OF MAINE do hereby remise, release,

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DEED OF GIFT IN TRUST

CHAP. 1

PRIVATE AND SPECIAL, 1955

sell and forever quit-claim unto the said State of Maine forever all my right, title and interest in and to a certain lot or parcel of land situated in township six (6) range nine (9) Piscataquis County W.E.L.S. State of Maine, to wit:

So much of the land together with the buildings thereon situated in said township as would be flowed to an elevation not exceeding six hundred sixty-five (665) feet above sea level United States Geodetic Survey, by the existing Dam of the East Branch Improvement Company herein located in township six (6) range eight (8) at the outlet of First Grand Lake so called, or any replacement thereof and any necessary related dams, dykes or other structures at any other location the land hereby conveyed being estimated to contain two thousand (2000) acres more or less. This conveyance is made subject to the rights excepted and reserved to the East Branch Improvement Company its successors and assigns in Deed from the East Branch Improvement Company to the Grantor herein dated September 1, 1954, recorded in Piscataquis County Registry of Deeds book 315, page 44, and

this conveyance also is made subject to the rights excepted and reserved to the Eastern Corporation as provided in Deed from Eastern Corporation to the East Branch Improvement Company dated January 4, 1954, recorded in Piscataquis County Registry of Deeds book 309, page 81.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as TRUSTEE to be forever held in Trust for the PEOPLE OF MAINE upon the following conditions, that the premises herein donated and conveyed to the State of Maine shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, shall forever be named BAXTER STATE PARK, shall forever be kept in their natural wild state, and I the said Percival Proctor Baxter COVENANT with the State of Maine that I will WARRANT AND DEFEND the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this first day of December in the year one thousand nine hundred fifty-four.

Signed and Sealed
in the presence of
ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (LS)

State of Maine: SS
Cumberland :

Portland, December 1, 1954.

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me
ALICE M. GURNEY,
Notary Public

(Commission expires in 1957)
No U. S. Revenue Stamps required.

Effective August 20, 1955

TRUST DEED INTERPRETED
PRIVATE AND SPECIAL, 1955

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CHAP. 2

Chapter 2

AN ACT Interpreting the Trust Deed of Percival Proctor Baxter to State of Maine January 12, 1954 (Piscataquis Registry Book 309 Page 86) and Interpreting the Phrases "Natural Wild State" and "Sanctuary for Wild Beasts and Birds" in Deeds from Said Baxter to Said State of Maine.

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

WHEREAS in the Deed and Conveyance IN TRUST of a certain area of land in township six (6) range nine (9) Piscataquis County dated January 12, 1954 (Piscataquis Registry book 309 page 86) the State of Maine as Grantee assumed a duty "to convey to the Bangor Hydro Electric Company its successors and assigns by a metes and bounds description the sites selected for such purposes as are set forth in the above mentioned deed of the Eastern Corporation to the said Bangor Hydro Electric Company dated January 4, 1954 and the said State by the acceptance of this deed agrees to make such conveyance when requested to do so by said Bangor Hydro Electric Company its successors and assigns," and

WHEREAS it was understood at the time of the delivery of said deed that the duty of the said State to convey to said Bangor Hydro Electric Company the said "sites selected" referred solely and was limited to conveying such "sites selected" as lie entirely within the boundaries of the area in township six (6) range nine (9) Piscataquis County described in said deed of January 12, 1954;

WHEREAS it is in the public interest to clarify said duty as it was originally understood,

NOW THEREFORE the paragraph in said deed relating to the above mentioned duty of the State of Maine shall be construed as if it contained the words "FROM THE LAND INCLUDED IN THIS CONVEYANCE THE STATE'S INTEREST IN" after the word "description" in the paragraph outlining the duty of the State, this being the intention of both parties to said deed so that said paragraph shall read as follows:

"The within conveyance to the State of Maine is made expressly subject to the duty of said State to convey to the Bangor Hydro Electric Company its successors and assigns by a metes and bounds description FROM THE LAND INCLUDED IN THIS CONVEYANCE THE STATE'S INTEREST in the sites selected for such purposes as are set forth in the above mentioned Deed of the Eastern Corporation to the said Bangor Hydro Electric Company dated January 4, 1954, and the said State by the acceptance of this Deed agrees to make such conveyance when requested to do so by said Bangor Hydro Electric Company its successors and assigns."

"NATURAL WILD STATE" and "SANCTUARY FOR WILD BEASTS AND BIRDS"

WHEREAS it is in the public interest to have a correct interpretation of the phrase "natural wild state" and of the phrase "sanctuary for wild beasts and birds" in the above mentioned Deed of January 12, 1954 as well as wherever they appear in all the former Deeds and conveyances made to the State by Percival Proctor Baxter relating to Baxter State Park:

NOW THEREFORE it is mutually understood by the Grantor and Grantee in said Park Deeds that the following paragraphs express the intent of the Parties as to the interpretation of said phrases, and the same are accepted as applying to all the said Deeds and Conveyances.

NATURAL WILD STATE

The State of Maine is authorized to clean, protect and restore areas of forest growth damaged by ACTS OF NATURE such as blowdowns, fire, floods,

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TRUST DEED INTERPRETED

CHAP. 2

PRIVATE AND SPECIAL, 1955

slides, infestation of insects and disease or other damage caused by ACTS OF NATURE in order that the forest growth of the Park may be protected, encouraged and restored.

The State is authorized to build trails and access roads to camp sites, to use timber from this area for fire control and firewood and to construct shelters and lean-tos for mountain climbers and other lovers of nature in its wild state.

This area is to be maintained primarily as a Wilderness and recreational purposes are to be regarded as of secondary importance and shall not encroach upon the main objective of this area which is to be "Forever Wild."

The existing leases of the land and buildings at Kidney Pond, Daisey Pond and on the shores of the Matagamon Lakes may be continued by and in the discretion of the Baxter State Park Authority.

SANCTUARY FOR WILD BEASTS AND BIRDS

The State is authorized to maintain the proper balance of nature among the different species of wild life; to control predators that may become a menace to other species; to control disease and epidemics of the wild life of the Park. Such control shall be exercised by the Baxter State Park Authority. The destruction of any specie of wild life shall be carried on exclusively by the Personnel of said Authority and of the Forest and Fish and Game Departments.

All work carried on by the State in connection with the above shall be in accordance with the best forestry and wild life practices and shall be undertaken having in mind that the sole purpose of the donor in creating this Park is to protect the forests and wild life therein as a great wilderness area unspoiled by Man. Nothing shall be done for the purpose of obtaining income but should there be incidental income it is to be used solely for the care, operation and protection of this Wilderness area.

IN WITNESS WHEREOF said Percival Proctor Baxter by his signature hereto has indicated his approval subject to the approval of the State of Maine.

Signed in the presence of
ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (LS)

NOW THEREFORE the State of Maine by Act of the Legislature accepts the within interpretations of the above clauses and the same are to be considered as applying to all the Deeds and Conveyances of Trust heretofore made to the State by said Baxter. Whatever action is taken by said State in accordance with these interpretations shall not be considered as a breach of the Trust conditions and restrictions in the said Deeds and Conveyances.

STATE OF MAINE: SS
CUMBERLAND :

Portland, December 1, 1954

Personally appeared the above named Percival Proctor Baxter and acknowledged the within instrument to be his free act and deed.

Before me
ALICE M. GURNEY,
Notary Public.

(Commission expires in 1957)

Effective August 20, 1955

ACCEPTANCE BY THE STATE OF GIFTS OF LAND
PRIVATE AND SPECIAL, 1955

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CHAP. 3

Chapter 3

AN ACT RATIFYING AND CONFIRMING THE ACCEPTANCE BY THE STATE OF MAINE UNDER THE FOLLOWING RESOLVES OF THE GOVERNOR AND EXECUTIVE COUNCIL OF THE GIFTS OF LAND IN TRUST MADE BY PERCIVAL PROCTOR BAXTER THE SAME TO BE ADDED TO BAXTER STATE PARK.

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

WHEREAS the Governor and Executive Council by Resolve dated September 18, 1953 accepted seventy-six and eight-tenths (76.8) acres of land in township six (6) range eight (8) Penobscot County as donated and conveyed to the State of Maine on the trusts and conditions set forth in deed of Percival Proctor Baxter dated August 26, 1953, recorded in Penobscot County Registry of Deeds book 1407 page 149 (and in Piscataquis County Registry of Deeds book 308 page 401);

WHEREAS the Governor and Executive Council by Resolve dated January 20, 1954 accepted fourteen thousand five (14,005) acres of land, one hundred thirty-six (136) acres of land, and five-sixths (5/6ths) of the Public Lot all located in township six (6) range nine (9) Piscataquis County as donated and conveyed to the State of Maine on the trusts and conditions set forth in deed of Percival Proctor Baxter dated January 12, 1954 and recorded in Piscataquis County Registry of Deeds book 309 page 86, the conditions of which have subsequently been modified, subject to the consent of the State of Maine, by deed of said Percival Proctor Baxter dated December 1, 1954.

WHEREAS the Governor and Executive Council by Resolve dated January 20, 1954 accepted eight thousand (8000) acres of land in township three (3) range nine (9) Piscataquis County, as donated and conveyed to the State of Maine on the trusts and conditions set forth in deed of Percival Proctor Baxter dated January 12, 1954 and recorded in Piscataquis County Registry of Deeds book 309 page 85;

WHEREAS the said Percival Proctor Baxter desires to have the State Legislature accept the within Deeds of Gift and Trust to the State in order that they may be recorded in the laws of Maine 1955, all previous gifts from said Baxter having been accepted by the Legislature and so recorded:

NOW THEREFORE the State of Maine by Act of the Legislature hereby ratifies and confirms the action of the Governor and Executive Council in accepting the said Deeds of Gift above referred to and hereby accepts from said Percival Proctor Baxter on the trusts and conditions therein stated the deed of gift above referred to of the land in township six (6) range eight (8) Penobscot County, the deed of gift above referred to of the land in township three (3) range nine (9) in Piscataquis County, and the deed of gift above referred to of the land in township six (6) range nine (9) in Piscataquis County as modified by the deed dated December 1, 1954, said deed of December 1, 1954 and the modification therein contained being fully set forth in other legislation where it is presented for specific approval.

The deeds above referred to other than the deed of December 1, 1954 are hereby set forth in full as follows:

BAXTER STATE PARK

DEED OF GIFT OF PERCIVAL PROCTOR BAXTER DATED AUGUST 26, 1953 CONVEYING TO THE STATE OF MAINE IN TRUST FOR THE PEOPLE OF MAINE SEVENTY-SIX AND EIGHT-TENTHS (76.8) ACRES IN TOWNSHIP SIX (6) RANGE EIGHT (8) W.E.L.S. PENOBSCOT COUNTY THE SAME TO BE ADDED TO BAXTER STATE PARK, RECORDED IN PENOBSCOT REGISTRY BOOK 1407 PAGE 149 AND IN PISCATAQUIS COUNTY REGISTRY BOOK 308 PAGE 401. ORDER OF GOVERNOR AND EXECUTIVE COUNCIL SEPTEMBER 16, 1953, ACCEPTING SAID GIFT ATTACHED AND MADE A PART HEREOF.

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mt. Katahdin region to be forever held by said State as Trustee in Trust for the benefit of the people of Maine, do hereby remise, release, sell and forever quit-claim unto the State of Maine, the following described two parcels of land in township six (6) range eight (8) W.E.L.S. in the county of Penobscot, State of Maine, and subject to the conditions as herein imposed, and bounded and described as follows —

One-twentieth (1/20th) in common and undivided in and to two (2) certain lots or parcels of land in township six (6) range eight (8) W.E.L.S. in the county of Penobscot and State of Maine, being all wild lands, bounded and described as follows —

FIRST LOT: Beginning at the southwest corner of said township; thence running north along the west line of said township which is also the east line of land conveyed to PERCIVAL P. BAXTER the Grantee herein by Eastern Corporation by deed dated August 30, 1947, and recorded in the Piscataquis County Registry of Deeds in book 289, page 174, three (3) miles more or less to a small cove on the west side of First Grand Lake so called; thence running easterly and southerly along the west shore of said lake to the point where the said west shore intersects the north line of the Dam Lot so called which was conveyed to the East Branch Dam Company by deed dated October 28, 1902 and recorded in the Penobscot County Registry of Deeds in book 727, page 335, and reputed to be now owned by the East Branch Improvement Company; thence running west along the north line of said Dam Lot to the northwest corner thereof; thence running south along the west line of said Dam Lot to the southwest corner thereof; thence running east along the south line of said Dam Lot to the East Branch of the Penobscot River; thence running south by said East Branch to a point in the south line of said township where the said East Branch intersects the same; thence running west along the said south line of said township to the point of beginning.

SECOND LOT: A small point of land, likewise part of said township six (6) range eight (8) W.E.L.S. in the County of Penobscot and State of Maine, located immediately north of the northwest corner of said FIRST LOT hereinbefore described, and bounded on the west by the west line of said township; on the north and east by said First Grand Lake and on the south by the said small cove immediately north of the parcel hereinbefore described. The two (2) parcels or lots hereby conveyed contain seventy-six and eight tenths (76.8) acres more or less.

ACCEPTANCE BY THE STATE OF GIFTS OF LAND
PRIVATE AND SPECIAL, 1955

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This conveyance of said two (2) parcels of land is made subject to all the rights, privileges and easements excepted and reserved to SADA COE ROBINSON of Madrone, California, in her deed to said Percival P. Baxter dated June 4, 1951, recorded in Penobscot Registry of Deeds, volume 1335, page 176, and to the IRVING PULP and PAPER, LIMITED, of St. John, New Brunswick, in its deed to Percival P. Baxter dated June 27, 1951, recorded in Penobscot Registry of Deeds, volume 1351, page 41, to both of which deeds reference is made for a more particular description.

The within conveyance of one-twentieth (1/20th) in common and undivided or seventy-six and eight tenths (76.8) acres more or less completes the title to the land in the southwest corner of township six (6) range eight (8) W.E.L.S., nineteen twentieths (19/20ths) of said land containing one thousand four hundred eighty-six (1,486) acres more or less having been conveyed to the State by Deed of said Baxter dated January 3, 1949, already recorded in Penobscot County Registry of Deeds, book 1294, page 344, also described in Chapter 1 of the Private and Special Laws of 1949, to both of which reference is had for a more particular description.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as **TRUSTEE** to be forever held in Trust for the **PEOPLE OF MAINE** upon the following conditions, that the premises herein donated and conveyed to the State of Maine, 1—shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, 2—shall forever be kept in their natural wild state and as a sanctuary for wild beasts and birds, 3—that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same, 4—that air-craft forever be forbidden to land on the ground or on the waters of the same, and I the said Percival Proctor Baxter **COVENANT** with the State of Maine that I will **WARRANT AND DEFEND** the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this twenty-sixth day of August in the year one thousand nine hundred fifty-three.

Signed and Sealed
in the presence of

(Signed) Alice M. Gurney (Signed) Percival Proctor Baxter (L.S.)
U. S. Revenue Stamps not required.

State of Maine:
Cumberland : SS

Portland, August 26, 1953

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me
(Signed) Alice M. Gurney
Notary Public (Seal)

1. Secretary of State

STATE OF MAINE

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In Council, Sep 16 1953
Department, Secretary of State

ORDERED.

That the offer of Percival P. Baxter to donate to the State of Maine seventy-six and eight tenths (76.8) acres more or less of land in the South West

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corner of township 6 range 8 W.E.L.S., Penobscot County be and is hereby accepted and said seventy-six and eight tenths (76.8) acres more or less hereby become part and parcel of Baxter State Park, subject to the conditions and reservations as recited in the Deed from said Baxter to the State of Maine dated August 26, 1953, the same to be recorded in the Penobscot Registry of Deeds.

This Acceptance by the Governor and Executive Council is made under the provisions of Section 15, Chapter 11 of the Revised Statutes wherein the said Governor and Executive Council are empowered to accept gifts made to the State of Maine.

(Signed) Harold I. Goss
Harold I. Goss, Secretary of State

In Council, Sep 16 1953

Read and passed by the Council, and by the Governor approved.

(Signed) Harold I. Goss Secretary of State

BC

BAXTER STATE PARK

DEED OF GIFT OF PERCIVAL PROCTOR BAXTER DATED JANUARY 12, 1954 CONVEYING TO THE STATE OF MAINE IN TRUST FOR THE PEOPLE OF MAINE FOURTEEN THOUSAND FIVE (14,005) ACRES, ONE HUNDRED THIRTY-SIX (136) ACRES AND FIVE-SIXTHS (5/6) OF THE PUBLIC LOT IN TOWNSHIP SIX (6) RANGE NINE (9) W.E.L.S. PISCATAQUIS COUNTY THE SAME TO BE ADDED TO BAXTER STATE PARK, RECORDED IN PISCATAQUIS REGISTRY BOOK 309 PAGE 86. ORDER OF GOVERNOR AND EXECUTIVE COUNCIL JANUARY 20, 1954 ACCEPTING SAID GIFT ATTACHED AND MADE A PART HEREOF.

KNOW ALL MEN BY THESE PRESENTS that I, PERCIVAL PROCTOR BAXTER of Portland, County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mt. Katahdin region to be forever held by said State as Trustee in Trust for the benefit of the people of Maine, do hereby remise, release, sell and forever quit-claim unto the State of Maine forever, the following described three (3) parcels of land all situated in township six (6) range nine (9) W.E.L.S. in the county of Piscataquis, State of Maine, and subject to the reservations and exceptions as herein imposed, and bounded and described as follows:

FIRST PARCEL

Beginning at the northeasterly corner of Township 6, Range 9; thence southerly by and along the easterly line of said Township a distance of three (3) miles, more or less, to a point in said east line opposite the outlet of Trout Brook, said point being the northeast corner of land conveyed to Percival Proctor Baxter by deed of Eastern Corporation dated August 30, 1947, recorded in Piscataquis County Registry of Deeds, Volume 289, page 174; thence westerly, southwesterly and southerly by and along the thread of Trout Brook to the east line of Lot 26 in said Township where Trout Brook intersects said east line; thence northerly by and along the easterly line of Lots 26, 20 and 14 in said Township a distance of two and one tenth (2.1) miles, more or less, to the northeasterly corner of that portion of said Lot 14 owned or occupied by Great Northern Paper Company; thence westerly two (2) miles, more or less, by and along the northerly

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line of said Great Northern Paper Company's portion of Lots 14 and 13 and parallel to the north line of said Township to the westerly line of said Township; thence northerly by and along the westerly line of said Township a distance of two and one-half ($2\frac{1}{2}$) miles, more or less, to the northwesterly corner of said Township; thence easterly by and along the northerly line of said Township six (6) miles, more or less, to the point of beginning, containing 14.005 acres, more or less.

SECOND PARCEL

Trout Brook Farm. Said farm being bounded and described as follows: Commencing at a point in the southerly bank of Trout Brook and on the fence line at the west end of McCarthy Field, so called, on Trout Brook Farm; thence in a generally easterly direction following the various courses of said fence line, fifty-two (52) chains more or less to a point at an angle in said fence line near the west edge of the pasture on said farm; thence South 21° West twenty-five (25) chains to a point; thence South 69° East (in a course parallel to the south line of the town) twenty (20) chains to a point; thence North 21° East (in a course parallel with the east line of the town) fifty-six (56) chains; more or less, to a point on the southerly bank of said Trout Brook; thence in a generally southwesterly direction following the south bank of said Brook to the point of beginning. Containing one hundred thirty-six (136) acres, more or less. The above described parcel is that portion of the Trout Brook Farm properties, so called, excepted and reserved from the deed of the Eastern Corporation to the grantor herein dated August 30, 1947, and recorded in said Registry, Volume 289, page 174.

THIRD PARCEL

Public Lot. All the right, title and interest of the grantor herein in and to the Public Lot situate in said Township, containing 1,000 acres, more or less.

Excepting and reserving from the above described premises so much thereof as was conveyed to the East Branch Improvement Company by deed of the Eastern Corporation dated January 4, 1954, and so much thereof as was conveyed to the Bangor Hydro Electric Company by deed of said Eastern Corporation dated January 4, 1954 and the premises herein conveyed are further subject to the exceptions and reservations reserved to said Eastern Corporation in its deed to the grantor herein (Percival Proctor Baxter) dated January 4, 1954, as recorded in Piscataquis Registry of Deeds Book 309, page 78, to which reference is had for a more particular description.

The within conveyance to the State of Maine is made expressly subject to the duty of said State to convey to the Bangor Hydro Electric Company, its successors and assigns, by a metes and bounds description the sites selected for such purposes as are set forth in the above mentioned deed of the Eastern Corporation to the said Bangor Hydro Electric Company dated January 4, 1954, and the said State by the acceptance of this deed agrees to make such conveyance when requested to do so by said Bangor Hydro Electric Company, its successors and assigns.

This conveyance is further subject to the right to flow said premises upon payment of damages for such flowage all as set forth in said deed to said Bangor Hydro Electric Company.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as TRUSTEE to be forever held in Trust for the PEOPLE OF MAINE upon the following conditions, that the premises herein donated and conveyed to the State of Maine, shall forever be kept for and as a State Forest and Public Park and for Public recrea-

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tional Purposes; 2—shall forever be kept in their natural wild state and as a sanctuary for wild beasts and birds; 3—that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same; 4—that air-craft forever be forbidden to land on the ground or on the waters of the same; 5—that the same shall forever be named BAXTER STATE PARK; and I, the said Percival Proctor Baxter will WARRANT AND DEFEND the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by, through or under me, the grantor herein

IN WITNESS WHEREOF I, the said Percival Proctor Baxter, being unmarried, have hereunto set my hand and seal this twelfth day of January in the year one thousand nine hundred fifty-four.

Signed and Sealed
in the presence of:
(Signed)

Alice M. Gurney

(Signed) Percival Proctor Baxter (LS)

STATE OF MAINE

Cumberland, ss

January 12, 1954

Personally appeared the abovenamed Percival Proctor Baxter, and acknowledged the foregoing instrument to be his free act and deed.

Before me

(Signed) Alice M. Gurney
Notary Public

U. S. Revenue Stamps
not required.
1. Secretary of State

(Seal)

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STATE OF MAINE

In Council, Jan 20 1954
Department, Secretary of State

ORDERED,

That the offer of Percival Proctor Baxter to donate to the State of Maine thirteen thousand one hundred forty-one (13,141) acres more or less of land including the Public Lot in the northerly portion of township six (6), range nine (9), W.E.L.S., Piscataquis County as described in his Deed to the State of Maine dated January 12, 1954 be and is hereby accepted and said thirteen thousand one hundred forty-one (13,141) acres more or less hereby become part and parcel of Baxter State Park subject to the conditions, reservations and duties as recited in said deed and the said deed shall be recorded in Piscataquis Registry of Deeds with a copy of this Council Order attached thereto.

This acceptance by the Governor and Executive Council is made under the provisions of Section 15, Chapter 11, of the Revised Statutes wherein the said Governor and Executive Council are empowered to accept gifts made to the State of Maine.

(Signed) Harold I. Goss
Harold I. Goss, Secretary of State

In Council, Jan 20 1954

Read and passed by the Council, and by the Governor approved.

(Signed) Harold I. Goss, Secretary of State

BC

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PRIVATE AND SPECIAL, 1955

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BAXTER STATE PARK

DEED OF GIFT OF PERCIVAL PROCTOR BAXTER DATED JANUARY 12, 1954 CONVEYING TO THE STATE OF MAINE IN TRUST FOR THE PEOPLE OF MAINE EIGHT THOUSAND (8,000) ACRES IN TOWNSHIP THREE (3) RANGE NINE (9) W.E.L.S. PISCATAQUIS COUNTY THE SAME TO BE ADDED TO BAXTER STATE PARK, RECORDED IN PISCATAQUIS REGISTRY BOOK 309 PAGE 85. ORDER OF GOVERNOR AND EXECUTIVE COUNCIL JANUARY 20, 1954, ACCEPTING SAID GIFT ATTACHED AND MADE A PART HEREOF.

KNOW ALL MEN BY THESE PRESENTS that I, PERCIVAL PROCTOR BAXTER of Portland, County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mt. Katahdin region to be forever held by said State as Trustee in Trust for the benefit of the people of Maine, do hereby remise, release, sell and quit-claim unto the State of Maine forever the following described parcel of land situated in Township three (3) Range nine (9) W.E.L.S. in the county of Piscataquis, State of Maine, and subject to the reservations and exceptions as herein imposed, and bounded and described as follows:

Beginning at a point in the southerly line of said township said point being four and one half ($4\frac{1}{2}$) miles westerly from the southeasterly corner thereof and said point being a corner of Baxter State Park; thence northerly parallel to the easterly line of said township in and along the line of said Park two (2) miles more or less to a point at a corner of Baxter State Park; thence easterly parallel to the northerly line of said township in and along the southerly line of said Park two and three quarters ($2\frac{3}{4}$) miles more or less to a point at a corner of Baxter State Park; thence northerly parallel to the easterly line of said township in and along the line of said Park two (2) miles more or less to a point at a corner of Baxter State Park; thence easterly parallel to the northerly line of said township in and along the southerly line of said Park one and three quarters ($1\frac{3}{4}$) miles more or less to a point in the easterly line of said township said point being two (2) miles more or less southerly from the northeasterly corner of said township; thence southerly in and along the easterly line of said township four (4) miles more or less to the southeasterly corner thereof; thence westerly in and along the southerly line of said township to the point of beginning; containing eight thousand (8,000) acres, more or less.

Excepting and reserving to the Great Northern Paper Company its successors and assigns the right to cut and remove the merchantable and standing growth on the said eight thousand (8000) acres in said township up to December 1, 1973, and not thereafter, as provided in the deed of said Great Northern Paper Company to the grantor herein dated the 1st day of December, 1953 and recorded in Piscataquis County Registry Book 309, page 65.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as TRUSTEE to be forever held in Trust for the PEOPLE OF MAINE upon the following conditions, that the premises herein donated and conveyed to the State of Maine, 1—shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, 2—shall forever be kept in their natural wild state and as a sanctuary for wild beasts and birds, 3—that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same, 4—that air-craft forever be forbidden to land on the ground or on the waters of the same, and I, the said Percival Proctor Baxter WILL

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ACCEPTANCE BY THE STATE OF GIFTS OF LAND

CHAP. 3

PRIVATE AND SPECIAL, 1955

WARRANT AND DEFEND the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by, through or under me the grantor herein.

IN WITNESS WHEREOF I, the said Percival Proctor Baxter, being unmarried have hereunto set my hand and seal this twelfth day of January in the year one thousand nine hundred fifty-four.

Signed and Sealed
in the presence of

(Signed) Frank W. Johnson

(Signed) Percival Proctor Baxter (LS)

STATE OF MAINE

Cumberland, ss

January 12, 1954

Personally appeared the abovenamed Percival Proctor Baxter, and acknowledged the foregoing instrument to be his free act and deed,

Before me

(Signed) Alice M. Gurney
Notary Public

U. S. Revenue Stamps not required.

1. Secretary of State

STATE OF MAINE

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In Council, Jan 20 1954
Department, Secretary of State

ORDERED,

That the offer of Percival Proctor Baxter to donate to the State of Maine eight thousand (8,000) acres more or less of land in the southeast corner of township three (3) range nine (9) W.E.L.S., Piscataquis County as described in his Deed to the State of Maine dated January 12, 1954 be and is hereby accepted and said eight thousand (8,000) acres more or less hereby become part and parcel of Baxter State Park subject to the conditions, reservations and duties as recited in said deed and the said deed shall be recorded in Piscataquis Registry of Deeds with a copy of this Council Order attached thereto.

This acceptance by the Governor and Executive Council is made under the provisions of Section 15, Chapter 11, of the Revised Statutes wherein the said Governor and Executive Council are empowered to accept gifts made to the State of Maine.

(Signed) Harold I. Goss
Harold I. Goss, Secretary of State

In Council, Jan 20 1954
Read and passed by the Council, and by the Governor approved.

(Signed) Harold I. Goss, Secretary of State

BC

AMENDING DEED OF GIFT OF LAND
PRIVATE AND SPECIAL, 1955

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CHAP. 4

Chapter 4

AN ACT AMENDING by Mutual Consent of Percival Proctor Baxter and the State of Maine the Deed of Gift of Lands in Piscataquis County Dated January 12, 1954 of Fourteen Thousand Five (14,005) Acres of Land and Five-sixths (5/6ths) of the Public Lot in Township Six (6) Range Nine (9) W.E.L.S. Piscataquis County Recorded in Said Registry Book 309 Page 86 Made by Said Percival Proctor Baxter to the State of Maine as Trustee and Accepted by the Said State IN TRUST by the Governor and Executive Council Acting Under the Provisions of Section 15, Chapter 11 of the 1944 Revised Statutes Wherein the Governor and Executive Council Are Empowered to Accept Gifts Made to the State of Maine, and ACCEPTING the Deed of Gift of Said Land as Modified and Amended by Deed of Gift of Said Baxter Dated December 1, 1954.

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

WHEREAS Percival Proctor Baxter by deed dated January 12, 1954 recorded in Piscataquis Registry of Deeds book 309 page 86, among other properties donated and conveyed fourteen thousand five (14,005) acres of land and five-sixths (5/6ths) of the Public Lot in township six (6) range nine (9) W.E.L.S. Piscataquis County (Baxter State Park) to the State of Maine IN TRUST for Public Purposes as stated in said Deed and accepted by the Governor and Executive Council by Resolve January 20, 1954.

WHEREAS the said Deed among other things contains certain conditions, limitations and restrictions which provide that the land so conveyed "2—shall forever be kept as a sanctuary for wild beasts and birds, 3—that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same, 4—that air-craft forever be forbidden to land on the ground or on the waters of the same,"

WHEREAS it now appears to be in the public interest to modify said conditions, limitations and restrictions in order to increase the public use and enjoyment of that portion of said land so donated, conveyed and described in said Deed of January 12, 1954 which is above specifically referred to, and

WHEREAS said Percival Proctor Baxter has duly executed and delivered to the State of Maine a Deed dated December 1, 1954 releasing the fourteen thousand five (14,005) acres of land and the five-sixths (5/6ths) of the Public Lot in said township six (6) range nine (9) Piscataquis County described in said Deed from the conditions, limitations and restrictions as to the sanctuary for wild beasts and birds, the use of fire-arms, trapping and hunting, not including fishing, and that air-craft forever be forbidden to land on the ground and on the waters of the same, a copy of the Deed being as follows:

DEED

WHEREAS I Percival Proctor Baxter of Portland, County of Cumberland, State of Maine donated and conveyed fourteen thousand five (14,005) acres of land and five-sixths (5/6ths) of the Public Lot in township six (6) range nine (9) Piscataquis County known as BAXTER STATE PARK to the State of Maine IN TRUST for certain Public Purposes by Deed dated January 12, 1954 the same being recorded in Piscataquis County Registry book 309, page 86, and

WHEREAS said above mentioned Deed contains certain conditions, limitations and restrictions as stated therein including the conditions, limitations

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AMENDING DEED OF GIFT OF LAND

CHAP. 4

PRIVATE AND SPECIAL, 1955

and restrictions that the land "forever be kept as a sanctuary for wild beasts and birds, that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same, that air-craft forever be forbidden to land on the ground or on the waters of the same,"

WHEREAS it now appears to be in the public interest and for the benefit of the People of the State of Maine to whom this Gift was made and for whose benefit the TRUSTS in said Deed are created that the above quoted conditions, limitations and restrictions herein be removed and cancelled insofar as they apply to the fourteen thousand five (14,005) acres of land and to the five-sixths (5/6ths) of the Public Lot in township six (6) range nine (9);

NOW THEREFORE in consideration of one (\$1.00) dollar and other valuable considerations paid by the State of Maine to me, I Percival Proctor Baxter hereby release and relieve the State of Maine as Trustee for the benefit of the People of the State of Maine from each and all of the above quoted conditions, limitations and restrictions made in said Deed of January 12, 1954 insofar as they apply to the fourteen thousand five (14,005) acres of land and to the five-sixths (5/6ths) of the Public Lot in said township, and

I the said Percival Proctor Baxter hereby ratify and confirm the conveyance of said lands described in said within mentioned Deed of Trust of January 12, 1954, but with the above quoted conditions, limitations and restrictions as to the sanctuary for wild beasts and birds, the use of fire-arms, trapping and hunting, not including fishing, and the landing of air-craft on the ground or on the waters of the same removed and cancelled from said Deed as specified herein, but all the other terms, limitations and restrictions and Trusts in said Deed of January 12, 1954 shall remain in full force and effect.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and affixed my seal this first day of December in the year one thousand nine hundred fifty-four.

Signed in the presence of
ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER (LS)

State of Maine: SS
Cumberland :

Portland, December 1, 1954

Personally appeared the above named Percival Proctor Baxter and acknowledged this instrument to be his free act and deed.

Before me
ALICE M. GURNEY,
Notary Public

(Commission expires in 1957)
(No U. S. Revenue Stamps required)

ACCEPTANCE

Now by mutual consent between said Percival Proctor Baxter and said State of Maine the said Deed of January 12, 1954 and the Acceptance thereof by the Governor and Executive Council of January 20, 1954 are hereby amended by repealing from said Deed and Acceptance insofar as they apply to the fourteen thousand five (14,005) acres of land and to the five-sixths (5/6ths) of the

Public Lot in township six (6) range nine (9) Piscataquis County, the following conditions, limitations and restrictions that appear in said Deed as follows:

"2—shall forever be kept as a sanctuary for wild beasts and birds, 3—that the use of fire-arms, trapping and hunting, not including fishing, shall forever be prohibited upon or within the same, 4—that air-craft forever be forbidden to land on the ground or on the waters of the same";

NOW THEREFORE the State of Maine by Act of the Legislature hereby further ACCEPTS from Percival Proctor Baxter by deed of gift and conveyance the lands described in said deed of January 12, 1954 with the conditions, limitations and restrictions as to the sanctuary, the use of fire-arms, trapping and hunting, and the prohibition of air-craft ever landing on the ground or waters of the same cancelled and removed insofar as they relate to the fourteen thousand five (14,005) acres of land and the five-sixths (5/6ths) of the Public Lot all in accordance with the terms and conditions of the Deed dated December 1, 1954 above referred to, said Deed dated December 1, 1954 being hereby accepted by said State and being hereby made a part of this Act of Amendment and Acceptance.

Effective August 20, 1955

Chapter 61

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift in Trust of Three Thousand Five Hundred Sixty-nine (3,569) Acres in Township Six (6) Range Nine (9) W.E.L.S. Piscataquis County, State of Maine.

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

WHEREAS Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine, has heretofore donated and conveyed to the State of Maine as TRUSTEE IN TRUST certain real estate in townships three (3), four (4), five (5) and six (6) range nine (9) and in townships three (3), four (4) and five (5) range ten (10) all seven (7) in Piscataquis County and in township six (6) range (8) in Penobscot County, all W.E.L.S. in the Mount Katahdin area State of Maine, known as BAXTER STATE PARK all the said gifts and conveyances being subject to the Trusts and Conditions specified in said Deeds of Conveyance, and

WHEREAS all the above gifts of land have been accepted by the State of Maine as TRUSTEE IN TRUST subject to the Trusts and Conditions therein specified, and

WHEREAS the said Baxter now desires to donate and convey to the State of Maine as TRUSTEE to be held by said State in Trust an additional area of land in township six (6) range nine (9) Piscataquis County containing three thousand five hundred sixty-nine (3,569) acres more or less:

NOW THEREFORE the State of Maine by Act of the Legislature hereby accepts from Percival Proctor Baxter a Deed of Gift and Conveyance of said three thousand five hundred sixty-nine (3,569) acres more or less in township six (6) range nine (9) all as described in the following Deed of Conveyance the same to be held by said State forever as TRUSTEE IN TRUST for the benefit of the PEOPLE OF MAINE, the same to be forever named BAXTER STATE PARK, the same to be forever held by said State for State Forest, Public Park and Public Recreational Purposes and for the practice of Scientific Forestry, reforestation and for the production of forestry wood products. All harvesting of said products shall be done according to the most approved practices of Scientific Forestry and all revenue derived from the sale of said products shall be used by said State for the care, management and protection of Baxter State Park as now or hereafter defined; and the said three thousand five hundred sixty-nine (3,569) acres forever shall be held by said State as TRUSTEE IN TRUST subject to the conditions set forth and expressed in the following Deed of Conveyance:

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland County of Cumberland State of Maine in consideration of one (\$1.00) dollar and other valuable considerations paid to me by the State of Maine, the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by said State as TRUSTEE IN TRUST for the benefit of the PEOPLE OF MAINE and subject to the conditions herein imposed do hereby remise, release, sell and forever quit-claim unto the said State forever all my right, title and interest in and to a certain lot or parcel of land situated in township six (6) range nine (9) Piscataquis County W.E.L.S. State of Maine, together with the Grantor's one-sixth (1/6) interest in the Public Lot in said township the said land being bounded and described as follows, viz:

BEGINNING at the point on the westerly line of lot twenty-seven (27) where said line intersects Trout Brook so called; thence westerly, southerly and south-westerly following the thread of Trout Brook to its intersection with Wadleigh Brook; thence westerly by the thread of Wadleigh Brook to the west line of said township; thence northerly along the west line of said township to the south-west corner of the Public Lot; thence easterly along the southerly line of said Public Lot to the southeast corner thereof; thence northerly along the easterly side of said Public Lot to the northeasterly corner thereof; thence westerly along the northerly line of said Public Lot to the westerly line of said township; thence northerly along the westerly line of said township to that portion of lot thirteen (13) owned by the State of Maine; thence easterly and parallel with the northerly line of said township along the line of the land of the State of Maine across lots thirteen (13) and fourteen (14) to the westerly line of lot fifteen (15); thence southerly along the westerly line of lots fifteen (15), twenty-one (21) and twenty-seven (27) to the point of beginning; meaning and intending to convey and hereby conveying to the Grantee the same premises conveyed to the Grantor herein by deed of the Eastern Corporation dated March 10, 1955 to which reference may be had for source of title, containing, including the interest in the Public Lot three thousand five hundred sixty-nine (3,569) acres more or less:

To HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as TRUSTEE to be forever held IN TRUST for the People of Maine upon the following conditions, that the premises herein donated and conveyed to the State of Maine shall forever be named BAXTER STATE PARK and shall forever be kept for and as a State Forest, Public Park and Public Recreational Purposes and for the practice of Scientific Forestry, reforestation and the production of forestry wood products. All harvesting of said products shall be done according to the most approved practices of Scientific Forestry and all revenue derived from the sale of said products shall be used by said State for the care, management and protection of Baxter State Park as now or hereafter defined:

The said three thousand five hundred sixty-nine (3,569) acres forever shall be held by said State as TRUSTEE IN TRUST subject to the conditions as set forth and expressed herein;

and I the said PERCIVAL PROCTOR BAXTER COVENANT with the State of Maine that I will WARRANT AND DEFEND the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said PERCIVAL PROCTOR BAXTER being unmarried have hereunto set my hand and seal this seventeenth day of March in the year one thousand nine hundred fifty-five.

Signed and Sealed
in the presence of

Seal

ALICE M. GURNEY

PERCIVAL PROCTOR BAXTER

State of Maine:
Cumberland: SS

Portland, Maine, March 17, 1955.

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me

ALICE M. GURNEY

Seal

Notary Public

Effective August 20, 1955

Chapter 171

AN ACT Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift in Trust of Twenty-Five Thousand Twenty-Five (25,025) Acres the Same Being All of Township Six (6) Range Ten (10) Including the Public Lot, W.E.L.S., Piscataquis County, State of Maine.

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

WHEREAS Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine, has heretofore donated and conveyed to the State of Maine as TRUSTEE IN TRUST certain real estate in townships three (3), four (4), five (5) and six (6) range nine (9) and in townships three (3), four (4) and five (5) range ten (10) all seven in Piscataquis County and in township six (6) range eight (8) in Penobscot County, State of Maine, known as BAXTER STATE PARK all the said gifts and conveyances being subject to the Trusts, Reservations and Conditions specified in said Deeds of Conveyance, and

WHEREAS all the above gifts of land have been accepted by the State of Maine as TRUSTEE IN TRUST subject to the Trusts, Reservations and Conditions therein specified, and

WHEREAS the said Baxter now desires to donate and convey to the State of Maine as TRUSTEE to be held by said State in TRUST an additional area of land being all of township six (6) range ten (10) Piscataquis County containing twenty-five thousand twenty-five (25,025) acres more or less including the Public Lot, which with the previous gifts brings the Park to a total of one hundred ninety-three thousand two hundred fifty-four (193,254) acres or eight (8) complete townships and a portion of a ninth township.

NOW THEREFORE the State of Maine by Act of the Legislature hereby accepts from Percival Proctor Baxter a Deed of Gift and Conveyance of said twenty-five thousand twenty-five (25,025) acres more or less the same being all of township six (6) range ten (10) including the Public Lot all as described in the following Deed of Conveyance, the same to be held by said State as TRUSTEE IN TRUST for the benefit of the PEOPLE OF MAINE the same to be forever named Baxter State Park, the same to be forever held by said State for State Forest, Public Park and Public Recreational Purposes and for the Practice of Scientific Forestry and Reforestation. The trees harvested may be cut and yarded on the premises but no manufacturing operations shall be carried on or within said township. All revenue derived from the sale of timber shall be used by the State IN TRUST for the care, management and protection of Baxter State Park as now or hereafter defined, and the said twenty-five thousand twenty-five (25,025) acres forever shall be held by said State as TRUSTEE IN TRUST subject to the rights, easements and privileges of the Bangor Hydro Electric Company and of the Eastern Corporation as set forth and expressed in the following Deed of Conveyance.

DEED

KNOW ALL MEN BY THESE PRESENTS that I PERCIVAL PROCTOR BAXTER of Portland County of Cumberland, State of Maine in consideration of one (\$1.00) dollar and other valuable considerations paid to me by the State of Maine, the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mount Katahdin region to be forever held by said State as TRUSTEE IN TRUST for the benefit of the PEOPLE OF MAINE do hereby remise, release, sell and forever quit-claim unto the said State of Maine forever all my right, title and interest in and to the entire township six (6) range ten (10) including the Public Lot in Piscataquis County W.E.L.S. State of Maine.

EXCEPTING AND RESERVING so much of said premises as was conveyed to the Bangor Hydro Electric Company by deeds of Eastern Corporation dated January 4, 1954 recorded in Piscataquis County Registry of Deeds book 309, page 80, and April 20, 1955 recorded in said Registry book 315, page 211.

This conveyance is made expressly subject to the rights, easements and privileges reserved by Eastern Corporation as set forth in its deeds to Percival Proctor Baxter dated April 21, 1955 recorded in said Piscataquis Registry book 315, page 210; to the rights, easements and privileges conveyed to the Bangor Hydro Electric Company by said deeds dated January 4, 1954 and April 20, 1955 and to the duty to convey lands for storage purposes and for power purposes all as set forth in said deed to the Bangor Hydro Electric Company dated January 4, 1954.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as TRUSTEE to be forever held in TRUST for the People of Maine upon the following conditions that the premises herein donated and conveyed to the State of Maine shall forever be named Baxter State Park, shall forever be held for and as a State Forest, Public Park and Public Recreational Purposes and for the practice of Scientific Forestry and Reforestation.

I the said Percival Proctor Baxter covenant with the State of Maine that I will WARRANT AND DEFEND the said premises to the State of Maine against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this second day of May in the year one thousand nine hundred fifty-five.

Signed and Sealed
in the presence of

Alice M. Gurney

Percival Proctor Baxter (Seal)

State of Maine:
Cumberland : SS

Portland, May 2, 1955.

Personally appeared the above named Percival Proctor Baxter and acknowledged the within instrument to be his free act and deed.

Before me

Alice M. Gurney,
Notary Public.

(Commission expires in 1957)

Effective August 20, 1955

PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE

As Passed by the One Hundred and First Legislature

1963

Chapter 1

AN ACT Ratifying and Confirming the Acceptance by the State of Maine Under a Resolve of the Governor and Executive Council Dated September 5, 1962 of a Gift of Land in Trust Made by Percival Proctor Baxter the Same to be Added to Baxter State Park.

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

WHEREAS the Governor and Executive Council by Resolve dated September 5, 1962 accepted seven thousand seven hundred sixty-four (7,764) acres more or less of land in township two (2) range nine (9) Piscataquis County as donated and conveyed to the State of Maine on the trusts and conditions set forth in deed of Percival Proctor Baxter dated the sixth day of August 1962 recorded in Piscataquis County Registry of Deeds, book 349, page 148.

WHEREAS the said Percival Proctor Baxter desires to have the State Legislature accept the within Deed of Gift and Trust in order that it may be recorded in the Laws of Maine 1963, all previous gifts from said Baxter having been accepted by the Legislature and so recorded.

NOW THEREFORE, the State of Maine by Act of the Legislature hereby ratifies and confirms the action of the Governor and Executive Council in accepting the said Deed of Gift subject to the trusts and conditions therein stated.

BAXTER STATE PARK

DEED OF GIFT OF PERCIVAL PROCTOR BAXTER DATED AUGUST 6, 1962 CONVEYING TO THE STATE OF MAINE IN TRUST FOR THE PEOPLE OF MAINE SEVEN THOUSAND SEVEN HUNDRED SIXTY-FOUR (7,764) ACRES IN TOWNSHIP TWO (2) RANGE NINE (9)

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BAXTER STATE PARK

CHAP. 1

PRIVATE AND SPECIAL, 1963

W.E.L.S. PISCATAQUIS COUNTY THE SAME TO BE ADDED TO BAXTER STATE PARK AND MADE A PART THEREOF; SAID DEED READS AS FOLLOWS:

"BAXTER STATE PARK

KNOW ALL MEN BY THESE PRESENTS that I, PERCIVAL PROCTOR BAXTER of Portland, County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the STATE OF MAINE, the receipt whereof is hereby acknowledged, and in furtherance of my desire to convey and donate to the State of Maine an extensive area of land in the Mt. Katahdin region to be forever held by said State as Trustee in Trust for the benefit of the people of Maine, do hereby remise, release, sell and quit-claim unto the State of Maine forever the following described parcel of land situated in Township two (2) Range nine (9) W.E.L.S. in the County of Piscataquis, State of Maine, and subject to the reservations and exceptions as herein imposed, and bounded and described as follows:

Land and real estate in the County of Piscataquis, State of Maine, described as follows: A certain tract or parcel of land in Township two (2) Range nine (9) W.E.L.S. bounded as follows: Beginning at a point in the westerly line of said Township, said point being one hundred and fourteen (114) chains southerly as measured by and along the westerly line of the Township from the northwesterly corner thereof; thence south thirty-six degrees and thirty-four minutes east (S 36° 34' E) one hundred and two (102) chains more or less to a point; thence easterly parallel to the northerly line of said Township three hundred ninety-four and five tenths (394.5) chains more or less to a point on the easterly line of said Township; thence northerly as measured by and along the easterly line of the Township one hundred sixty-five and six tenths (165.6) chains to the northeasterly corner of said Township; thence westerly as measured by and along the northerly line of said Township four hundred eighty-two (482) chains more or less to the northwesterly corner of said Township; thence southerly as measured by and along the westerly line of said Township one hundred fourteen (114) chains more or less to the point of beginning. The above described parcel contains seven thousand seven hundred and sixty-four (7,764) acres more or less.

EXCEPTING AND RESERVING to the Great Northern Paper Co., its successors and assigns, the right to cut and remove the merchantable timber and standing growth on the land herein conveyed, and to use the existing Togue Pond-Roaring Brook gravel road for ingress and egress to Township 3, Range 9 W.E.L.S. up to and including December 1, 1973 and not thereafter.

This conveyance is made subject to three existing camp leases, viz.: (A) lease on north shore of Abol Stream at outlet of Abol Pond to The Fin and Feather Club; (B) lease on shore of Abol Pond to Abol Pond Scout Camp Committee; and (C) lease on Togue Stream to Ronald Budreau et als; so long as said lessees use said leased premises for the purposes as now established, each of said lessees may continue its and his occupation under said lease in accordance with the terms thereof.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be forever held in Trust for the people of Maine upon the following conditions: That the premises herein donated and conveyed to the State of Maine, 1 - shall forever be kept for and as a State Forest and Public Park and for Public Recreational Purposes, 2 - shall forever be kept in their natural wild state, 3 - that aircraft forever be forbidden to land on the ground or on the waters of the same, and I, the said Percival Proctor Baxter, WILL WARRANT AND DEFEND the said premises to the said State of Maine against the lawful claims and demands of all persons claiming by, through or under me the grantor herein.

IN WITNESS WHEREOF, I, the said Percival Proctor Baxter, being unmarried, have hereunto set my hand and seal this sixth day of August in the year one thousand nine hundred sixty-two.

Signed and Sealed in the
presence of

/s/ John E. Willey
State of Maine:
Cumberland : ss

/s/ Percival Proctor Baxter (Seal)

Portland, August 6, 1962

Personally appeared the above named Percival Proctor Baxter and acknowledged the foregoing instrument to be his free act and deed.

Before me,

/s/ John E. Willey
Notary Public

(Notarial Seal)"

Effective September 21, 1963

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

1931

Message Accompanying Deed to a Portion of Mount Katahdin**STATE OF MAINE**

In Senate, March 4, 1931.

ORDERED, That, the House concurring, the Message of Percival P. Baxter to Governor Gardiner, the Senate and House of Representatives be printed in the Acts and Resolves for 1931, and that five hundred copies be printed for distribution to the members of the Legislature.

(In Senate Chamber
Mar. 4, 1931,
read and passed.)

(House of Representatives
Read and passed in concurrence)
March 4, 1931.

A true copy;

Attest:

ROYDEN V. BROWN,
Secretary of the Senate.

THE MESSAGE

March third, 1931.

To

Hon. William Tudor Gardiner, Governor,
and the Senate and House of Representatives of the State of Maine:—

It long has been my ambition to have the State of Maine own Mt. Katahdin, for to my mind that mountain is the grandest and most beautiful of all the natural attractions of our State.

Beginning as a member of the House of Representatives, continuing through my service as Senator and Governor, and later as a private citizen I have consistently maintained my interest in this region and expect some day to see my ambition realized. It has been necessary to overcome many obstacles and some are yet to be surmounted, but time and patience aid a good cause and I am confident of the outcome.

Some time ago I acquired an undivided three-eighths ($\frac{3}{8}$) interest in an area comprising sixteen (16) square miles in Township three (3), Range nine (9), Piscataquis County, within which lies Mt. Katahdin, having purchased the same from the Great Northern Paper Company, whose officials showed a fine public spirit in their willingness to aid me in carrying out my plans.

It was my hope by this time to have acquired the remaining undivided five-eighths ($\frac{5}{8}$) of this area, but this has not yet been accomplished. I, however, shall continue my efforts to obtain the outstanding interest in order to give it to the State at some future date.

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THE BAXTER MESSAGE.

The problem that thus confronted me was whether at once to donate to the State my three-eighths ($\frac{3}{8}$) interest, or wait until the remaining portion is acquired. Owing to the uncertainty of life, and being apprehensive lest something might happen to thwart my plans, I have decided to offer at this time to convey my interest in this mountain area as a gift to the State of Maine, and ask that it be accepted by Act of the Eighty-Fifth Legislature in accordance with the terms of the Act of Acceptance submitted herewith.

The only requests that I have to make in connection with this gift are that, in so far as can legally be done with an undivided interest, the donated area forever be used for public park and recreational purposes, forever be left in the natural wild state, forever be kept as a sanctuary for wild beasts and birds, that no roads or ways for motor vehicles shall hereafter be constructed thereon or therein, and that I be allowed to retain, during my lifetime, the right to determine, and to place whatever markers or inscriptions shall be maintained or erected on or within the donated area herein offered to the State.

In making this gift I desire to show to the people of my native State my appreciation of the honors they conferred upon me in the years gone by.

PERCIVAL PROCTOR BAXTER.

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

1933

To the Honorable Senate and House of Representatives:

I am pleased to submit herewith a communication from Ex-Governor Percival P. Baxter, distinguished citizen of Maine, with accompanying Act and Deed.

I suggest that prompt action be taken upon the Submitted Act, expressing definitely and conclusively our gratitude and appreciation.

It is the desire of Governor Baxter that the validity and public purpose of this very magnanimous gift be properly legalized, authenticated and recorded in the Laws of Maine.

No gift could be more generous, unselfish and disinterested.

This great public domain is for the enjoyment of our people for all time.

I desire to express to Governor Baxter the appreciation and thanks of the people of Maine.

Respectfully submitted,

LOUIS J. BRANN,
Governor.

STATE OF MAINE

In Senate, February 7, 1933.

ORDERED, the House concurring, that in order that the records of the Gift and Conveyance to the State of MOUNT KATAHDIN by PERCIVAL PROCTOR BAXTER shall be complete, the communication dated February 7, 1933, addressed by said BAXTER to the HONORABLE LOUIS J. BRANN, GOVERNOR, and to the SENATE AND HOUSE OF REPRESENTATIVES be printed in the Laws of Maine, 1933.

IN SENATE CHAMBER

Feb. 7, 1933

Read and Passed

Sent Down for Concurrence

ROYDEN V. BROWN,

Secretary

HOUSE OF REPRESENTATIVES

Read and Passed

In Concurrence

Feb. 8, 1933

HARVEY R. PEASE,

Clerk

DEED OF GIFT TO THE STATE OF MAINE.

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Portland, Maine, February 2, 1933.

To Honorable Louis J. Brann, Governor and the Senate and House of Representatives of the Eighty-Sixth Legislature of the State of Maine:

On March 3, 1931 I conveyed by Deed of Gift to the State of Maine an undivided three-eighths ($\frac{3}{8}$) interest in a tract of land located in Township three (3) Range nine (9) W. E. L. S. Piscataquis County (Mt. Katahdin) which, had the Township been divided according to the fractional interests then outstanding, would have amounted to an area of six (6) square miles and this gift and conveyance was accepted, subject to the conditions therein imposed, by Act of the Legislature approved by the Governor on March 4, 1931 (Private and Special Laws of 1931, Chapter 23).

Subsequent to the conveyance and to the passage of the Act above mentioned a division of the Township was effected under which the former undivided interests were consolidated into separate and distinct ownerships, and this enabled me to complete and enlarge my Gift to the State. On October 7, 1931 I thereupon completed the former Gift and at the same time conveyed to the State an additional area slightly in excess of three (3) square miles which additional area when added to that first conveyed gave the State full title and ownership to an area of nine (9) square miles in said Township. This second conveyance was accepted by the State on October 7, 1931 by Hon. Neil L. Violette, Forest Commissioner, approval being given thereto by Governor William T. Gardiner and the Executive Council and by Hon. Clement F. Robinson, Attorney General, all of them acting under authority conferred upon them by Sections fifteen (15) and sixteen (16) of Chapter eleven (11) of the Revised Statutes of 1930.

In order that the total area of nine (9) square miles or to be more exact about 5,960 acres, conveyed to the State by the two (2) Deeds above referred to shall finally be accepted by the Senate and House of Representatives directly representing the People of the State and shall be approved by the Governor, I have prepared and submit herewith an Act of the Legislature which I request your Honorable bodies to enact into law and your Excellency to approve. The description of the area and the conditions of the Gift are the same as in the two original conveyances. The passage of this Act makes the acceptance of the two Gifts above mentioned somewhat more formal and complete and it is this that I seek to accomplish.

Respectfully,

PERCIVAL PROCTOR BAXTER.

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

1939

STATE OF MAINE
EXECUTIVE DEPARTMENT

Augusta

January 19, 1939.

*To the President of the Senate and the Speaker of the House of
Representatives:*

I have the honor to transmit to the Eighty-ninth Legislature a communication addressed to me and to your honorable bodies, accompanied by an Act of acceptance of 12,000 acres to be added to the Baxter State Park, by the donor, Honorable Percival P. Baxter.

I respectfully call to your attention the fact that by the action of former Governor Baxter the State of Maine is acquiring a large area of wild forest land to forever be held in trust by the State for state park purposes. In addition to the 12,000 acres herein presented to the State, the State already has accepted 6,000 acres from the same donor. These areas are accepted under the terms of a definite, unbreakable trust, providing that it be forever held by the State as trustee for the benefit of the People of the State of Maine for state forest, public park and public recreational purposes.

A state trust of this character is a solemn obligation and I am confident that the word of the Sovereign State of Maine, once given, will never be broken. I am informed that in the near future 20,000 acres additional to the present gift will be presented to the State of Maine, making a total area for state park purposes of 38,000 acres.

This gift from a distinguished former Governor of Maine is a most commendable one because it will preserve for all time an extensive area of virgin wild land for all our people. The people of Maine should be deeply obligated to former Governor Baxter for his continued interest in the development of this great natural resource of the State and I am confident that present and future generations of Maine people will approve your action in accepting this memorable gift.

Respectfully submitted,

LEWIS O. BARROWS,
Governor.

To Honorable Lewis O. Barrows, Governor, and the Honorable Senate and House of Representatives of the Eighty-ninth Legislature:

On the 2nd of February, 1933, I donated and conveyed to the State of Maine as Trustee in Trust an area of about 6,000 acres (Mt. Katahdin) in Township 3 Range 9 W. E. L. S. Piscataquis County and this gift was accepted by the eighty-sixth Legislative Private and Special Laws of Maine 1933 Chapter 3 approved by the Governor February 9, 1933, and the donated area later was named by the said Legislature "BAXTER STATE PARK."

On November 9, 1938, I donated and conveyed to the State as Trustee in Trust a second area of about 6,000 acres being the Northwest one-quarter of Township 5 Range 9 W. E. L. S. Piscataquis County north of Katahdin, and Honorable Waldo N. Seavey, State Forest Commissioner, accepted this gift in the name and in behalf of the State of Maine with the approval of Hon. Lewis O. Barrows, Governor, the Executive Councilors and Hon. Franz U. Burkett, Attorney General, all acting under the provisions of Chapter eleven Sections 15 and 16 Revised Statutes of 1930.

I now desire to donate and convey to the State in Trust a third area of about 6,000 acres being the Southeast one-quarter of said Township 5 Range 9 which if accepted by the State will give the State 18,000 acres of wild forest land to be forever held in Trust for State forest, public park and public recreational purposes.

In order that my gifts to the State all shall be accepted by the Senate and House of Representatives as the direct representatives of the People of Maine and that said acceptance shall be approved by the Governor, I have prepared an Act of Acceptance of the two conveyances of the land in Township 5 Range 9 that total 12,000 acres and I request your Excellency and your Honorable Bodies to approve and accept this gift and conveyance to the State as Trustee in Trust for the People of Maine.

It long has been my major public interest to acquire and donate to the State a large area of wild forest land to be forever held in Trust by the State for the benefit of the people of Maine. Including the land already conveyed to the State by me I have acquired a total of 38,000 acres all of which will be conveyed and donated to the State from time to time as I arrange my personal affairs. Moreover I now am negotiating for other areas of nearby wild forest land which will be added to the acreage already acquired for this Park if I succeed in securing them. Should I die before my plans are completed provision has been made that they be carried out strictly in accordance with my wishes as herein expressed.

In conveying these lands to the State of Maine a definite Trust is created and I have the utmost confidence that the word of this Sovereign State as given by the Chief Executive and by the representatives of the people never

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will be broken and that this State never will violate the Trust provisions in the Deeds it accepts from me. I have faith in the integrity of my fellow citizens and ask them to have faith in me. I now submit this Act of Acceptance to your Excellency and to your Honorable Bodies and ask for its passage and approval.

Respectfully,

(Signed) PERCIVAL P. BAXTER.

Order

On motion by Mr. Spear of Cumberland, it was

ORDERED, the House concurring, that in order that the Records of the Gift by PERCIVAL PROCTOR BAXTER to the STATE OF MAINE as Trustee in Trust of Twelve thousand (12,000) acres in Township five Range nine, Piscataquis County (BAXTER STATE PARK) be complete and in enduring form, the communication dated January 17, 1939 addressed by said Baxter to Honorable Lewis O. Barrows, Governor, and to the Honorable Senate and House of Representatives together with the message of Governor Barrows transmitting the said communication to the Legislature be printed in the Laws of Maine for 1939. (S. P. 103).

Sent down for concurrence.

STATE OF MAINE
EXECUTIVE CHAMBER

Augusta, Maine

January 4, 1939.

To the Honorable Senate and House of Representatives:

In compliance with the Constitution of the State I herewith communicate to the Legislature each case of reprieve, remission of penalty, commutation or pardon granted during the years, 1937 and 1938, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation of sentence, and the condition, if any, upon which the same was granted.

LEWIS O. BARROWS,
Governor.

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

1941

ORDERS

Passed by the 90th Legislature That Affect State Agencies After Its Adjournment.

Orders that related only to expediting the business of the legislature and were carried out before the adjournment are omitted.

SMITH DUNNACK,
Revisor of Statutes.

STATE OF MAINE

In Senate, Jan. 1, 1941.

ORDERED, that the Senate rules be amended by adding thereto the following rule:

'A copy of each Senate order requiring action by any department, bureau, commission, board or agency of the state which is passed by both branches of the legislature shall be forwarded to such department, bureau, commission, board or agency by the secretary of the senate immediately after the adjournment for the legislative day in which the order was passed by the concurring branch of the legislature. Another copy of all such orders shall be sent to the Revisor of Statutes, and shall be published in the official volume of the public law.'

Jan. 8, 1941.

ORDERED, the House concurring, that in order that the Records of the Gift by **PERCIVAL PROCTOR BAXTER** to the State of Maine as Trustee in Trust of approximately twelve thousand (12,000) acres in Township four (4), Range nine (9) W. E. L. S. Piscataquis County (**BAXTER STATE PARK**) be complete and in enduring form, the communication dated January eighth, 1941, addressed by said Baxter to **HONORABLE SUMNER SEWALL**, Governor, and to the Honorable Senate and House of Representatives together with the message of Governor Sewall transmitting the said communication to the Legislature be printed in the Laws of Maine for 1941-42. (S. P. 35)

Finally passed Jan. 9, 1941.

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ORDERS

STATE OF MAINE
EXECUTIVE DEPARTMENT
Augusta

January 8, 1941.

The Honorable President of the Senate

The Honorable Speaker of the House of Representatives 90th Legislature

Dear Sir:

I am very happy to transmit herewith a letter along with accompanying act from the Honorable Percival P. Baxter of Portland in which he generously offers another substantial gift of land for park purposes.

Baxter State Park, including Mt. Katahdin, now comprises 23,000 acres. With the acceptance of this latest donation, if the 90th Legislature votes this action, the total area of the park will be 35,000 acres. Additional land already acquired and to be conveyed to the State at a later time will increase the size of this park to approximately 100,000 acres.

The thoughtfulness, vision and action through which Mr. Baxter has undertaken to make this vast acre forever available to us and to our children commands deep appreciation and gratitude. It will long be remembered by the people of Maine.

I recommend the acceptance of this gift.

Respectfully submitted,

(Signed) SUMNER SEWALL,
Governor.

Portland, Maine, January 8, 1941.

To—

Honorable Sumner Sewall, Governor, and

Honorable Senate and House of Representatives of the Ninetieth Legislature—

In furtherance of my ambition to create an extensive State Park in the forest regions of Maine for the benefit of the People of Maine of today and tomorrow, I have acquired and still am acquiring, certain areas of wild forest land in the mountainous region of Katahdin.

From time to time I have deeded and conveyed to the State of Maine

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as Trustee in Trust, certain of these areas and I now desire to donate and convey to the State twelve thousand (12,000) acres more or less in township 4 range 9, Piscataquis County. This township is called Traveler Town for within its boundaries is located Traveler Mountain 4,000 feet in height, together with several other peaks of lesser altitude. Moreover in the heart of this township is located a complete set of camps available for tourists and mountain climbers. Probably there is no section of Maine where there is a larger population of moose and bear than in this Traveler Town; it is one of the wildest portions of our State. I am informed that in this township there are sections on the slopes of Traveler Mountain that never have been touched by the axe of Man.

This gift if accepted and added to the areas already conveyed gives the State approximately 35,000 acres of wild forest land including Mount Katahdin. Other land, 64,000 acres in extent, already acquired by me make a total area of 99,255 acres for this park and this later will be donated to the State. In case of my decease provision has been made to carry out my plan to complete this park project. In order that certain lines may be straightened out and certain gaps filled I am endeavoring to acquire still other land in this interesting region later to be added to the 99,255 acres herein referred to.

In offering to you this conveyance and deed of gift, I am confident that if you accept it in Trust for the People of Maine that the Trust therein created never will be violated by the People of the Sovereign State of Maine. Therefore, I now present to you an Act of Acceptance and request your Excellency and your Honorable Bodies to approve and accept this gift and conveyance to the State as Trustee in Trust for the People of Maine.

Respectfully,

(Signed) PERCIVAL PROCTOR BAXTER.

February 27, 1941.

ORDERED, the House concurring, that the State Highway Commission be and hereby is authorized and directed to expend not to exceed \$25,000 from the highway maintenance fund, Appropriation 9055, for matching federal funds for the construction of defense highways with the provision that the maintenance fund shall be reimbursed from the general highway fund, Appropriation 9010, within the present fiscal year. (S. P. 474)

Finally passed, Feb. 28, 1941.

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

(from July 22, 1940 to May 1, 1943, except those printed
in the 1941 Session Laws)

COMMUNICATION

STATE OF MAINE
EXECUTIVE DEPARTMENT

Augusta

July 23, 1940

To the President of the Senate and the Speaker of the House:

I herewith transmit a proposal from Honorable Percival P. Baxter, offering to donate further acreage of land for State Park purposes at Mt. Katahdin.

This communication is accompanied by a proposed Act accepting the gift of said land.

Respectfully submitted,

LEWIS O. BARROWS,

Governor. (S. P. 772.)

Which was read and ordered placed on file.

COMMUNICATION

To Honorable Lewis O. Barrows, Governor, and the Honorable Senate and House of Representatives of the Eighty-Ninth Legislature:

On the second day of February 1935 and on the seventh of January 1939, I donated and conveyed to the state of Maine as trustee in trust certain lands in townships three (3) and five (5), range nine (9), W. E. L. S. Piscataquis County (Mt. Katahdin) and these gifts were accepted by the eighty-sixth Legislature Private and Special Laws of Maine 1933 Chapter three (3) and by the eighty-ninth Legislature Private and Special Laws of Maine Chapter one (1) approved by the Governor February ninth, 1933 and January nineteenth 1939 respectively.

As I now desire to donate and convey to the state in trust an additional area of approximately four thousand one hundred seventy-four (4,174) acres being a portion of the southeast one-quarter ($\frac{1}{4}$) of township three (3), range ten (10), to be held forever in trust for state forest, public park and public recreational purposes I have prepared an Act of Acceptance of the said land and request your Excellency and your Honorable Bodies to approve and accept this gift and conveyance to the state of Maine as trustee in trust for the people of Maine.

The land now offered to the State of Maine in township three (3), range ten (10) is located at the base of, and on the westerly slopes of Mt. Katahdin. On this area there has been erected a number of camps, Adirondack leantos, fire-places, lunch shelters and other structures for tourists and mountain climbers. This area of approximately four thousand one hundred seventy-four (4,174) acres is the most frequented section of the Katahdin region for the ascent of the mountain over the Hunt Trail starts therein at this camp site on Katahdin Stream and the Millinocket-Sourdnehunc road passes through this one-quarter ($\frac{1}{4}$) of the township.

You will be interested to know that the land already donated to the state and the land already acquired by me to be donated to the state from time to time now totals approximately seventy-four thousand five hundred thirty-three (74,533) acres and I shall not consider my Katahdin project completed until at least one hundred thousand (100,000) acres have been acquired by me and donated to the state for public park, forest and recreational purposes.

In conveying these lands to the state of Maine a definite trust is created and I have the utmost confidence that the word of this sovereign state as given by the Chief Executive and by the chosen representatives of the

GIFTS OF EX-GOVERNOR BAXTER

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people of Maine never will be broken and that this state never will violate the trust provisions under the deeds it accepts from me.

I now submit this Act of Acceptance to your Excellency and to your Honorable Bodies and ask for its passage and approval.

Respectfully,

PERCIVAL PROCTOR BAXTER.

July 22, 1940 (S. P. 773).

Which was read and ordered placed on file.

Order

ORDERED, the House concurring, that in order that the Records of the Gift by PERCIVAL PROCTOR BAXTER to the STATE OF MAINE as Trustee in Trust of approximately four thousand one hundred seventy-four (4,174) acres in township three (3), range ten (10), W. E. L. S. Piscataquis county (BAXTER STATE PARK) be complete and in enduring form, the communication dated July twenty-second 1940, addressed by said Baxter to Honorable Lewis O. Barrows, Governor, and to the Honorable Senate and House of Representatives, together with the message of Governor Barrows transmitting the said communication to the Legislature be printed in the Laws of Maine for 1939-40. (S. P. 775)

Comes from the Senate read and passed.

In the House, read and passed in concurrence.

EXECUTIVE DEPARTMENT

Augusta

January 12, 1942.

The Honorable President of the Senate

The Honorable Speaker of the House of Representatives, 90th Legislature

Dear Sirs:

It gives me great pleasure to transmit herewith a letter from the Honorable Percival P. Baxter, of Portland, in which he again offers a substantial gift of land to be added to the Baxter State Park.

This Park, including Mount Katahdin, now comprises 35,000 acres. If

the 90th Legislature accepts this additional donation the total area of the Park will be 47,000 acres.

The continued generosity and devotion to his native state which has impelled former Governor Baxter to make such an incomparable gift to the people of Maine deserves and will receive their utmost appreciation.

I earnestly recommend the acceptance of this gift.

Respectfully submitted,

SUMNER SEWALL.

(S. P. 583)

Which was read and ordered placed on file.

Portland, Maine,

January 12, 1942.

To the Honorable Sumner Sewall, Governor, and the Honorable Senate and House of Representatives of the Ninetieth Legislature:

You are familiar with my plan to establish a State Park in the forest areas of the Mount Katahdin region, and you and your predecessors from time to time graciously have accepted the gifts of land which I have offered to our State.

I now offer you another area of twelve thousand (12,000) acres the same being the easterly one-half ($\frac{1}{2}$) of Township four (4) Range nine (9) W. E. L. S., Traveler Town. If you accept this gift the State will have received from me forty-seven thousand (47,000) acres. In addition to this I have acquired and now own sixty-five thousand nine hundred forty-five (65,945) acres which, when succeeding Legislatures are in Session will be donated to the State.

I wish you to understand my reason for making these gifts from time to time, rather than by deeding to the State at one Legislative Session all of my park land.

Some of you will recall that in 1931 shortly after my first gift to the State was completed, an attempt was made to take this land away from the State and transfer it to the National Government.

Naturally I was greatly disturbed by this proposal, and although I could

not believe that the State of Maine ever would break the sacred Trust it made with me, a Trust which provides that these lands forever shall be held by the State in Trust for Maine people, I immediately took steps to protect the State's interest.

After consulting with several of the leading judges and lawyers of our State a definite plan has been adopted under which I am to deed a considerable area to the State at each Legislative Session, each deed to be accepted in the form of a separate State law carefully worded into a binding and unbreakable Trust Deed. In this manner a long list of precedents is being established; precedents which, as time passes, will show that eight or ten different Governors and as many Legislatures, by laws duly passed and signed by these Governors, have entered into solemn pacts that create a succession of irrevocable trusts. These trusts, beginning with 1931, are printed in the Laws of Maine, and as each session enacts them they thus become public documents.

He would be a rash individual who in the years to come, even after I have passed away, would seek to take these lands from the State and would attempt to break these Trusts created not by one Governor or one Legislature but by several. While I live I can successfully oppose any such action; I seek to prevent it after I have gone.

From the above you will understand my plan. When you meet again in 1943 I shall be on hand with another deed, and so on year after year until the park is finally completed and accepted by the representatives of the people of Maine. It would be far easier for me to donate this land all at one time and I should prefer to do so. However, in order to safeguard this Park for the future, it seems wise to adhere to the plan I have outlined to you. In case of my decease all my remaining land under my will immediately becomes the property of the State of Maine.

At the present time I am negotiating for additional land to be added to the Park, for ultimately I want this Park to contain at least six (6) complete townships of approximately twenty-four thousand (24,000) acres each.

I now present to you an Act of Acceptance and request your Excellency and your Honorable Bodies to approve and accept this gift and conveyance to the State as Trustee in Trust for the people of Maine.

PERCIVAL PROCTOR BAXTER.

(S. P. 584)

Which was read and ordered placed on file.

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GIFTS OF EX-GOVERNOR BAXTER

Order

ORDERED, the House concurring, that in order that the Records of the Gift by PERCIVAL PROCTOR BAXTER to the State of Maine as Trustee in Trust of approximately twelve thousand (12,000) acres in Township four (4), Range nine (9) W. E. L. S. Piscataquis County (BAXTER STATE PARK) to be complete and in enduring form, the communication dated January twelfth, 1942, addressed by said Baxter to Honorable Sumner Sewall, Governor, and to the Honorable Senate and House of Representatives together with the message of Governor Sewall transmitting the said communication to the Legislature be printed in the Laws of Maine for 1941-1942. (S. P. 582)

Came from the Senate, read and passed.

In the House, read and passed in concurrence.

STATE OF MAINE

Executive Department

Augusta

SUMNER SEWALL

Governor

January 13, 1943.

The Honorable President of the Senate

The Honorable Speaker of the House
Ninety-first Legislature

Dear Sirs:

It is my great pleasure to transmit herewith a letter from the Honorable Percival P. Baxter of Portland, in which he generously offers substantial gifts of land for public purposes.

Baxter State Park, including Mount Katahdin, now comprises 47,000 acres. If it is the pleasure of the Ninety-first Legislature to accept this present offer, the area of the Park will be brought to 59,000 acres.

Mr. Baxter's generosity in undertaking to set up and give to the State one of the most magnificent natural recreational areas in the nation for our benefit and that of our children should command the deepest appreciation and gratitude.

Included with this present gift of additional land to the Katahdin tract,

GIFTS OF EX-GOVERNOR BAXTER

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Mr. Baxter proposes to give to the State, Mackworth Island located in the town of Falmouth in Portland Harbor.

Looking forward to the time when there will be maintenance costs in connection with the various structures on this property Mr. Baxter advises that he plans the establishment of a trust fund, to which he now donates \$10,000 as the initial gift. During his lifetime he wishes to retain his use of this Island without expense to the State.

Mr. Baxter has lived many years on this Island and believes its dedication to appropriate public use will prove of real benefit to the people of Maine.

It is well that we view these matters with vision and imagination, for the future may show human needs of great urgency which are not clearly perceptible today.

I, therefore, commend this proposal to your very thoughtful consideration, and urge acceptance of these gifts as being in the public interest.

Respectfully submitted,

SUMNER SEWALL.

(S. P. 27)

January 13, 1943.

To the Honorable Sumner Sewall, Governor
and the Honorable Senate and House of Representatives of the ninety-first Legislature of the State of Maine:

Governor Sumner Sewall and many of the members of this Legislature are familiar with my plans to donate to the State an extensive area of land in the Mount Katahdin region, the same to be held in Trust by the State for certain public purposes.

During the past thirteen years from time to time the State has accepted from me a total of forty-seven thousand (47,000) acres and I now offer you the gift of an additional area of twelve thousand (12,000) acres, which if accepted will give the State fifty-nine thousand (59,000) acres, all of which is located in Piscataquis County.

In order that those of you who were not members of the ninetieth Legislature may understand why these donations are made separately over a period of years instead of being transferred under a single deed, I refer you to a communication dated January 12, 1942, addressed by me to Governor Sewall and the ninetieth Legislature and published in the Legislative Record of the Special Session of that date, page 15 Senate Record and page

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GIFTS OF EX-GOVERNOR BAXTER

33 House Record under date of January 13, 1942. By joint order of the Senate and House this communication was ordered published in the Laws of Maine and Mr. Smith Dunnack, the Revisor of Statutes, informs me it will be printed in the Laws of Maine for 1943.

It will be recalled that shortly after I made my first gift of Katahdin land to the State certain persons attempted to take this from the State and transfer it to the National Government. Those responsible for this proposed breach of Trust have since assured me that never again will they seek to break this Trust and that they are content to abide by the Trusts created by the several acts of the Maine Legislature. However, in the future other persons may make a similar attempt and this I seek to guard against.

My plan to create a long line of precedents whereby one Legislature after another accepts my gifts in Trust by laws duly passed and printed in the Laws of Maine for successive years, have been approved by several of the leading judges and lawyers of our State. Under this plan each gift becomes a sacred trust accepted by those who directly represent the people. Each Legislature to protect these Trusts in the years to come erects a barrier similar to the barrier erected by its predecessor, a barrier against a breach of Trust.

Before I finish my work at least ten Maine Legislatures and as many Maine Governors will have placed their seal of approval on my plans and thus they will have made these Trusts absolutely unbreakable. Certainly he is a bold and reckless person who, even after I have deceased, attempts to induce this State to violate the Trust provisions created under a long series of Deeds and Acts of Acceptance extending from 1931 almost until 1950.

I have acquired and now own fifty-four thousand (54,000) acres in addition to the fifty-nine thousand (59,000) acres above referred to, making a total of one hundred thirteen thousand (113,000) acres, and each year hereafter beginning with 1944 I shall continue to deed to the State of Maine certain portions of this fifty-four thousand (54,000) acres until it all has been so transferred. In case of my decease before my work is completed, whatever portion of this fifty-four thousand (54,000) acres has not been given to and accepted by the State will pass under my Will and thus become a part of what by State law is BAXTER STATE PARK.

This Park project has become my life work and before it is completed I hope to secure an additional thirty-one thousand (31,000) acres which will comprise six entire townships totaling one hundred forty-four thousand (144,000) acres. To do this requires time and patience for just at present the owners do not care to sell their lands. Even though I may not

GIFTS OF EX-GOVERNOR BAXTER

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succeed in completing this in my life time, I have made provision in my Will so that in due time my plans will be carried through as I desire.

In the Act submitted herewith I have recited the several Deeds and conveyances made by me to the State in order that the record thereof may be clear and understandable to future generations of Maine people.

IT NOW IS MY DESIRE to make a second gift to the State of Maine and in the Deed and Act that accompanies this communication I have included MACKWORTH ISLAND, situated in the Town of Falmouth in Portland Harbor, Casco Bay, together with MACKWORTH or HALF-WAY ROCK southerly of said Island and also together with the Bridge to said Island, a right-of-way from the bridge to the State Highway, and certain Pole rights leading to said Island.

This Island means everything to me. For fifty-six (56) years I have spent the happiest days of my life there and I want the people of Maine to own and enjoy this Island in the years to come. This Island must never be exploited for private gain nor would I ever sell it for any price. My giving this Island to the State is not the result of any sudden impulse, because for twenty-nine (29) years there has been a provision in my Will that upon my decease it becomes the property of the people of Maine. In order, however, to make doubly sure that my wishes are carried out I now offer Mackworth Island as a gift to the State to be held forever in Trust by the State for State public purposes. A man does well to attend to these matters while living, rather than to leave them for others to do after he has gone.

Mackworth Island in many ways is unique. It was first settled by Arthur Mackworth, an Englishman, in 1631. This man lived there many years and became the leading citizen of the Casco Bay area. He often went to Boston to represent his fellow colonists in matters that came before the King's authorities in the Massachusetts Colonial government. According to ancient deeds the Island is "one hundred acres more or less" in extent. It lies at the mouth of the Presumpscot River on the westerly border of the Town of Falmouth and within less than one-half a mile from the easterly line of the City of Portland. For unknown centuries this Island was the home of the Indian and many unusual relics have been unearthed there. In the Museum here at the State Capitol is a collection of arrow heads and implements taken over a period of years from the Indian camp sites on the Island. Some time ago I donated this collection to the State and Mr. Joseph Wilson, curator in charge of the Museum, has made of it a most interesting display.

About one-quarter of the Island is well wooded with pine and spruce, one-quarter is pasture-land and the remainder is excellent land for such

crops as usually are found in southwestern Maine. I, myself, have planted in excess of 50,000 pine and spruce on this Island. There also is an orchard of about seventy-five fruit trees, apples, pears, cherries, plums and peaches. There are extensive clam flats on the northerly side and a good depth of water for boating on the southerly and easterly shores. Moreover the Island has several beaches suitable for bathing. The Island also has ample water supply from its own springs but these are not now in use because two large pipe lines bringing water from Sebago Lake cross the Island and carry water to the outlying Islands of Casco Bay now being fortified by the U. S. Army and Navy. These water lines are tapped on the Island for use there, and telephone and electric services also come to the Island over the bridge that connects it with the mainland. The buildings on the Island consist of a complete set of farm buildings, house, barn and other structures together with three residences, one brick and two wooden, all in good repair. This Island with the surrounding waters by State law is a wild life sanctuary and I have provided that it always shall so remain. A small colony of pheasants and one of partridges live there and occasionally one or two deer swim across the channel from the mainland and remain for a few days.

The uses to which this Island can be put by the State are numerous. In the deed I offer you it is provided that the Island always shall be used for State public purposes only. It is well adapted for recreational and educational purposes, for a hospital, for a home for sick or under-privileged children, for forestry, park or agricultural experimental purposes, or for any of the numerous activities of the State which require a large area in the country conveniently located near the advantages of a City. Its use for children would be especially pleasing to me. Certainly I ask that it never be used for penal or corrective institutions nor for any purpose connected with the enforcement of the laws of the State relating to criminals. The deed includes the bridge and right-of-way connecting it with State Highway No. 1, also certain pole rights and a rocky islet south of the Island.

As this Island is my home I wish to live there for some time to come and so have provided in the Deed of Gift and Act of Acceptance that the State may lease this to me for a period of fifteen (15) years with the right on my part to renew the same for a similar term. During the period of the lease, as Lessee I shall assume all expenses in connection with my occupation of the Island, including insurance and repairs on the buildings and bridge. It further is provided that in case at any time I no longer shall desire to occupy the Island I may terminate the lease. In such case and also upon my decease the lease terminates and the State then takes immediate possession.

It long has been my intention, subject to the vicissitudes of business, to

GIFTS OF EX-GOVERNOR BAXTER

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establish a fund to be donated to the State, the same to be held in Trust by the State and to be used in the discretion of the Governor and Council for some State public purpose in connection with the State's ownership of this Island. In order now that a beginning be made in this direction I hereby offer to the State of Maine the sum of ten thousand (\$10,000) dollars and in the accompanying Act it is provided that this sum, together with such gifts as later may be added to, it by me, be accepted by said State as a Trust Fund as therein stated.

In offering you the gift of my Island I ask you to look beyond the present and into the future. Some may raise objections to its acceptance and may say "What will the State do with it". I am confident such a short-sighted view will not prevail.

As I look into the years ahead, I see great social changes coming. There is no stopping them, nor would I do so. Our State is destined to expand its activities far beyond what it now is doing. It will assume added responsibilities for the care of children, the sick, the crippled, the needy. New institutions will be established, new methods adopted for the care of the unfortunate and defective. The State is bound to play a far more important part than ever in the regulation and conduct of our lives and methods of living. Whether some persons approve or not, all of us will be profoundly affected. The good things of life are destined to be more widely distributed and we should prepare for the changes that are sure to come. My gifts though perhaps not now fully appreciated will, in the future, be regarded as valuable contributions to the public welfare. In this connection it is significant to recall certain incidents of the past.

Almost sixty years ago my late father James Phinney Baxter donated a public library building to the City of Portland. He was a pioneer in public giving. It is hard to believe, but certain persons of influence objected to the acceptance of the gift by the City. They openly opposed it. "What shall we do with it; it may cost the City something to maintain it" was the cry. Never for a moment, however, did my father regret having made the gift. He brushed aside this opposition and completed his task.

Again my father laid the plans for the construction of the Baxter Boulevard in Portland with which you all are familiar. Again those without vision opposed him and said "What shall we do with it". He drove ahead, however, and lived to see the project so far advanced that no one dared stop it. Today the Boulevard is the City's chief natural attraction.

In my own life I have had a similar experience. Twenty-six years ago when I first conceived the idea of a State Park at Katahdin there was determined opposition. I was attacked as a dreamer and branded as a socialist. Several of our newspapers came out against me, "We don't want a Park, leave things as they are; what shall we do with it", again was

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GIFTS OF EX-GOVERNOR BAXTER

heard. Session after session I fought on and made speech after speech up and down the State. It was a long road to travel, but to-day the State Park is acknowledged to be one of the State's great natural attractions and the people of the future will appreciate it even more than do those of to-day.

In accepting the gifts I now offer there is no reason for anxiety as to what the State will do with the Island. In the ordinary course of events my life may continue for a number of years, and during the period of my occupancy of the Island under the lease, all expenses are assumed by me. Meanwhile I hope to increase the Trust Fund which is established under the Act and which is a part of the Gift.

As an example of what increases may mean, I remind you that my first gift of Katahdin land thirteen years ago was an area of but 6,000 acres. To-day, a total of 113,000 acres have been acquired by me for this project, with more to come.

I have a vision of what this Island is to be in the future. It will be a haven for those, young and old, who need refreshment in body and in spirit. From it will radiate kind and wholesome influences that will go far toward making Maine a better State in which to work and live.

In this communication I have gone into some detail so that all may understand my purpose. I desire to do something worth while for my native State and want the People of Maine to enjoy both the Park at Katahdin and my Island in Casco Bay. I ask you men and women who for the time being guard our destinies, to take the broad, long vision and accept that which I now offer to my fellow citizens.

Respectfully,

PERCIVAL PROCTOR BAXTER.

Order

ORDERED, the House concurring, that in order that the records of the gift by Percival Proctor Baxter to the State of Maine as Trustee in Trust of approximately twelve thousand (12,000) acres in township five (5) range nine (9) W. E. L. S. Piscataquis County (Baxter State Park), and the gift of Mackworth Island together with the ten thousand (\$10,000) dollars Trust Fund given for said Island, be complete and in enduring form, the communication dated January 13, 1943, addressed by the said Baxter to the Honorable Sumner Sewall and the Honorable Senate and House of Representatives of the Ninety-first Legislature, together with the message of Governor Sumner Sewall transmitting the said communication to this Legislature, be printed in the laws of Maine for 1943. (S. P. 30)

Came from the Senate, read and passed.

In the House, read and passed in concurrence.

STATE PAPERS RELATING

to

Gifts of Ex-Governor Baxter

to

The State of Maine

(from May 2, 1943 to May 1, 1945)

COMMUNICATION

STATE OF MAINE
EXECUTIVE DEPARTMENT

Augusta

April 17, 1944

The Honorable President of the Senate
The Honorable Speaker of the House
Ninety-first Legislature.

Dear Sir:

It is my pleasure to transmit herewith a letter from the Honorable Percival P. Baxter of Portland, in which he offers a substantial gift of land to the State.

If it is the pleasure of the 91st Legislature to accept this gift of 24,682 acres of forest land, the area of the Baxter State Park will be brought to 84,000 acres.

I commend this offer to your thoughtful consideration and urge acceptance of this gift as being in the public interest.

Respectfully submitted,

SUMNER SEWALL,

Governor. (S. P. 503)

Which was read and ordered placed on file.

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GIFTS OF EX-GOVERNOR BAXTER

COMMUNICATION

April
seventeenth
1944

To the Honorable Sumner Sewall, Governor
and the Honorable Senate and House of
Representatives of the Ninety-first
Legislature of the State of Maine—

Once again I come to you with the request that, if you deem it for the best interest of our State, you accept from me the gift of twenty-four thousand six hundred eighty-two (24,682) acres of forest land to be added to and become a part of Baxter State Park in the Mt. Katahdin region.

The area now offered the State is township five (5), range ten (10) W. E. L. S. Piscataquis County. This township contains twenty-four thousand seven hundred two (24,702) acres, of which an area of twenty (20) acres in the southwest quarter is owned by Charles A. Daisey. If you accept this gift the State will have received from me approximately eighty-four thousand (84,000) acres. When the Legislature meets in January, 1945, I plan to be present with a gift of additional land for the Park.

In the Deed accompanying this communication you will notice that the timber rights on this township are reserved until August 7th, 1965 to the corporation from which I purchased this land. Naturally I preferred to buy this area without such a reservation, but was unable to do so. The Eastern Corporation very properly wished to conserve its timber supply for its mill, and a buyer can only purchase what a seller is willing to part with. This Corporation, however, acted in a liberal and sympathetic manner in selling me this township. It sold to me only because it was willing to help me carry out my Park project. It would not have sold to any other party, and I deeply appreciate the action of its President and Board of Directors. Although this township doubtless will be cut over during the above mentioned period, in a few years thereafter it will completely reforest itself and will then be covered with a new growth of trees. Nature will heal all the wounds.

BAXTER STATE PARK will remain the property of the people of Maine as long as the State of Maine exists. It is a long range project and township five (5), range ten (10) forever will be a place of recreation for our people and a sanctuary and home for the creatures of the wild.

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I now present to you an Act of Acceptance and request your Excellency and your Honorable Bodies to approve and accept this Gift of Conveyance to the State of Maine as Trustee for the people of Maine.

Respectfully,

PERCIVAL PROCTOR BAXTER.

April 17, 1944 (S. P. 499)

Which was read and ordered placed on file.

Order

ORDERED, the House concurring, that in order that the records of the Gift by Percival Proctor Baxter to the State of Maine as Trustee in Trust of twenty-four thousand six hundred eighty-two (24,682) acres in township five (5), range ten (10), W. E. L. S. Piscataquis County (BAXTER STATE PARK) be complete and in enduring form, the communication dated April seventeenth, 1944, addressed by said Baxter to the Honorable SUMNER SEWALL, Governor, and to the Honorable Senate and House of Representatives of the Ninety-first Legislature, together with the message of Governor SUMNER SEWALL transmitting the said communication to this Legislature, be printed in the Laws of Maine for 1944-45. (S. P. 501)

Comes from the Senate read and passed.

In the House, read and passed in concurrence.

COMMUNICATION

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA

January 10, 1945

The Honorable President of the Senate
The Honorable Speaker of the House
Ninety-second Legislature

Dear Sir:

I deem it a pleasure to transmit herewith a letter from the Honorable Percival P. Baxter of Portland in which he offers 35,554 acres of land in the Katahdin Baxter State Park area for public purposes.

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GIFTS OF EX-GOVERNOR BAXTER

This generous gift, if accepted by the 92nd Legislature, would increase the area of the Baxter State Park, which includes Mount Katahdin, to 116,288 acres. Mr. Baxter further advises me that eventually he hopes to make the total acreage 150,000.

Mr. Baxter's offer commands the deepest appreciation of every citizen of Maine, for he is making available to us and our children and the thousands of tourists who visit Maine each year one of the most magnificent natural recreational areas in the United States.

I solicit your most serious consideration and urge the acceptance of this gift as being in the public interest.

Respectfully submitted,

HORACE HILDRETH,
Governor.

(S. P. 42) Jan. 10, 1945

Which was read and ordered
placed on file.

In House, Read and Ordered
Placed on File, in Concurrence.

COMMUNICATION

January 4, 1945

The Honorable Horace A. Hildreth,
Governor of Maine,
Augusta, Maine.

Dear Governor:

Next Wednesday, the 10th, I am coming to the Legislature with a message addressed to you and the Legislature accompanied by An Act accepting 35,554 acres of land for the Katahdin Baxter State Park.

You are familiar with the procedure and if you will prepare whatever message you deem suitable transmitting to the Legislature the Act of Acceptance and recommending its acceptance I shall be grateful to you.

This makes the Park 116,288 acres. I hope later to increase this so that it will total 150,000. I think it best to give to the State whatever I have at the moment, to make sure that it is properly accepted.

GIFTS OF EX-GOVERNOR BAXTER

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The terms of the gift are practically the same as in former years that it shall be kept forever as a State Park, as a wild life sanctuary, and in its natural wild state. If there is anything about this you would like to talk with me we can do it over the phone.

Every good wish for your administration,

PERCIVAL P. BAXTER

In Senate, Jan. 10, 1945
Read and Placed on File.

In House, Jan. 10, 1945
Read and Placed on File in Concurrence.

COMMUNICATION

To the Honorable Horace A. Hildreth, Governor
and the Honorable Senate and House of
Representatives of the Ninety-second Legislature—

Once again I come to the Maine Legislature offering a gift of thirty-five thousand five hundred fifty-four (35,554) acres of land to be added to Baxter State Park in the Mount Katahdin region.

In addition to what I already have donated to the State this offer of thirty-five thousand five hundred fifty-four (35,554) acres brings the total area of the Park to one hundred sixteen thousand two hundred eighty-eight (116,288) acres, or practically five (5) Maine wild-land townships.

It is interesting to note that these gifts, not including the gift made today, have been accepted by eight separate Legislative Acts, today's being the ninth, as well as by two acceptances by the State Forest Commissioner with the approval of the Governor and Executive Council and the Attorney General all acting under the powers conferred upon them by the Revised Statutes of 1930, Chapter eleven (11) sections fifteen (15) and sixteen (16). For a list of these Acts you are referred to the Laws of Maine 1943, page 451 which recites the first six (6) Acts of Acceptance and the two (2) Acceptances by the Forest Commissioner. The seventh Act is Chapter one (1) Laws of 1943 and the eighth is Chapter ninety-one (91) Laws of 1943-44. This Acceptance, the ninth, no doubt will be Chapter one (1) Laws of 1945.

Some of the members of this ninety-second Legislature who have come here for the first time may not understand why it is deemed advisable to deed this land to the State in the several Acts referred to, instead of deeding it all at one time.

For your information on this point I quote from a message addressed by me to the Governor and Maine Legislature on January 13, 1943. This quotation is printed in the Laws of Maine for 1943, page 704, and reads as follows—

"It will be recalled that shortly after I made my first gift of Katahdin land to the State certain persons attempted to take this from the State and transfer it to the National Government. Those responsible for this proposed breach of trust have since assured me that never again will they seek to break this trust and that they are content to abide by the Trusts created by the several acts of the Maine Legislature. However, in the future other persons may make a similar attempt and this I seek to guard against.

"My plan to create a long line of precedents whereby one Legislature after another accepts my gifts in trust by laws duly passed and printed in the Laws of Maine for successive years, have been approved by several of the leading judges and lawyers of our State. Under this plan each gift becomes a sacred trust accepted by those who directly represent the people. Each Legislature to protect these trusts in the years to come erects a barrier similar to the barrier erected by its predecessor, a barrier against a breach of trust.

"Before I finish my work at least ten Maine Legislatures and as many Maine Governors will have placed their seal of approval on my plans and thus they will have made these trusts absolutely unbreakable. Certainly he is a bold and reckless person who, even after I have deceased, attempts to induce this State to violate the trust provisions created under a long series of Deeds and Acts of Acceptance extending from 1931 almost until 1950."

Now that nine separate Legislative Acts as well as two Forest Commissioners have accepted these gifts I feel that a barrier sufficiently strong against any breach of trust and against any encroachment by designing persons has been erected to protect this State Park for all time. This being so I am to-day donating to the State all the land I now own in the Katahdin area. These ten additional parcels together with the land already donated constitute one area, unbroken by land of intervening owners except for one outstanding undivided interest of six thousand seventeen (6,017) acres.

In the Deed to the State that accompanies this message you will notice that on one area of two thousand five hundred sixty (2,560) acres in township three (3) range nine (9) the former owner Harry F. Ross of Bangor, who sold to me, has the right to remove the timber up to the thirteenth (13th) day of February 1946, and not thereafter. In the same township, three (3) range nine (9), another former owner the Great Northern Paper Company may remove the timber from one thousand nine hundred twenty

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(1,920) acres until December 28, 1954, and on township four (4) range ten (10) the said Company also may remove the timber from six thousand one hundred eight (6,108) acres until December 28, 1969. In buying these lands I can take only what the sellers are willing to sell. In due time these rights will expire and then the State will be entirely free from these restrictions. I wish to state here that all the landowners from whom I have purchased have been broad-minded, helpful and public spirited. They have treated me with every consideration and have been fine and fair in all their dealings with me.

Eight thousand two hundred ninety-nine (8,299) acres in township three (3) range ten (10) now being deeded to the State is an undivided interest in a portion of this township which I own in common with others; this other interest, which I hope later to acquire, being six thousand seventeen (6,017) acres. Also I hope later to buy the balance of towns three (3) range nine (9) and four (4) range ten (10). These total twenty-five thousand three hundred seventeen (25,317) acres, which later I hope to donate to the State. The total area of the Park then would be one hundred forty-one thousand six hundred five (141,605) acres.

After the acceptance of the within gift the Park will consist of all of the three townships five (5) range nine (9), five (5) range ten (10) and four (4) range nine (9), one-half ($\frac{1}{2}$) of four (4) range ten (10), all of three (3) range nine (9) except seven thousand six hundred eighty (7,680) acres and all of three (3) range ten (10) except the outstanding ownership in common of six thousand seventeen (6,017) acres.

Although I am now donating to the State all of my forest land the Park is not yet complete. I still am interested to enlarge it as soon as certain land owners can be persuaded to sell to me. Negotiations now are in progress with several of these owners and I am hopeful of the outcome for I am desirous of increasing the Park up to at least six Maine townships.

In my first gift of Park land to the State (Chapter 23 Private and Special Laws of Maine 1931) it is provided that "no roads or ways for motor vehicles ever shall be constructed therein or thereon". This 1931 deed gave the State the higher areas of Mount Katahdin and the slopes on all four sides. For those areas such a restriction no doubt is desirable. I now am convinced that a restriction against the construction or maintenance of roads for all vehicles, motor, horse-drawn and all other vehicles should be included in the present deed of gift and be made retroactive to include all former gifts made since that of 1931.

Bearing this in mind in the gift now being made to the State I am imposing as a strict binding condition and obligation that no roads or ways for motor, horse-drawn or other vehicles, other than the two roads

hereafter mentioned, ever be constructed, permitted or maintained within the Park areas now or HERETOFORE donated by me to the State within the six townships three (3), four (4) and five (5) range nine (9), and three (3), four (4) and five (5) range ten (10).

The Millinocket-Sourdnhunk road passes through townships three (3) and four (4) range ten (10) and gives access to Mount Katahdin on the west. The road leading from Togue Ponds in township two (2) range nine (9) into township three (3) range nine (9) and extending to its present terminus at Roaring Brook gives access to the east side of the Mountain. These two roads are necessary and desirable. Furthermore I provide that these two roads be maintained in about their present condition, with ample turn-outs for passing cars and with only a graveled surface. I want no hard surfaced roads in this Park my object being to have it remain as nearly as possible in its natural wild state unimproved by man.

The restriction herein imposed as to roads will require that the lumbering road now being constructed by the Eastern Corporation in township five (5) range ten (10) be abandoned and that in due time it be returned to its original wild forest state, after the said corporation shall have moved out of this township at the termination of its right to remove the timber therefrom, which right expires on August 7, 1965. I am confident the restrictions as above outlined will be respected by future generations.

In all the deeds from me to the State the phrases "natural wild state" and "as a sanctuary for wild beasts and birds" have been used. By these I do not intend that the Park forever shall be a region unvisited and neglected by man. I seek to provide against commercial exploitation, against hunting, trapping and killing, against lumbering, hotels, advertising, hot-dog stands, motor vehicles, horse-drawn vehicles and other vehicles, air-craft, and the trappings of unpleasant civilization. Nor is the Park to be kept exclusively for professional mountain climbers; it is for everybody.

I want pleasant foot-trails built and attractive camp-sites laid out in the valleys, by the brooks and on the shores of the waters. Sites where simple forest lean-tos and small log cabins are available for those who love nature and are willing to walk and make an effort to get close to nature. A suitable shelter also should be erected on the summit of Katahdin to give protection to those who climb the mountain and who may be caught in a storm or compelled to remain overnight.

With the protection of wild life the deer, the moose and the birds no longer will fear man and gradually they will come out of their forest retreats and show themselves. I want hunting with cameras to take the place of hunting with guns. Aircraft frighten wild life and disturb the peace and solitude of the wilderness. Would that the day may come when

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all of Maine will become a sanctuary for the beasts and birds of the forest and field and when cruelty to the humbler orders of life no longer stalks the land.

Everything in connection with the Park must be left simple and natural and must remain as nearly as possible as it was when only the Indians and the animals roamed at will through these areas. I want it made available to persons of moderate means who with their boys and girls, with their packs of bedding and food, can tramp through the woods, cook a steak and make flapjacks by the lakes and brooks. Every section of this area is beautiful each in its own way. I do not want it locked up and made inaccessible; I want it used to the fullest extent but in the right unspoiled way.

When the Park was first begun I was not the owner of a single acre of land and to bring the Park to its present state has required more than twenty-five years of effort. It has been an interesting experience however and future generations no doubt will approve what has been done.

Human life is both short and uncertain. This being so I wish to have this Park completed during my lifetime, in so far as I am able. When the land is accepted by the State during my life time I know it is accepted properly and for all time. My executors thereby are spared the details of this work with which they would not be familiar.

After my decease funds will be provided for enlarging the Park and making it more usable and desirable. That can be done without my personal supervision once the foundation is securely laid. As I have said to Maine Legislatures before, this Park is my life work and I shall continue my interest in it for whatever time I am spared.

Respectfully,

PERCIVAL PROCTOR BAXTER.

Portland, Maine
January 2, 1945.

(S. P. 43) Jan. 10, 1945
In Senate, Placed on File.

In House, Jan. 10, 1945
Read and Placed on File, in Concurrence.

Order

ORDERED, the House concurring, that in order that the Records of the Gift by PERCIVAL PROCTOR BAXTER to the State of Maine as Trus-

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GIFTS OF EX-GOVERNOR BAXTER

tee in Trust of thirty-five thousand five hundred fifty-four (35,554) acres in Townships three, Range nine, three Range ten and four Range ten W. E. L. S. Piscataquis County (BAXTER STATE PARK) be complete and in enduring form, the communication dated January ninth, 1945, addressed by said Baxter to Honorable Horace A. Hildreth, Governor, and to the Honorable Senate and House of Representatives of the 92nd Legislature together with the message of Governor Hildreth transmitting the said communication to the Legislature be printed in the Laws of Maine for 1945.

(S. P. 45)

January 10, 1945

Comes from the Senate read and passed.

January 10, 1945

In the House, read and passed in concurrence.

STATE PAPERS RELATING

to

Gifts of Ex-Governor Baxter

to

The State of Maine

(from May 1, 1945 to May 12, 1947)

COMMUNICATION

STATE OF MAINE
OFFICE OF THE GOVERNOR
Augusta

January 8, 1947

The Honorable President of the Senate
The Honorable Speaker of the House
Ninety-third Legislature

Dear Sirs:

I deem it a pleasure to transmit herewith a letter from the Honorable Percival P. Baxter of Portland in which he offers an additional 10,740 acres of land in the Katahdin Baxter State Park area for public purposes.

This generous gift, if accepted by the 93rd Legislature, would increase the area of the Baxter State Park, which includes Mount Katahdin, to 127,028 acres.

Mr. Baxter's offer commands the deepest appreciation of every citizen of Maine, for he is making available to us and our children and the thousands of tourists who visit Maine each year one of the most magnificent natural recreational areas in the United States.

I solicit your most serious consideration and urge the acceptance of this gift, under the same terms and conditions as the previous ones, as being in the public interest.

Respectfully submitted,

HORACE HILDRETH,
Governor.

(S. P. 23)

In Senate Chamber
Jan. 8, 1947
Rec'd and Placed on File
Sent Down for Concurrence
CHESTER T. WINSLOW, Sec.

House of Representatives
Jan. 8, 1947
Read and Placed on File
In Concurrence
HARVEY R. PEASE, Clerk

COMMUNICATION

To the Honorable Horace A. Hildreth, Governor
and the Honorable Senate and House of
Representatives of the Ninety-third Legislature—

Beginning in 1931 I have come to several Maine Legislatures offering gifts of land to the State of Maine in Trust, and I now come to you to offer another gift, this one of ten thousand seven hundred forty (10,740) acres, the same to be added to BAXTER STATE PARK in the MOUNT KATAHDIN region.

Up to the present time I have donated to the State one hundred sixteen thousand two hundred eighty-eight (116,288) acres and the additional acreage which I now bring to you will increase the total area of the Park to one hundred twenty-seven thousand twenty-eight (127,028) acres, or approximately five and one-half (5½) Maine Wild Land townships.

In order that there may be a complete and accurate record of my Gifts to the State over the years, I am including in the Act of Acceptance a list of the Gifts in detail so that in the years to come this will be available to those who may be interested to have the record spread before them. Those of the members of this Ninety-third Legislature who have served in previous Legislatures, no doubt are familiar with the procedure adopted in connection with these Gifts.

The land that is now being donated to the State is my most recent purchase. When you accept this Gift I then shall have donated to the State all the land in the Katahdin area that I have acquired since I began my project in 1917. This one hundred twenty-seven thousand twenty-eight (127,028) acres is a continuous unbroken area except for the fact that in the south-western corner there is still outstanding an undivided ownership of six thousand seventeen (6,017) acres which I have not yet acquired and which is not included in the total of one hundred twenty-seven thousand twenty-eight (127,028) acres.

I am still interested to enlarge the area of the Park and shall do so from time to time as additional purchases are made.

The conditions placed in the Act of Acceptance are the same as those in former Deeds of Gift. It now is just thirty (30) years since in 1917 I

GIFTS OF EX-GOVERNOR BAXTER

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first conceived the project of donating to the State of Maine a large area of land for Public Park and Recreational purposes. I shall be pleased if you will accept this Gift in the spirit in which it is offered.

Respectfully,

PERCIVAL P. BAXTER.

Portland, Maine
January 8, 1947.

(S. P. 24)

In Senate Chamber
January 8, 1947
Rec'd and Placed on File
Sent Down for Concurrence
CHESTER T. WINSLOW, Sec.

House of Representatives
January 8, 1947
Read and Placed on File
In Concurrence
HARVEY R. PEASE, Clerk

January 8, 1947

ORDER

ORDERED, the House concurring, that in order that the records of the Gift by Percival Proctor Baxter to the State of Maine as Trustee in Trust of ten thousand seven hundred forty (10,740) acres in township four (4) range ten (10), W. E. L. S. Piscataquis County (BAXTER STATE PARK) be complete and in enduring form, the communication dated January eighth, 1947, addressed by said Baxter to the Honorable HORACE A. HILDRETH, Governor, and to the Honorable Senate and House of Representatives of the Ninety-third Legislature, together with the message of Governor HORACE A. HILDRETH transmitting the said communication to this Legislature, be printed in the Laws of Maine for 1947.

SP 26

In Senate Chamber
Jan. 8, 1947
Read and Passed
Sent Down for Concurrence
CHESTER T. WINSLOW, Sec.

House of Representatives
Read and Passed
January 8, 1947
In Concurrence
HARVEY R. PEASE, Clerk

Cleaves
Cumberland

(17)

STATE PAPERS RELATING

to

Gifts of Ex-Governor Baxter

to

The State of Maine

(from May 13, 1947 to May 1, 1949)

COMMUNICATION
STATE OF MAINE
Office of the Governor
Augusta

January 12, 1949.

The Honorable President
The Honorable Speaker of the House
Ninety-Fourth Legislature

Gentlemen:

It is a pleasure and a privilege to transmit herewith a letter from the Honorable Percival P. Baxter of Portland, a former Governor of Maine, in which he offers an additional 14,286 acres of land comprised in three tracts in Piscataquis County, and one tract in Penobscot County, for inclusion in Baxter State Park. All of this land is designated for public purposes.

Please note that the Honorable Mr. Baxter's communication is accompanied by two Acts. First, an Act accepting the 14,286 acres, and, second, an Act amending by mutual consent certain provisions of the laws of 1945 and 1947 relating to construction and maintenance of roads within the Park area. The Honorable Mr. Baxter states that in his opinion, the original deed of gift provisions as to roads seem somewhat too severe, and it is his desire to change them, in order to provide latitude for road construction and maintenance in future years.

If you accept this extraordinary gift, the Baxter Park area will contain 141,712 acres, which will be maintained in the natural wild state of this beautiful region. Prior gifts have been ten in number, and have been accepted by ten legislative Acts and by two Resolutions of the Forestry Commissioner and the Governor and Executive Council.

Mr. Baxter's altruistic beneficence will make certain that this vast area be kept in its natural state for the enjoyment of all Maine citizens and for the pleasure of thousands of visitors who come to Maine each year in search of unspoiled, healthful recreation, and will guarantee in perpetuity this immense area of the State which includes Mount Katahdin.

1368

GIFTS OF EX-GOVERNOR BAXTER

It is urged that you give your most serious consideration to the immediate acceptance of this gift under the terms and conditions as defined in the acceptance Act and the Act amending by mutual consent certain provisions in the current law relating to construction and maintenance of roads within the Park area.

Sincerely yours,

FREDERICK G. PAYNE
(S. P. 25)

Which was read and ordered placed on file.

COMMUNICATION

January 3, 1949.

To the honorable Frederick G. Payne, Governor
and the Honorable Senate and House of Representatives
of the Ninety-fourth Legislature.

During the period from March 3, 1931 to January 8, 1947 inclusive I have donated and conveyed to the State of Maine one hundred twenty-seven thousand four hundred twenty-six (127,426) acres of forest land in Piscataquis County, the same being the area known as Baxter State Park. These gifts, twelve in number, have been accepted by ten (10) Legislative Acts and by two (2) Resolutions of the Forest Commissioner and the Governor and Executive Council.

Since the last gift was made by me and accepted by the Legislature, Chapter 1 of the Private and Special Laws of 1947, I have acquired three (3) additional tracts of land in Piscataquis County and one (1) tract in Penobscot County, the four (4) totaling fourteen thousand two hundred eighty-six (14,286) acres. I now come to you offering these four (4) areas as an addition to said State Park. If you accept this gift the Park area then will be one hundred forty-one thousand seven hundred twelve (141,712) acres in extent.

The three (3) areas in Piscataquis County I now offer you are, 1—six thousand two hundred forty-seven (6,247) acres and 2—five hundred thirty-six (536) acres both in township six (6) range nine (9), and 3—six thousand seventeen (6,017) acres in township three (3) range ten (10).

The fourth (4th) area of one thousand four hundred eighty-six (1,486) acres is in township six (6) range eight (8) Penobscot County, all W. E. L. S. Except for one small undivided ownership of less than seventy-five

GIFTS OF EX-GOVERNOR BAXTER

1369

75) acres in this Penobscot County tract which I expect to acquire in the near future, all of the land heretofore and now donated to the State of Maine is one unbroken area free from undivided ownerships.

It is fortunate that I was able to acquire for the State these four (4) areas, for we now have a Park with its northeast corner bordering on the East Branch of the Penobscot River and on First Grand or Matagamon Lake. Its southwest corner borders on the West Branch of that River. Mount Katahdin, Traveler Mountain and the other thirty peaks and mountains in the Park lie between these two branches of this river.

With this communication I am offering the State two (2) Deeds that convey the four (4) areas referred to; one is a Deed from me as an individual and one from me as a Trustee. The Deed from me as Trustee of the six thousand seventeen (6,017) acres in township three (3) range ten (10) conveys to the State land bought by me from the Trustees of a Bangor estate under a Decree of Honorable Raymond Fellows, Justice of our Supreme Judicial Court. This method of acquiring this area was necessary in order to clear away certain legal technicalities.

ROADS IN BAXTER STATE PARK

In my former Deeds of January 2, 1945 and January 8, 1947 as recorded in Chapter 1 Laws of 1945 and Chapter 1 Laws of 1947, certain restrictions as to the construction and maintenance of roads within the Park were imposed in the gift. Although I want this area always to be left in "its natural wild state" as provided in all my Deeds to the State, I also want this area to be reasonably accessible to those persons who enjoy the wilderness and who wish to go there for rest and recreation. That of course is my principal reason for creating this Park.

On mature deliberation I now have come to the conclusion that my restrictions as to roads are somewhat too severe. Without proper access roads the number of persons who would enjoy the Park would be limited. In view of this I deem it best to allow the existing roads to remain open and to permit the State in the years to come to construct such additional roads as may be necessary to accommodate those persons who wish to enjoy the great, unspoiled area that now is the property of our State.

I now present to you an Amended Act of Acceptance together with a Deed, which makes the necessary changes in the former Deeds of Trust that contain the road restrictions herein referred to. In order, however, that there may be some reasonable check in the future on the construction and maintenance of roads in the Park it is provided in these Amendments that no roads or ways shall be constructed or maintained that will interfere with or detract from "the natural wild state" of this region. In this,

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GIFTS OF EX-GOVERNOR BAXTER

however, I must rely upon the good faith of the State of Maine and am confident that the State will live up to the terms of this TRUST and will not break faith with me.

The other conditions in the two (2) Acts of Acceptance and in the three (3) Deeds which I now present to you are the same as those contained in my former Deeds. I shall be pleased if you will accept these Gifts in the spirit in which they are offered.

Respectfully,

PERCIVAL PROCTOR BAXTER

(S. P. 26)

January 3, 1949 (S. P. 26)

Which was read and ordered placed on file.

Order

ORDERED, the House concurring, that in order that the records of the Gifts by Percival Proctor Baxter, individually and as Trustee, to the State of Maine as Trustee in Trust of fourteen thousand two hundred eighty-six (14,286) acres in township six (6) range nine (9) and in township three (3) range ten (10) W. E. L. S. Piscataquis County, and in township six (6) range eight (8) W. E. L. S. Penobscot County (Baxter State Park), be complete and in enduring form, the Communication dated January 3, 1949 addressed by said Baxter to Honorable Frederick G. Payne and to the Honorable Senate and House of Representatives of the Ninety-fourth Legislature, together with the Message of Governor Frederick G. Payne, transmitting the said Communication to this Legislature, be printed in the Laws of Maine for 1949.

(S. P. 29)

January 13, 1949

Comes from the Senate read and passed.

January 13, 1949

In the House, read and passed in concurrence.

STATE PAPERS RELATING

to

Gifts of Ex-Governor Baxter

to

The State of Maine

(from May 1, 1949 to May 1, 1953)

COMMUNICATION
STATE OF MAINE
OFFICE OF THE GOVERNOR
Augusta

March 4, 1953

To the Honorable Senate and House of
Representatives of the 96th Legislature:

Herewith I hand you for your consideration a communication addressed to the Governor, the Senate and House of Representatives by Honorable Percival Proctor Baxter relative to a gift for the development of Mackworth Island, Bridge and Rock, as a School for the Deaf, and or, a Children's Honor Home and School.

We all appreciate the generous offer from our former Governor, and recognize his fine public spirit. We shall give our best thought to his suggestions and hope that the State will be able to benefit from this, his most recent benefaction.

BURTON M. CROSS,
Governor

(H. P. 1149)

HOUSE OF REPRESENTATIVES
Read and placed on
file with accompanying papers
March 4, 1953
Sent up for concurrence
HARVEY R. PEASE, Clerk

IN SENATE CHAMBER
Read and Placed on File
March 5, 1953
In concurrence
CHESTER T. WINSLOW, Sec.

COMMUNICATION

Portland, Maine
March 4, 1953

To the Honorable Burton M. Cross, Governor
and the Honorable Senate and House of Representatives
of the Ninety-sixth Legislature of the State of Maine—

In 1943 (Chapter 1 of the Private and Special Laws of Maine) the State accepted from me the GIFT IN TRUST of Mackworth Island, the Bridge to the same and Mackworth Rock all in the Town of Falmouth forever

1004

GIFTS OF EX-GOVERNOR BAXTER

to be held in Trust for the People of Maine. Under the terms of this Trust the State has full authority to use the Island, Bridge and Rock in any way it may choose provided the use is for "STATE PUBLIC PURPOSES."

In the Deed of Trust this property was leased to me for my use as long as I desired provided I assumed all expenses incident to its care and operation. At that time I also donated to the State of Maine the sum of ten thousand (\$10,000.00) dollars as a TRUST FUND for Island, Bridge and Rock purposes.

From 1943 to 1949 during the Summer months I lived on the Island and maintained it and the Bridge without expense to the State. In 1949, however, I moved from the Island and thereafter the State assumed full ownership and responsibility.

In an OFFICIAL COMMUNICATION addressed to the Legislature (pages 703 to 708 of the said Laws of 1943) this property is described and I suggested that it be used as "a home for sick and underprivileged children" and further stated that "ITS USE FOR CHILDREN WOULD BE ESPECIALLY PLEASING TO ME." This is merely a suggestion and imposes no obligation upon the State other than the "State Public Purposes" provision as specified in the Deed of Trust. Ten years have passed and now I am desirous of having my Gift put to a useful purpose during my lifetime.

I now offer the State the sum of six hundred twenty-five thousand (\$625,000.00) dollars in two items: five hundred thousand (\$500,000.00) dollars to be expended toward the construction of a new school for the Deaf or toward the construction of a new Home and School for the wards of the State as hereafter described, and one hundred twenty-five thousand (\$125,000.00) dollars for the construction of a new bridge to the same. The Bridge Engineer of the Highway Department has given me the latter figure as his estimate of the cost of a suitable Bridge.

My suggestion is that you first construct a new Maine School for the Deaf on the Island, and that later you erect thereon a Home and School for such of the State's younger wards as it may be desirable to take from some of the private homes throughout the State where they now are boarding at an expense to the State of about five hundred (\$500.00) dollars per year per child. My thought as to a second institution is that in the boarding homes referred to no doubt there are certain younger children of exceptional promise whose removal to a special institution might give them a better chance to develop into useful citizens. It well may be

that in time both institutions referred to can be established on the Island; the new School for the Deaf and what may be called an Honor Home and School for one hundred or two hundred of the State's selected children. There is ample room for these two institutions. It is for you to decide on which one of them you will expend this five hundred thousand (\$500,000.00) dollars Gift.

It is well for the offer of this Gift to contain some limitation of time for its acceptance and my offer will hold during the present Legislative Session. If accepted by Legislative Act I pledge to place this six hundred twenty-five thousand (\$625,000.00) dollars in the hands of the Governor as soon as he gives his approval to the plans and orders construction begun.

This offer will be considered as withdrawn if the construction of one or the other of the suggested institutions and of the Bridge be not begun by January 1, 1955. Provision will be made so that my Gift obligation will be honored in case of my decease.

I request that this communication be published in full in the Laws of Maine 1953 as a permanent record for the guidance of future generations.

Respectfully,

PERCIVAL PROCTOR BAXTER

HOUSE OF REPRESENTATIVES

Read and Placed on File

March 4, 1953

Sent up for concurrence

HARVEY R. PEASE

Clerk

IN SENATE CHAMBER

Read and Placed on File

March 5, 1953

In Concurrence

CHESTER T. WINSLOW

Secretary

ORDER

In Senate, March 4, 1953

ORDERED, the House concurring, that in order that the Record of the offer of a Gift by Honorable Percival Proctor Baxter to the State of Maine of six hundred twenty-five thousand (\$625,000.00) dollars, the same to be used toward the construction of a State institution on Mackworth Island and for a Bridge thereto in the Town of Falmouth be complete and in enduring form, the

COMMUNICATION dated March 4, 1953 addressed by said Baxter to Honorable Burton M. Cross, Governor, and to the Honorable Senate

and House of Representatives of the Ninety-sixth Legislature, together with the MESSAGE of Governor Cross transmitting the said Communication to this Legislature be printed in the Laws of Maine for 1953.

(S. P. 474)

IN SENATE CHAMBER

Read and Passed

March 5, 1953

Sent down for concurrence

CHESTER T. WINSLOW

Secretary

HOUSE OF REPRESENTATIVES

Read and Passed

March 10, 1953

In concurrence

HARVEY R. PEASE

Clerk

Haskell
Penobscot

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine
(from May 1, 1953 to May 6, 1955)

COMMUNICATION
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA

January 11, 1955

The Honorable President
The Honorable Speaker of the House
Ninety-seventh Legislature

Gentlemen:

I consider it a privilege to transmit herewith a letter from the Honorable Percival P. Baxter of Portland in which he offers an additional 2000 acres of land in the Baxter State Park area for public purposes. He also requests that the legislature ratify the January 20, 1954 acceptance by the Governor and the Executive Council of 14,005 acres of land in Township 6, Range 9.

In recognition of the legitimate interests of citizens in the surrounding areas who operate stores and camps, Mr. Baxter thoughtfully imposes no hunting restrictions in connection with his most recent gift, and he proposes removal of such restrictions in connection with his gift of January 20, 1954.

In another generous concession, Mr. Baxter proposes legislation under which the State's powers relating to the care and management of the Park are broadened and made more flexible.

I submit Mr. Baxter's generous offer and these several pieces of legislation to your serious consideration as being in the public interest.

Respectfully yours,

(Signed) EDMUND S. MUSKIE,

Governor

(S. P. 26)

IN SENATE CHAMBER

Read and placed on file

January 12, 1955

Sent down for concurrence

HOUSE OF REPRESENTATIVES

Read and placed on file

January 12, 1955

In concurrence

CHESTER T. WINSLOW, Secretary

HARVEY R. PEASE, Clerk

COMMUNICATION

Portland, Maine
January 11, 1955.

To the Honorable Edmund S. Muskie, Governor
and the Honorable Senate and House of Representatives
of the 97th Legislature of the State of Maine.

In this communication I submit for your consideration certain matters relating to Baxter State Park, an area which now comprises 166,676 acres of wild forest

1144

COMMUNICATION

land forever to be held by the State of Maine IN TRUST for the PEOPLE OF MAINE. These Acts are four in number.

The FIRST Act ratifies and confirms the former Acceptance on January 20, 1954 by the Governor and Executive Council of my gifts of three parcels of wild land in the Katahdin area which were acquired by me when the Legislature was not in Session. As I was about to journey to foreign lands I deemed it wise to place this area in the safe ownership of the State in case I should not return. Moreover all my gifts to the State over the years have been accepted by the several Legislatures and so have been published in the Laws of Maine. I wish these gifts to conform to that plan.

The SECOND Act is a new gift of two thousand (2000) acres in township six (6) range nine (9) Trout Brook township so called. This completes the gift of the entire township except about 3402 acres and the 1/6th of the Public Lot both of which I hope to acquire from the Great Northern Paper Company so that later I can donate it to the State. In this gift of two thousand (2000) acres hunting is not forbidden.

The THIRD Act is an Act interpreting certain provisions relating to the care and management of this State Park. In consultation with our Forest and Game officials and with the Attorney General's Department it seems desirable to provide for an understanding as to what is required under the Trust Deeds. Under the Act now submitted to you the powers of the State management are broadened and made more flexible in order that the Trusts will not be violated in the years to come. As all my Trusts have been made for perpetuity great care has to be taken to make them understandable and enforceable.

The FOURTH Act relates to a distinct concession on my part in regard to the "No Hunting" or "Sanctuary" provisions in the Deed of Gift of the fourteen thousand five (14005) acres and of the five-sixths (5/6ths) of the Public Lot north of Trout Brook in township six (6) range nine (9). Under the original Deed to this area which was accepted by the Governor and Executive Council on January 20, 1954 hunting was forever prohibited. However, when I learned that the closing of this area might be detrimental to the citizens in Patten and surrounding territory who operate stores and camps I was pleased to yield to their appeals. This Act accomplishes that purpose and the people in that area are well satisfied. The "No hunting" clause is removed by this Act.

In 1917 I first proposed that the State make a beginning in creating a Park at Katahdin. From that date until now I have worked diligently and patiently upon this project and have seen it grow from small beginnings to its present ample proportions. In the years to come when the Forests of our State have been cut off and disappeared, when civilization has encroached upon the land we now refer to as "Wild Land", this Park will give the people of succeeding generations a living example of what the State of Maine was "in the good old days" before the song of the woodsman's axe and the whine of the power saw was heard in the land. I am confident that the people of Maine as time passes will appreciate this Park and that the State never will break these Trusts. I know the conscience and the Soul of Maine. The word of this State as given in Acts passed by its Legislatures and signed by its Governors is as sacred a pledge and trust as Man can make.

COMMUNICATION

1145

I request you to enact into Law these four documents if you deem it in the public interest so to do.

S. P. 27

Respectfully

(Signed) PERCIVAL PROCTOR BAXTER

IN SENATE CHAMBER

HOUSE OF REPRESENTATIVES

Read and placed on file

Read and placed on file

January 12, 1955

January 12, 1955

Sent down for concurrence

In concurrence

CHESTER T. WINSLOW, Secretary

HARVEY R. PEASE, Clerk

ORDER

January 11, 1955

ORDERED, the House concurring, in order that the records of the Gifts by Percival Proctor Baxter to the State of Maine as Trustee in Trust of seventy-six and eight-tenths (76.8) acres in township six (6) range eight (8) Penobscot County, fourteen thousand five (14,005) acres one hundred thirty-six (136) acres five-sixths (5/6ths) of the Public Lot and two thousand (2000) acres all in township six (6) range nine (9) Piscataquis County, and eight thousand (8000) acres in township three (3) range nine (9) in Piscataquis County. TOGETHER with an Act amending certain restrictions in said above mentioned Deed of Gift of fourteen thousand five (14,005) acres and five-sixths (5/6ths) of the Public Lot and also TOGETHER with an Act interpreting the Trust conditions relating to the phrases "natural wild state" and "sanctuary for wild beasts and birds" as used in the several deeds of Baxter State Park be complete and in enduring form, the Communication dated January 11, 1955, addressed by said Baxter to Honorable Edmund S. Muskie, Governor, and to the Honorable Senate and House of Representatives of the 97th Legislature, together with the Message of Governor Edmund S. Muskie transmitting the said documents to the said Legislature be printed in the Laws of Maine for 1955.

(S. P. 24)

Butler, Franklin

IN SENATE CHAMBER

HOUSE OF REPRESENTATIVES

January 12, 1955

Read and passed

Read and passed

January 18, 1955

Sent down for concurrence

In concurrence

CHESTER T. WINSLOW, Secretary

HARVEY R. PEASE, Clerk

COMMUNICATION

STATE OF MAINE

OFFICE OF THE GOVERNOR

AUGUSTA

March 23, 1955

The Honorable President
The Honorable Speaker of the House
Ninety-seventh Legislature

Gentlemen:

I consider it a privilege to transmit, herewith, a letter from the Honorable Percival P. Baxter of Portland in which he offers an additional 3,569 acres of land in the Baxter State Park for public purposes.

1146

COMMUNICATION

Mr. Baxter has, again, thoughtfully imposed no hunting restrictions within this latest gift.

I am especially happy that Mr. Baxter has pointed out that this new grant will be available for scientific forestry management experiments. Mr. Baxter believes, as I do, that our historic forest wealth can best be conserved by thorough study of intelligent cutting practices and reforestation.

I submit Mr. Baxter's generous offer and the accompanying legislation to your serious consideration as being in the public interest.

Respectfully yours,

(Signed) EDMUND S. MUSKIE,
Governor

HOUSE OF REPRESENTATIVES

Read and placed on file
March 23, 1955
In concurrence

HARVEY R. PEASE, Clerk

IN SENATE CHAMBER

Read and placed on file
March 23, 1955
Sent down for concurrence

CHESTER T. WINSLOW, Secretary

S. P. 504

COMMUNICATION

March seventeenth
1955

To the Honorable Edmund S. Muskie, Governor
and the Honorable Senate and House of Representatives
of the 97th Legislature of the State of Maine.

Since my communication of January 11th last in which I offered to donate to the State certain forest lands in Piscataquis and Penobscot Counties, which you graciously accepted, I have acquired additional acreage and now offer you 3,569 acres in township six (6) range nine (9) Piscataquis County. This gift if you accept it will complete the State's ownership of this township and Baxter State Park will contain slightly in excess of seven (7) entire wild land townships or 168,350 acres. This has been accomplished over the period of thirty years since I left the Governorship.

I now wish to testify to the fine public spirit of the corporations, trustees and other land owners centered in Bangor who have entered into the spirit of my project and by the sale of their lands have made possible this Park.

In offering this gift I provide that the land forever shall be held by the State IN TRUST for State Forest, Public Park and Public Recreational Purposes and shall be named BAXTER STATE PARK. I do not, however, provide that hunting be prohibited as in several of my former gifts, because I find that many citizens who live in northern Maine depend for their livelihood largely upon the business that hunters bring to them. This 3,569 area will be available both for recreation and for scientific forestry management and can be made to produce a continuing crop of timber to be harvested and sold as are potatoes or any other product of the soil.

COMMUNICATION

1147

It long has been my purpose to create in our forests a large area wherein the State may practice the most modern methods of forest control, reforestation and production under the management of our able Forest Commissioner Mr. Nutting and his associates. This new 3,569 acres is an excellent location for this purpose.

In my travels in foreign lands I have seen beautiful great forests that for centuries have been producing a crop of wood without depletion. In Sweden, Norway, Finland, Germany, Chile, Russia and elsewhere what has been done by scientifically controlled forestry can be done in Maine. I now make it possible for the State to try a major experiment here at home, an experiment that can mean much for our future timber supply, which all admit is the chief natural resource of our State.

In the lobby between the Senate Chamber and the Hall of Representatives I have placed a colored map showing Baxter Park in three colors. These three colored areas comprise the entire Park. Fishing is allowed throughout the Park but in the red portion hunting is prohibited. In the blue and orange areas hunting is allowed. The new orange area of 3,569 acres is where I suggest that scientific forestry be practiced by the State.

When you inspect this map it will be difficult for you to visualize how this has been accomplished, how my numerous purchases have been brought together into one solid area. I myself can hardly realize it. A map showing the different acquisitions both small and large over the years would remind you of your grandmother's patchwork quilt, which finally in some mysterious way came out of the confusion into one large piece.

The Park now is complete except for one additional township which I would like to acquire in order to square the lines. It is doubtful if this can be purchased.

With your acceptance of this gift of 3,569 acres I feel that my life work in creating this Park has been brought to a happy conclusion.

The creation of this Park has been an enlightening experience. The generous approval given my efforts by the present Governor and by the Ninety-seventh Legislature as well as by former Governors and Legislatures has touched my heart.

To close I give you a few words of my own that express the spirit of this Park project.

MAN IS BORN TO DIE
HIS WORKS ARE SHORT-LIVED
BUILDINGS CRUMBLE, MONUMENTS DECAY, WEALTH VANISHES
BUT KATAHDIN IN ALL ITS GLORY
FOREVER SHALL REMAIN THE MOUNTAIN OF THE
PEOPLE OF MAINE.

Respectfully

(Signed) PERCIVAL PROCTOR BAXTER

1148

COMMUNICATION

ORDER

March 22, 1955

ORDERED, the House concurring, in order that the records of the Gifts by Percival Proctor Baxter to the State of Maine as Trustee in Trust of three thousand five hundred sixty-nine (3,569) acres in township six (6) range nine (9) Piscataquis County, State of Maine, be complete and in enduring form the Communication dated March 17th, 1955, addressed by said Baxter to Honorable Edmund S. Muskie, Governor, and to the Honorable Senate and House of Representatives of the Ninety-seventh Legislature, together with the Message of Governor Edmund S. Muskie transmitting the said Communication to this Legislature be printed in the Laws of Maine for 1955.

(S. P. 495)

Butler, Franklin

IN SENATE CHAMBER

March 22, 1955

Read and passed

Sent down for concurrence

CHESTER T. WINSLOW, Secretary

HOUSE OF REPRESENTATIVES

Read and passed

March 22, 1955

In concurrence

HARVEY R. PEASE, Clerk

COMMUNICATION

STATE OF MAINE

OFFICE OF THE GOVERNOR

AUGUSTA

May 6, 1955

The Honorable President
The Honorable Speaker of the House
Ninety-seventh Legislature

Gentlemen:

I consider it a privilege to transmit, herewith, a letter from the Honorable Percival P. Baxter of Portland in which he offers an additional 25,025 acres of land in the Baxter State Park for public purposes.

Mr. Baxter, has, again, thoughtfully imposed no hunting restrictions within this latest gift.

Mr. Baxter, continuing the far-sighted policy proposed in his March 23rd gift, is desirous that this new grant be devoted to scientific forestry research. He points out that action today in conserving our forests will be all important to the generations who follow us. I heartily support this wise course.

I submit Mr. Baxter's generous offer and the accompanying legislation to your serious consideration as being in the public interest.

Respectfully yours,

(Signed) EDMUND S. MUSKIE

(S. P. 576)

IN SENATE CHAMBER

Read and placed on file

May 6, 1955

Sent down for concurrence

CHESTER T. WINSLOW, Secretary

HOUSE OF REPRESENTATIVES

Read and placed on file

May 6, 1955

In concurrence

HARVEY R. PEASE, Clerk

COMMUNICATION

1149

COMMUNICATION

Portland, Maine
May second
1955

To the
Honorable Edmund S. Muskie, Governor
and the
Honorable Senate and House of Representatives
of the 97th Legislature of the State of Maine

It is with some hesitation that I come to you a third time during the present Legislative Session to offer an additional gift of forest land to be added to Baxter State Park. Notwithstanding this I ask your patience and your friendly consideration.

A few weeks ago you graciously accepted my gifts of fifteen thousand twenty (15,020) acres and of three thousand five hundred sixty-nine (3,569) acres in township six (6) range nine (9) Piscataquis County. Little did I realize that in a few short weeks another township, township six (6) range ten (10), would become my property. This is now offered to you. It contains twenty-five thousand twenty-five (25,025) acres and its acquisition by the State will increase the Park to one hundred ninety-three thousand two hundred fifty-four (193,254) acres, or three hundred and two (302) square miles the same being eight (8) entire townships and a portion of a ninth township on the shore of Matagamon Lake.

The terms of this gift are identical with those of the three thousand five hundred sixty-nine (3,569) acre gift; Public Park, Public Forest, Public Recreational and Scientific Forestry Purposes and Reforestation. I want this township to become a show place for those interested in forestry, a place where a continuing timber crop can be cultivated, harvested and sold; where reforestation and scientific cutting will be employed; an example and an inspiration to others. What is done in our forests today will help or harm the generations who follow us.

This township six (6) range ten (10) is what is termed by woodsmen "good growing land", an area with an abundance of wild life, especially moose. Fishing and hunting will be allowed under the general Fish and Game Laws of the State.

As the curtain falls on this Legislative Session and its books are being closed I leave with you a message which I am sure expresses your sentiments as well as mine.

WE ALL LOVE THE STATE OF MAINE
HER FAIR LAND AND FINE PEOPLE
HER MOUNTAINS AND FORESTS
WITH THE BEASTS AND BIRDS THEREIN
HER RUGGED SHORES AND CLEAR WATERS.
GOD HAS CONFERRED UPON US THESE BLESSINGS
FOR WHICH WE EVER SHOULD BE THANKFUL.

Respectfully

s/ PERCIVAL PROCTOR BAXTER

IN SENATE CHAMBER

Read and placed on file

May 6, 1955

Sent down for concurrence

CHESTER T. WINSLOW, Secretary

HOUSE OF REPRESENTATIVES

Read and placed on file

May 6, 1955

In concurrence

HARVEY R. PEASE, Clerk

1150

COMMUNICATION

ORDER

May 6, 1955

ORDERED, the House concurring, in order that the records of the Gift by Percival Proctor Baxter to the State of Maine as Trustee in Trust of twenty-five thousand twenty-five (25,025) acres in township six (6) range ten (10) Piscataquis County W.E.L.S. State of Maine, be complete and in enduring form, the Communication dated May second, 1955, addressed by said Baxter to Honorable Edmund S. Muskie, Governor, and to the Honorable Senate and House of Representatives of the Ninety-seventh Legislature, together with the Message of Governor Edmund S. Muskie transmitting the said Communication to this Legislature be printed in the Laws of Maine for 1955.
(S. P. 577)

IN SENATE CHAMBER

May 6, 1955
Read and passed
Sent down for concurrence

HOUSE OF REPRESENTATIVES

Read and passed
May 6, 1955
In concurrence

CHESTER T. WINSLOW, Secretary

HARVEY R. PEASE, Clerk

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

1963.

GIFTS OF EX-GOVERNOR BAXTER

1473

COMMUNICATION

Portland, Maine
January 3, 1963

To —

Honorable John H. Reed, Governor
and the
Honorable Senators and Representatives
of the 101st Legislature of the State of Maine.

Without doubt you are familiar with what has been done in the creation of Baxter State Park in the Katahdin region.

Beginning with my communication of March 3, 1931 addressed to Honorable William T. Gardiner, Governor, the State has accepted from me by Legislative Acts gifts totaling 193,254 acres of forest land, forever to be held in TRUST for Public Park, Public Recreational and for Public Forestry purposes the same forever to be kept in its Natural Wild State.

These areas from year to year have been conveyed by me to the State and have been accepted in legal form by the several Governors and Legislatures in office during the period from 1931 to 1961.

A recent gift of 7,764 acres, the Legislature not being in Session, has been accepted by the Governor and Executive Council acting under the provisions of the Statutes. I now request you to confirm the acceptance of this latest gift of 7,764 acres of August 6, 1962 so that all my gifts of forest land to the people of Maine will have been accepted by the duly elected Governors and Legislatures of our State over this 31-year period. The acceptance of this gift will add to this Park 7,764 acres of forest land and will complete the record of my 31 years' (1931 - 1962) gifts of 201,018 acres made to and accepted by the people of the State of Maine.

In order to complete the record, I request that this communication of January 3, 1963, together with the accompanying Act and Deed, be published in the Laws of Maine 1963.

It is interesting to note that in my formal letter to Governor Gardiner in 1931, when my first gift was about 6,000 acres, I said "I expect some day to see my ambition realized." (Laws of Maine 1931). This brings to an end an interesting incident in Maine history.

Respectfully,

S. P. 259

(Signed) PERCIVAL PROCTOR BAXTER

IN SENATE CHAMBER

HOUSE OF REPRESENTATIVES

Read and placed on file
January 29, 1963

Read and placed on file
January 30, 1963

Sent down for concurrence

In concurrence

CHESTER T. WINSLOW, Secretary

HARVEY R. PEASE, Clerk

1474

GIFTS OF EX-GOVERNOR BAXTER

COMMUNICATION

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA

January 23, 1963

The Honorable President of the Senate
The Honorable Speaker of the House
Honorable Members of the One Hundred and First Legislature

Gentlemen:

It is with great personal gratitude on behalf of myself and the citizens of the State of Maine, that I transmit to you herewith, a communication from the Honorable Percival P. Baxter, former Governor of the State of Maine, received by me on January 22, 1963. This communication is self-explanatory and sets forth the desire of the Honorable Percival P. Baxter to obtain concurring Legislative action in the acceptance of a gift of 7,764 acres of forest land to the State of Maine.

On September 5, 1962, consistent with the authority vested in me by the provisions of the Revised Statutes, Chapter 11, Section 16, the Governor and Executive Council accepted on behalf of the State of Maine, a gift of this tract of land, to be added to previous gifts of forest land which now comprise the Baxter State Park.

An Act will be proposed for your consideration and concurrence in acceptance of this gift, in keeping with Mr. Baxter's request. I submit Mr. Baxter's generous offer with the observation that favorable consideration of the accompanying legislation is in the public interest and respectfully recommend your earliest favorable action.

This act of great generosity on the part of Mr. Baxter is further exemplification of the donor's continued interest in the preservation of the natural resources of our State for posterity.

Respectfully yours,

(Signed) JOHN H. REED,

S. P. 258

Governor

IN SENATE CHAMBER

HOUSE OF REPRESENTATIVES

Read and placed on file

Read and placed on file

January 29, 1963

January 30, 1963

Sent down for concurrence

In concurrence

CHESTER T. WINSLOW, Secretary

HARVEY R. PEASE, Clerk

145

State Papers Relating
to
Gifts of Ex-Governor Baxter
to
The State of Maine

1965

STATE PAPERS

1181

Portland, Maine
March 1, 1965

His Excellency John H. Reed
Governor of Maine
State House
Augusta, Maine

Dear Governor Reed:

Without doubt you are familiar with what has been done in the creation of Baxter State Park in the Katahdin region.

Beginning with my communication of March 3, 1931 addressed to Honorable William T. Gardiner, Governor, the State has accepted from me by Legislative Acts gifts totaling 201,018 acres of forest land, forever to be held in TRUST for Public Park, Public Recreational and for Public Forestry purposes the same forever to be kept in its Natural Wild State. These areas from year to year have been conveyed by me to the State and have been accepted in legal form by the several Governors and Legislatures in office during the period from 1930 to 1963.

You are also familiar with my wish to share with the State in part the cost of caring for, protecting and operating said area of land in accordance with the conditions in the several acts of the Legislature accepting said gifts as recorded in the Laws of Maine 1930-1963.

To in part carry out my desire to share with the State in part the cost of caring for, protecting and operating said area of land in accordance with the conditions in the several acts of the Legislature accepting said gifts as recorded in the Laws of Maine 1930-1963, I offered to the State and the State accepted from me a gift of one thousand (1000) shares of the capital stock of Proprietors of Portland Pier, a Maine corporation, the assets of which consisted of municipal bonds, corporation shares and cash to the value of \$488,942.64 as of December 31, 1960. For reference to this gift, see Laws of Maine (1961), Chapter 21, page 766.

It is my desire to make a further gift to the State of Maine to be added to Baxter State Park Trust Fund as created by Laws of Maine (1961), Chapter 21, and administered in accordance with the terms and provisions of said Baxter State Park Trust Fund; and to that end I now offer as an additional gift to the State of Maine one thousand (1000) shares of the capital stock of Congress Realty Company of which I am the sole owner, and being all the outstanding shares of stock of said corporation, all taxes paid, free from all claims and encumbrances, and said Congress Realty Company is the owner of municipal bonds, corporation shares and cash to the value of \$1,106,213.42.

I have caused to be prepared a legislative act with an emergency preamble, which I enclose, and have requested my friend and attorney, John E. Willey, to present this letter with enclosure to you in my behalf.

With kind personal regards, I remain as ever

Most sincerely yours,

(Signed) PERCIVAL P. BAXTER

Part 2

Judicial Opinions

Volume I

Deeds of Trust and Judicial Opinions

Part 2: Judicial Opinions

OVERVIEW

The following annotations of the five reported judicial opinions interpreting the Deeds of Trust are listed in chronological order. These cases were identified by a LexisNexis search using the key words, "Baxter State Park" and "deeds."

ANNOTATIONS

2.1

State of Maine v. The Fin & Feather Club et al., 316 A. 2d 351; 1974 Me. LEXIS 360 (February 21, 1974)

Fin & Feather was the first appellate court decision regarding administration of Baxter State Park. In this case the Supreme Judicial Court, in an opinion by Justice Delahanty, unanimously upheld the right of the BSPA to terminate the leasehold rights of the Fin & Feather Club and those of Ronald Budreau at al. The defendants acquired their leases from the Great Northern Paper Company in 1956 and 1958, respectively. New leases were executed by the Chairman of the BSPA in 1963 after the Baxter deed transferring the real estate to the State of Maine. In letters dated December 1969, the BSPA notified the defendants that their leases were not to be renewed at the close of 1970.

In the ensuing litigation, the defendants contended that they had an absolute right to occupy the premises until they ceased to use the land or until they breached the conditions of the lease. The Supreme Judicial Court, however, concluded that "Baxter obtained all of the rights of the Great Northern Paper Company relative to the leases with the defendants. These rights included that of termination upon proper notice."¹ The court went on to assert that the conveyance of the property from Governor Baxter to the state transferred the same rights relative to the outstanding leases.

In the course of the court's consideration of the scope of the authority of the BSPA to lease lands, it asserted that the Authority could restrict the rights of lessees in the use of the land, so as to comport with Baxter's intentions that the land remain in its natural state. These new leases, according to the court, "increased the ability of the lessor-Park Authority to manage and control the leased land consistent with their statutory duties and trust obligations."² In conclusion, the Supreme Judicial Court, in describing the scope of its review of the issuance of such leases, stated:

The action of the Park Authority, in substituting new leases more favorable to the State's supervision of land use, was a limited managerial act consistent with the broad delegation of power authorized by statute and trust instrument. The courts will not review managerial acts, not clearly arbitrary, of executive official performed within the scope of their authority and will not substitute their judgment in such matters for that of the officials.³

¹ 316 A.2d 351, 354 (Me. 1974).

² *Ibid.*, 356.

³ *Ibid.*

Two additional questions dealt with the effect of the new leases on the prior leases between the parties, and the rights of the parties under the new leases. With regard to the former, the court concluded “that the acceptance by the tenant of the new lease for the same property from the lessor during the term of the original lease constituted a surrender by operation of law of the first lease.”⁴ Regarding the final question, the court concluded that “[T]he Baxter State Park Authority exercised only those powers of termination which were granted to it by the operation of law and the terms of the lease. Notice was timely and proper and served effectively to terminate any leasehold rights of the defendants to the subject property.”⁵

Justice Delahanty concluded his opinion for the court with a final admonition:

The responsibility of the Baxter State Park Authority and of this Court is great to protect the vision of Percival P. Baxter who realized the precious and tenuous existence of our State’s wilderness. The munificent grant of Governor Baxter to “the people of the State of Maine” was a guarantee that this inheritance will not be lost to future generations of Maine people. The wild beauty of Maine’s forests is part of every Maine citizen’s heritage. . . . The continued enforcement of Governor Baxter’s trust will insure this bounty in perpetuity.⁶

2.2

Fitzgerald et al. v. Baxter State Park Authority et al., Supreme Judicial Court of Maine, 385 A. 2d 189; 1978 Me. LEXIS 865 (April 6, 1978)

Fitzgerald may be the most significant appellate court decision regarding the Baxter deeds of trust. It has been cited often and the opinion by Chief Justice McKusick provided a definitive historical account of the deeds of trust over the 31-year period and the establishment of the trust accounts for the care, operation, and maintenance of Baxter State Park. The opinion, in essence, established the historical framework upon which all subsequent case law is built. The case itself is significant in that the plaintiffs, all Maine citizens and users of Baxter State Park, were successful in restraining the BSPA from carrying out a program for clearing and restoring timber blow-down areas following a November 1974 storm. The deeds of trust for the lands in the 1974 blowdown area in the southwestern portion of the park were P & S Laws of 1945, Chap. 1, P & S Laws of 1939, Chap. 122, and P & S Laws of 1949, Chap. 1, respectively.

In this Supreme Judicial Court case, both litigants were appealing an earlier ruling. On 24 August 1976 the Superior Court had entered its injunction as follows:

Defendants are prohibited from continuing to harvest blow-down in the manner in which the present operation is being conducted, to wit: with the use of heavy equipment. Further clearance may continue, but without the use of heavy equipment, and in such manner as will not unduly disturb the terrain and natural environment. The Baxter State Park Authority may, however, proceed to develop, and contract, plans for clearance of blow-downs, which would more closely follow the terms of the trust deeds as they have been herein interpreted by the Court.⁷

In its treatment of the important threshold question of the plaintiff’s standing to sue, the court concluded:

That sub-group of Maine people who are actual users of the Park, itself substantial in number, is sufficiently large to assure that the public’s interest in the administration of the Park in compliance with Governor Baxter’s wishes will be adequately represented. Any citizen of Maine who shows himself to have suffered “particularized injury” as a result of action of the Baxter State Park Authority has standing to obtain judicial review and to seek injunctive relief against that proposed action.⁸

⁴ *Ibid.*

⁵ *Ibid.*, 359.

⁶ *Ibid.*

⁷ 385 A. 2d 189, 191 (Me. 1978).

⁸ *Ibid.*, 197.

In addition, the court asserted that the Attorney General, as a member of the Authority, "could not properly take in litigation a position adverse to a state agency on which he sits and for which he acts as counsel."⁹ Consequently, by force of necessity the enforcer of the Baxter trust, through judicial action, must be someone other than the Attorney General.

The Supreme Judicial Court, in an important ruling on the issue of admissibility of evidence, held that the trust instruments contained ambiguity, and hence it would resort for clarification to the 1955 legislative act interpreting the phrases "Natural Wild State" and "Sanctuary for Wild Beasts and Birds."¹⁰ In this context the court stated:

If the deeds of trust alone are looked to in seeking Governor Baxter's intent, we are hard put to say that there is one obvious and exclusive meaning for the combination of phrases he used. None of the three deeds contains any language purporting to set a priority among the purposes of the Park. The deeds of trust do not constitute a mathematical formula which applied to the variables of this case leads inevitably to one and only one solution. . . .

It was apparently just such uncertainty that, upon being pointed out to Governor Baxter, led him in 1955 to execute a formal instrument purporting to interpret the phrases "natural wild state" and "sanctuary for wild beasts and birds" in the prior deeds of trust. The 1955 legislature evidenced its concurrence by enacting that interpretative declaration into law. The 1955 interpretation . . . authorized the State of Maine, the trustee, "to clean, protect and restore areas of forest growth damaged by ACTS OF NATURE such as blowdowns. . . in order that the forest growth of the Park may be protected, encouraged and restored." At the same time, the 1955 Act set priorities as between maintenance of the area "forever wild" and its use for recreational purposes. Given the ambiguity that plainly exists in the language of the deeds, due to the inherent tension among the several Park purposes, the Superior Court correctly sought help from a document extrinsic to the trust instruments.¹¹

The court concluded that these interpretations had the same force, whether used with respect to pre-1955 or post-1955 deeds of trust.

The ultimate question, however, that the Superior Court below had faced was "whether the cleanup program embarked upon by the Authority complied with those deeds of trust as so construed."¹² After a lengthy examination of the validity of the lower court's restrictions on the cleanup program, the Supreme Judicial Court concluded that the Superior Court's findings were supported by substantial evidence and could not be said to be clearly erroneous. The opinion went on to say that "[G]iven those factual findings, we find unimpeachable the court's further conclusions that, as a matter of law, implementation of the plan would result in a breach of the trust conditions."¹³

2.3

In the Matter of Baxter State Park, Kennebec County, Superior Court Civil Action, Docket No. CV 80-515, June 12, 1981¹⁴

In the Matter of Baxter State Park came to the Superior Court on a petition of the BSPA, which was seeking instructions as to its powers, viz., the regulation of snowmobile use in the park. Superior Court Justice Daniel E. Wathen concluded that the Authority was not prohibited, as a matter of law, by the Baxter Park Trust from permitting the use

⁹ *Ibid.*, 195.

¹⁰ P & S Laws of 1955, Chap. 2. See verbatim text and annotation in Part 1: Deeds of Trust, *supra*, pp. 17-18.

¹¹ 385 A. 2d 189, 198-199 (Me. 1978).

¹² *Ibid.*, 199.

¹³ *Ibid.*, 202.

¹⁴ In LexisNexis this opinion appears as Attachment B to *Westbrook Community Federal Credit Union v. Alcide Gauthier*, Civil Docket, Docket No. CV 81-965, Superior Court of Maine, Cumberland County, 1981 Me. Super. LEXIS 129, October 30, 1981. Citations to Justice Wathen's opinion in this case, *In the Matter of Baxter State Park*, will be from his separately paginated text.

of snowmobiles in the park for recreational uses. In reaching this conclusion, he relied heavily on extrinsic evidence such as the aforementioned 1955 interpretative act and four letters from Governor Baxter, i.e., 1/2/45 to Governor Hildreth; 1/3/49 to Governor Payne; 5/11/65 to Park Supervisor Helon Taylor; and 4/18/66 to the Chairman of the Authority. In Wathen's introduction to the five pieces of extrinsic evidence, he said:

Undoubtedly in the future there will be other means of conveyance presently unknown, and future decisions will be required as to whether the use of such conveyance is consistent with the general and guiding principles adopted by Governor Baxter. All parties recognize the ambiguity that exists and point to extrinsic evidence to support their positions in favor of or against the use of snowmobiles. It is interesting to note that the parties before this Court point to virtually the same items of extrinsic evidence and the same language within that evidence as supporting their respective claims.¹⁵

The court concluded that "[B]ased upon the evidence presented in this matter and in particular, upon the evidence specified above, this Court is unable to conclude that the trust agreement prohibits the Authority from allowing snowmobile use within the park as a matter of law."¹⁶

On a related question of the Park's accessibility so as not to render it "locked up and made inaccessible,"¹⁷ the Court concluded that preservation of the wilderness took priority over access. In Justice Wathen's words:

It is equally clear that while these dual purposes exist, the preservation of the wilderness takes priority over access, or in other words, the access should never unduly detract from the wilderness experience. Motorized vehicles of any type are an exception to the wilderness concept, but the exception is created by a trust purpose, namely access.¹⁸

Finally, there is an interesting footnote at the conclusion of the opinion that differentiates between the "recreational" as opposed to "administrative or emergency use" of snowmobiles. It reads as follows:

The term recreational is used herein in contrast to the administrative or emergency use of snowmobiles. The potential use discussed by the counsel in this proceeding could best be described as access by snowmobiles on the portions of the park road system. It is probably accurate to refer to such use as recreational since the vehicles themselves are considered to be recreational. It is not within the contemplation of any of the parties that snowmobiles would be allowed to frolic at will throughout the park anymore than automobiles are permitted to do so during the summer season.¹⁹

2.4

Cartwright et al. v. Baxter State Park Authority, Kennebec County, Superior Court of Maine, Kennebec County, Civil Action Docket No. CV-82-82, 1985 Me. Super. LEXIS 78 (April 4, 1985)

Cartwright involved an unsuccessful "public user" challenge to Rule 19 of the BSPA permitting the public, recreational use of snowmobiles in BSP. In the Supreme Judicial Court's consideration of the appeal from this decision (see immediately below, *Normand et al. v. Baxter State Park Authority*), the high court accorded no special deference to this ruling of the Superior Court, "sitting as it was as only an intermediate appellate tribunal."²⁰

¹⁵ *In the Matter of Baxter State Park*, 4.

¹⁶ *Ibid.*, 8.

¹⁷ Letter of 2 January 1945 from Baxter to Governor Hildreth.

¹⁸ *In the Matter of Baxter State Park*, 9-10.

¹⁹ *Ibid.*, 11, note 3.

²⁰ *Normand et al. v. Baxter State Park Authority*, 509 A. 2d 640, 647 (Me. 1986).

Normand et al. v. Baxter State Park Authority, Supreme Judicial Court of Maine, 509 A. 2d 640; 1986 Me. LEXIS 780 (May 6, 1986)

Normand is the most recent case involving recreational use of snowmobiles in BSP. More particularly, it involved a challenge to park Rule 19 that permitted limited use of snowmobiles by members of the public for access to the park in the wintertime. Chief Justice McKusick, speaking for four-member majority, denied the appeal and affirmed the judgment of the Superior Court of Kennebec County.

Normand is of particular importance because of its exhaustive examination of the rule making process and the implicit balancing of competing interests involved in the creation of Rule 19. It is also noteworthy by virtue of the fact that there is a substantive dissent by Justice Scolnik. The two opinions warrant careful examination because of the diametric conclusions reached therein. This is the most clear-cut illustration in the case law of the judiciary's recognition of the ambiguity that arises from the Baxter deeds of trust and the extrinsic evidence.

The opinion dealt only with recreational use of snowmobiles by members of the public and not their use, as permitted by Rule 19, by authorized Park personnel. The legality of administrative or emergency use was not contested by the parties.

At the outset, the majority opinion details the creation of the park and its administration pursuant to the charitable trust. The BSPA administers the park in accordance with the terms of the trust. Citing the *Fitzgerald* case, the court held that the BSPA "must administer the trust like any private trustees of a charitable trust, exercising their best judgment, informed by the Attorney General's advice on any legal question and, where necessary, by instructions of a court of equity."²¹ Among other things, the Authority's enabling legislation permits it to "promulgate rules consistent with the Administrative Procedure Act that 'it deems necessary for the protection and safety of the public or for the proper observance of the conditions and restrictions expressed in the deeds of trust of the Park to the State.'"²²

The case arises from an exercise of the rule making process alluded to above. Rule 19, the first regulation regarding snowmobile use in the park, was promulgated in 1968. However, in 1976 the Attorney General gave the BSPA his legal opinion that the trust prohibited all use of snowmobiles in the Park, except for administrative or emergency use. The Authority amended its regulations to comply with the Attorney General's ruling and that rule remained in effect until 1981. In the meantime, the Authority decided to reconsider its 1976 rule and petitioned the Superior Court for instructions concerning the legality of recreational snowmobile use in the Park. In June 1981, the Superior Court *In the Matter of Baxter State Park* ruled that the Authority "is not prohibited as a matter of law by the Baxter Park Trust from permitting the use of snowmobiles in the park for recreational purposes."²³

Subsequently, the Authority initiated rule making that led to the adoption of the new version of Rule 19 that was contested in the *Normand* case. The court described the substance of the rule as follows:

That rule allows members of the public to travel by snowmobiles on most the Park's perimeter road on southern, western, and northern sides of the Park, and on the Telos cut-off road on the western edge of the Park, both roads being open to automobile use in the summertime. The rule also permits travel by snowmobile on Matagamon and Webster Lakes, boundary lakes that lie only partly within the Park; and along two short stretches of the East Branch of the Penobscot River, near the Park's northerly and northeasterly boundaries. Snowmobiles are expressly excluded from the Park roads into South Branch, Kidney, and Daicey Ponds, and into Roaring Brook. All of those roads are open to automobiles in the summertime. The rule confines snowmobiles to the unplowed (i.e., traveled) portions of the perimeter and Telos cut-off roads. Everywhere else in the Park, including the vast eastern and interior areas of the Park, the use of snowmobiles is prohibited.²⁴

²¹ *Ibid.*, 643.

²² *Ibid.*, 642, note 8.

²³ *Ibid.*, 643.

²⁴ *Ibid.*, 644.

The plaintiffs unsuccessfully sought judicial review of the new version of Rule 19 in the Superior Court, and appealed to the Supreme Judicial Court. According to Chief Justice McKusick, the central issue on appeal “is whether Rule 19 goes too far in allowing the use of snowmobiles in the Park. We do not consider the legal question whether *any* use of snowmobiles in the Park is barred by the Baxter State Park Trust. That question was answered in the negative, once and for all, by the judgment of the Superior Court.”²⁵

Although the Supreme Judicial Court accorded no special deference to the ruling of intermediate appellate court, i.e., the Superior Court, it nonetheless came to the same conclusion. It held that:

Rule 19 represents a rational accommodation between the dual goals of the Baxter State Park Trust. Because the rule subordinates the objective of wintertime access by snowmobiles to Governor Baxter’s predominant purpose of wilderness preservation, it is consistent with the terms and purposes of the trust. Nothing in this record causes us to second-guess the judgment of the Authority.²⁶

The court also summarily rejected the appellants’ contention that unanimity was required in promulgating such rules. The vote adopting Rule 19 had been 2 - 1 with the Director of the Bureau of Forestry dissenting and filing a separate statement.

Justice Scolnik’s dissent is noteworthy for it marks the first substantive disagreement among the state appellate court jurists as to the meaning of the Baxter Deeds of Trust and the extrinsic evidence. He maintained that “recreational snowmobiling as permitted by Rule 19 is antithetical to the trust’s paramount purpose of preserving the wilderness experience.”²⁷ He differed with the majority by arguing that:

the entire history of Rule 19 makes clear that the primary objective of snowmobile use is the enjoyment of the ride itself, rather than a means of transportation to facilitate access to the Park to use and enjoy the wilderness “in the right unspoiled manner.” Unlike the use of automobiles in the Park, recreational snowmobiling is more akin to other forms of mechanized recreation such as all-terrain-vehicles and trail bikes.²⁸

Scolnik, drawing on a wide variety of extrinsic evidence, went on to argue that:

The preservation of the wilderness experience envisioned by Governor Baxter does not depend on the actual presence of people. It is to be preserved, instead, by preventing any encroachment that threatens the wilderness state without which no wilderness experience is possible. It is inconceivable that the sound and smell from the operation of snowmobiles on Matagamon and Webster Lakes would not encroach on Governor Baxter’s goal of maintaining the Park as a place to enjoy the wilderness as “ ‘in the good old days’ before . . . the whine of the power saw was heard in the land’ ” merely because others seeking the kind of wilderness experience contemplated by Governor Baxter are not physically in a particular area. Since it is evident that the recreational snowmobiling permitted by the rule cannot be reconciled with the wilderness state, the rule should be declared invalid. The trust requires nothing less.²⁹

Finally, Justice Scolnik argued that rules of issue preclusion should not prevent a re-examination of the 1981 Superior Court decision on grounds of “potential adverse impact” on the public interest.³⁰

²⁵ *Ibid.*, 645. The Superior Court decision referred to is *In the Matter of Baxter State Park* (1981). See annotation *supra*, pp. 3-4.

²⁶ *Ibid.*, 647.

²⁷ *Ibid.*, 651.

²⁸ *Ibid.*, 652, note 3.

²⁹ *Ibid.*, 655.

³⁰ *Ibid.*

STATE of Maine et al.

v.

The FIN & FEATHER CLUB et al.

Supreme Judicial Court of Maine.

Feb. 21, 1974.

State and Baxter State Park Authority brought an action against lessees of state-owned park property seeking declaration of rights of parties under leases to property. On report from the Superior Court, Kennebec County, the Supreme Judicial Court, Delahanty, J., held that Park Authority had authority to execute new leases with lessees and that leasehold rights of lessees in park property were effectively terminated on December 31, 1970.

Judgment for plaintiffs.

1. Vendor and Purchaser ⇨228(7), 231(17)

Purchaser of a parcel of property takes subject to a lease thereof where he has actual notice of lease or constructive notice through recordation of lease.

2. Vendor and Purchaser ⇨233

Purchaser without notice of unrecorded lease of purchased property, which is within recording law, is not bound by lease.

3. Vendor and Purchaser ⇨233

Where original leases were not recorded, clause in deed from lessor-grantor providing that conveyance was made subject to existing leases so long as lessees continued occupation in accordance with leases served to provide actual notice to grantee of outstanding leases and to protect lessees from divestment of their interests, to protect lessor-grantor from any claimed breach of its warranty and to confirm lessees' continuing rights under original leases but did not expand lessees' leasehold rights or reserve or retain property rights in lessor-grantor.

4. Deeds ⇨117

Unless expressly excepted in a deed, title also passes, without description or mention, to all appurtenances and incidents belonging to title, including grantor's interest as lessor in a lease.

5. Landlord and Tenant ⇨53(2)

Grantor who obtained title to property subject to outstanding leases obtained all rights of his grantor relative to leases, including the right of termination upon proper notice, so that his subsequent gift of the property to the state transferred same termination rights relative to leases. Private & Sp.Laws 1963, c. 1.

6. Municipal Corporations ⇨57, 59

Public bodies may exercise only that power conferred upon them by law; source of that authority must be found in empowering statute, which grants not only expressly delegated powers, but also incidental powers necessary to full exercise of those invested.

7. Statutes ⇨238

An authorizing statute grants such powers as may be fairly implied from its language, including those powers necessarily arising from powers expressly granted, those reasonably inferred from powers expressly granted and those essential to give effect to powers expressly granted.

8. Municipal Corporations ⇨57

A public body may employ means appropriate for purpose of carrying out authority directly conferred upon it.

9. States ⇨84

Statutory grant of power to Baxter State Park Authority to control and manage the Baxter state park is broad and dependent on discretion of Park Authority members. 12 M.R.S.A. § 901.

10. Officers ⇨103

A general grant of power to officers, unaccompanied by definite directions as to how power is to be exercised, implies the

right to employ means and methods necessary to comply with statutory requirements.

11. States ⇨84

Where grantor transferred land in trust to state with leases outstanding even though he could have exercised termination rights, trust instrument and statute required land to be used as a park and place of recreation and deed did not preclude Park Authority from continuing lessor relationship with lessees, Park Authority which had the power to control and manage the park had authority to execute new leases which increased Authority's ability to manage land as a park, which contained restrictions not in original leases and which restricted lessees' use of land to comport with grantor's intent. 12 M.R.S.A. §§ 900, 901, 906.

12. Officers ⇨110

Courts will not review managerial acts, not clearly arbitrary, of executive officials performed within scope of their authority and will not substitute their judgment in such matters for that of officials.

13. Landlord and Tenant ⇨98

Lessees' acceptance, during term of original leases, of new leases which contained provisions more restrictive of lessees' land use than original leases, for the same property from the Baxter State Park Authority which had been given property by lessor constituted a surrender by operation of law of first leases.

14. States ⇨84

Parties who agreed to a lease of park property for seven months to continue from year to year thereafter created a lease for a fixed term to be followed by a periodic tenancy.

15. Landlord and Tenant ⇨113

A "periodic tenancy" is an estate that continues for successive periods unless terminated at end of a period by notice.

See publication Words and Phrases for other judicial constructions and definitions.

16. Landlord and Tenant ⇨113, 116(2)

A year to year lease is a "periodic tenancy" which continues for successive periods unless terminated at end of a period by notice.

17. Landlord and Tenant ⇨116(2)

A year to year tenancy may be terminated upon six months' notice with the end of current year as the date of termination, unless otherwise provided by contract.

18. States ⇨84

Phrases in seven-month leases of park property providing that leases would continue from year to year unless leases were sooner terminated under provisions of leases did not allow termination only upon breach of a condition set forth in leases and did not restrict lessor's ordinary power of termination upon notice inherent to lessor's rights under periodic tenancy.

19. Landlord and Tenant ⇨114(1), 116(1)

Phrases "to continue from year to year" in leases providing for a seven months' rental to continue from year to year established periodic tenancy with attendant common law rights of lessor and lessee, including lessor's right to terminate by notice.

20. States ⇨84

Where leases provided for rental of park property from June 1963 to January 1964 and to continue from year to year from January 1st and lessor Park Authority notified lessees on December 19, 1969 that leases were not to be renewed at close of 1970, leasehold rights of lessees were terminated on December 31, 1970.

John W. Benoit, Jr., Deputy Atty. Gen., Augusta, for plaintiff.

Doyle & Fuller by Jon R. Doyle, Augusta, for defendant.

Before DUFRESNE, C. J., and WEATHERBEE, POMEROY, WERNICK, ARCHIBALD and DELAHANTY, JJ.

DELAHANTY, Justice.

This case is on report from the Superior Court (Kennebec County) in an action seeking a declaration of the rights of parties under leases to real property owned by the State of Maine and located in Baxter State Park.¹ The defendants claim that the State lacks the authority under the relevant leases to effect a termination of their leasehold rights in such property.

The relative rights of the parties to this action may best be understood by briefly tracing the history of the leases and the creation of the lessor-lessee relationship. In 1956 and 1958, the defendants leased the subject property from the Great Northern Paper Company, the then owner of the land. The terms of those leases extended from year to year with the right of either party to cancel. The Fin & Feather Club lease required a thirty-day notice period prior to the termination date, and the Bureau-McQuarrie-Morrow lease required notice of cancellation to be given on a rent day.

On May 11, 1962, the Great Northern Paper Company conveyed by deed real estate, including realty covered by the above leases, to Percival P. Baxter. The quitclaim deed was made subject to the existing camp leases; "so long as said lessors [sic] use said leased premises for the purposes as now established, each of said lessees may continue its and his occupation under said lease in accordance with the terms thereof."

On August 6, 1962, Percival P. Baxter executed a deed granting the subject real estate to the State of Maine in trust for the benefit of the people of Maine. This conveyance was also made subject to the

outstanding leases with the same exact language as that contained in the previous deed from Great Northern Paper Company to Percival P. Baxter.

In a Resolve of the Governor of the State of Maine and Executive Council dated September 5, 1962, the gift of the land in trust was accepted; and that was ratified and confirmed by the 101st Legislature of the State of Maine by its enactment of Chapter 1 of the Private and Special Laws of 1963.

In June and December of 1963, leases were executed by Austin H. Wilkins in his capacity as Chairman of the Baxter State Park Authority to the defendants for the property they had been holding under the prior leases. Defendants signed these leases accordingly. The defendants have made and the Baxter State Park Authority has accepted rental payments under these leases for the years 1963 through 1971.

By letters dated December 19, 1969, the Chairman of the Baxter State Park Authority notified the defendants that their leases were not to be renewed at the close of 1970. The defendants refused to quit the leased premises, and while the parties were preparing to test the matter in court, the Park Authority repeated its notice of termination in letters dated December 8, 1971 and January 10, 1972.

There is dispute as to which of the two sets of leases was operative at the time of the termination notice. The defendants in this action contend that the State lacks the power to terminate the leaseholds whether the original lease from Great Northern or the later lease from the Park Authority was then in effect.

Although the original lease from Great Northern contained the right of termination by the lessor upon notice, the defendants maintain that the termination right was not included in the transfer by deed to Governor Baxter. In support of this posi-

1. Named after its prime benefactor, Percival Proctor Baxter, Governor of the State of

Maine, January 31, 1921 through January 7, 1925.

tion, defendants point out a paragraph in the Great Northern-Baxter deed of May 11, 1962, which states:

"This conveyance is made subject to three existing camp leases, viz: (A) Lease on north shore of Abol Stream at outlet of Abol Pond to the Fin and Feather Club; (B) Lease on shore of Abol Pond to Abol Pond Scout Camp Committee; and (C) Lease on Togue Stream to Ronald Budreau, et als; so long as said lessess [sic] use said leased premises for the purposes as now established, each of said lessees may continue its and his occupation under said lease in accordance with the terms thereof."

Defendants interpret this language as a reservation and qualification of the reversionary interests which Great Northern deeded to Governor Baxter, such interests thereby not including the termination powers contained in the original lease. This interpretation would grant to defendants an absolute right to occupy the premises until they ceased to use the leased land as it was used at the making of the deed or until they breached the conditions of their leases. This Court finds such an interpretation improper relative to the law and facts of this case.

[1,2] The purchaser of a parcel of property takes subject to a lease thereof where he has actual notice of the lease or constructive notice through the recordation of the lease. A purchaser without notice of an unrecorded lease, which is within the recording law, may be held not bound by such a lease. *See* 1 American Law of Property § 3.59 (A. J. Casner ed. 1952); 51C C.J.S. Landlord & Tenant § 258(2).

[3] There is no evidence in the present case that the original lease was recorded. Therefore, the "subject to" clause in the deed from Great Northern to Baxter served to provide actual notice of the outstanding leases. *Anderson v. Conner*, 43 Misc. 384, 87 N.Y.S. 449, 451 (1904).

Such notice protected the lessees from divestment of their interests in the land, and also protected Great Northern from any claim of breach of its warranty against "lawful claims and demands of all persons claiming by, through or under the Grantor herein." *McRae v. Pope*, 311 Mass. 500, 42 N.E.2d 261, 264 (1942). The "subject to" clause served to describe accurately the specific reversionary interests being transferred from Great Northern to Baxter. *Harley v. Magnolia Petroleum Co.*, 378 Ill. 19, 37 N.E.2d 760, 766 (1941); *Cockrell v. Texas Gulf Sulphur Co.*, 157 Tex. 10, 299 S.W.2d 672, 676 (1956). The inclusion of additional language in the "subject to" clause, stating that the lessees may continue their occupation in accordance with the leases, did nothing to change the effect of the clause. It merely confirmed the continuing rights of the tenants *under the original lease*. It is in this original lease that the rights of the lessees and transferee-lessor were laid out. Nothing in the deed from Great Northern Paper Company to Governor Baxter expanded the leasehold rights of the third party lessees. Nor did the qualifying phrase "subject to" connote a reservation or retention of property rights by Great Northern. *Renner v. Crisman*, 80 S.D. 532, 127 N.W.2d 717, 721 (1964).

[4,5] Unless expressly excepted, title also passes, without description or mention, to all appurtenances and incidents belonging to it. These rights include the grantor's interest as lessor in a lease. *See* 3 American Law of Property § 12.87. In the subject transfer, Governor Baxter obtained all rights of the Great Northern Paper Company relative to the leases with the defendants. These rights included that of termination upon proper notice.

Similarly, the conveyance of the property from Governor Baxter to the State of Maine transferred the same rights relative to the outstanding leases. The State had the full rights of the lessor under the original lease agreements.

Subsequent to the conveyance of the reversionary interests in the property from Governor Baxter to the State of Maine, new leases were executed between the State (by the Baxter State Park Authority) and the defendants for the subject property. The creation in 1963 of these new leases gives rise to three important issues: (1) the authority of the Baxter State Park Authority to lease lands in Baxter State Park, (2) the effect of the new leases on the prior leases between the parties, (3) the rights of the parties under the new leases.

I

The land constituting Baxter State Park is,

" . . . under the joint supervision and control of, and shall be administered by the Forest Commissioner, the Commissioner of Inland Fisheries and Game and the Attorney General, and the said commissioners and Attorney General shall have full power in the control and management of the same, under the title of Baxter State Park Authority." 12 M.R.S.A. § 901. (Emphasis added.)

[6-8] Public bodies may exercise only that power which is conferred upon them by law. The source of that authority must be found in the empowering statute, which grants not only the expressly delegated powers, but also incidental powers necessary to the full exercise of those invested. This Court has so found relative to the regulatory authority of the Public Utilities Commission. *City of Rockland v. Camden and Rockland Water Co.*, 134 Me. 95, 181 A. 818 (1935). An authorizing statute grants such powers as may be fairly implied from its language. These powers are:

1. those necessarily arising from powers expressly granted
2. those reasonably inferred from powers expressly granted
3. those essential to give effect to powers expressly granted.

The public body may employ means appropriate for the purpose of carrying out the authority directly conferred upon it. *Lynch v. Commissioner of Education*, 317 Mass. 73, 56 N.E.2d 896 (1944) (statute conferring "general management" of institution upon state department confers authority to deal with all details of control and administration of such institution). See also, 2 McQuillin Mun.Corp. (3rd Ed.) § 10.12., 67 C.J.S. Officers § 107.

[9] The grant of power to the Park Authority in § 901 for the management and control of Baxter State Park is broad and greatly dependent on the discretion of the Park Authority members. In determining the parameters of permissible action, this Court is mindful of Governor Baxter's intent

" . . . not to separate this park from the people to whom it was given; but rather seek to have it enjoyed and 'used to the fullest extent but in the right unspoiled manner.' "

This expression of intent is now incorporated into our law under 12 M.R.S.A. § 900. There may be no doubt that the land is to be kept as a " . . . public park and place of recreation" in its "natural wild state." *Id.*

The administration of Baxter State Park was specifically exempted from any supervision or connection with the State Park Commission. *Id.* The statute contemplates the terms of the donor's trust being most effectively accomplished by giving broad powers of control to three State officers, who would be exclusively responsible for seeing that the terms of the trust are strictly satisfied. 12 M.R.S.A. §§ 901, 906.

It is in this light that we consider the granting of new leases by the Park Authority to the defendants in 1963 in substitution for the prior leases granted by Great Northern Paper Company. The new leases specifically and clearly restricted the rights of the lessees in the use of the land,

so as to comport with Percival P. Baxter's intention that the land remain in its natural state. These restrictions pertained to clearing the land, kindling fires, use of firearms and habitation of the buildings. Some of these restrictions were not contained in the earlier leases. The new leases increased the ability of the lessor-Park Authority to manage and control the leased land consistent with their statutory duties and trust obligations.

Nothing in the instrument creating the trust or in the statutory provision specifically precluded the Park Authority from continuing in a lessor relationship with the defendants. 12 M.R.S.A. § 906 contains specific restrictions on powers and duties of the Park Authority but contains no admonishment relative to leases. Furthermore Governor Baxter transferred the property in trust to the State with leases to the defendants outstanding, though he could have exercised his termination rights.

It is acknowledged that the park was to be used for "public recreational purposes." Nothing in the Park Authority action was inconsistent with that goal. The new leases were executed shortly after the State's acquisition of the lands. No public purpose would have been served by the immediate expulsion of all tenants occupying the land. Such action would have maximized disruption of the tenants' plans and been of little benefit to the increased utilization of park land. Instead, the Park Authority executed new leases that assured effective land use management of the park property. This approach allowed the continuation of non-conflicting land use during the period that the Park Authority consolidated its lands and developed plans for the public usage of the area.

[10-12] The grant of authority to the members of the Baxter State Park Author-

2. It is not necessary for us to discuss the general authority of the Baxter State Park Authority to lease park lands. The power exercised in the present case concerned a

ity is broad with emphasis on the goals of management rather than the methods. A general grant of power, unaccompanied by definite directions as to how the power is to be exercised, implies the right to employ means and methods necessary to comply with statutory requirements. *Gemsco v. Walling*, 324 U.S. 244, 262, 65 S.Ct. 605, 615, 89 L.Ed. 921 (1945); *United States v. Jones*, 204 F.2d 745 (7th Cir. 1953), cert. denied 346 U.S. 854, 74 S.Ct. 67, 98 L.Ed. 368 (1953).² The action of the Park Authority, in substituting new leases more favorable to the State's supervision of land use, was a limited managerial act consistent with the broad delegation of power authorized by statute and trust instrument. The courts will not review managerial acts, not clearly arbitrary, of executive officials performed within the scope of their authority and will not substitute their judgment in such matters for that of the officials.

II

[13] Concluding that the Baxter State Park Authority was properly authorized to negotiate new leases with the defendants, we hold that the acceptance by the tenant of a new lease for the same property from the lessor during the term of the original lease constituted a surrender by operation of law of the first lease. This Court similarly expressed this rule in the case of *Brown v. Linn Woolen Co.*, 114 Me. 266, 269, 95 A. 1037, 1038 (1915):

"A surrender of a lease by act and operation of law is doubtless effected by acceptance by the tenant during the term of such lease of a new lease of the premises demised. Presumption of an intention to surrender follows such acceptance—but if the acts of the parties taken all together, are such as to rebut

very limited exercise of discretion, in a situation where there were pre-existing leases on newly acquired park lands.

the idea of a surrender, then none ought to be presumed.'"

Nothing in the agreed statement indicates a contrary intent. The parties to the present action had originally been bound by leases that were not entered into directly between themselves. The action of the parties was consistent with the presumption of surrender, in that the new leases were indentures by and between the lessor and lessees and thereby might best express the contractual expectations and obligations of both. Nor are the new leases mere modifications of the prior leases. The new leases contain provisions more restrictive of the permissible land use by the tenants than the prior leases. They are also more specific as to the status of any structures erected on the properties. Much of the language of the new leases was drawn from the original leases. This very act of repetition lends substance to the new leases as being complete expressions of the leasehold agreements independent of any prior writings.

III

It is in the new leases exclusively that we look to determine the terms of the leases and the relative rights of termination thereunder. The lease provisions are quite simple on this matter:

"To hold and enjoy the aforesaid premises and rights for the term from June 1, 1963 to January 1, 1964 and to continue from year to year from January 1st thereafter unless this lease is sooner ter-

minated under the provisions of this indenture."

The leases contain the added provision that any breach of the lease on the part of the lessees gives to the lessor an automatic right of termination without notice.³

It is argued by the defendants that these terms and termination provisions allow for annulment only upon the breach of one or more of the conditions set forth in the leases. This position reflects an inaccurate interpretation of the lease.

[14-16] The parties agreed to a lease of seven months to continue from year to year thereafter. This created a lease for a fixed term to be followed by a periodic tenancy. A periodic tenancy is an estate that continues for successive periods unless terminated at the end of a period by notice. 1 Restatement, Property (1936) § 20. A year to year lease is such a periodic tenancy in the State of Maine. *Moshier v. Reding*, 12 Me. 478 (1835).

[17] While it has been recognized that a "tenant from year to year . . . cannot be dispossessed without regular notice," *Id.* at 483, the length of time for notice of termination has not been established by statute or case law in this jurisdiction. The common law has long accepted a six months notice terminating with the end of a year. As far back as *Right v. Darby*, 1 Term R. 161, Lord Mansfield said in reference to year to year tenancies ". . . if either party should be inclined to change his mind, he should give the other half a

3. "If the lessees shall use said premises for any other purpose or in any other manner than as hereinbefore specified, or shall fail to pay the aforesaid rental when said rental becomes due, whether payment thereof be demanded or not, or shall fail to perform in good faith any of their agreements herein set forth, or to conform to all the restrictions herein stated, then and in any such case the lessor or its assigns may at its or their election enter without further notice or demand upon said premises and terminate and annul this lease so far as all further rights of

the lessee hereunder are concerned, and repossess themselves of said premises and hold the same as in their First estate, together with all the buildings, erections and additions thereon, anything herein contained to the contrary notwithstanding; and no failure on the part of the lessor or its assigns to enforce a forfeiture of this lease for any breach by said lessee of any condition or agreement herein contained shall be construed as a waiver of the right to enforce a forfeiture for subsequent of the same or any other of said conditions or agreements."

year's notice before the expiration of the next or any following year." See cases cited in note to *Stedman v. McIntosh*, 42 Am.Dec. 126 (N.C.1844). The rule originated with respect to agricultural tenancies in order to allow tenants an opportunity to reap crops that they had sown, but with no apparent reason became firmly lodged in the common law as to other tenancies as well. *Ellis v. Paige et al.*, in notis, 19 Mass. (2 Pick.) 71 (1823). The six month notice requirement is still employed by those jurisdictions looking to a common law source. 1 American Law of Property § 3.90; *Maniatty v. Carroll Co.*, 114 Vt. 168, 41 A.2d 144 (1945); *Johnson v. Selectmen of Salisbury*, 120 Vt. 6, 132 A.2d 423 (1957). In the absence of legislative prescription in this area and any policy reasons to the contrary, this Court adopts the common law requirement that a year to year tenancy may be terminated upon six months notice with the end of the current year as the date of termination, unless otherwise provided by contract.⁴

[18] The plaintiff in this instance gave the requisite six month notice to the defendants. The issue presented to this Court is whether the phrase "to continue from year to year from January 1st thereafter *unless this lease is sooner terminated under the provisions of this indenture*

..." (emphasis added) unilaterally restricted the ordinary termination rights of a lessor under a periodic tenancy. Defendants maintain that the language of the lease allows for termination only if the possible events contained in the "unless" clause actually occur, i. e. breach of a specific lease covenant.

This Court finds that the words of the "unless" clause neither were intended nor did they effect a restriction of the ordinary power of termination upon notice inherent to the landlord's rights under a periodic tenancy.⁵ On the contrary, such language provides supplementary termination rights in the event that the tenant should be in violation of the terms of the lease. In that event, the six month notice provision is waived and the lessee consents to an automatic termination without further notice. The language of the clause makes the supplementary nature of the phrase evident. The inclusion of the word "sooner" in the phrase "unless this lease is sooner terminated under the provisions of this indenture" indicates an awareness and acceptance of a termination power vested in both the lessor and lessee that may take effect if the termination power for breach of the lease were not to arise.

[19] The phrase "to continue from year to year" establishes a periodic tenancy

4. The early cases of *Gordan v. Gilman*, 48 Me. 473 (1861) and *Withers v. Larrabee*, 48 Me. 570 (1861) refer to termination of "tenancies at will" when the rent was "payable yearly." The Court found that a three month notice of termination was required for all tenancies at will pursuant to the statute then in force, R.S. of 1841, c. 95, § 19. See now 14 M.R.S.A. § 6002 (30 days notice for tenancies at will). These were not, in fact, periodic tenancies but rather mere conferrences of rights to the possession of leased premises for such indefinite period as both parties determined such possession was to continue. Rent was expressed in terms of yearly units but only for purposes of computing the payments during the uncertain term. The reason the tenancies could be no more than at will was due to the fact that the leasing agreements were oral. See now

33 M.R.S.A. § 162. These cases have no bearing on a case, such as the present one, where a periodic tenancy was created by written instrument. The difference in the treatment of year to year tenancies and tenancies at will as to notice of termination was recognized as early as 1835 in the case of *Moshier v. Reding*, supra.

5. Parties to a year to year lease may mutually covenant to restrict termination rights so as to make them dependent on the occurrence of a particular event. *E. g.* *Carlisle v. Weiscopef*, 237 Mass. 183, 129 N.E. 375 (1921) (lease to continue unless the lessee gave certain written notice of his intention to terminate). No such restriction is effected by the subject language in the present case; and this Court would require any restriction to be clear and specific to be of force.

with all the attendant common law rights of lessor and lessee including those of termination by notice. *Moshier v. Reding*, supra. The additional provision for breach of the lease provided additional and expanded powers of termination to the lessor. If no breach were to occur, as in the present case, then termination could be effected only upon proper notice.

[20] The Baxter State Park Authority exercised only those powers of termination which were granted to it by operation of law and the terms of the lease. Notice was timely and proper and served effectively to terminate any leasehold rights of the defendants in the subject property.

The responsibility of the Baxter State Park Authority and of this Court is great to protect the vision of Percival P. Baxter who realized the precious and tenuous existence of our State's wilderness. The munificent grant of Governor Baxter to "the people of the State of Maine" was a guarantee that this inheritance will not be lost to future generations of Maine people. The wild beauty of Maine's forests is part of every Maine citizen's heritage. "The forests of America, however slighted by man, must have been a great delight of God; for they were the best he ever planted."⁶ The continued enforcement of Governor Baxter's trust will insure this bounty in perpetuity.

The entry shall be:

Judgment for the plaintiffs State of Maine and Jon A. Lund, Maine Attorney General; Maynard F. Marsh, Commissioner of Inland Fisheries and Game; and Fred E. Holt, Maine Forest Commissioner, in their capacity as Baxter State Park Authority on the complaint and counterclaim. Leasehold rights of the defendants in the subject property were terminated on December 31, 1970. Costs shall be apportioned one-half to the plaintiffs and one-half to the defendants.

All Justices concurring.

Charles H. TIEDEMANN and
Frances D. Tiedemann

v.

Ernest H. JOHNSON, State Tax Assessor.

Supreme Judicial Court of Maine.

March 5, 1974.

Tax assessor's determination of deficiency on taxpayers' return was affirmed by the Superior Court, Cumberland County, and taxpayers appealed. The Supreme Judicial Court, Pomeroy, J., held that funds received, before effective date of state income tax law, for sale of residence were properly excluded from returns; that funds received after the effective date of the income tax law were taxable, even though the sale took place before the effective date; and that such interpretation did not give the income tax law retroactive effect and thus did not raise any constitutional question concerning legitimacy of such retroactivity.

Judgment for State Tax Assessor.

1. Taxation ⇐981

Taxpayers, whose receipt of money for sale of their residence in 1969 took place before July 1, effective date of state income tax law, properly excluded from their 1969 return any gain realized on the sale of the residence. Private & Sp.Laws 1969, c. 154, §§ F2, F3.

2. Taxation ⇐965

By adoption of federal adjusted gross income as the standard for the entire taxable income on a state return, the legislature intended to resolve, semantic conflicts such as those suggested by the bare words of the statute and to foreclose the necessity for determination of the source, nature or composition of the funds. 36 M.R.S.A. § 5121.

6. John Muir, "The American Forests," *Atlantic Monthly*, Vol. 80, p. 145.

Charles FITZGERALD et al.

v.

BAXTER STATE PARK AUTHORITY
et al.

Supreme Judicial Court of Maine.

April 6, 1978.

Citizens and users of Baxter State Park brought class action to restrain the Baxter State Park Authority from carrying out a program for cleaning and restoring certain areas of timber blowdown. The Superior Court, Kennebec County, enjoined the operation, and appeals and cross appeals were taken. The Supreme Judicial Court, McKusick, C. J., held that: (1) the trial court properly looked to the 1955 Interpretation Act in construing the intent of the deeds of trust whereby the donor conveyed the parkland to the state; (2) substantial evidence supported the conclusion that the plan adopted by the Park Authority for cleaning and restoring the blowdown areas exceeded what was permissible under the applicable deeds of trust, and (3) plaintiffs had each alleged sufficient direct personal injury to give them standing to challenge the Authority's proposed actions as inconsistent with the Park Authority's statutory obligations.

Appeal and cross appeal denied and judgments affirmed.

1. Charities ⇌1

Where deeds of trust and transmittal letters specifically named the state trustee of certain donated land, as well as of associated funds, and where the people of Maine were designated as the general class of beneficiaries and each deed of conveyance stated that the land was to be held in trust forever "for state forest, public park and public recreational purposes," subject to the conditions and restrictions listed in each particular deed, the retention and use of the donated property for such purposes under

the state's trusteeship was a "charitable trust."

See publication Words and Phrases for other judicial constructions and definitions.

2. Attorney General ⇌9

The state Attorney General could not properly take in litigation a position adverse to a state agency on which he sits and for which he acts as counsel. ABA Code of Professional Responsibility, Canon 5.

3. Charities ⇌50

Despite statute making it the duty of the Attorney General to enforce due application of funds given or appropriated to public charities and to prevent breaches of trust in the administration thereof, Attorney General was disabled under the particular circumstances from fulfilling his statutory duty by bringing suit to restrain state agency created to satisfy terms of charitable trust from carrying out program that was assertedly inconsistent with the applicable deeds of trust where the Attorney General was himself a member ex officio of the state agency whose proposed program was under attack and where, by virtue of his election, he was also chief attorney for the trustee. 5 M.R.S.A. § 194; 12 M.R.S.A. §§ 900, 901; M.R.S.A.Const. art. 9, § 11.

4. Injunction ⇌114(2)

Individual plaintiffs, as Maine citizens, domiciliaries, voters and property owners and as actual users of Baxter State Park, had standing to seek an injunction against the State Park Authority to prevent it from carrying out a proposed program to clean and restore timber blowdown areas on the ground that the proposed cleanup would violate the Park Authority's statutory obligation to comply with restrictions imposed by deeds of trust whereby parkland was conveyed to state as trustee. 12 M.R.S.A. § 900 et seq.

5. Charities ⇌50

Whether conceived in terms of injury in fact or particularized injury, individual plaintiffs as Maine citizens, domiciliaries, voters and property owners and as actual users of Baxter State Park each alleged sufficient direct, personal injury to give

them standing to challenge as inconsistent with relevant deeds of trust the Park Authority's plan to clean and restore certain timber blowdown areas where all individual plaintiffs had been substantial users of the Baxter State Park and intended to use it substantially in the future and where the parties had expressly stipulated that if the action complained of was without legal support and unauthorized by law or by the terms of the deeds of trust, "then the Plaintiffs had been injured in their use and enjoyment of Baxter State Park and its resources." 12 M.R.S.A. §§ 900, 901.

6. Stipulations ⇐14(10)

Where parties expressly stipulated that if proposed action of park authority was without legal support and was unauthorized by law or by terms of relevant deeds of trust, then plaintiffs had been injured in their use and enjoyment of a certain state park and of its resources, stipulation established a direct and personal injury suffered by the plaintiffs to their interest in the state park which, though not an economic interest in the sense of involving livelihood or financial liability, was nonetheless worthy of the protection of law.

7. Injunction ⇐114(2)

Any citizen of Maine who shows himself to have suffered particularized injury as a result of action of the Baxter State Park Authority has standing to obtain judicial review and to seek injunctive relief against that proposed action. 12 M.R.S.A. §§ 900 et seq., 901, 905.

8. Charities ⇐36

The 1955 act interpreting certain phrases in deeds of trust whereby parkland was conveyed to the state could appropriately be taken into account in determining whether the Baxter State Park Authority's plan for cleaning and restoring a timber blowdown area was consistent with forever using the area for "state forest, public park and public recreational purposes," leaving it "in the natural wild state" and keeping it "as a sanctuary for wild beasts and birds." Priv. & Sp.Laws 1955, c. 2.

9. Charities ⇐31

Where settlor of charitable trusts had executed a formal instrument purporting to interpret the phrases "natural wild state" and "sanctuary for wild beasts and birds" in prior deeds of trust and where the legislature had evidenced its concurrence by enacting that interpretive declaration into law, there was no reason that the settlor and the state of Maine as trustee, acting through the legislature, should not be taken at their word and, therefore, it was appropriate for Supreme Judicial Court to follow settlor's interpretation of deeds of trust unless some clear legal restraint stood in the way. Priv. & Sp. Laws 1955, c. 2.

10. Appeal and Error ⇐842(1), 1008.1(8)

Inquiry required of trial court in determining whether park authority's program for harvesting timber blowdowns embraced the best forestry and wildlife practices and was consistent with maintaining park primarily as a wilderness was more "factual" than "legal" and, therefore, factual conclusions spelled out by trial court in support of its order enjoining the particular manner and scope of the park authority's planned harvesting were to be accorded the respect implicit in the clearly erroneous rule. Rules of Civil Procedure, rule 52(a).

See publication Words and Phrases for other judicial constructions and definitions.

11. Charities ⇐50

Evidence including extensive expert testimony was sufficient to support trial court's mixed factual and legal finding that Baxter State Park Authority's proposed cleanup program would violate terms of trust deeds whereby parklands were conveyed to the state as trustee and that implementation of the plan would breach the trust conditions that the parkland be primarily maintained in its natural wild state.

12. Charities ⇐50

In view of clear evidence that donor of parkland desired to impose a fiduciary obligation on the state and on the State Park Authority and where the donor apparently believed that designating the state as trustee would assure permanence and fidelity in

discharge of the fiduciary obligation, the trial court properly measured the Park Authority's proposed blowdown clearance program against the mandates of the deeds of trust rather than against the standard by which government action is to be sustained if it is supported by substantial evidence.

13. Charities — 32

Though charitable trust created by donor of parkland was not a discretionary trust, the expert judgment of the members of the park authority should be accorded great weight in choosing methods for carrying out the donor's intent.

Murray, Plumb & Murray by E. Stephen Murray (orally), Portland, for plaintiffs.

Sarah E. Redfield (orally), John M. R. Paterson, Asst. Attys. Gen., Augusta, for defendants.

Before McKUSICK, C. J., and WERNICK, ARCHIBALD, GODFREY and NICHOLS, JJ.

McKUSICK, Chief Justice.

The plaintiffs, all being Maine citizens and users of Baxter State Park, brought this suit in the Superior Court seeking to restrain the Baxter State Park Authority from carrying out a program for cleaning and restoring certain areas of timber blowdown that occurred in late November 1974. After extensive hearings, the Superior Court entered, on August 24, 1976, its injunction as follows:

1. The complaint named as defendants not only Baxter State Park Authority but also its individual members, namely, the Director of the Bureau of Forestry, the Commissioner of Inland Fisheries and Wildlife, and the Attorney General. Subsequently, pursuant to Rule 21, M.R.Civ.P., the Attorney General of the State of Maine was added as a party defendant in his capacity as Attorney General.
2. After preparation of the voluminous record and extensive briefing by the parties, the appeals were argued on the merits before the Law Court on December 21, 1977. This court, on December 28, 1977, scheduled further briefing and oral argument on the question of the plaintiffs' standing. Oral argument before the court was heard on that question on March 2, 1978.

"Defendants are prohibited from continuing to harvest blow-down in the manner in which the present operation is being conducted, to wit: with the use of heavy equipment. Further clearance may continue, but without the use of heavy equipment, and in such a manner as will not unduly disturb the terrain and natural environment. The Baxter State Park Authority may, however, proceed to develop, and contract, plans for clearance of blow-down, which would more closely follow the terms of the trust deeds as they have been herein interpreted by the Court."

From that injunctive order the plaintiffs appealed, and the defendants¹ cross-appealed.² Finding no error of law in the Superior Court's decision, we deny both appeals and affirm the judgment below.

Among the many public-spirited benefactors with whom the State of Maine has been blessed, Percival Proctor Baxter³ stands preeminent. In its combination of size, uniqueness, permanence, and vision, his gift of Baxter State Park to the people of Maine has no equal.⁴ Over a period of 31 years, former Governor Baxter deeded to the State of Maine in trust a total of 201,018 acres of land, principally in Piscataquis County, for the establishment of Baxter State Park. His first gift in 1931 of about 6,000 acres, encompassing the higher areas of Mt. Katahdin and the slopes on all four sides, set a pattern that he was to follow in his succession of gifts completed in 1962. In each case he transmitted to the current

3. Percival Proctor Baxter (Nov. 22, 1876–June 12, 1969), a graduate of Bowdoin College (1898) and Harvard Law School (1901), was elected to the Maine House of Representatives for three terms and to the Maine Senate for two terms, and served as Maine's Governor from January 21, 1921 to January 8, 1925.

4. The court is not unmindful of other public gifts by former Governor Baxter to his state, including Mackworth Island in Falmouth and funding for the Baxter State School for the Deaf there located. 1943 P.& S.L., ch. 1; 1953 P.& S.L., ch. 44.

governor his deed of trust which was then duly submitted to the legislature for acceptance by private and special act.⁵ In Governor Baxter's transmittal letters to the successive governors,⁶ he set forth his grand design for a state park around Maine's highest mountain.⁷ In addition to the conveyances of land, Governor Baxter in 1961 and 1965 gave the State sums in excess of \$1.5 million for the care, operation, and maintenance of the Park. P.& S.L.1961, ch. 21; P.& S.L.1965, ch. 30.

By his deeds of trust Governor Baxter conveyed the lands to the State of Maine as

5. For the deeds and acceptances, see the following Private and Special Laws: 1931, ch. 23; 1933, ch. 3; 1939, ch. 1, ch. 122; 1941, ch. 1, ch. 95; 1943, ch. 1, ch. 91; 1945, ch. 1; 1947, ch. 1; 1949, ch. 1, ch. 2; 1955, ch. 1, ch. 3, ch. 61, ch. 171; 1963, ch. 1.

6. Governor Baxter's transmittal letters are printed in the Laws of Maine for the following years at the indicated pages: 1931, pp. 725-26; 1933, p. 859; 1939, pp. 846-47; 1941, pp. 760-61; 1943, pp. 698-708; 1945, pp. 982-90; 1947, pp. 1244-45; 1949, pp. 1368-70; 1955, pp. 1143-50; 1963, p. 1473.

7. In his 1955 communication to the governor and the legislature, Governor Baxter wrote in part the following:

"In 1917 I first proposed that the State make a beginning in creating a Park at Katahdin. From that date until now I have worked diligently and patiently upon this project and have seen it grow from small beginnings to its present ample proportions. In the years to come when the Forests of our State have been cut off and disappeared, when civilization has encroached upon the land we now refer to as 'Wild Land', this Park will give the people of succeeding generations a living example of what the State of Maine was 'in the good old days' before the song of the woodsman's axe and the whine of the power saw was heard in the land. I am confident that the people of Maine as time passes will appreciate this Park and that the State never will break these Trusts. I know the conscience and the Soul of Maine. The word of this State as given in Acts passed by its Legislatures and signed by its Governors is as sacred a pledge and trust as Man can make." (1955 Laws, p. 1144)

In his communication of January 3, 1963 to the then governor and the legislature, Governor Baxter announced the completion of his long-standing goal:

"Beginning with my communication of March 3, 1931 addressed to Honorable Wil-

liam T. Gardiner, Governor, the State has accepted from me by Legislative Acts gifts totaling 193,254 acres of forest land, forever to be held in TRUST for Public Park, Public Recreational and for Public Forestry purposes the same forever to be kept in its Natural Wild State.

"TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the State of Maine as Trustee to be forever held in Trust for the People of Maine upon the following conditions,

liam T. Gardiner, Governor, the State has accepted from me by Legislative Acts gifts totaling 193,254 acres of forest land, forever to be held in TRUST for Public Park, Public Recreational and for Public Forestry purposes the same forever to be kept in its Natural Wild State.

"These areas from year to year have been conveyed by me to the State and have been accepted in legal form by the several Governors and Legislatures in office during the period from 1931 to 1961.

"A recent gift of 7,764 acres, the Legislature not being in Session, has been accepted by the Governor and Executive Council acting under the provisions of the Statutes. I now request you to confirm the acceptance of this latest gift of 7,764 acres of August 6, 1962 so that all my gifts of forest land to the people of Maine will have been accepted by the duly elected Governors and Legislatures of our State over this 31-year period. The acceptance of this gift will add to this Park 7,764 acres of forest land and will complete the record of my 31 years' (1931-1962) gifts of 201,018 acres made to and accepted by the people of the State of Maine.

"In order to complete the record, I request that this communication of January 3, 1963, together with the accompanying Act and Deed, be published in the Laws of Maine 1963.

"It is interesting to note that in my formal letter to Governor Gardiner in 1931 when my first gift was about 6,000 acres, I said 'I expect some day to see my ambition realized.' (Laws of Maine 1931). This brings to an end an interesting incident in Maine history." (1963 Laws, p. 1473)

8. The other deeds of trust for lands involved in the 1974 blowdown were accepted in P.& S.L. 1939, ch. 122, and P.& S.L.1949, ch. 1. There are also restrictions in some of the deeds of trust upon the use of firearms, trapping and hunting, the landing of aircraft, and the building of roads.

"(1) that the premises HEREIN donated and conveyed to the State of Maine together with all the lands HERETOFORE donated and conveyed to said State . . . by the grantor herein, forever shall be kept for and as a *State forest and public park and for public recreational purposes* ;

"(2) that the said WITHIN donated and conveyed premises and also the said premises HERETOFORE donated and conveyed *forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds, . . .*" (Emphasis added)

Also involved in our present case is chapter 2 of the Private & Special Laws of 1955, which we will sometimes refer to as the "1955 interpretation act," in which the State of Maine formally joined in a declaration by Governor Baxter interpreting the terms "natural wild state" and "sanctuary for wild beasts and birds" as those terms were used by the parties in the deeds of trust. That act, by its terms, purported to authorize the State of Maine to clean, protect, and restore blowdown areas and to set priorities as among the "forever wild" and other objectives of the donor.

The State of Maine, as the trustee of Baxter State Park, has designated the Baxter State Park Authority as its agent "to satisfy the terms of the Trust." 12 M.R.S.A. § 900 (1964). The Authority is given "full power in the control and management" of the Park, including the authority to receive and expend for the maintenance, operation, and expansion of the Park moneys from the trust fund established for those purposes by Governor Baxter. 12 M.R.S.A. § 901 (1964). The Authority, established early in Governor Baxter's program of gifts to the State, 1933 Laws, ch. 281, is now comprised of the Attorney General, the Director of the Bureau of Forestry, and the Commissioner of Inland Fisheries and Wildlife. See *State v. Fin & Feather Club*, Me., 316 A.2d 351 (1974). The

Authority exercises police supervision over the Park, 12 M.R.S.A. § 905 (1964), and employs a Director for the Park and other personnel appropriate to carry out its statutory responsibilities, 12 M.R.S.A. § 904 (1964).

In late November 1974 an aggregate of some 3,300 acres in the southwest portion of the Park suffered a severe blowdown apparently caused by a combination of natural conditions, including extreme saturation of the grounds, very heavy, wet snows, and extraordinarily high winds. After receiving the report of a professional aerial survey of the affected areas and after discussion among the Authority members and with members of the Baxter Park Advisory Committee, including Governor Baxter's nearest living relative, the Authority hired a consulting forester, Vladek Kolman,⁹ to evaluate the blowdown damage and prepare a cleanup program for the affected areas. Mr. Kolman's report followed his observation, on foot and from the air, of the areas affected by the blowdown, and for reasons that he stated in the report and expanded upon in testimony before the court below, he recommended the removal of the blowdown from all but some 300 acres. His reasons for this cleanup program included the necessity of restoring the forest soil in the blowdown areas to its original horizontal position in order to enhance the regeneration of the blowdown stands, avoidance of insect infestation, reduction of fire danger, and protection of water quality and fish life. After published notice, the Authority held a public hearing at Kidney Pond Camps in Baxter State Park on September 9, 1975, following which the Authority voted unanimously to proceed with the cleanup operations recommended by Mr. Kolman. The Authority then proceeded to solicit bids for the removal of dead and dying trees in areas designated by the Kolman report. The Authority encountered considerable difficulty in obtaining bids, apparently principally because of the extensive limitations

9. Mr. Kolman, through his company, Kolman Land Consultants, Inc., obtained the contract on its successful bid.

that the proposed contract would impose upon contractors' operations in order to protect the environment. Finally, a bid of Stanley Sproul Company was accepted by the Authority for a single blowdown area consisting of about 510 acres, and pursuant to the contract Sproul began work in the Park in early January 1976. The Sproul operations, however, were apparently quickly suspended with the commencement of hearings in this proceeding.

The complaint in this action, filed on November 20, 1976, sought, *inter alia*, an injunction restraining the Baxter State Park Authority from proceeding with the cleanup. The Superior Court held a hearing on the plaintiffs' request for a preliminary injunction on January 15, 1976, and a hearing jointly on their request for preliminary and permanent relief on February 26 and 27, 1976. Without entering any preliminary injunction, the Superior Court, on August 24, 1976, issued its final decision, recognizing the authority of the Baxter State Park Authority to clean, protect, and restore the Park from the blowdown, but enjoining it from carrying out the cleanup in the manner proposed, particularly from using heavy equipment. Although the Authority chose not to go ahead with cleaning the blowdown areas in the restricted manner permitted by the Superior Court's order, plaintiffs took a timely appeal, and the defendants cross-appealed.

On this appeal by the plaintiffs and the cross-appeal by the defendants, we must on the merits address two principal questions: (1) Did the Superior Court err in holding that the 1955 interpretation act may be looked to in construing the intent of the prior deeds of trust given by Governor Baxter and accepted by the State of Maine; and (2) Did the Superior Court err in concluding that the plan adopted by the Baxter State Park Authority for cleaning and restoring the blowdown areas exceeded what was permissible under the applicable deeds of trust as so construed? We find no error on either score, and accordingly we deny both the appeal and the cross-appeal and affirm the judgment below.

I. *Standing*

A threshold question demands our attention: In all the circumstances present here, do the five individuals who are the plaintiffs have standing to maintain this action? To answer that inquiry, we must first identify the nature of the legal relationship which Governor Baxter's gifts created among the State, the people of Maine, and the Park.

[1] No one reading the deeds of trust and Governor Baxter's transmittal letters is left with the slightest doubt of his intention to create a charitable trust with respect to the land he conveyed to the State of Maine. The State is specifically named trustee of the land, as well as the associated funds, and, by declaration in the deeds of trust, formally accepted by the legislature, the people of Maine are designated as the general class of beneficiaries. Each deed of conveyance states that the land is to be held in trust forever "for state forest, public park and public recreational purposes," subject to the conditions and restrictions listed in each particular deed. There can be no doubt that retention and use, under the State's trusteeship, of the donated property for such purposes is a charitable trust. This legal requirement meets our definition of a charitable trust, *see, e. g., Bills v. Pease*, 116 Me. 98, 100 A. 146 (1917), and fully satisfies the definition of a charitable trust given in the *Restatement (Second) of Trusts* § 348 (1959): "[A] fiduciary relationship with respect to property arising as a result of a manifestation of an intention to create it, and subjecting the person by whom the property is held to equitable duties to deal with the property for a charitable purpose."

It is long-established law, coming down from at least as early as Elizabethan England, that "the community has an interest in the enforcement of [charitable] trusts and the Attorney General represents the community in seeing that the trusts are properly performed." 4 A. Scott, *The Law of Trusts* § 391 at 3002 (3d ed. 1967). Maine, as have our mother commonwealth and several other states, *id.* at 3003 n. 7, has

declared this duty of the Attorney General by a statute first adopted by P.L.1905, ch. 162, § 5:

"The Attorney General shall enforce due application of funds given or appropriated to public charities within the State and prevent breaches of trust in the administration thereof." 5 M.R.S.A. § 194 (1964).

In other jurisdictions it is an oft-repeated precept that *only* the Attorney General has the authority to enforce such charitable trusts. 4 A. Scott, *The Law of Trusts* § 391 at 3006 (3d ed. 1967). Although no pertinent Maine authority has been found, the implication of section 194 combined with the desirability of protecting charities from a harassing multiplicity of suits might appropriately lead us, without deciding the general issue, to use that precept as a starting point for discussing the plaintiffs' standing here.

[2, 3] In the particular circumstances of this case, however, the Attorney General is disabled from fulfilling his statutory duty and bringing suit against the State of Maine. The Attorney General is himself a member *ex officio* of the Baxter State Park Authority, the agency created by the State "to satisfy the terms of the Trust." 12 M.R.S.A. §§ 900-01 (1964). In addition, he is, by virtue of his election pursuant to art. IX, section 11 of the Maine constitution, the chief attorney for the trustee. His own acts have been drawn in question by the plaintiffs as being inconsistent with the terms of Governor Baxter's trust, and as one member of the Authority he is accordingly named as a defendant in this action.¹⁰ The Attorney General could not properly take in litigation a position adverse to a state agency on which he sits and for which he acts as counsel. Cf. ABA, *Code of Professional Responsibility*, Canon 5 (1976). By force of necessity the enforcer of the Baxter trust, through judicial action, must be someone other than the Attorney General.

10. The plaintiffs, without objection, have also joined him in his capacity as Attorney General,

In determining whether these five individual plaintiffs can sue, we must note that the Baxter State Park is more than just a charitable trust. The legislature, in 12 M.R.S.A. § 900 *et seq.* (1964), has created the Baxter State Park with enumerated statutory restrictions on use, duplicating those which Governor Baxter imposed in his deeds of trust. Moreover, the Baxter State Park Authority is created by statute to manage and regulate use of the Park in accordance with the grand design of Governor Baxter's gift to the people of Maine. Section 900 of Title 12 declares that "[s]olemnly cognizant of the responsibility, it shall always be the purpose of the [A]uthority to satisfy the terms of the Trust." By force of statute, therefore, any action by the Baxter State Park Authority in operating and regulating the use of the Park is not only the action of the *trustee of a charitable trust*, of which the Park Authority is the agent, but also *governmental action* in carrying out the mission and mandate imposed by statute. In one sense, therefore, the Baxter State Park, as a creature of statute, bears all the same features as it would have if the lands had been acquired from the general revenues of the State and the legislature had imposed by statute restrictions on use identical to the legal requirements imposed by the Baxter deeds of trust.

Representative of each plaintiff's allegations regarding standing in this case are those of plaintiff Ronald Davis:

"The Plaintiff Ronald Davis is a citizen, domiciliary, voter and property owner of the State of Maine. Since approximately 1955 Mr. Davis has hiked, camped and otherwise made use of the Baxter State Park including, in his capacity as teacher and researcher, leading ecology field trips of students to the park and in his capacity as a researcher visiting the park and compiling a history of the vegetation in the park. Mr. Davis visits the park at least four times each year and plans to continue to do so."

presumably because of his section 194 function to enforce charitable trusts.

[4] We are thus presented with the question whether these five individual plaintiffs, as Maine citizens, domiciliaries, voters and property owners, and actual users of Baxter State Park, have standing to obtain injunctive relief against a state agency's carrying out its proposed program to clean the 1974 blowdown areas. Regardless whether, as beneficiaries with a special interest in a charitable trust, these plaintiffs may enforce the same,¹¹ we hold that they do have standing to seek an injunction against the Baxter State Park Authority on the basis that the proposed cleanup would be violative of the obligation imposed by statute upon the Authority "to satisfy the terms of the Trust."

[5] These five plaintiffs have each alleged sufficient direct and personal injury to give them standing to question the Authority's proposed activity, whether conceived in terms of "injury in fact," *cf. Sierra Club v. Morton*, 405 U.S. 727, 734, 92 S.Ct. 1361, 31 L.Ed.2d 636 (1972), or "particularized injury," *cf. In the Matter of Elizabeth Lappie*, Me., 377 A.2d 441, 443 (1977). In the *Sierra Club* case, the organizational plaintiff sued for a declaratory judgment and an injunction against a proposed ski development in a national forest. The *Sierra Club* asserted that the development "would destroy or otherwise adversely affect the scenery, natural and historic objects and wildlife of the park and would impair the enjoyment of the park for future

generations"—assertions not unlike those made by the plaintiffs in the case at bar. The United States Supreme Court stated the following with direct pertinence here:

"Aesthetic and environmental well-being, like economic well-being, are important ingredients of the quality of life in our society, and the fact that particular environmental interests are shared by the many rather than the few does not make them less deserving of legal protection through the judicial process. But the 'injury in fact' test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured.

"The impact of the proposed changes in the environment of Mineral King will not fall indiscriminately upon every citizen. The alleged injury will be felt directly only by those who use Mineral King and Sequoia National Park, and for whom the aesthetic and recreational values of the area will be lessened by the highway and ski resort." (Emphasis added) *Sierra Club v. Morton*, *supra* at 734-35, 92 S.Ct. at 1366.¹²

In that case the Court found that the *Sierra Club* did not have standing because it had "failed to allege that it or its members would be affected in any of their activities or pastimes" by the proposed development, and further, that:

"Nowhere in the pleadings or affidavits did the Club state that its members use

11. We note, without deciding, the argument made by all parties before us that these five plaintiffs come within the rule of law that permits specially interested beneficiaries to bring suit to enforce a charitable trust intended for their benefit. See, e. g., 4 A. Scott, *The Law of Trusts* § 391 at 3007 (3d ed. 1967). *Jones v. Grant*, 344 So.2d 1210 (Ala.1977); *Holt v. College of Osteopathic Physicians and Surgeons*, 61 Cal.2d 750, 40 Cal.Rptr. 244, 394 P.2d 932 (1964); *Mary S. Fithian Night School v. College Board of Presbyterian Church*, 88 N.J.Eq. 468, 102 A. 855 (1918). We express no opinion whether these plaintiffs would have any standing if the Attorney General were not disabled from carrying out his statutory duty to enforce the charitable trust and if Baxter State Park were merely a charitable trust, and not also a public park required to be operated in accordance with the statute.

12. Commenting upon the trend of cases under statutes authorizing judicial review of federal agency action, the Supreme Court noted the movement "toward recognizing that injuries other than economic harm are sufficient to bring a person within the meaning of the statutory language, and toward discarding the notion that an injury that is widely shared is *ipso facto* not an injury sufficient to provide the basis for judicial review." *Sierra Club v. Morton*, *supra* at 738, 92 S.Ct. at 1368. The Court further noted that the requirement of "injury in fact" or actual aggrievement serves as "at least a rough attempt to put the decision as to whether review will be sought in the hands of those who have a direct stake in the outcome." *Id.* at 740, 92 S.Ct. at 1369.

Mineral King for any purpose, much less that they use it in any way that would be significantly affected by the proposed actions of the respondents." *Id.* at 735, 92 S.Ct. at 1366.

The Supreme Court clearly required such "allegations of individualized injury" (405 U.S. at 736, 92 S.Ct. 1361), and the implication is clear that if the plaintiffs in that case had alleged and proven such "injury in fact," they would have established standing.¹³

[6] The pleading and proof in the case at bar fully provided what was prominently omitted in the *Sierra Club* pleadings. All five of the individual plaintiffs have in the past been substantial users of Baxter State Park and intend to use it substantially in the future. By express stipulation of the parties,

"[i]f the action complained of by the Plaintiffs and taken by the Baxter State Park Authority is without legal support and found to be unauthorized by law or terms of the deeds of trust, then the Plaintiffs have been injured in their use and enjoyment of Baxter State Park and its resources."

Thus, the stipulation establishes a direct and personal injury suffered by the plaintiffs to their interest in Baxter State Park which, although not an economic interest in the sense of involving their livelihood or financial liability, is nonetheless worthy of the protection of the law. *Sierra Club v. Morton*, *supra*.

[7] We need not decide, as is urged upon us by both the Attorney General and the plaintiffs, that any person in the State of Maine, by virtue of his status as a beneficiary of Governor Baxter's charitable trust, may sue to enforce the trust. That subgroup of Maine people who are actual users of the Park, itself substantial in number, is sufficiently large to assure that the public's

interest in administration of the Park in compliance with Governor Baxter's wishes will be adequately represented. Any citizen of Maine who shows himself to have suffered "particularized injury" as a result of action of the Baxter State Park Authority has standing to obtain judicial review and to seek injunctive relief against that proposed action. *Cf. In the Matter of Elizabeth Lappie, supra; In the Matter of International Paper Co., Me.*, 363 A.2d 235, 238-39 (1976); 2 Field, McKusick & Wroth, *Maine Civil Practice* § 72.2a (1977 Supp.).

II. Admissibility of 1955 Interpretation Act

[8] The 1974 blowdown affected portions of Baxter State Park that Governor Baxter conveyed by deeds of trust accepted by the legislature in 1939, 1945, and 1949. P.& S.L.1939, ch. 122; P.& S.L.1945, ch. 1; P.& S.L.1949, ch. 1. Those deeds, a typical one of which we have previously quoted, put restrictions on use of the land thus conveyed in trust. The overall question posed in the complaint seeking an injunction against the Authority's carrying out its plan for cleaning and restoring the 1974 blowdown area is whether the proposed operation is consistent with forever (i) using the area for "state forest, public park and public recreational purposes," (ii) leaving it "in the natural wild state," and (iii) keeping it "as a sanctuary for wild beasts and birds." The Superior Court, faced with determining whether the proposed project was compatible with the terms of the trust impressed upon the land at issue, held that the trust instruments themselves contained ambiguity, and hence it could resort for clarification to a 1955 "Act . . . Interpreting the Phrases 'Natural Wild State' and 'Sanctuary for Wild Beasts and Birds' in Deeds from said Baxter to said State of Maine."¹⁴ We agree that the 1955 inter-

apparently went on to do. See *Sierra Club v. Morton*, 348 F.Supp. 219, 220 (N.D.Cal.1972).

13. In fact, the Court specifically noted in the *Sierra Club* opinion that its decision "does not, of course, bar the *Sierra Club* from seeking in the District Court to amend its complaint by a motion under Rule 15, Federal Rules of Civil Procedure." *Sierra Club v. Morton, supra* at 736 n. 8, 92 S.Ct. at 1366. This the *Sierra Club*

14. P.& S.L.1955, ch. 2, herein referred to as the 1955 interpretation act, in relevant part was entitled "An Act . . . Interpreting the phrases 'Natural Wild State' and 'Sanctuary for

pretation act may appropriately be taken into account in determining the legality of removing the 1974 blowdown under the proposed plan.

If the deeds of trust alone are looked to in seeking Governor Baxter's intent, we are hard put to say that there is one obvious and exclusive meaning for the combination of phrases he used. None of the three deeds contains any language purporting to set a priority among the purposes of the Park. The deeds of trust do not constitute a mathematical formula which applied to the variables of this case leads inevitably to one and only one solution. With only the language of the deeds of trust as our guide, we could not determine with any confidence, for example, whether the blowdown removal (i) would be authorized because desirable for "public recreational purposes," in reducing fire hazard and restoring the accessibility of the affected areas to people using the Park for public recreation, or (ii)

would be in breach of the trust because contrary to the deeds' requirement that the Park be kept forever in its "natural wild state." We cannot with any confidence, from the deeds alone, set priorities among the several noble purposes to which Governor Baxter dedicated the Park.

[9] It was apparently just such uncertainty that, upon being pointed out to Governor Baxter, led him in 1955 to execute a formal instrument purporting to interpret the phrases "natural wild state" and "sanctuary for wild beasts and birds" in the prior deeds of trust. The 1955 legislature evidenced its concurrence by enacting that interpretive declaration into law.¹⁵ That 1955 interpretation act in terms authorized the State of Maine, the trustee, "to clean, protect and restore areas of forest growth damaged by ACTS OF NATURE such as blowdowns . . . in order that the forest growth of the Park may be protected,

Wild Beasts and Birds' in Deeds from said Baxter to said State of Maine" and read as follows:

"WHEREAS it is in the public interest to have a correct interpretation of the phrase 'natural wild state' and of the phrase 'sanctuary for wild beasts and birds' in the above mentioned Deed of January 12, 1954 as well as wherever they appear in all the former Deeds and conveyances made to the State by Percival Proctor Baxter relating to Baxter State Park:

"NOW THEREFORE it is mutually understood by the Grantor and Grantee in said Park Deeds that the following paragraphs express the intent of the Parties as to the interpretation of said phrases, and the same are accepted as applying to all the said Deeds and Conveyances.

"NATURAL WILD STATE

"The State of Maine is authorized to clean, protect and restore areas of forest growth damaged by ACTS OF NATURE such as blowdowns, fire, floods, slides, infestation of insects and disease or other damage caused by ACTS OF NATURE in order that the forest growth of the Park may be protected, encouraged and restored.

"The State is authorized to build trails and access roads to camp sites, to use timber from this area for fire control and firewood and to construct shelters and lean-tos for mountain climbers and other lovers of nature in its wild state.

"This area is to be maintained primarily as a Wilderness and recreational purposes are to be regarded as of secondary importance

and shall not encroach upon the main objective of this area which is to be 'Forever Wild.'

"The existing leases of the land and buildings at Kidney Pond, Daisey Pond and on the shores of the Matagamon Lakes may be continued by and in the discretion of the Baxter State Park Authority.

"SANCTUARY FOR WILD BEASTS AND BIRDS

"The State is authorized to maintain the proper balance of nature among the different species of wild life; to control predators that may become a menace to other species; to control disease and epidemics of the wild life of the Park. Such control shall be exercised by the Baxter State Park Authority. The destruction of any specie of wild life shall be carried on exclusively by the Personnel of said Authority and of the Forest and Fish and Game Departments.

"All work carried on by the State in connection with the above shall be in accordance with the best forestry and wild life practices and shall be undertaken having in mind that the sole purpose of the donor in creating this Park is to protect the forests and wild life therein as a great wilderness area unspoiled by Man. Nothing shall be done for the purpose of obtaining income but should there be incidental income it is to be used solely for the care, operation and protection of this Wilderness area."

15. See n. 14 above.

encouraged and restored." At the same time, the 1955 Act set priorities as between maintenance of the area "forever wild" and its use for recreational purposes. Given the ambiguity that plainly exists in the language of the trust deeds, due to the inherent tension among the several Park purposes, the Superior Court correctly sought help from a document extrinsic to the trust instruments. See *Canal National Bank v. Noyes*, Me., 348 A.2d 232, 234-35 (1975).

The legislation itself was entitled an act of "interpretation" and recited the following purpose for the enactment:

"WHEREAS it is in the public interest to have a *correct interpretation* of the phrase 'natural wild state' and of the phrase 'sanctuary for wild beasts and birds' in the above mentioned Deed of January 12, 1954 as well as wherever they appear in all the former Deeds and conveyances made to the State by Percival Proctor Baxter relating to Baxter State Park." (Emphasis added) (P.& S.L.1955, ch. 2)

There is no reason that Governor Baxter and the trustee, the State of Maine, acting through the legislature, should not be taken at their word; they were *interpreting* the prior deeds of trust to which they alone were parties and were *not modifying* them. There are other reasons for not rejecting Governor Baxter's declaration that *his* deeds of trust required clarification. We should follow Governor Baxter's interpretation unless some clear legal restraint stands in the way. We see none. Moreover, that same year, 1955, and subsequently through 1962, Governor Baxter continued his 31-year program of gifts of land by adding 34,342 acres to the Park, subject to almost the identical conditions specified in the deeds of trust executed by him starting in 1931. As to those later deeds, the 1955 interpretation act is clearly a declaration of the settlor's intent, meant to be read together with the subsequent deeds. In 1961 and 1965 Governor Baxter also donated to the State of Maine corporate shares then worth over \$1.5 million for the purpose of sharing "with the State in part the cost of caring for, protecting and operating said

area of land *in accordance with the conditions* in the several acts of the Legislature accepting said gifts." (Emphasis added) Laws of 1965 at 1181. It would be anomalous indeed if the identically worded restrictions from 1955 on are interpreted to permit the State of Maine "to clean, protect and restore areas of forest growth damaged by ACTS OF NATURE such as blow-downs," but the earlier ones are not. Thus, we construe the same restrictions to mean the same thing, whether used in pre-1955 or post-1955 deeds of trust. In view of the ambiguity arising from the inconsistent phrases in the deeds of trust, we must seek help outside the deeds, and no better help can be found than Governor Baxter's own formal interpretation at a time while he was still actively implementing his vision for Baxter State Park.

III. *Validity of the Superior Court's Restrictions on Cleanup Program*

Having concluded that the 1955 act could properly be consulted to aid in construing the Baxter deeds of trust, the Superior Court turned to the ultimate question presented, *i. e.*, whether the cleanup program embarked upon by the Authority complied with those deeds of trust as so construed. When the court held that program up against the interpretation of the trust deeds provided by the 1955 act, it found that the program as proposed to be carried out by the contractor for the Authority would "violate the terms of the trust" "most significantly" in three respects:

- "(1) the size and nature of the equipment being used to harvest the fallen trees;
- "(2) the fact that the present operation involves clearing of areas least likely to be visited by campers and hikers;
- "(3) the fact that only the trunks of the fallen trees are being removed and that highly flammable slash material will be left to decompose."

The court elaborated upon these general conclusions regarding the impermissible

manner and scope of the proposed action in specific supporting findings.¹⁶

[10] In reviewing the correctness of the Superior Court's conclusions, we note at the outset that the justice below was faced with a question partaking of both law and fact. In the first instance, the court had to interpret the 1955 interpretation act and determine its effect upon the restrictions in the deeds of trust. That instrument, though it broadly declares the authority of the State of Maine "to clean, protect and restore" blowdown areas in Baxter State Park, at the same time declares that "*the main objective of this area . . . is to be 'Forever Wild.'*" (Emphasis added) It further directs that the restoration work shall be carried on "in accordance with the best forestry and wild life practices" and that "[n]othing shall be done for the purpose of obtaining income" Thus,

16. "The evidence presented at both hearings established that the present operation utilized an extremely large commercial skidder to pull out the downed trees. Use of such a skidder would necessitate widening of roads in the park Off road use of the skidder would result in crushing of vegetation and a disturbance in the natural growth patterns. There was also some evidence that the skidder was actually moved through the blow-down area rather than positioned at the outskirts Although the contract provided restrictions, not common in commercial contracts, which prohibited use of the skidder near streams, provided for reseedling of areas tracked by the skidder, and provided for reconstruction of the roads, the Court finds that these restrictions are insufficient to counter the extensive environmental impact of the use of such equipment.

"The present operation involving the contract with Mr. Sproul provided for clearance of an area rarely visited by campers and hikers. Witnesses for both Plaintiffs and Defendants generally conceded that man presented the greatest forest fire hazard in the park. Since the prime reason for clearing the blow-down was to prevent forest fires, the benefit of clearing blow-down in such an area appears to be minimal when compared to the impact upon the wilderness.

"Finally, because only tree trunks are to be removed pursuant to the present contract and branches, leaves, and small growth are to be left, the argument that the danger of forest fire would be reduced by the harvesting is severely undercut. The testimony, however, was contradictory upon this issue. Plaintiffs' witnesses argued that the slow decomposition of tree

even as the deeds of trust involve ambiguity-creating tensions among the conditions placed by them upon the use of Baxter State Park, the 1955 act—while resolving the ambiguities of the deeds to the extent of establishing that *some* cleaning of blow-down areas is permitted—generates its own ambiguities, only slightly more focused than those of the deeds. To the extent that it is possible to harmonize those competing purposes by construing the facial language of the 1955 act, the question is one of law, *cf. e. g., Lewiston Firefighters Ass'n, Local 785 v. City of Lewiston, Me., 354 A.2d 154, 163 (1976)*, as to which this court finds no quarrel with the Superior Court's interpretation. To the extent, however, that the 1955 act contains ambiguity such that its meaning takes shape only in relation to the actual facts of each case, the question before the Superior Court was one of fact as

trunks which were not removed would increase the long-term danger of fire. On the whole, however, it did not appear from the testimony that the danger of fire was appreciably different were the trees to be cleared or left.

"It is the opinion of this Court that Plaintiffs were able to show that the type of operation presently being carried on was of minimal protective value when compared to the environmental impact and the effect upon the nature of wilderness envisioned by Governor Baxter.

"The actions taken by the Authority may have been the most 'practical in terms of getting the blow-down cleared in the most economical manner.' This is not to say, however, that the Authority was motivated by economic gain or that they took no steps to protect the environment from the adverse impact of the clearing operation. This Court states only that the Authority did not sufficiently consider the wilderness emphasis apparent in both the trust deeds and the subsequent interpretation of P.& S.L.1955, c. 2.

"The question now is what steps may the Authority take to accomplish Governor Baxter's goals under the terms of his interpretation of 'Natural Wild State.' This Court finds merit in Plaintiffs' suggestion that logging be permitted in those areas immediately adjacent to the roads and campgrounds where due to man's presence the danger of forest fire is greatest. Logging in those areas which already show evidence of man's presence would far less greatly disturb the natural wild state and would, in the Court's opinion, more closely coincide with the type of operation envisioned by Governor Baxter."

well as law. We are aware of the battle that has raged, and indeed still rages at times, over whether determinations of mixed questions of law and fact are subject to appellate review by a "clearly erroneous" standard. See 9 Wright & Miller, *Federal Practice and Procedure* §§ 2589-91 (1971). We need not choose sides in that ongoing battle, to be bound for all times and all cases. Suffice it here to say that in determining whether the Authority's program for harvesting the blowdown embraced the best forestry and wildlife practices and was consistent with maintaining the Park "primarily as a Wilderness," the inquiry required of the court was more "factual" than "legal." Cf. *Martin v. Vector Co., Inc.*, 498 F.2d 16, 22 (1st Cir. 1974). The factual conclusions spelled out by the court for enjoining the particular manner and scope of the Authority's planned harvesting were free of any obvious disregard of applicable principles of law or gross overemphasis of any one relevant principle of the 1955 act to the exclusion of others. Cf. *Famous Knitwear Corp. v. Drug Fair, Inc.*, 493 F.2d 251, 252-53 (4th Cir. 1974). Under these circumstances we should accord the Superior Court's findings the respect implicit in the "clearly erroneous" rule. Rule 52(a), M.R. Civ.P.; see 1 Field, McKusick & Wroth, *Maine Civil Practice* § 52.7 (2d ed. 1970).

[11] Ten witnesses, all trained in or expert in some field relating to forest management and ecology, testified at the hearings before the Superior Court justice. The plaintiffs' witnesses gave opinions regarding the Kolman plan and its execution by the Sproul company which were, with respect to the issue of the "best" forestry practice, in disagreement with the opinions of the defendants' witnesses. Dr. Miron Heinselman, a forestry ecologist and forester, and Dr. William Reiners, a plant ecologist, for example, testified on behalf of the plaintiffs that the heavy commercial skidder being used by Sproul would leave prominent trails, in which grasses, bushes, and deciduous trees would grow in obvious and unnatural contrast to the coniferous forest surrounding the trails. Regarding the forest fire hazard which was a primary justifi-

cation for the Authority's planned blowdown removal, Drs. Heinselman and Reiners testified that the slash left behind from the salvage operation would cause at least as great a forest fire danger as the blowdown itself. Furthermore, although the Kolman plan provided for removing blowdown in some 3,000 acres of affected land, divided into five contracting areas, less than an estimated 200 acres of that land lay in immediate proximity to the Park campgrounds and roads where, due to the presence of Park visitors, the forest fire danger due to the blowdowns was the highest. The slash created by the harvesting operation would also, unless chipped, inhibit the natural regeneration and restoration of forest growth to at least the same extent as the most heavily blowdown areas, or "jack-straw piles." Melvin Ames, a tree farmer and forest manager, flatly concluded that the terms of the Sproul contract for removing blowdowns and its manner of execution were not in accordance with the "best forestry and wildlife practices."

The Authority's witnesses included Maynard Marsh, the Commissioner of Inland Fisheries and Wildlife and a member of the Authority, Vladek Kolman, the consulting forester who drafted the Kolman plan for harvesting the blowdowns and "restoring" forest growth, and Professors Arthur Randall and Ralph Griffin of the University of Maine who taught in the fields of forest fire control and forest protection, and forest ecology, respectively. All testified that the blowdown, particularly in the campground and road areas, posed an acute forest fire hazard. Regarding the manner of removing the fallen trees, Kolman himself testified that he had first contemplated using horses instead of skidders, but that it had not been possible to secure the number of horses necessary to carry out the project. Commissioner Marsh believed that the scope and method of the plan was both consistent with the best forestry and wildlife management practices, and with keeping the land in its natural wild state. In his opinion, the larger species of game, such as bear and moose, would in fact benefit from

clearance of the blowdown in terms of increased habitat. The testimony of the professors was largely directed toward the question of the forest fire danger and the difficulty of controlling any fire in the areas of heavy blowdown.

In reaching its factual findings,¹⁷ the Superior Court had before it not only the witnesses' extensive expert testimony, but also some forty exhibits, among which were Sproul's contract with the Authority and a large number of photographs of the five areas covered by the Kolman plan. From that evidence, all of which is now before this court on appeal, it is clear that the Superior Court's findings are supported by substantial evidence and cannot be said to be clearly erroneous. Given those factual findings, we find unimpeachable the court's further conclusions that, as a matter of law, implementation of the plan would result in a breach of the trust conditions. The deeds of trust, as illuminated by the 1955 interpretation act, require that the Park land be primarily maintained in its "natural wild state," except to the limited extent, consistent with the best forestry and wildlife practices, that human intervention to counteract an act of nature, such as a blowdown, is essential to protect one of the Park's other purposes.

[12] Finally, we find no error in the Superior Court's measuring the Authority's action against the mandates of the deeds of trust, as opposed to that standard by which governmental action is ordinarily sustained if supported by substantial evidence. *Cf. Central Maine Power Co. v. Public Utilities Commission*, Me., 382 A.2d 302, 317 (1978); *Frank v. Assessors of Skowhegan*, Me., 329

A.2d 167, 170 (1974). The documentation of the Baxter gift program over its 31 years is filled with evidence of the donor's desire to impose a fiduciary obligation upon the State and its agent, the Authority, and of his expectation that designating the State itself as trustee would assure permanence and fidelity in discharge of the fiduciary obligation formally assumed by a succession of legislatures and governors. The Authority, in the action being reviewed by the Superior Court, was performing a trustee function as well as a governmental function, and it must be held accountable to that more stringent standard.

[13] Moreover, the trust created by Governor Baxter was not a "discretionary trust," in the sense that the State of Maine, or any of the three State department heads who comprise its agent, are to do what they deem best in carrying out the donor's general purposes.¹⁸ Rather, the members of the Authority acting for the State of Maine must administer the trust like any private trustees of a charitable trust, exercising their best judgment, informed by the Attorney General's advice on any legal question and, where necessary, by instructions from a court of equity. See 14 M.R.S.A. § 6051(10) (1964). At the same time, even though the Baxter trust is not a discretionary one, the expert judgment of the members of the Park Authority, created as it was in 1933, at the very outset of Governor Baxter's gift program, should generally be accorded great weight in choice of methods for carrying out the donor's intent. The membership in the Authority, obviously selected by Governor Baxter himself and ratified by him by his subsequent gifts, consists

17. See n. 16 above.

18. Nothing we said in *State v. Fin & Feather Club*, *supra*, conflicts with our view of the nature of the trust created by Governor Baxter and accepted by the State of Maine as trustee. *Fin & Feather* was concerned with the delegation of powers by the trustee to its agent, the Baxter State Park Authority, and only in that context did we say:

"The grant of power to the Park Authority in [12 M.R.S.A.] § 901 for the management and control of Baxter State Park is broad and

greatly dependent on the discretion of the Park Authority members." *Id.* at 355.

That discretion, however, was necessarily limited to such as the State of Maine could give; and "[i]n determining the parameters of permissible action, this Court is mindful of Governor Baxter's intent" *Ibid.* We went on to say that "broad powers of control" as against other State agencies was given "to three State officers, who would be exclusively responsible for seeing that the terms of the [Baxter] trust are strictly satisfied." (Emphasis added) *Ibid.*

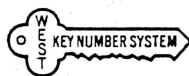
of the State's principal officers in the professions of the law, forestry, and fish and wildlife management. Both Governor Baxter and the legislature placed their confidence in the judgment and integrity of those high state officials. If two or more methods of dealing with a particular Park problem are equally consistent with Governor Baxter's trust instructions, the method chosen by the Authority would normally be controlling—provided, of course, that the Authority follows any procedures prescribed by state law for arriving at its decision.¹⁹

We find no error in any of the rulings made by the Superior Court in entering the judgment below. Consequently, the entry must be:

Appeal and cross-appeal denied.

Judgment affirmed.

POMEROY and DELAHANTY, JJ., did not sit.



FORD MOTOR CREDIT CO.

v.

Barnett I. SHUR, Executor under the
Will of Arthur M. Waterman.

Supreme Judicial Court of Maine.

April 13, 1978.

Creditor brought action against guarantor's estate to enforce a guaranty obliga-

19. We reject the plaintiffs' contention that, as applied in the present case, the Authority's adoption of Mr. Kolman's recommendation for cleaning the blowdown areas constituted Authority "rulemaking" within section 903 of Title 12, and hence was invalid for failure to comply with the procedures there prescribed. Of course, the Baxter Park Authority's agency relationship is governed by statute, and the statutory obligations superimposed upon the Authority place upon it responsibilities for regularity of decisionmaking and action not borne by private trustees (or agents thereof) acting on behalf of a typical charitable trust. Decisions of such a managerial nature as those here

tion. The Superior Court, Cumberland County, entered judgment in the creditor's favor in the amount of \$1,192.51, and the creditor appealed, claiming the judgment should be increased by an additional \$5,000 plus attorney fees. The Supreme Judicial Court, McKusick, C. J., held that the creditor was entitled to recover the difference between the amount of the guaranty and the net proceeds that the creditor realized upon the sale of 13 vehicles.

Appeal sustained, judgment vacated and remanded.

1. Appeal and Error ⇐934(2)

In reviewing superior court's one-sentence order of judgment that merely directed judgment for the plaintiff in a set amount, Supreme Judicial Court assumed that the superior court found all the facts necessary to support its decision.

2. Appeal and Error ⇐1122(2)

Where the superior court made its determination entirely on stipulated facts and documentary evidence without receiving any oral testimony, the law court was free to make its own factual conclusions from the same evidence without applying the "clearly erroneous" rule to the presumed findings of the lower court.

3. Guaranty ⇐60½

Where \$5,000 that creditor paid in settlement to receiver for automobile dealership was in recognition of receiver's plausi-

involved, however, are not "rules" as would require the Authority to comply with section 903. Although no single definition of a "rule" has gained universal acceptance, see 1 K. Davis, *Administrative Law Treatise* § 5.01 (1958), it is generally recognized that a rule bears marked similarities to a legislative act, in that typically it is addressed to unnamed persons or situations and is designed to have operative effect primarily in future application to specific instances. *Id.* at 285-89. The Authority's decisions that are here questioned bear none of the features commonly noted as characteristic of such a "rule."

- ATTACHMENT B
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STATE OF MAINE
KENNEBEC, SS

SUPERIOR COURT
CIVIL ACTION
Docket No. CV80-515

IN THE MATTER OF)
BAXTER STATE PARK)

ORDER

This matter came on for hearing upon the petition of the Baxter State Park Authority (hereinafter the Authority) invoking this Court's equitable jurisdiction to issue instructions regarding the powers of the Authority.¹

The petition as filed presents a series of questions concerning the regulation of snowmobile use within the Baxter State Park. By virtue of an agreement with the parties, only the first request made in the petition has been heard and the Court's decision herein will relate only to that request.

The issue as presented is "whether the Authority is prohibited, as presently provided by Rule 19 of the Authority's Rules and Regulations by the Baxter Park Trust, from permitting the use of snowmobiles within the park for recreational purposes."

¹ Motions to intervene, pursuant to Rule 24, M.R.Civ.P., were granted by the Court to the following: Ethel Dyer, Natural Resources Council, Appalachian Mountain Club, John Baxter, Maine Snowmobile Association, Judson M. Roberts and the Katahdin Times, Mrs. Ann Gauvin, Gerald Stelmok and Charles Fitzgerald.

The factual background concerning the unique gift to the State of Maine from Percival Proctor Baxter is well-known and is concisely stated in Fitzgerald v. Baxter State Park Authority, 385 A.2d 189, 191 (Me. 1978):

Over a period of 31 years, former Governor Baxter deeded to the State of Maine in trust a total of 201,018 acres of land, principally in Piscataquis County, for the establishment of Baxter State Park. His first gift in 1931 of about 6,000 acres, encompassing the higher areas of Mt. Katahdin and the slopes on all four sides, set a pattern that he was to follow in his succession of gifts completed in 1962. In each case he transmitted to the current governor his deed of trust which was then duly submitted to the legislature for acceptance by private and special act. In Governor Baxter's transmittal letters to the successive governors, he set forth his grand design for a state park around Maine's highest mountain. In addition to the conveyances of land, Governor Baxter in 1961 and 1965 gave the State sums in excess of \$1.5 million for the care, operation, and maintenance of the Park. (citations omitted)

By his deeds of trust Governor Baxter conveyed the lands to the State of Maine as trustee to hold in trust for the benefit of the people of Maine, subject to certain conditions for the use of the land."

The nature of the trust created by Governor Baxter has previously been addressed by our Law Court in the Fitzgerald decision in which it is made clear that while it is not a discretionary trust, the expert judgment of the members of the Authority should generally be accorded great weight in their choice of methods for carrying out the intent of Governor Baxter. The condition of the trust which is involved in this subject litigation is stated in most of the deeds as follows:

- (1) . . . forever shall be kept for and as a State forest and public park and for public and recreational purposes; [and]
- (2) . . . forever shall be kept in their natural wild state and as a sanctuary for wild beasts and birds. . . . (See Exhibit 1 at 39).

With the advent of snowmobiles, the issue of their use within the park and in particular on the access roads was presented. The Authority, in 1968, adopted a regulation which permitted the use of snowmobiles. That regulation continued in effect until 1976. At that time the Authority received a memorandum from an Assistant Attorney General stating that the use of snowmobiles was inconsistent with the general trust precepts, and thereupon it adopted Rule 19 which currently prohibits the use of snowmobiles.

Access to the park by snowmobile during the winter season and the "forever wild" concept set forth in the trust are posed in potential conflict and it is upon this conflict that the Authority seeks the instructions of the Court.

The issue presented is whether, as a matter of law, based upon Governor Baxter's intent as expressed in the trust documents and other extrinsic evidence relating thereto, the Authority is prohibited from allowing snowmobiles in the park. This Court is not called upon to decide, nor does it purport to decide, the issue of whether snowmobile use should be permitted but only whether the intent of Governor Baxter is so clear as to permit the Court to rule as a matter of law that such use is prohibited. It is settled law that this

Court's task is to give effect to the intention of the settlor as gathered from the language of the instrument. In the event of an ambiguity, the Court may look to extrinsic evidence to resolve the ambiguity and to determine the intent of the settlor at the time the trust was created. Subsequent expressions of intent by the settlor are admissible only to assist the Court in dealing with the settlor's intent at the time of the creation of the trust.

The Fitzgerald case has already noted the ambiguity which exists with regard to the "forever wild" language. The trust instruments do not deal expressly with the question of snowmobiles and in fact, snowmobiles were not in existence or in general use during most of the period of time in which the trust was created. Undoubtedly in the future there will be other means of conveyance presently unknown, and future decisions will be required as to whether the use of such conveyance is consistent with the general and guiding principles adopted by Governor Baxter. All parties recognize the ambiguity that exists and point to extrinsic evidence to support their positions in favor of or against the use of snowmobiles. It is interesting to note that the parties before this Court point to virtually the same items of extrinsic evidence and the same language within that evidence as supporting their respective positions.

Although the record contains a substantial quantity of extrinsic evidence, in the Court's judgment the following items are the most helpful in ascertaining the intent of Governor Baxter at the time of creating the trust:

1. The 1955 Interpretation Act in which Governor Baxter stated that the:

"area is to be maintained primarily as a wilderness and recreational purposes are to be regarded as of secondary importance and shall not encroach upon the main objective of this area which is to be 'forever wild.'"

P.&S.L. 1955 Chapt. 2.

2. A letter from Governor Baxter dated January 2, 1945 in which he elaborated on his intent that the park be kept in a natural wild state.

[I] do not intend that the Park forever shall be a region unvisited and neglected by man. I seek to provide against commercial exploitation, against hunting, trapping and killing, against lumbering, hotels, advertising, hot-dog stands, motor vehicles, horse-drawn vehicles and other vehicles, air-craft, and the trappings of unpleasant civilization. Nor is the Park to be kept exclusively for professional mountain climbers; it is for everybody.

I want pleasant foot-trails built and attractive camp-sites laid out in the valleys, by the brooks and on the shores of the waters. Sites where simple forest lean-tos and small log cabins are available for those who love nature and are willing to walk and make an effort to get close to nature. A suitable shelter also should be erected on the summit of Katahdin to give protection to those who climb the mountain and who may be caught in a storm or compelled to remain overnight.

With the protection of wild life the deer, the moose and the birds no longer will fear man and gradually they will come out of their forest retreats and show themselves. I want hunting with cameras to take the place of hunting with guns. Aircraft frighten wild life and disturb the peace and solitude of the wilderness. Would that the day come when all of Maine will become a sanctuary for the beasts and birds of the forest and field and when cruelty to the humbler orders of life no longer stalks the land.

Everything in connection with the Park must be left simple and natural and must remain as nearly as possible as it was when only the Indians and the animals roamed at will through these areas. I want it made available to persons of moderate means who with their boys and girls, with their packs of bedding and food, can tramp through the woods, cook a steak and make flapjacks by the lakes and brooks. Every section of this area is beautiful each in its own way. I do not want it locked up and made inaccessible; I want it used to the fullest extent but in the right unspoiled way. (Exhibit 1 at 117). (emphasis added).

3. Letter from Governor Baxter dated January 3, 1949 in which he further expands upon the necessity for access.

ROADS IN BAXTER STATE PARK

In my former Deeds of January 2, 1945 and January 8, 1947 as recorded in Chapter I Laws of 1945 and Chapter I Laws of 1947, certain restrictions as to the construction and maintenance of roads within the park were imposed in the gift. Although I want this area always to be left in 'its natural wild state' as provided in all my Deeds to the State, I also want this area to be reasonably accessible to those persons who enjoy the wilderness and who wish to go there for rest and recreation. That of course is my principal reason for creating this Park.

On mature deliberation I now have come to the conclusion that my restrictions as to roads are somewhat too severe. Without proper access roads the number of persons who would enjoy the Park would be limited. In view of this I deem it best to allow the existing roads to remain open and to permit the State in the years to come to construct such additional roads as may be necessary to accommodate those persons who wish to enjoy the great, unspoiled area that now is the property of our State.

I now present to you an Amended Act of Acceptance together with a Deed, which makes the necessary changes in the former Deeds of Trust that contain the road restrictions herein referred to. In order, however, that there may be some reasonable check in the future on the construction and maintenance of roads in the Park it is provided in these Amendments that no

roads or ways shall be constructed or maintained that will interfere with or detract from 'the natural wild state' of this region. In this, however, I must rely upon the good faith of the State of Maine and am confident that the State will live up to the terms of this TRUST and will not break faith with me. (Exhibit 1 at 128-129) (emphasis added).

4. Letter from Governor Baxter to Helon Taylor dated May 11, 1965 in which he discusses snowmobile use.

In regard to the Motor Skis I have thought this over and have this suggestion to make. These skis should be prohibited in the Park except for the one for you as Supervisor to use in cases of emergencies. I feel strongly about this for they will frighten away the wild animals and we certainly would not see a caribou again. This same reason prompted us to forbid the use of motor boats in our lakes. I can see the damage they would cause.

I would be much pleased if the AUTHORITY would add this to the list of what is forbidden in the regulations. Will you please bring this to the attention of the AUTHORITY members for this is the time to kill it. (Exhibit 40 at 222).

5. Letter from Governor Baxter to Chairmen of the Authority, dated April 18, 1966 concerning the use of motor bikes.

I understand that there are several motor scooters and motor cycles in Millinocket that may be taken to the Park. These machines are so noisy and numerous, they should be forbidden to go into the Park area. If unrestrained these noisy machines would frighten the wild life. I should like you to discuss this matter with the other members of the AUTHORITY and Helon Taylor and pass a vote putting this restriction into effect. (Exhibit 51 at 236).

Numerous witnesses testified as to conversations with Governor Baxter or as to their impressions as to what they felt his views were about snowmobile use. The Court does not suggest that this evidence is without value but rather that

it is less reliable than the direct expressions of Governor Baxter as outlined above. In addition, the less formal extrinsic evidence is contradictory in that some would state that the Governor was openminded about snowmobile use, see Taylor Dep. at 21, while others are convinced that he was opposed to such use up to the time of his death. See Transcript of Testimony of John Baxter at page 125 and see Ethel Dyer's deposition.

The Court is of the view that very little can be learned from a consideration of the fact that snowmobiles were used in the park during the Governor's lifetime. Although Governor Baxter undoubtedly maintained his intellect and his full mental faculties until his death at an advanced age, it is at least unclear whether he was aware of the actual use of snowmobiles after 1968. The Court concludes that nothing can be drawn from the fact that he did not specifically object during that period of time prior to his death.

Based upon the evidence presented in this matter and in particular, upon the evidence specified above, this Court is unable to conclude that the trust agreement prohibits the Authority from allowing snowmobile use within the park as a matter of law. Even Governor Baxter's letter to Helon Taylor, dated May 11, 1965, is not dispositive of this issue and reflects the ambiguity which exists within the trust. While the letter expresses the settlor's then current view of snowmobiles, it also acknowledges the power of the Authority to regulate their use. Had Governor Baxter believed that the

intent of the trust agreement clearly prohibited the use of snowmobiles within the park, he certainly would not have requested that his views on the matter be brought to the Authority's attention. If the terms of the trust were unambiguous, there would have been no need to submit the problem to the Authority for their consideration.

It is amply clear that Governor Baxter's paramount purpose was create and preserve an area in which persons could have a wilderness experience. A precise and accepted definition of a wilderness experience is probably beyond the capability of man and certainly beyond the ability of the Court. It does include, however, a meeting with nature on nature's terms, a primitive experience, and a sense of solitude.²

The second concern of Governor Baxter was that the area be reasonably accessible to the people rather than "locked up and inaccessible." As he stated in his letter of January 2, 1945, "he wanted it used to the fullest extent but in the right, unspoiled way." One can readily see that Governor Baxter himself altered his views with regard to the necessity for an access road and automobiles in order to accommodate the dual desires that it be a wilderness but that it be accessible to those who wished to enjoy it as a wilderness. It is equally

²The inadequacy of language becomes readily apparent when one attempts to describe the events which take place upon entry into a wilderness. The testimony of Kenneth Olson commencing at Page 72 of the transcript presents the best description this Court has witnessed. The spiritual and philosophical aspects of wilderness are very cogently described at Pages 86 through 89.

clear that while these dual purposes exist, the preservation of the wilderness takes priority over access, or in other words, that access should never unduly detract from the wilderness experience. Motorized vehicles of any type are an exception to the wilderness concept, but the exception is created by a trust purpose, namely access.

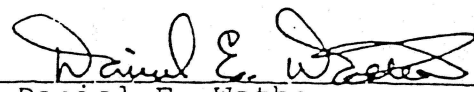
The trustees in the past, and the Governor, presumably were satisfied that the use of automobiles upon the access roads during the summer seasons were consistent with and did not detract from the wilderness experience.

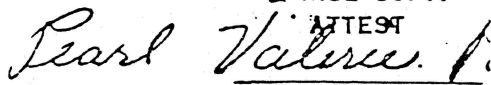
The Court is unable to conclude that the intent of the settlor is so clearly against the use of snowmobiles as to prohibit a similar evaluation in that regard. It is possible that the trustees, who are the State's principal officials in the professions of law, forestry and fish and wildlife management under proper procedures, might authorize the limited and regulated use of snowmobiles on access roads during certain seasons without interfering with or detracting from the wilderness experience. It is, of course, equally true that those same trustees might decide to the contrary, but the point is not the result of their decision, but rather, the fact that Governor Baxter placed his confidence in the judgment and integrity of those high state officials guided by the terms of the trust.

Accordingly, in response to the first question in the petition for instructions the entry shall be as follows:

The Court instructs the Authority that it is not prohibited as a matter of law by the Baxter Park Trust from permitting the use of snowmobiles in the park for recreational purposes.

Dated: June 12, 1981


Daniel E. Wathen
Justice, Superior Court

▲ TRUE COPY:
ATTEST

P. VALERIE PAGE
CLERK OF COURTS

³The term recreational is used herein in contrast to the administrative or emergency use of snowmobiles. The potential use discussed by the counsel in this proceeding could best be described as access by snowmobiles on the portions of the park road system. It is probably accurate to refer to such use as recreational since the vehicles themselves are considered to be recreational. It is not within the contemplation of any of the parties that snowmobiles would be allowed to frolic at will throughout the park anymore than automobiles are permitted to do so during the summer season.

1985 Me. Super. LEXIS 78, *

STEVEN CARTWRIGHT, et al., Plaintiffs vs. BAXTER STATE PARK AUTHORITY, Defendant

CIVIL ACTION Docket No. **CV-82-82**

SUPERIOR COURT OF MAINE, KENNEBEC COUNTY

1985 Me. Super. LEXIS 78

April 4, 1985, Decided

CORE TERMS: snowmobile, park, wilderness, recreational use, recreational, skier, deeds of trust, users, matter of law, cross-country, snowshoers, sanctuary, winter, trail, wild, interpretative, snowmobilers, machine, birds, lake, substantial evidence, recreation, rulemaking, primitive, wildlife, skidders, environmental impact, wild beasts, accessibility, nonmechanized

JUDGES: [*1] MORTON A. BRODY, Justice, Superior Court.

OPINIONBY: MORTON A. BRODY

OPINION: ORDER

This matter is before the Court on Plaintiffs' request for injunctive and declaratory relief against the Baxter State Park Authority pursuant to the Administrative Procedure Act, 5 M.R.S.A. § 8058 and the Declaratory Judgments Act, 14 M.R.S.A. § 5954. Plaintiffs, members of the public and users of Baxter State Park, challenge Rule 19 of the Baxter State Park Authority permitting the public, recreational use of snowmobiles in Baxter State Park.

FACTS

Between 1931 and 1962, former Governor Percival Baxter deeded in trust a total of 201,018 acres of land, located in Penobscot and Piscataquis Counties, to the State of Maine. The deeds of trust impose numerous conditions, among them that the land "be kept in [its] natural wild state and as a sanctuary for wild beasts and birds...." In 1955, the State of Maine formally joined in a declaration by Governor Baxter interpreting the terms "natural wild state" and "sanctuary for wild beasts and birds" as those terms were used in the deeds of trust:

Governor Baxter's expressed desires were that this park .. [*2] . 'shall forever be kept and remain in the natural wild state ... [and] shall forever be kept and remain as a sanctuary for beasts and birds.'

...

This intent must be interpreted so as not to separate this park from the people to whom it was given; but rather seek to have it enjoyed and 'used to the fullest extent but in the right unspoiled manner.'

...

As a public park and a place of recreation, it is apparent that it is intended for 'those persons who enjoy the wilderness' and that the repeated use of the word 'recreation' refers to the use of this park compatible with its natural state as a wilderness area and an expanse for those who love nature and who are willing to

walk and make an effort to get close to nature

12 M.R.S.A. § 900.

In September, 1980 the Authority petitioned the Superior Court for instructions as to whether, as a matter of law, based upon Governor Baxter's intent as expressed in the trust documents and interpretative act, the Authority was prohibited from allowing the recreational use of snowmobiles in the Park. n1 In a Decision dated June 12, 1981, the Court (Wathen, J.) instructed the Authority that it was not **[*3]** so prohibited. n2 After a series of public hearings and the submission of solicited comments, the Authority voted 2-1 to amend Rule 19 so as to permit the public recreational use of snowmobiles in the Park. n3

- - - - - Footnotes - - - - -

n1 The Superior Court framed the issue before it as follows:

The issue presented is whether, as a matter of law, based upon Governor Baxter's intent as expressed in the trust documents and other extrinsic evidence relating thereto, the Authority is prohibited from allowing snowmobiles in the park. This Court is not called upon to decide, nor does it purport to decide, the issue of whether snowmobile use should be permitted but only whether the intent of Governor Baxter is so clear as to permit the Court to rule as a matter of law that such use is prohibited.

Superior Court Order of June 12, 1981 at p.3.

n2 The Court's specific instructions to the Authority were:

The Court instructs the Authority that it is not prohibited as a matter of law by the Baxter Park Trust from permitting the use of snowmobiles in the park for recreational purposes.

The footnote clarified the instructions as follows:

The term recreational is used herein in contrast to the administrative or emergency use of snowmobiles. The potential use discussed by the counsel in this proceeding could best be described as access by snowmobiles on the portions of the park road system. It is probably accurate to refer to such use as recreational since the vehicles themselves are considered to be recreational. It is not within the contemplation of any of the parties that snowmobiles would be allowed to frolic at will throughout the park anymore than automobiles are permitted to do so during the summer season.

[*4]

n3 The Authority's rulemaking authority is found in 12 M.R.S.A. § 903:

The Baxter State Park Authority may in a manner consistent with the Maine Administrative Procedure Act, establish such rules and regulations as it deems necessary for the protection and safety of the public or for the proper observance of the conditions and restrictions expressed in the deeds of trust of the park to the State.

----- End Footnotes-----

On February 22, 1982 Plaintiffs brought the instant suit challenging amended Rule 19. Count I of Plaintiffs' complaint alleges that the Authority's action in amending the Rule is inconsistent with and constitutes a breach of the deeds of trust from Governor Baxter to the State. Count II alleges that the Authority's action constituted an abuse of discretion, is unsupported by substantial evidence, and is in violation of the statutory limitations set out in 12 M.R.S.A. §§ 900 and 903. Count III alleges that in amending the Rule by a 2-1 vote, the Authority failed to act "jointly" as required by 12 M.R.S.A. § 901.

II. [*5] DISCUSSION

A. Count I

The initial inquiry for this Court is whether the Superior Court's Order of June 12, 1981 precludes the relitigation of the issue raised by Count I of Plaintiffs' Complaint. In that Order the Court, pursuant to its authority under 14 M.R.S.A. § 5956 n4 and 14 M.R.S.A. § 6051 (10), n5 held that the conditions of the Baxter trust, as inferred from the trust instruments themselves and from the interpretative act and various documents manifesting Governor Baxter's intentions with respect to the Park, did not specifically prohibit the Authority from allowing the public recreational use of snowmobiles. That Order clearly addresses the very same issue raised by Count I of the instant complaint.

----- Footnotes-----

n4 Section 5956 of the Declaratory Judgment Act provides, in pertinent part:

Any person interested as ... trustee ... in the administration of a trust, ... may have a declaration of rights or legal relations in respect thereto:

...

2. Direct fiduciary to do or not to do certain act. To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

3. Determine questions. To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

[*6]

n5 1 4 M.R.S.A. § 6051 provides, in pertinent part:

The Superior Court shall have jurisdiction to grant appropriate equitable relief in the following cases:

...

10. Wills. To determine the construction of wills and whether an executor, not expressly appointed a trustee, becomes such from the provisions of a will; and in cases of doubt, the mode of executing a trust and the expediency of making changes and investments of property held in trust;

----- End Footnotes-----

In urging that the issue raised by Count I is properly before the Court, Plaintiffs suggest that the effect of the June 12, 1981 Order was determined with respect to this action when the Court (Alexander, J.) denied Defendants' Motion to Dismiss Counts I and II. Plaintiffs claim that the Court's denial of that Motion requires this Court to reach all of the issues raised in those counts. However, a close reading of the transcript of the ruling on the Motion to Dismiss reveals that the ruling was provisional in nature. At that stage of the proceedings, the Court was "not sufficiently sure" that the prior decision barred **[*7]** relitigation of any or all of Counts I through III to dismiss them. The Court characterized the question of issue preclusion as "very difficult" and exercised caution in refusing to dismiss the action. The rule of "the law of the case" does not serve as a complete bar to reconsideration of an issue where, as here, the prior ruling is "provisional or lacks clarity, or the error is of such character that it should be corrected at trial." *Grant v. City of Saco*, 436 A.2d 403, 405 (Me. 1981).

More importantly, "while based on important policy considerations, the law of the case is not as rigidly applied as the doctrine of *res judicata*." *Id.* The Court is persuaded that the doctrine of collateral estoppel is entitled to similar respect. If this Court were to give the Court's earlier denial of Defendants' Motion to Dismiss the effect Plaintiffs request it be given, the issue raised by Count I would have to be resolved by this Court *de novo*, and the preclusive effect of the 1981 Order would be preempted by the rule of the law of the case. While this Court, faced with the issue *de novo*, might well reach a different result from that reached in the 1981 Order n6, that issue **[*8]** is not now properly before it.

----- Footnotes-----

n6 Acknowledging the ambiguity in the trust with regard to snowmobiles, due to the fact that the machines were invented some time after the trust instruments were drafted, the Court in its 1981 Order looked to extrinsic evidence of Governor Baxter's subsequent expressions of intent to determine his intent at the time he created the trust. Among this evidence was a letter from Governor Baxter to Helen Taylor, Park Supervisor, dated May 11, 1965, in which he discussed the desirability of snowmobile use in the Park:

In regard to the Motor Skis I have thought this over and have this suggestion to

make. These skis should be prohibited in the Park except for the one for you as Supervisor to use in cases of emergencies. I feel strongly about this for they will frighten away the wild animals and we certainly would not see a caribou again. This same reason prompted us to forbid the use of motor boats in our lakes. I can see the damage they would cause.

I would be much pleased if the AUTHORITY would add this to the list of what is forbidden in the regulations. Will you please bring this to the attention of the AUTHORITY members for this is the time to kill it.

The Court found this letter to be "not dispositive of [the] issue" and to "reflect[] the ambiguity which exists within the trust. While the letter expresses the settler's then current view of snowmobiles, it also acknowledges the power of the Authority to regulate their use." June 12, 1981 Order at pages 8-9. Were the question of the Governor's intent now properly before it, this Court might well conclude, based upon the Taylor letter and the Governor's declaration elsewhere that the Park was best left undisturbed in the winter, see Letter of 9/24/58 to Austin Wilkins, Forest Commissioner, that the trust positively prohibits snowmobiles. However, that issue has already been determined and cannot now be reached by the Court.

----- End Footnotes----- **[*9]**

B. Count II

Having received instructions from the Superior Court in its 1981 Order that the Baxter Trust did not specifically prohibit the recreational use of snowmobiles in the Park, it became the Authority's task to determine whether a rule permitting the recreational use of snowmobiles would actually further the express purposes for which the Trust was created. In promulgating rule 19, the Authority determined that it would. Count II of Plaintiffs' complaint asks the Court to review that finding of the Authority.

Under 5 M.R.S.A. § 11007, the Court's review of a governmental agency's action is generally limited to a determination of whether it was procedurally proper, affected by bias or error of law, unsupported by substantial evidence on the whole record, or arbitrary or capricious or characterized by abuse of discretion. n7 However, because the Authority, in promulgating Rule 19, was performing a trustee function as well as a governmental function, it must be held accountable to the more stringent standard reserved for trustees, and its action must be measured against the mandates of the deeds of trust. See *Fitzgerald v. Baxter State Park Authority*, 385 A.2d 189, 202 (Me. 1978). **[*10]** In *Fitzgerald*, 385 A.2d at 201, the question before the Authority was a mixed one of law and fact: was clearing a blow-down area of tree trunks with the use of skidders consistent with maintaining the Park "primarily as a wilderness" as required by the deeds of trust? In the instant case, the Authority faced the similar "mixed" question of whether permitting the recreational use of snowmobiles was consistent with the wilderness concept. n8 In the instant case, the Court must determine not only whether the Authority's factual conclusions are supported by substantial evidence, but also whether as a mixed question of law and fact, the Authority's ruling on snowmobiles was actually "necessary for ... the proper observance of the conditions and restrictions expressed in the deeds of trust of the park to the State." 12 M.R.S.A. § 903.

----- Footnotes -----

n7 The Court views the 1981 Order as dispositive of whether Rule 19 is "in violation of ... statutory provisions" or "in excess of ... statutory authority..." 5 M.R.S.A. § 11007(4)(C)(1) and (2).

n8 As discussed above, the purely legal question of whether the trust contains a per se prohibition on the recreational use of snowmobiles has already been determined by the Superior Court in its 1981 Order.

----- End Footnotes----- **[*11]**

Two great purposes of the Baxter State Park trust emerge from the deeds of trust and the 1955 Interpretative Act:

1. To maintain an area in its "natural wild state" as a "sanctuary for wild beasts and birds";
2. To provide the citizens of Maine the opportunity to enjoy the "wilderness experience."

To properly adopt Rule 19, the Authority had to determine that the recreational use of snowmobiles was compatible with each of these purposes.

1. "Natural wild state."

At the public hearings, the Authority heard conflicting testimony regarding the likely environmental impact of recreational snowmobile use on the Park itself.

Proponents of snowmobile use in the Park, including representatives of snowmobile associations, cited studies indicating that even long term snowmobile use would have no deleterious effects on forest vegetation or animal life. Opponents, including representatives of environmental organizations, claimed that snowmobiles would have serious adverse effects on deer and small mammal populations, air quality, and the Park road system. They also claimed that due to the Park's limited staff and resources, it would be impossible to police snowmobiles **[*12]** so as to minimize the environmental damage.

Even though the Baxter trust is not a "discretionary trust" in the sense that the Authority is "to do what [it] deem[s] best in carrying out the donor's general purposes," the Authority contains the State's principal officers in the forestry and fish and wildlife profession, and "the expert judgment of the ... Authority ... should generally be accorded great weight in choice of methods" for carrying out the purposes of the trust." *Fitzgerald v. Baxter State Park Authority*, 385 A.2d 189, 202 (Me. 1978). In assessing the likely environmental impact of snowmobile use, the Authority applied its expertise in weighing conflicting evidence. Its expert judgment that recreational snowmobile use would not compromise the Park's scenic beauty or threaten its value as a wildlife sanctuary will not be disturbed by this Court.

2. "Wilderness Experience"

Were it not for the unique nature of the gift from Governor Baxter to the people of Maine, this Court's review of the Authority's decision would be complete with its affirmation of that body's finding on the environmental impact of recreational snowmobile use.

Governor Baxter **[*13]** wanted Baxter State Park to be more than a haven for wild animals. He wanted "an expanse 'for those who love nature and who are willing to walk and make an effort to get close to nature... '" 12 M.R.S.A. § 900. He wanted it "available to persons of moderate means who with their boys and girls, with their packs of bedding and food, can tramp through the woods, cook a steak and make flapjacks by the lakes and brooks." Letter from Governor Baxter dated January 2, 1945. He did not want it "locked up and made unaccessible"; he wanted it "used to the fullest extent but in the right unspoiled way." *Id.*

From a reading of the trust instruments, the interpretative act, and the other documents memorializing Governor Baxter's intent, it is amply clear, as already concluded by the Superior Court, "that Governor Baxter's paramount purpose was to create and preserve an area in which persons could have a wilderness experience ..., a meeting with nature on nature's terms, a primitive experience, and a sense of solitude." n9 Order of June 12, 1981 at page 9. To properly enact Rule 19, the Park had to determine that, as a matter of fact, the recreational use of snowmobiles [*14] would not contravene that purpose of the Park. n10

----- Footnotes -----

n9 As early as 1937, Governor Baxter keenly felt the need for the wilderness experience in modern society. In a letter to the author dated May 4, 1937, Governor Baxter expressed full agreement with a magazine article by Robert Marshall. In that article, Mr. Marshall discussed the value of the "wilderness experience":

[We] can afford to sacrifice almost any other value for the sake of retaining something of the primitive ... To countless people the wilderness provides the ultimate delight because it combines the thrills of jeopardy and beauty. It is the last stand for that glorious adventure into the physically unknown that was commonplace in the lives of our ancestors and has always constituted a major factor in the happiness of many exploratory souls. It is also the perfect esthetic experience because it appeals to all of the senses... It is all of these at the same time, blended into a unity that can only be appreciated with leisure and which is ruined by artificiality...

Quality as well as quantity must enter into any evaluation of competing types of recreation, because one really deep experience may be worth an infinite number of ordinary experiences. Therefore, it is preposterous to hold that the objective of outdoor recreational planning should be to enable the maximum number of people to enjoy every beautiful bit of the outdoors.

All the while year after year, the United States becomes more and more mechanized. The life of one person after another has been saturated by machinery. Human beings require compensations and it seems inevitable that as the machine age expands the need for an escape will also expand. Marshall, "The Universe of the Wilderness Is Vanishing," Nature Magazine, April 1937.

[*15]

n10 Otherwise stated, in the instant case, the first inquiry was whether the deeds of trust prohibited recreational snowmobile use as a matter of law. That question was answered in the negative by the Superior Court. Now the issue is whether, as a mixed question of law and fact, Rule 19 is consistent with the purposes of the trust. To better understand this two-tiered analysis, a useful analogy may be had with the Fitzgerald case. In Fitzgerald, it was conceded that the use of skidders in the Park was not prohibited per se by the deeds of trust. That left the mixed question, answered in the negative by the Superior Court, of whether the Authority's proposed use of skidders to clear a blow-down area was consistent with the purposes of the Trust. See Fitzgerald, 385 A.2d at 201-03.

----- End Footnotes -----

Because the "wilderness experience" is a highly subjective concept, the Authority was faced with a very difficult decision. The Authority heard considerable testimony from

representatives of snowmobile groups and from snowmobile users regarding the compatibility of snowmobiling with cross-country [*16] skiing and snowshoeing. The Authority heard testimony that modern snowmobiles are much quieter than were their predecessors, that despite their high speed, they would pose little risk to other users of the Park, that the overwhelming majority of snowmobilers are courteous to other users, and that trails bearing snowmobile traffic were generally suitable for cross-country skiing and snowshoeing. The major thrust of the testimony from snowmobile supporters was that the allowance of snowmobiles would increase the accessibility of the Park dramatically, allowing more people to enjoy the Park during the winter months.

Were the issue to be decided on the basis of the physical compatibility of snowmobile use with other forms of conveyance, or the safety of introducing snowmobiles in an area used by snowshoers or skiers, or on accessibility during the winter months alone, the testimony outlined above would clearly be substantial enough to support the Authority's adoption of Rule 19. However, critical to the Authority's decision was the effect recreational snowmobile use would have on those for whom the Park was primarily created--those seeking the "wilderness experience." n11

----- Footnotes -----

n11 It cannot be seriously argued that snowmobile riding itself is part of the "wilderness experience" as Governor Baxter contemplated it. Governor Baxter's description of the experience as a primitive, one-to-one encounter between man and the elements on nature's terms is antithetical to the sort of man-machine experience one has while snowmobiling.

----- End Footnotes----- [*17]

At the public hearings, the Authority heard substantial testimony from persons who skied or snowshoed in the Park. These people were unanimously of the opinion that the recreational use of snowmobiles would either deter them from using the Park at all, or else substantially diminish their enjoyment of the Park as a wilderness area. Particularly significant is the fact that many cross-country skiers who owned and operated snowmobiles spoke in opposition to the Authority's proposal. For example, Jon Lund, a former Attorney General and a former member of the Authority, stated:

"I speak to you as a person who owns a snowmobile - I have had two snowmobiles over the years - only one registered now - have snowmobiled probably longer than most of the people here - registration number is in the 1400's. I have been in the Park on snowmobile and on skies."

...

"I think the inevitable result of use of snowmobiles on the perimeter road is that it is going to discourage the use of the Park on foot."

...

"When the skier returns over [a trail over which a snowmobile has passed] his skis go every which way and if many machines travel the trail, it tends to get humpy and skiing becomes [*18] very difficult indeed because you are going down into valleys and up over hills. And so, when you add this to the noise that a skier generally likes to get away from, the exhaust smell that they would rather not have, and the machines they generally want to get away from, you will find that skiers generally do not like to ski on a snowmobile trail, just as hikers do not like to hike along an automobile road, canoers do not like to canoe along the

same areas used by outboard motors, especially high speed outboards... ."

...

"There is no doubt in my mind that it does reduce its wilderness qualities if you have snowmobiles in there."

...

"I think if you really want skiers, or other travelers on foot, to use the perimeter road along side of snowmobiles and enjoy it, it ain't going to happen. It just doesn't work that way. However courteous, and I recognize that many, many snowmobilers are as thoughtful as they can be in using their machines and giving the right-of-way to skiers, etc., it still has the inevitable result that it diminishes significantly the wilderness experience."

In the face of such testimony from snowmobile owners, who could not be accused of prejudice [*19] against snowmobiles in general, the Authority could not reasonably have concluded that the recreational use of snowmobiles would not deter skiers and snowshoers from using the Park, or detract from the wilderness experience of those who continued to use it.

Indeed, the Authority found that snowshoers and cross-country skiers could not, as a matter of fact, coexist with snowmobiles and still enjoy the wilderness experience. n12 The Authority's solution was Rule 19. According to the Authority, Rule 19 effects a "total separation of uses between snowmobiles and cross-country skiers [or snowshoers]" Rule 19 basically restricts snowmobile use to the so-called "Perimeter Road" to certain spurs in the western, northern, and eastern portions of the Park, and to two larger lakes in the northern section of the Park. n13 Given the incompatibility of snowmobile use with other uses, the practical effect of the Rule is to confine winter nonmechanized use--and the wilderness experience--to the eastern and interior two-thirds of the Park.

----- Footnotes -----

n12 The Authority stated:

... Some of those who favored the use of snowmobiles in the Park at the public hearings attempted to persuade us that snowmobilers and cross country skiers could share the same wilderness experience. See, for example, the testimony of Brian Wiley and Judd Roberts at the Augusta hearing, September 21, 1981, the testimony of Robert Johnson at the Millinocket hearing, September 23, 1981, and the written comments of Wayne Keniston, dated October 6, 1981. We disagree. The wilderness experience by definition is entirely subjective. We accept the heartfelt testimony and letters from cross country skiers and snowshoers that snowmobiles would infringe upon their wilderness experience in the Park. See, for example, the testimony of Jon Lund at the Augusta hearing, September 21, 1981, the testimony of Adrian Humphreys and William Stearns at the Orono hearing, September 24, 1981, and the letter of Marguerite Yourcenar, dated September 24, 1981. Governor Baxter, as we have said, intended to make the Park accessible, but the access he intended was for the paramount purpose of providing a wilderness experience. Therefore, if there is an irreconcilable conflict between the use of snowmobiles and the wilderness experience of others in the Park--if the two cannot co-exist in the 200,000 acre Park--then snowmobiles

should be excluded from the Park.

Baxter State Park Authority, Factual and Policy Statement for Rule 19, at pages 11-12. The Authority went on to state that it was promulgating Rule 19 because complete separation of snowmobilers from other users was "possible as a practical matter," due to the size of the Park. Id. at pages 12-13. **[*20]**

n13 Rule 19 provides:

SNOWMOBILES: Snowmobiles may be used on Matagamon and Webster Lakes and on the unplowed portions of the regular road system currently maintained by the Department of Transportation for vehicular traffic in the summer, excluding, however, the portion of the Park Perimeter Road, not presently in use, passing by Dwelley Pond. Snowmobiles also shall not be allowed on the roads into South Branch Pond, Roaring Brook, Daicey Pond, Kidney Pond, and the tote road into Katahdin Lake from Avalanche Field, but shall be allowed on the one-half mile section over the easterly projection of Baxter Park in Township 6, Range 8 along the west side of the East Branch of the Penobscot River, a one-mile section along the East Branch of the Penobscot River in Township 6, Range 9 from the westerly end of Second Lake Grand Matagamon, and the Telos cut-off road from the Telos Gatehouse to the Park Perimeter Road via Morse Mountain. Use of all other roads, lakes and trails or any other portion of the Park by snowmobiles is prohibited, except by authorized personnel on Park business. Operators travel at their own risk and must comply with all requirements of State laws and drive safely at all times. Operation by persons under 10 years of age is prohibited.

----- End Footnotes----- **[*21]**

After it determined that recreational snowmobile use would interfere with the use of the Park by persons seeking the wilderness experience, the Authority's solution was to limit snowmobile use to the southern, western, and northern perimeters of the Park. The vast eastern and interior portions of the Park were left to nonmechanized uses. By thus giving preservation of the wilderness experience priority over enhanced access during the winter months, the Authority stayed within the boundaries its discretion as the trustee of the Park. By permitting restricted recreational snowmobile use, Rule 19 greatly enhances the Park's accessibility in the wintertime without unduly infringing on the wilderness experience of other, nonmechanized users of the Park. Rule 19 must be upheld as consistent with the purposes for which the trust was created.

C. Count III

Finally, Plaintiffs argue that 12 M.R.S.A. § 901 (Supp. 1984-85) requires that all Park regulations be promulgated by a unanimous vote. That section directs that the lands comprising Baxter State Park "shall be under the joint supervision and control of, and shall be administered by the Director of the Bureau **[*22]** of Forestry, the Commissioner of Inland Fisheries and Wildlife and the Attorney General [who] ... shall have full power in the control and management of the same." Since, in the instant case, the Director of the Bureau of Forestry dissented from the Authority's decision to amend Rule 19, Plaintiffs claim that the Authority failed to act "jointly" as required by § 901.

The Court is persuaded that the "joint supervision and control" provision of § 901, through its ordinary meaning, requires joint participation in rulemaking, rather than unanimity therein. The specific provision of the Baxter State Park interpretative act governing Authority rulemaking, 12 M.R.S.A. § 903, requires only that the Authority promulgate rules "in a manner consistent with the Maine Administrative Procedures Act" It is not suggested that that act requires unanimity in rulemaking.

Therefore, it is ORDERED and the entry shall be:

Judgment for Defendant Baxter State Park Authority on the Complaints of Plaintiffs Steven Cartwright, et al.

Dated: April 4, 1985

MORTON A. BRODY

Justice, Superior Court

Source: Maine > Cases > **ME State Cases, Combined** 

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Roger NORMAND et al.

v.

BAXTER STATE PARK AUTHORITY.

Supreme Judicial Court of Maine.

Argued Jan. 15, 1986.

Decided May 6, 1986.

Individual users of the Baxter State Park and intervenor challenged the legality of park rule permitting limited use of snowmobiles in park. The Superior Court, Kennebec County, upheld the rule and plaintiffs appealed. The Supreme Judicial Court, McKusick, C.J., held that: (1) collateral estoppel barred relitigation of the question of whether any use of snowmobiles in park was barred by trust; (2) rule represented a permissible exercise of judgment by the authority; (3) speculative possibility of abuse of rule did not invalidate it; and (4) statute governing composition of the Authority did not require unanimous vote for promulgation of rule.

Affirmed.

Scolnik, J., filed dissenting opinion.

1. Judgment ⇨715(1)

Collateral estoppel barred relitigation of question concerning whether any use of snowmobiles in state park was barred by state park trust where the question was answered in the negative by an earlier judgment of the superior court from which no appeal was taken.

2. States ⇨88

Interpretation Act made clear that "forever wild" condition of the Baxter State Park Trust took precedence over the secondary goals of access and recreation, but wilderness purpose did not preclude all manner of access to the park and reasonable access, when properly balanced with the paramount objective of preserving the wilderness experience, was a trust purpose that the Baxter State Park Authority was

charged to promote. 5 M.R.S.A. § 8001 et seq.; 12 M.R.S.A. §§ 900-907.

3. Administrative Law and Procedure ⇨651

States ⇨88

Judicial review of Baxter State Park Authority's rule making was governed by Administrative Procedure Act. 5 M.R.S.A. § 8058.

4. States ⇨88

Rule permitting limited use of snowmobiles in Baxter State Park must be consistent with the proper observance of the conditions and restrictions expressed in the deeds of trust of the park to the State. 5 M.R.S.A. § 8058; 12 M.R.S.A. § 903.

5. Administrative Law and Procedure ⇨683

States ⇨88

Supreme Court would accord no special deference to ruling of superior court, sitting only as intermediate appellate tribunal reviewing rule promulgated by Baxter State Park Authority.

6. States ⇨88

Rule permitting limited access by snowmobiles to Baxter State Park represented a rational accommodation between dual goals of the trust in preserving wilderness experience and providing access and recreation and thus represented a permissible exercise of judgment by the Baxter State Park Authority. 5 M.R.S.A. § 8001 et seq.; 12 M.R.S.A. §§ 900-907.

7. States ⇨88

Speculative possibility that snowmobilers may use access to Baxter State Park permitted by rule as merely an easy way to get from one side of the park to the other rather than as a destination, without a showing that the rule has in fact resulted in such an effect, was insufficient to invalidate rule.

8. Administrative Law and Procedure ⇨125, 392

States ⇨88

Statute governing composition of Baxter State Park Authority providing that

park shall be under joint supervision and control of Director of Bureau of Forestry, Commissioner of Inland Fisheries and Wildlife, and Attorney General merely declared that all three heads of relevant state agencies should participate in voting on questions of supervision and control of parks and did not require unanimity in such voting and instead directed three-member Authority to promulgate rules in accordance with Administrative Procedure Act exactly the same as any other multi-member state board. 12 M.R.S.A. § 901; 1 M.R.S.A. § 71(3).

Barbara B. Lounsbury (orally), Auburn, for plaintiffs.

Rufus E. Brown, Deputy Atty. Gen. (orally), Augusta, for defendant.

Robert J. Allen, Downeast Law Offices, Augusta, for intervenor, Natural Resources Council of Maine.

McKUSICK, Chief Justice.

Plaintiffs, individual users of Baxter State Park,¹ and intervenor Natural Re-

1. Of the seven original plaintiffs in this action, only Roger Normand, James Haddow, and David Tyler appeal the judgment of the Superior Court.

2. Baxter State Park, Rules and Regulations No. 19 (Rev.1982) provides in full:

SNOWMOBILES: Snowmobiles may be used on Matagamon and Webster Lakes and on the unplowed portions of the regular road system currently maintained by the Department of Transportation for vehicular traffic in the summer, excluding, however, the portion of the Park Perimeter Road, not presently in use, passing by Dwelley Pond. Snowmobiles also shall not be allowed on the roads into South Branch Pond, Roaring Brook, Daicey Pond, Kidney Pond, and the tote road into Katahdin Lake from Avalanche Field, but shall be allowed on the one-half mile section over the easterly projection of Baxter Park in Township 6, Range 8 along the west side of the East Branch of the Penobscot River, a one-mile section along the East Branch of the Penobscot River in Township 6, Range 9 from the westerly end of Second Lake Grand Matagamon, and the Telos cut-off road from the Telos Gatehouse to the Park Perimeter Road via Morse Mountain. Use of all other roads, lakes and trails or any other portion of the

sources Council of Maine challenge the legality of Park Rule 19,² a regulation issued by defendant Baxter State Park Authority that permits limited use of snowmobiles by members of the public for access to the Park in the wintertime.³ Basically, Rule 19 permits snowmobiles to travel only on the perimeter road, so-called, one of the Park roads open to automobiles in the summertime. See the map attached to this opinion as Appendix A. On appeal from the Superior Court (Kennebec County), which upheld Rule 19, appellants argue that the rule is invalid because it violates the terms and purposes of the Baxter State Park Trust and because it was not adopted by a unanimous vote of the three members of the Authority. We deny the appeal and affirm the judgment.

I. Background

A. The Park

Baxter State Park consists of lands deeded between 1931 and 1962 by former Governor Percival Baxter to the State and administered pursuant to a unique charitable trust.⁴ No single document sets forth the

Park by snowmobiles is prohibited, except by authorized personnel on Park business. Operators travel at their own risk and must comply with all requirements of State laws and drive safely at all times. Operation by persons under 10 years of age is prohibited.

3. This opinion will discuss only the use of snowmobiles in the Park by members of the public, and not their use, as permitted by Rule 19, "by authorized personnel on Park business." None of the parties contest the legality of the latter administrative or emergency use.

4. *Fitzgerald v. Baxter State Park Authority*, 385 A.2d 189, 191-92 (Me.1978), describes the history of the Park as follows:

Among the many public-spirited benefactors with whom the State of Maine has been blessed, Percival Proctor Baxter stands preeminent. In its combination of size, uniqueness, permanence, and vision, his gift of Baxter State Park to the people of Maine has no equal. Over a period of 31 years, former Governor Baxter deeded to the State of Maine in trust a total of 201,018 acres of land, principally in Piscataquis County, for the establishment of Baxter State Park. His first gift in 1931 of about 6,000 acres, encompassing the

terms of the Baxter State Park Trust (the trust). Instead, the trust evolved over time to reflect Governor Baxter's intent as embodied in his deeds⁵ and transmittal letters.⁶ The deeds conveyed land to the State in trust for the benefit of the people of Maine, subject to two conditions: first, that the Park lands "forever shall be kept for and as a State forest and public park and for *public recreational purposes*;" and second, that they "forever shall be kept in their *natural and wild state* and as a sanctuary for wild beasts and birds"⁷ (Emphasis added) In 1955 Governor Baxter executed a formal declaration (which was accepted by the legislature in the 1955 Interpretation Act, P. & S.L. 1955, ch. 2) designed to amplify his intent and clarify the terms of the trust. In that instrument he declared his views on the interrelationship between the two key trust conditions, as follows: "This area [the Park] is to be maintained primarily as a Wilderness and recreational purposes are

higher areas of Mt. Katahdin and the slopes on all four sides, set a pattern that he was to follow in his succession of gifts completed in 1962. In each case he transmitted to the current governor his deed of trust which was then duly submitted to the legislature for acceptance by private and special act. In Governor Baxter's transmittal letters to the successive governors, he set forth his grand design for a state park around Maine's highest mountain. In addition to the conveyances of land, Governor Baxter in 1961 and 1965 gave the State sums in excess of \$1.5 million for the care, operation, and maintenance of the Park. P. & S.L. 1961, ch. 21; P. & S.L. 1965, ch. 30.

(Footnotes omitted)

5. For the deeds and acceptances, see Private and Special Laws: 1931, ch. 23; 1933, ch. 3; 1939, chs. 1, 122; 1941, chs. 1, 95; 1943, chs. 1, 91; 1945, ch. 1; 1947, ch. 1; 1949, chs. 1, 2; 1955, chs. 1, 3, 61, 171; 1963, ch. 1.
6. By this method of conveyance, Governor Baxter intended to create an evolving trust that reaffirmed his vision of the Park. "In this manner a long list of precedents is being established; precedents which, as time passes, will show that eight or ten different Governors and as many Legislatures, by laws duly passed and signed by these Governors, have entered into solemn pacts that create a succession of irrevocable trusts." Laws of Maine, 1943, p. 701. For the transmit-

to be regarded as of secondary importance and shall not encroach upon the main objective of this area which is to be 'Forever Wild.'" *Id.* The same 1955 Interpretation Act confirmed the authority of the State to build access roads in the Park, carrying out Governor Baxter's earlier decision, reflected in P. & S.L. 1949, ch. 2, to make the Park "more accessible for public use and enjoyment." That 1949 statute gave discretion to the State as trustee to build and maintain access roads as it "shall deem to be in the public interest and for the proper use and enjoyment" of the public on the condition that the roads be "constructed and maintained in a manner not to interfere with the natural wild state now existing" *Id.*

The Baxter State Park Authority administers the Park in accordance with the terms of the trust.⁸ 12 M.R.S.A. §§ 900-907 (1981 & Supp. 1985-1986). Its membership consists of the Attorney General,

tal letters, see Laws of Maine as follows: 1931, pp. 725-26; 1933, p. 859; 1939, pp. 846-47; 1941, pp. 760-61; 1943, pp. 698-708; 1945, pp. 982-90; 1947, pp. 1244-45; 1949, pp. 1368-70; 1955, pp. 1143-50; 1963, p. 1473.

7. Each of the deeds and acceptances listed in note 5 above contains both conditions except that P. & S.L. 1955, chs. 61 & 171, omit the second, "forever wild" condition. Instead, both of those deeds conveyed certain lands in trust on the condition that the lands "shall forever be held for and as a State forest, public park, and public recreational purposes and for the practice of Scientific Forestry"
8. The legislature mandates that "it shall always be the purpose of the Authority to satisfy the terms of the Trust." 12 M.R.S.A. § 900 (1981). The Authority exercises "full power in the control and management" of the Park and may receive trust funds and collect fees "for maintenance and operation of the Park." 12 M.R.S.A. § 901 (Supp. 1985-1986). It may promulgate rules consistent with the Administrative Procedure Act that "it deems necessary for the protection and safety of the public or for the proper observance of the conditions and restrictions expressed in the deeds of trust of the Park to the State." 12 M.R.S.A. § 903 (1981). It also exercises police powers over the Park, 12 M.R.S.A. § 905 (1981), and may hire agents to discharge its duties. 12 M.R.S.A. § 904 (1981).

the Director of the Bureau of Forestry, and the Commissioner of the Department of Inland Fisheries and Wildlife. 12 M.R.S.A. § 901 (Supp. 1985-1986). Although the Authority is an agency of the State, it operates in a manner different from any other state agency. Its members "must administer the trust like any private trustees of a charitable trust, exercising their best judgment, informed by the Attorney General's advice on any legal question and, where necessary, by instructions of a court of equity." *Fitzgerald v. Baxter State Park Authority*, 385 A.2d 189, 202 (Me. 1978).

B. History of Park Rule 19

Prior to 1968, snowmobile use in the Park was unregulated. In December 1968, shortly before Governor Baxter's death, the Authority promulgated its first regulation regarding snowmobiles. That version of Rule 19 permitted use of snowmobiles on the perimeter road, some connecting service roads, and certain trails. It remained substantially unchanged for the next eight years.

In 1976 the Attorney General gave the Authority his legal opinion that the trust prohibits any and all use of snowmobiles in the Park except for administrative and emergency uses. Op.Me.Att'y.Gen. (May 20, 1976). The Authority amended Rule 19 to comply with that opinion. That rule remained in effect until 1981.

In November 1979, the Authority decided to reconsider the 1976 version of Rule 19 and voted to petition the Superior Court for instructions on several issues concerning the legality of permitting snowmobiles access to the Park. On September 11, 1980, the Authority agreed that if the Superior

Court ruled that it was within the Authority's discretion to permit use of snowmobiles, it would initiate a rulemaking proceeding to establish the appropriate scope of such use in the Park. The next day the Authority filed its petition in the Superior Court.⁹

Several individuals and organizations, including the Natural Resources Council of Maine, intervened in the proceeding before the Superior Court. By stipulation of the parties, the petition was narrowed to seek a declaratory judgment on a single question that the Superior Court justice in his later opinion framed as follows:

The issue presented is whether, as a matter of law, based upon Governor Baxter's intent as expressed in the trust documents and other extrinsic evidence relating thereto, the Authority is prohibited from allowing snowmobiles in the park. This Court is not called upon to decide, nor does it purport to decide, the issue of whether snowmobile use should be permitted but only whether the intent of Governor Baxter is so clear as to permit the Court to rule as a matter of law that such use is prohibited.

The litigants amassed an impressive record, containing depositions, affidavits, a compilation of Governor Baxter's correspondence, and testimony of several witnesses, all on the Governor's intent and the effects of snowmobile use on the physical environment and on other users of the Park.

The Superior Court in June 1981 issued its declaratory judgment that the Authority "is not prohibited as a matter of law by the Baxter Park Trust from permitting the use of snowmobiles in the park for recreational purposes."¹⁰ In reaching that conclusion,

by "the use of snowmobiles in the park for recreational purposes":

The term recreational is used herein in contrast to the administrative or emergency use of snowmobiles. The potential use discussed by the counsel in this proceeding could best be described as access by snowmobiles on the portions of the park road system.... It is not within the contemplation of any of the parties

9. The Authority's petition invoked the Superior Court's jurisdiction pursuant to the Declaratory Judgments Act, 14 M.R.S.A. §§ 5953, 5956(2), (3) (1980), and the court's equity jurisdiction pursuant to 14 M.R.S.A. § 6051(10), (13) (1980).

10. In a footnote hung on the word "recreational" in his declaratory judgment, the Superior Court justice explicitly defined what he meant

it found that the Governor's paramount purpose in establishing the Park was to "create and preserve an area in which persons could have a wilderness experience." The Governor's secondary objective was "that the area be reasonably accessible." The court held that the use of snowmobiles promotes that trust objective of access. It also held that any access by snowmobiles is not a per se violation of the "forever wild" trust condition. Although Governor Baxter's two objectives could be accommodated, the court's opinion stressed that "[i]t is equally clear that while these dual purposes exist, the preservation of the wilderness takes priority over access" This declaratory judgment (hereinafter referred to as the 1981 judgment) was never appealed.

II. *The Current Version of Rule 19*

In September 1981 the Authority initiated the rulemaking proceeding that led to adoption of the current version of Rule 19, the subject of the present appeal.¹¹ At a series of public hearings held in Augusta, Millinocket, Orono, and Portland, it heard testimony from representatives of the Appalachian Mountain Club, Maine Audubon Society, Maine Snowmobile Association, Natural Resources Council of Maine, and Sierra Club, as well as legislators and private citizens. It also solicited written comments and discussed the issue at an open meeting with the Park staff. On December 22, 1981, by a vote of 2-1, the Authority adopted the present Rule 19. That rule allows members of the public to travel by snowmobiles on most of the Park's perimeter road on the southern, western, and northern sides of the Park, and on the Telos cut-off road on the western edge of the Park, both roads being open to automobile use in the summertime. The rule also

permits travel by snowmobile on Matagamon and Webster Lakes, boundary lakes that lie only partly within the Park; and along two short stretches of the East Branch of the Penobscot River, near the Park's northerly and northeasterly boundaries. Snowmobiles are expressly excluded from the Park roads into South Branch, Kidney, and Daicey Ponds, and into Roaring Brook. All of those roads are open to automobiles in the summertime. The rule confines snowmobiles to the unplowed (i.e., traveled) portions of the perimeter and Telos cut-off roads. Everywhere else in the Park, including the vast eastern and interior areas of the Park, the use of snowmobiles is prohibited.¹² See the full text of Rule 19, n. 2 above, and the map in Appendix A.

Plaintiffs promptly sought judicial review of Rule 19 by the Superior Court. Their complaint raised three contentions. First, it tried to reopen the issue decided by the Superior Court in the 1981 proceeding, namely, whether any use of snowmobiles in the Park violates the trust. Second, it made a general attack on the design of Rule 19, asserting that the extent to which the rule permits travel by snowmobiles in the Park constitutes an abuse of discretion and violates the trust. Third, it made a specific attack on the rulemaking proceeding, contending that the rule was invalid because it was not adopted by a unanimous vote of the Authority's members. The record before the Superior Court included the evidence received in the court's prior snowmobile proceeding and the presentations to the Authority in its 1981 rulemaking proceeding. In April 1985 the Superior Court denied appellants' appeal and sustained the validity of Rule 19. It held that the 1981 judgment bars relitigation of the

that snowmobiles would be allowed to frolic at will throughout the park anymore than automobiles are permitted to do so during the summer season.

11. The Authority is authorized to promulgate rules in accordance with the Administrative Procedure Act. See 5 M.R.S.A. §§ 8051-8058 (1979 & Supp. 1985-1986). See n. 8 above.

12. In a lengthy "Factual and Policy Statement for Rule 19 (Snowmobiles)," the Authority set forth the evidence and rationale that support Rule 19. The Director of the Bureau of Forestry dissented and filed a separate statement.

general proposition that as a matter of law the trust does not exclude any and all use of snowmobiles in the Park; that the Authority did not abuse its discretion in promulgating Rule 19;¹³ and that the Authority is empowered to exercise its rulemaking function by majority vote. The Natural Resources Council of Maine and three individual plaintiffs took timely appeals to this court.

III. Validity of Rule 19

A. Compliance with the Trust

[1] The central issue on appeal to this court is whether Rule 19 goes too far in allowing the use of snowmobiles in the Park. We do not consider the legal question whether *any* use of snowmobiles¹⁴ in the Park is barred by the Baxter State Park Trust. That question was answered in the negative, once and for all, by the 1981 judgment of the Superior Court. Collateral estoppel now bars relitigation of that question.¹⁵ Our analysis must start, therefore, from the premise that, as a matter of law, the Authority is not prohibited from promulgating a rule that allows access to the Park by snowmobiles.

[2] Our analysis must also recognize that, as the 1955 Interpretation Act, P. & S.L. 1955, ch. 2, makes clear, the "forever wild" condition of the trust takes precedence over Governor Baxter's secondary goals of access and recreation. Although the wilderness purpose is superior to that

of access, it does not preclude all manner of access to the Park. Reasonable access, when properly balanced with the paramount objective of preserving the wilderness experience, is a trust purpose that the Authority is charged to promote.

The Authority correctly viewed the 1981 judgment as the starting point for its rule-making proceeding. "The [1981 judgment] concluded that these objectives [access and wilderness] are legally compatible. *Our task, as we see it, is to determine whether this is so as a practical matter, should we decide to allow snowmobiles in the Park.*" (Emphasis added) The Authority also recognized that any rule it chose to promulgate may not permit the use of snowmobiles to encroach on the wilderness experience of other users of the Park, principally cross-country skiers and snowshoers. It stated that "if there is a[n] irreconcilable conflict between the use of snowmobiles and the wilderness experience of others in the Park—if the two cannot co-exist in the 200,000 acre Park—then snowmobiles should be excluded from the Park." Within that legal framework the Authority sought to craft a rule that permits access to the Park by snowmobiles and yet preserves the wilderness experience in the Park for cross-country skiers and snowshoers.

[3, 4] The critical issue before this court is whether the manner and extent to which

13. The Superior Court erroneously stated that its review of Rule 19 was pursuant to 5 M.R.S.A. § 11007 (1979), which governs judicial review of final agency action. Agency rules, however, are to be reviewed pursuant to 5 M.R.S.A. § 8058 (1979 & Supp.1985-1986). Despite the different statutory authorization for review, the analysis is essentially the same, requiring the court to test the legal and factual basis for the agency action. See *Cumberland Farms Northern, Inc. v. Maine Milk Comm'n*, 428 A.2d 869, 873-74 (Me.1981).

14. See n. 3 above.

15. On appeal appellants concede that principles of collateral estoppel preclude relitigation of the issue decided by the Superior Court in the 1981 proceeding. The Authority, which pleaded,

proved, and preserved its claim of collateral estoppel, invokes the doctrine as an affirmative defense against appellants on both a mutual and a nonmutual basis. Intervenor Natural Resources Council of Maine was a party to the 1981 proceeding; plaintiffs were not, although their interests were well represented by similar individual users of the Park. The key legal issue "whether the Authority is prohibited ... from permitting the use of snowmobiles within the Park for recreational purposes," was fully and fairly litigated and a final, binding judgment entered. That issue could have been reconsidered only on direct appeal from the 1981 judgment. Appellants lost that opportunity when no appeal was taken from that 1981 judgment. See *Spickler v. Flynn*, 494 A.2d 1369, 1373 (Me.1985) (per curiam); *Hossler v. Barry*, 403 A.2d 762, 766-68 (Me.1979).

Rule 19 allows snowmobiles in the Park exceeds the scope of the discretion vested in the Authority by the Baxter Trust. Judicial review of the Authority's rulemaking is governed by the Administrative Procedure Act, 5 M.R.S.A. § 8058 (1979 & Supp. 1985-1986), which provides in pertinent part:

Insofar as the court finds that a rule was improperly adopted or exceeds the rule-making authority of the agency, it shall declare the rule invalid. If the court finds that the rule was properly adopted and not in excess of the agency's rule-making authority, its substantive review of that rule shall be to determine whether the rule is arbitrary, capricious, an abuse of discretion or *otherwise not in accordance with law*.

(Emphasis added) The law to be applied by this court, set forth in 12 M.R.S.A. § 903, requires that Rule 19 must be consistent with "the proper observance of the conditions and restrictions expressed in the deeds of trust of the park to the State." See n. 8 above. The 1981 judgment has already construed those deeds of trust to the extent of declaring that they do not as a matter of law bar wintertime access to the Park by snowmobiles.

The Authority took special care to explain the factual basis and rationale of Rule 19. Based on an exhaustive review of all the evidence assembled in the 1981 Superior Court case and during the subsequent agency rulemaking proceeding, the Authority reached three conclusions. First, it determined that the Park should be accessible in winter and that snowmobiles provide a reasonable method of winter access. That finding was grounded on the testimony of the snowmobile proponents to the effect that to allow snowmobiling would increase the recreational use of the Park; that it would enable some citizens to visit the Park who otherwise would be denied access in the wintertime; that modern snowmobiles are quieter than earlier models; and that snowmobilers are courteous to other users of the same trails. In sum, evidence of record demonstrates that Rule

19 promotes the trust objective of access and recreation in the Park. Second, the Authority found that "the use of snowmobiles on the perimeter road will [not] adversely affect wildlife or otherwise affect the physical status of the Park," a finding that is not challenged on appeal to this court.

[5] The critical decision, then, turned on the Authority's judgment as to the manner and extent to which the use of snowmobiles should be allowed in order to promote access without encroaching upon the primary goal of preserving the wilderness experience. Snowmobile opponents testified before the Authority to the effect that the use of snowmobiles would deprive them of the wilderness experience they seek in the Park. Because the nature of a "wilderness experience" is highly subjective, the Authority accorded special respect to those views. "We accept the heartfelt testimony and letters from cross-country skiers and snowshoers that snowmobiles would infringe upon their wilderness experience in the Park. Governor Baxter . . . intended to make the Park accessible, but the access he intended was for the paramount purpose of providing a wilderness experience." The Authority concluded, however, that the Park could accommodate diverse winter activities and that by strictly confining snowmobiles, principally to the perimeter road, the wilderness experience could be preserved for cross-country skiers and snowshoers. Upon reviewing those conclusions, the Superior Court held:

By thus giving preservation of the wilderness experience priority over enhanced access during the winter months, the Authority stayed within the boundaries [of] its discretion as the trustee of the Park. By permitting restricted recreational snowmobile use, Rule 19 greatly enhances the Park's accessibility in the wintertime without unduly infringing on the wilderness experience of other, nonmechanized users of the Park.

We accord no special deference to that ruling of the Superior Court, sitting as it was as only an intermediate appellate tribunal. Instead we review Rule 19 independently in light of the record before the Authority. See *Gulick v. Board of Environmental Protection*, 452 A.2d 1201, 1209 n. 6 (Me.1982). Nonetheless, we come to the same conclusion as the Superior Court.

[6] Rule 19 represents a rational accommodation between the dual goals of the Baxter State Park Trust. Because the rule subordinates the objective of wintertime access by snowmobiles to Governor Baxter's predominant purpose of wilderness preservation, it is consistent with the terms and purposes of the trust. Nothing in this record causes us to second-guess the judgment of the Authority. Rule 19 strictly limits the use that may be made of snowmobiles for wintertime access to the Park. It confines use of snowmobiles principally to the perimeter road. By contrast, use of automobiles in the summertime is permitted not only on the perimeter road but also on several other roads of the Park.

Rule 19, while enhancing wintertime access to the Park, at the same time protects the public's opportunity to enjoy the wilderness experience. It entirely prohibits snowmobile use in the vast eastern and interior two thirds of the Park. That area, the Authority found, is the part of the Park favored by cross-country skiers and snowshoers seeking a wilderness experience.¹⁶ "Once the skiers and the snowshoers leave the perimeter road," the Authority concluded, "they will not hear, see or smell any

snowmobiles. This group, then, will have access to the vast interior of the Park, including the roads and trails most popular for skiing and snowshoeing, with no infringement upon their wilderness experience." In designing Rule 19 the Authority succeeded in preserving the wilderness experience that Governor Baxter intended to protect as the primary objective of the trust.

Governor Baxter could not be expected to have fully anticipated the exact nature of the conflicts between his wilderness and access goals that are presented by such facts of present-day life as the use of snowmobiles.¹⁷ With customary wisdom he left it to the Authority to accommodate his twin objectives in the face of such conflicts. The Governor vested the Authority with the responsibility of exercising its best judgment in working out conflicts with solutions that promote both objectives of the trust, but gives priority to Governor Baxter's goal of maintaining the Park "forever wild."

The importance of the task that Governor Baxter committed to the Authority's judgment is shown by the keen interest he took in the composition of the Authority's membership. See generally *Op.Me.Att'y Gen.* 83-46. "The membership in the Authority, obviously selected by Governor Baxter himself and ratified by him by his subsequent gifts, consists of the State's principal officers in the professions of the law, forestry, and fish and wildlife management. Both Governor Baxter and the Legislature placed their confidence in the judg-

16. The Authority explained the basis of this finding as follows:

We heard testimony that, for the most part, cross-country skiers and snowshoers enter the Park from the Togue Pond gate at the southern end of the Park, and then travel to Roaring Brook, then Russell Pond, and on to South Branch Pond or enter from the north at the Matagamon Gate and travel down through South Branch Pond.... [E]xcept for the short distances on the perimeter road between the Togue Pond gate and the Roaring Brook Road in the south and the Trout Brook crossing and the Matagamon Gate in the north, there will be a total separation of uses be-

tween snowmobiles, and cross-country skiers or otherwise with the rule we adopt.

17. Prior to his death in 1969, Governor Baxter in a 1965 letter to Helen Taylor wrote the following in regard to "Motor Skis": "I would be much pleased if the AUTHORITY would add this to the list of what is forbidden in the regulations." As the Superior Court in its opinion accompanying the 1981 judgment stated, "While the [1965] letter expresses the settlor's then current view of snowmobiles, it also acknowledges the power of the Authority to regulate their use."

ment and integrity of those high state officials." *Fitzgerald v. Baxter Park Authority*, 385 A.2d at 202-03. In discharging their duties, the members of the Authority often have to grapple with issues such as the snowmobile controversy that the trust does not resolve or that require application of specialized and technical expertise. Those situations require the Authority to exercise its best judgment, informed by its own careful study of the documentary evidence and by court decision and public comment, in order to discern and implement Governor Baxter's vision for the Park. Thus, "even though the Baxter trust is not a discretionary one, the expert judgment of members of the Park Authority ... should generally be accorded great weight in choice of methods for carrying out the donor's intent." *Id.* at 202. In the case at bar there is no legal justification for disturbing the in-depth study and expert judgment of the Authority in defining the appropriate use of snowmobiles in the Park. Rule 19 represents a permissible exercise of judgment by the Authority.

[7] Of the many questions that the Authority addressed in promulgating Rule 19, appellants single out for special attention the issue whether Rule 19's restrictions on snowmobiling are enforceable. On appeal they contend that Rule 19 is fatally defective because some snowmobilers may use the perimeter road and the Telos cut-off merely as an easy way to get from one side of the Park to the other. All parties agree that Governor Baxter intended the Park to be a destination rather than a detour or shortcut. The Authority recognized the thoroughfare problem but found no evidence to portend significant violation of the rule. It concluded "that there is no legitimate basis for assuming that snowmobile[r]s will abuse the rule any more than others [i.e., motorists] do" Appellants properly point out that the fact that some automobiles may use the Park as a summertime thoroughfare cannot save Rule 19. There is no evidence, however, that in the time Rule 19 has been in effect, snowmo-

biles have used the Park's perimeter road as a mere thoroughfare. The Authority committed itself to monitoring the rule and can be expected to address by appropriate measures any significant problems that may arise.¹⁸ In the meantime, the speculative possibility of abuse of Rule 19 does not invalidate it.

B. *Validity of the Authority's Majority Vote*

[8] The statute governing composition of the Authority, 12 M.R.S.A. § 901, provides in part: "[The Park] shall be under the *joint supervision and control* of, and shall be administered by the Director of the Bureau of Forestry, the Commissioner of Inland Fisheries and Wildlife and the Attorney General." (Emphasis added) Appellants urge that "joint supervision and control" means that the Authority cannot take any action, such as adopting a rule, unless all of its members agree. To support their argument they point, however, only to the adjective "joint," and do not offer any persuasive rationale for that interpretation.

The legislature has enacted rules of construction that expressly define the requirements of decisionmaking by three or more persons in legislatively created commissions and similar bodies. "Words giving authority to 3 or more persons *authorize a majority to act*, when the enactment does not otherwise provide." 1 M.R.S.A. § 71(3) (1979) (emphasis added). The term "joint supervision and control" does "not otherwise provide"; it merely declares that all three heads of the relevant state agencies shall participate in voting on questions of the supervision and control of the Park. If the legislature meant to require unanimity in such voting, contrary to the statutory canon of construction, it easily could have so provided. Instead, it directed the three-member Authority to promulgate rules in accordance with the Administrative Procedure Act, exactly the same as any other multi-member state board. See n. 8 above. Nothing in that act can be construed to

18. The Authority warned that it will not tolerate violation of the rule. "If we discover that the

rule is not being obeyed, we will change it to exclude snowmobiles."

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require a unanimous vote for the valid promulgation of a rule by a state agency.

The entry is:

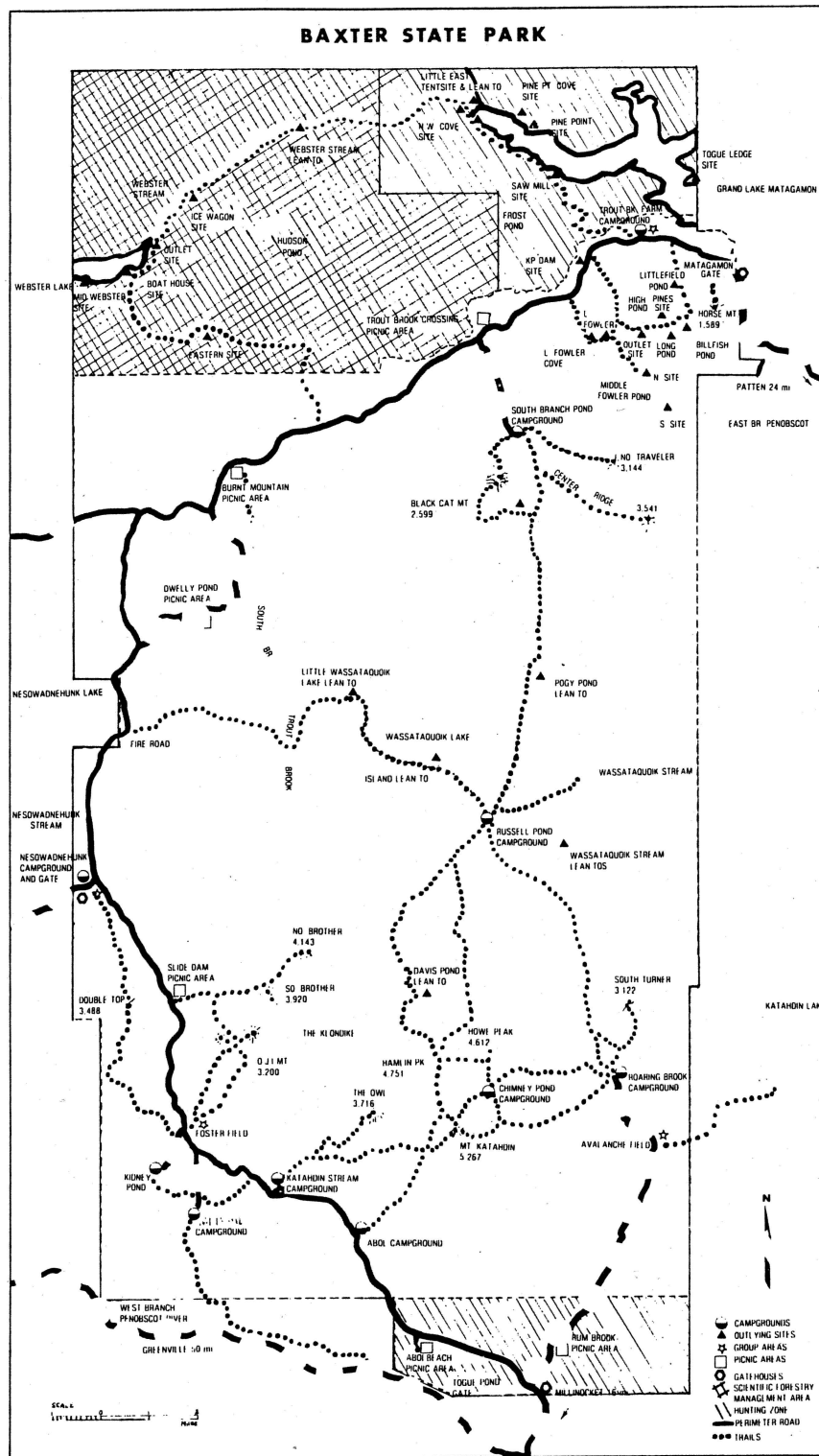
Judgment affirmed.

NICHOLS, ROBERTS, and GLASSMAN, JJ., concurring.

APPENDIX A

The heavy, unbroken black lines indicate the roads and other areas where use of snowmobiles is permitted under Rule 19 of the Baxter State Park Authority. See n. 2 above for full text of Rule 19.

APPENDIX A—Continued



SCOLNIK, Justice, dissenting.

I respectfully dissent. In my view, recreational snowmobiling as permitted by Rule 19 is antithetical to the trust's paramount purpose of preserving the wilderness experience.

The Court concludes that since the use of snowmobiles enhances access to the Park, such use does not offend, but is compatible with, the terms of the trust. This analysis misframes the issue. The issue in this case, as both the Authority and the Superior Court perceived it, is not whether snowmobiling as a means of wintertime access to Baxter Park is permissible under the trust, but whether snowmobiling for *recreational purposes* may be so permitted.

The history of Rule 19 plainly demonstrates that the rule was not intended to promote access but is designed expressly to allow recreational snowmobiling. In December, 1968, the Authority officially sanctioned the use of snowmobiles for recreational purposes when it promulgated the first version of Rule 19. Prior to 1968, the use of snowmobiles in Baxter Park was unregulated and recreational snowmobiling was therefore not prohibited. In 1976, after the Attorney General rendered his opinion that the terms of the trust prohibited the recreational use of snowmobiles, the Authority amended the rule to prohibit

such use. In November, 1979, after the Maine Snowmobile Association proposed reconsideration of the ban, the Authority instituted a complaint for declaratory judgment seeking guidance concerning the legality of permitting snowmobiles in the Park for recreational purposes. The Authority agreed that if the Superior Court ruled that the trust did not prohibit recreational snowmobiling, it would promulgate a rule establishing the extent to which the use of snowmobiles for recreational purposes would be allowed in Baxter Park.

The sole issue presented to the Superior Court was whether, as a matter of law, "the Authority [was] prohibited...from permitting the use of snowmobiles within the park for recreational purposes." In 1981, the Superior Court answered the question by concluding that the terms of the trust did not *per se* bar recreational snowmobiling.¹

Following that decision, the Authority initiated a rulemaking proceeding for a "proposed rule for the *recreational use of snowmobiles in the Park*." (emphasis added). The Authority understood its task to be the fashioning of a rule that would permit the recreational use of snowmobiles but would not, "in actual practice," "conflict" with the wilderness concept embodied in the trust. It accomplished that goal by

1. Because the machines were not invented at the time the trust instruments were drafted, the court found its terms ambiguous with respect to recreational snowmobiling and therefore considered extrinsic evidence of Governor Baxter's subsequent expressions to determine his intent at the time he created the trust. One item of evidence considered was a letter from the Governor to Helen Taylor, Park Supervisor, dated May 11, 1965, in which he discussed snowmobile use in the Park. He wrote:

In regard to the Motor Skis I have thought this over and have this suggestion to make. These skis should be prohibited in the Park except for the one for you as Supervisor to use in cases of emergencies. I feel strongly about this for they will frighten away the wild animals and we certainly would not see a caribou again. This same reason prompted us to forbid the use of motor boats in our lakes. I can see the damage they would cause.

I would be much pleased if the AUTHORITY would add this to the list of what is forbidden in the regulations. Will you please bring this to the attention of the AUTHORITY members for this is the time to kill it.

The Superior Court justice stated that the letter was "not dispositive of [the] issue" and "reflect[ed] the ambiguity which exists within the trust." The justice further concluded that "[h]ad Governor Baxter believed that the intent of the trust agreement clearly prohibited the use of snowmobiles within the park, he certainly would not have requested that his views on the matter be brought to the Authority's attention."

As explained in the above letter, Governor Baxter's similar objection to the use of motor boats prompted the Authority to ban their use. On April 18, 1966, the Governor also wrote a letter to the Authority expressing his concern about the use of motorcycles. They too were excluded by the Authority soon thereafter.

promulgating Rule 19. The rule essentially divides the Park into two unequal sections, one for the recreational use of snowmobiles, the other for those who rely on non-mechanical modes of recreation such as cross-country skiing and snowshoeing. Recreational snowmobile use is basically restricted to the Perimeter Road and certain spurs in the western, northern and eastern portions of the Park and to two larger lakes in the western section of the Park, while other winter non-mechanized recreational uses are confined to the eastern and interior two thirds of the Park. Thus, as explained by the Authority, the rule effects a "total separation of uses between snowmobiles, and cross-country skiers [or snowshoers]...." (emphasis added).

The plaintiffs sought judicial review of Rule 19 contending, *inter alia*, that the rule violates the terms of the trust because of the extent to which it permits the recreational use of snowmobiles. The Superior Court, in this proceeding, held that the recreational use of snowmobiles permitted by the rule was "compatible" with the trust because, by completely separating the con-

flicting recreational uses, the rule did not "unduly infrin[ge]" on the wilderness experience.² Hence, both the Authority and the Superior Court determined that since the rule separates the two conflicting uses, the recreational use of snowmobiles did not unduly detract from the wilderness experience of others who are "willing to walk" because they would not be in that section of the Park where their wilderness experience would be diminished.

Accordingly, the history of Rule 19 makes clear that the issue before us has little to do with the use of snowmobiles as a means of access to the Park. Despite the fact that snowmobile use, like many other forms of mechanized recreational devices, may simultaneously facilitate access, it cannot be ignored that the purpose of the rule is to permit recreational snowmobiling. Therefore, the issue that must be addressed, as I see it, and as both the Authority and the Superior Court perceived it, is whether the recreational use of snowmobiles permitted under Rule 19 comports with the terms of the trust.³ In my opinion, it obviously does not.

2. The court's conclusion was based on the fact that Rule 19 created a "total separation" between the two recreational activities that could not otherwise co-exist. The Superior Court justice stated: "[T]he Authority could not reasonably have concluded that the recreational use of snowmobiles would not deter skiers (sic) and snowshoers from using the Park, or detract from the wilderness experience of those who continued to use it."

3. I thus strongly disagree with the Court's analysis of the issue as if it were merely a balancing between promoting access and preserving the wilderness experience. Such an analysis is premised on the assumption that since the Governor permitted the use of automobiles as a means of access in the summertime, a similar exception to the wilderness mandate can be inferred to permit the use of snowmobiles in the Park in the wintertime. This analysis is wrong for several reasons. First, the entire history of Rule 19 makes clear that the primary objective of snowmobile use is the enjoyment of the ride itself, rather than a means of transportation to facilitate access to the Park to use and enjoy the wilderness "in the right unspoiled manner." Unlike the use of automobiles in the Park, recreational snowmobiling is more akin to other

forms of mechanized recreation such as all-terrain-vehicles and trail bikes. This fact was recognized by the Superior Court in the 1981 decision. The justice in that case stated: "It is probably accurate to refer to [snowmobile] use as recreational *since the vehicles themselves are considered to be recreational*." (emphasis added). Second, the Court's analysis ignores the reluctance the Governor expressed when he decided in 1949 to allow automobiles in the Park for access purposes. He explained that his decision represented "a considerable concession" on his part. This decision should not be construed as signaling an abandonment of the Governor's intent to preserve the Park for those who are "willing to walk and make an effort to get close to nature," nor does it support the assumption that the Governor would have enlarged his "concession" to permit snowmobiles in the Park. Finally, just as the Governor obviously did not intend that the entire area of the Park be accessible by automobile, he did not intend that the Park be equally accessible at all times of the year. He knew his concession for automobile use was limited to the summertime because the roads are impassible in the wintertime. Corroborating his recognition that wintertime access would be more limited, he postponed to spring-

The trust evolved over time to reflect Governor Baxter's intent as embodied in his deeds and transmittal letters. The two conditions in the deeds provide that the Park lands "forever shall be kept for and as a State forest and public park and for public recreational purposes" and that they "forever shall be kept in their natural and wild state and as a sanctuary for wild beasts and birds...." In 1971, the State of Maine reiterated these concerns in the statement of purpose of Baxter Park. P.L. 1971, ch. 477, § 1. That statement, relying primarily on Governor Baxter's own words, interpreted the terms "public park," "recreation," "natural wild state" and "sanctuary for wild beasts and birds." It states, in part:

Lest those that follow, uncertain of Governor Baxter's wishes, seek to define his desires in ways inharmonious with their original intent, this section is enacted.

It shall be the object of the Baxter State Park Authority to preserve the grandeur and beauty of Maine's highest peak, Mount Katahdin, as well as the 45 other mountains, the numerous lakes, ponds and streams; to subordinate its own wishes to the intent of Governor Baxter; to recognize his wish that, in this era of change, one thing of natural beauty remain constant.

This intent must be interpreted so as not to separate this park from the people to whom it was given; but rather seek to have it enjoyed and "used to the fullest extent but in the right unspoiled manner."

As a public forest it shall remain in its natural wild state and when "the Forests of our State have been cut off and disappeared, when civilization has encroached upon the land we now refer to as 'Wild Land,' this park will give the people of succeeding generations a living example of what the State of Maine was 'in the

time his own visit to the Park expressing the view that in the wintertime, the Park is best left "to the wild animals who enjoy the peace and solitude therein." Accordingly, any attempt to

good old days' before the song of the woodsman's axe and the whine of the power saw was heard in the land."

As a public park and a place of recreation, it is apparent that it is intended for "those persons who enjoy the wilderness" and that *the repeated use of the word "recreation" refers to the use of this park compatible with its natural state as a wilderness area and an expanse "for those who love nature and who are willing to walk and make an effort to get close to nature ... with pleasant foottrails built and attractive campsites laid out in the valleys, by the brooks, and on the shores of the water."*

As a tract kept in its "natural wild state," it is intended that "everything in connection with the park must be left simple and natural and must remain as nearly as possible as it was when only the Indians and the animals roamed at will through these areas..." Access to the park shall be provided only "as may be necessary to accommodate those persons who wish to enjoy the great unspoiled area that now is the property of our State..."

....
"While I am living I fear no encroachments on the park, but as time passes and new men appear upon the scene, there may be a tendency to overlook these restrictions and thus break the spirit of these gifts."

12 M.R.S.A. § 900 (emphasis added).

Governor Baxter also executed a formal declaration designed to clarify his intent as embodied in the terms of the trust, which was accepted by the Legislature in the 1955 Interpretation Act, P. & S.L. 1955, ch. 2. The Governor stated in that declaration:

This area [the Park] is to be maintained primarily as a Wilderness and *recreational purposes are to be regarded as of secondary importance and shall not*

equate the use of snowmobiles to automobile use, to which Governor Baxter made an express but reluctant concession, is clearly unfounded.

encroach upon the main objective of this area which is to be 'Forever Wild'.

Id. (emphasis added).

The above provisions illustrate that there are two alternative standards that must be met in order for the rule to be declared valid. First, as a recreational activity, the permitted recreational snowmobiling must be "compatible with [the Park's] natural state as a wilderness area and an expanse 'for those who love nature and who are willing to walk and make an effort to get close to nature.' " Second, the recreational snowmobiling permitted by the rule must not "encroach upon the main objective" of maintaining the Park in its natural state. For all practical purposes, these standards mean basically the same thing. They require that any recreational activity permitted in the Park must be harmonious with, and not encroach on, the trust's primary objective of preserving the wilderness experience.⁴

The Authority's own conclusion—that the conflicting recreational uses of snowmobiles and non-mechanized modes of recreation cannot be accommodated except by total physical separation—shows that the extent of recreational snowmobiling permitted by the rule violates the standard set forth in the trust. If the permitted snowmobile use cannot co-exist with the use of the Park by those who are "willing

to walk" to enjoy the wilderness in "the right unspoiled manner," it certainly cannot be harmonious with or avoid encroaching on the wilderness experience. This fact was plainly recognized in this case by the Superior Court justice who, in reviewing the validity of Rule 19, stated:

It cannot be seriously argued that snowmobile riding itself is part of the "wilderness experience" as Governor Baxter contemplated it. Governor Baxter's description of the experience as a primitive, one-to-one encounter between man and the elements on nature's terms is antithetical to the sort of man-machine experience one has while snowmobiling.

Both the Authority and this Court assume that recreational snowmobiling can nevertheless be made compatible with the wilderness experience. This is achieved by "totally separating" the use of snowmobiles from those users of the Park who engage in recreational activities that do not spoil the wilderness experience. Such an assumption is flagrantly at odds with the trust. No provision in the trust allows for carving the Park into two zones in order to segregate recreational activities. To the contrary, the trust terms are quite clear that *all* recreational uses that occur anywhere in the Park must be harmonious with the wilderness experience. If the Governor's goal of maintaining that experi-

4. Governor Baxter felt strongly about the need to preserve the wilderness experience in modern society. In a letter to Robert Marshall, dated May 4, 1937, the Governor expressed his full agreement with Marshall's discussion of the value of the wilderness experience that had been published in a magazine. The magazine article stated:

[We] can afford to sacrifice almost any other value for the sake of retaining something of the primitive.... To countless people the wilderness provides the ultimate delight because it combines the thrills of jeopardy and beauty. It is the last stand for that glorious adventure into the physically unknown that was commonplace in the lives of our ancestors and has always constituted a major factor in the happiness of many exploratory souls. It is also the perfect esthetic experience because it appeals to all of the senses.... It is all of these at the same time, blended into a

unity that can only be appreciated with leisure and which is ruined by artificiality.... Quality as well as quantity must enter into any evaluation of competing types of recreation, because one really deep experience may be worth an infinite number of ordinary experiences. Therefore, it is preposterous to hold that the objective of outdoor recreational planning should be to enable the maximum number of people to enjoy every beautiful bit of the outdoors.

All the while year after year, the United States becomes more and more mechanized. The life of one person after another has been saturated by machinery. Human beings require compensations and it seems inevitable that as the machine age expands the need for an escape will also expand.

Marshall, "The Universe of the Wilderness Is Vanishing," *Nature Magazine*, April 1937.

ence for present and future generations is to have any meaning, the focus cannot be on whether human beings are actually present or not, but it must be on whether there is any diminution in the wilderness character of the Park or the solitude available to be experienced therein. In expressing his antipathy to any activity that might encroach on the wilderness condition, the Governor explained:

Katahdin should and must remain the wild, storm-swept, untouched by man region it now is: that is its great charm... a place where nature rules and where the creatures of the forest hold undisputed dominion. As modern civilization with its trailers and hot dog stands, its radio and jazz, encroaches on the Maine wilderness, the time yet may come when only the Katahdin region remains undefiled by man. If Maine or the National Government wishes to provide resorts for winter and summer sports, there are ample opportunities available elsewhere in Maine....⁵

The preservation of the wilderness experience envisioned by Governor Baxter does not depend on the actual presence of people. It is to be preserved, instead, by preventing any encroachment that threatens the wilderness state without which no wilderness experience is possible. It is inconceivable that the sound and smell from the operation of snowmobiles on Matagamon and Webster Lakes would not encroach on Governor Baxter's goal of maintaining the Park as a place to enjoy the wilderness as "'in the good old days" before... the whine of the power saw was heard in the land'" merely because others seeking the kind of wilderness experience contemplated by Governor Baxter are not physically in a particular area. Since it is evident that the recreational snowmobiling permitted by the rule cannot be reconciled with the wilderness state, the rule should be declared invalid. The trust requires nothing less.

Thus, although the issue presented in this case differs from the issue raised in

the 1981 Superior Court decision, the above analysis of the validity of Rule 19 leads to the inevitable conclusion that the 1981 decision is incorrect. Ordinarily, rules of issue preclusion would require that we not disturb that Superior Court decision. However, an exception to the principle of collateral estoppel has been recognized in cases where private litigation has a "potential adverse impact" on the public interest. *Restatement (Second) of Judgments* § 28(5)(a) (1982). In such cases, protection of the public interest authorizes the correction of an erroneous judgment. This recognized exception is particularly applicable here because, unlike the 1981 declaratory judgment action that was decided in a more narrow context, the matter before us involves an examination of a specific regulation and provides a factual record, including testimonial evidence, that deals directly with the proposed rule. It cannot be disputed that the public would be adversely affected if an incorrect interpretation of the trust is permitted to stand. Over a period of thirty-one years, the Governor acquired over 200,000 acres of land for the purpose of preserving the wilderness experience. He conveyed this land in trust for the benefit of the people of Maine. Hence, a decision of this Court that would perpetuate the 1981 Superior Court decision, would not only adversely affect the parties of record, but also the populace at large for whom the trust was created. The facts in this case demonstrate that the 1981 decision is untenable. In these circumstances, this Court, under the *Restatement* exception, need not consider itself bound by principles of collateral estoppel when the consequence of such a restraint is the frustration of Governor Baxter's clearly expressed purpose of creating the Park as a refuge against the encroachments of mechanized society to the prejudice of the trust beneficiaries, the people of the State of Maine.

Accordingly, I would vacate the judgment of the Superior Court and remand with instructions to declare Rule 19 to be

5. Portland Press Herald, May 3, 1937.

invalid because the extent of recreational use of snowmobiles permitted by the rule violates the mandates of the trust.



Michael KANE

v.

Gary ANDERSON.

Supreme Judicial Court of Maine.

Argued May 1, 1986.

Decided May 20, 1986.

Action was brought against city police officer alleging that he was negligent in executing an arrest warrant. The Superior Court, Cumberland County, entered judgment against officer, and officer appealed. The Supreme Judicial Court, Roberts, J., held that officer's execution of arrest warrant was a ministerial rather than a discretionary function, and thus, discretionary-function exception to the Maine Tort Claims Act did not confer immunity upon officer.

Affirmed.

Municipal Corporations ¶747(3)

City police officer's execution of arrest warrant was a ministerial rather than a discretionary function, and thus, discretionary-function exception to the Maine Tort Claims Act did not confer immunity upon officer. 14 M.R.S.A. §§ 8101-8118, 8111, subd. 1, par. C.

1. § 8111. Personal Immunity for employees; procedure

1. Immunity. Employees of governmental entities shall be personally immune from civil liability for the following:

....
....

Cloutier, Barrett, Cloutier & Conley, Gerard P. Conley (orally), Portland, for plaintiff.

Berman, Simmons & Goldberg, P.A., Paul F. Macri (orally), Lewiston, for defendant.

Before McKUSICK, C.J., and NICHOLS, ROBERTS, VIOLETTE, WATHEN and SCOLNIK, JJ.

ROBERTS, Justice.

The defendant, Gary Anderson, appeals from a judgment against him of \$100 in Superior Court, Cumberland County, after a jury found him negligent in executing an arrest warrant. Anderson, a Portland police officer, arrested Michael Kane pursuant to a warrant that Anderson believed to be directed against Kane. Kane subsequently proved to the District Court that he was not the person named in the arrest warrant, and he filed suit against Anderson alleging damages as a result of the arrest. The Superior Court ruled that the Maine Tort Claims Act, 14 M.R.S.A. §§ 8101-8118 (1980 & Supp.1985), was not applicable to the case and conferred no immunity on Anderson. The court permitted Kane's claim to go to the jury on the basis of negligence. Because we agree with the Superior Court that Anderson was not immune from liability in the execution of an arrest warrant, we affirm the judgment.

Anderson argues that his actions fall within the Maine Tort Claims Act and that he is immune from suit under section 8111(1)(C) because the execution of an arrest warrant is a discretionary duty.¹ We disagree with Anderson's contention. Even if the Maine Tort Claims Act does apply to this fact situation, section 8111(1)(C) does not confer immunity upon

C. The performance or failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused; and whether or not the statute, charter, ordinance, order, resolution, regulation or resolve under which the discretionary function or duty is performed is valid.

GUIDE TO THE USE OF THE
PERCIVAL PROCTOR BAXTER COLLECTION

Maine State Library

1972

BAXTER COLLECTION

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BAXTER COLLECTION

Percival Proctor Baxter 1876-1969

As the son of James Phinney Baxter who devoted years of his life to the study and recording of Maine history, Governor Percival P. Baxter lived with an awareness that his involvement in current events would become a part of the history of the State. To add to the record of his era he made provision for the collection of his personal papers to be kept permanently in the Maine State Library, and to be put in order for the use of interested persons.

The Baxter Collection was received by the Library in February 1971 and it was cataloged during 1971 and 1972. On completion the collection was placed in the Library Vault, with the card index in the Maine Room.

For a general description and contents of the Baxter Collection see the following pages.

2.

The Baxter Collection consists of the following:

A 4-drawer filing cabinet containing

134 numbered Folders in first 3 drawers. These hold general correspondence and related papers, pictures, travel literature, printed material.

Scrapbooks (28 bound volumes)

James Phinney Baxter Manuscripts (21 bound volumes)

These are large volumes made up of handwritten copies of documents relating to early Maine history. Many of them are copied from records in England.

Percival P. Baxter Addresses (4 bound volumes)

Address Book (1 volume)

Names and addresses are added on blank pages of a 1954 diary.

Maps

Awards and Citations

Oversize pictures

Engraved Cuts (for printing)

Miscellaneous Items

For more detailed listing see following pages.

BAXTER COLLECTION

The contents of Folders 1 - 86, 133, 134, were cataloged individually. See list of Folders for subjects covered.

Folders 87 - 132 hold material grouped by subject but separate cards were not made.

CARD CATALOG

The card catalog is in the Maine Room in a wooden case with 8 trays, placed on the shelf along the West Wall. It is an index to the material in the Folders and to the Baxter speeches and all correspondence found in the Scrapbooks.

It is divided into 2 parts. First (2 trays) is an alphabetical catalog of all items, except letters, in Folders 1 - 86, 133, 134, and to speeches in the Scrapbook volumes. There are cards for authors, subjects covered, and a few title cards. The second part is an index to letters.

LETTERS

Correspondence comprises the bulk of the material, with copies of letters sent by Baxter and original letters received by him. There are also some copies of letters exchanged by other individuals.

The card index to the letters has one card under the name of the writer with full information including a brief annotation, and another card under the name of the addressee giving only his name, the date, and the name of the writer. All cards give the location of the letter in the collection.

(Continued)

The letter index is a separate part of the card file in 6 catalog trays. First (3 trays) are cards for letters written and received by Percival P. Baxter, in chronological order. Following is an alphabetical file of all other correspondents, with chronological arrangement under each name.

METHOD FOR LOCATING A LETTER

In locating a letter in a Folder, the Folder number and the date are the clues to its position. In some cases several letters and related material are stapled together and filed by the date on the first item. In a case where the desired letter is not the first in the group the underlined information at the bottom of the card gives the needed identity and date.

SCRAPBOOKS

Scrapbooks in 28 bound volumes include many newspaper clippings, pictures, programs, speeches, letters and souvenirs.

An index to the contents of the Scrapbooks is at the back of this volume. In addition the card catalog shows Gov. Baxter's speeches and the letters that are mounted in the volumes.

See section SCRAPBOOKS for further information

JAMES PHINNEY BAXTER MANUSCRIPTS

The volumes are in order on the shelves but they were not indexed for this collection.

For information on AWARDS AND CITATIONS, PICTURES, PLAQUES, MAPS, PRINTED MATERIAL, see those sections on following pages.

BAXTER COLLECTION

Folders in Filing Cabinet

1. Baxter, James Phinney
2. Baxter, Percival Proctor - Personal
3. Baxter, Percival Proctor - Birthday
4. Baxter, Percival Proctor - Bust
5. Baxter Boulevard
6. Baxter Woods
7. Baxter, Percival Proctor - Political Career - Legislature
8. Baxter, Percival Proctor - Political Career - Governor 1921-1922
9. Baxter, Percival Proctor - Political Career - Governor 1923-1924
10. Baxter, Percival Proctor - Political Career - State & National
11. Awards and Degrees
12. C
13. Charities and Gifts
14. Colleges
15. Coolidge
16. Dogs and Other Animals
17. F
18. Governor Baxter State School for the Deaf
19. Governors
20. H
21. Hall of Fame
22. Hoover
23. Ku Klux Klan
24. Libraries
25. MacMillan

26. Maine. Executive Council
27. Maine National Guard
28. Maine. State Museum
29. Maine. Supreme Court
30. Manuscripts
31. Maps
32. Military
33. Mount Katahdin and Area Mt. Katahdin State Park
see Baxter State Park
34. Museums
35. Navy Day
36. Plaques Mounted plaques in bottom drawer of filing cabinet
37. Poetry
38. Portland
39. Proclamations
40. Prohibition
41. Railroads Public Lands
see Baxter State Park - Wild Lands
42. Religion and Churches
43. Russia
44. Scribner
45. Sheppard - Towner Bill
46. State Parks - State Forest
47. Stoner
48. Veterans (World War I)
49. Vivisection
50. Watches Wild Lands
see Baxter State Park - Wild Lands
51. Water Power - Correspondence
52. Water Power - Typewritten papers
53. Water Power - Printed Material
54. Wescott
55. Miscellaneous

56. Baxter State Park - Administration
57. - Buildings
58. - Correspondence (General)
59. - Deeds
60. - Deeds - Correspondence
61. - Finances
62. - Gatehouses
63. - History and Description
64. - Land Acquisition
65. - Land Acquisition - Bangor Hydro Electric Co.
66. - Land Acquisition - Eastern Corporation
67. - Land Acquisition - Great Northern Paper Co.
68. - Land Acquisition - Hinch
69. - Land Acquisition - Ross
70. - LEASES
71. - Maintenance
72. - Maps (Correspondence) See information
and list MAPS
73. - National Park Issue - To May 31, 1937
74. - National Park Issue - June 1, 1937 - 1952
75. - Personnel
76. - Roads
77. - Sanctuary
78. - Timber Rights
79. - Title (Abstract of)
80. - Transfer to State
81. Baxter State Park Authority
82. Baxter State Park Trust Fund
83. Baxter State Park - Wills
84. - Wild Lands
85. - Miscellaneous

86. Travel - General Correspondence
87. Travel - Credentials
88. Travel - Passenger Lists
89. Travel - Russia 1927/28
1929
1931
1932?
90. - Japan 1940
91. - - Caribbean 1949
1955
1956
92. - South America 1950 (2 trips)
Spring, Venezuela and Colombia
Summer, Brazil
93. - Norway 1951 (Summer)
94. - Parks of the Southwest 1951 (Fall)
95. - North Africa 1952 (Spring)
Correspondence 1953-1954
96. - Scandinavia 1952 (Fall)
97. - Switzerland 1953
98. - Cruise to 4 Continents 1954 (Spring)
Italy 1954 (Fall)
99. - Laurentide Park, Canada 1955
1956
1957
100. - Iceland 1955 (Trip cancelled)
101. - Rome 1957
102. Travel - Miscellaneous Trips - Souvenirs - Christmas Cards
103. Travel - Miscellaneous Travel Literature
104. Printed Material - Animals
105. Printed Material - James Phinney Baxter
106. Printed Material - Percival Proctor Baxter

107. Printed Material - Baxter State Park
108. Printed Material - Bowdoin College
109. Printed Material - Gov. Baxter State School for the Deaf
110. Printed Material - Maine Legislature
111. Printed Material - Mt. Katahdin
112. Printed Material - Water Power
113. Printed Material - Miscellaneous
114. PICTURES - Percival Proctor Baxter
115. - Percival Proctor Baxter - with Dogs
116. - Percival Proctor Baxter - with Others
117. - Percival Proctor Baxter - Bust
118. - Baxter Family
119. - Baxter State Park, 1941-1942 (Pages from album)
120. - Mt. Katahdin
121. - Baxter State Park - General Area
122. - Baxter State Park - Gatehouses
123. - Baxter State Park - Roads
124. - Baxter State Park - Percival P. Baxter and Others
125. - Baxter State Park - Helicopter Operation. 1959.
126. - Dogs
127. - Gov. Baxter State School for the Deaf
128. - Portland, Maine
129. - Millinocket, Maine
130. - Rippogonus Dam
131. - Travel pictures
132. - Miscellaneous
133. Percival P. Baxter Speeches
134. Percival P. Baxter Reports on Travels

10

AWARDS CERTIFICATES CITATIONS
Honoring Percival P. Baxter

1921, Jan. 31	Maine. Secretary of State Appointment as Governor of Maine
1940, Feb. 21	Ralph D. Caldwell Post, No. 129, American Legion Woodfords, Maine Scroll of Honor
1943, Jan. 27	State of Maine Resolve expressing appreciation of the State for Gifts of Lands
1956	Nash Motors Certificate of Merit in Nash Conservation Awards Program
1953, June 19	American Legion. Maine Certificate of Outstanding Meritorious Service
1956, May 5	Disabled American Veterans Outstanding Services to Dept. of Maine DAV
May 14	Greater Portland Young Republican Club Lifetime Honorary Member of the Board of Governors
1958, Oct. 16	American Institute of Park Executives Honorary Member
1959, Sept. 1	President's Committee on Employment of the Physically Handicapped Citation for Meritorious Service
1960, Oct. 27	Hall of Fame for Great Americans of New York University Testimonial of appreciation as member of College of Electors
1962, May 25	U.S. Department of Interior Conservation Service Award (Framed - letter on back)
1968, Nov. 22	Maine. Governor and Executive Council Resolution honoring Governor Baxter on his 92d birthday

Several of these were removed from frames

In lower drawer of map case in Vault

CUTS

Copper and Steel engravings for printing

			Approx. size
P.P. Baxter	head only	by Kahill 1926	7 x 11 in.
	head only	n.d.	2 x 3
	head only		3 x 4
	head only	Gov. of Maine 1921-1922	7 x 10
	seated, glove in hand	2 cuts	6 x 8
	seated on sofa with "Garry"		postcard size
P.P. Baxter signature	3 cuts in box	used on newspaper rolls	
James Phinney Baxter			4 x 7
Emily Poole Baxter			2½ x 4
Garry II head only			3½ x 3½
Mt. Katahdin			7 x 8
Original Shakespeare epitaph			

In filing cabinet, bottom drawer

LETTERS

See Pages 3 and 4

MAPS

Maps are in the lower drawer of the Map Case in the Vault. They are arranged by subject in folders. They are not included in the Card Catalog but a list of the maps follows.

BAXTER STATE PARK

Map of Mt. Katahdin State Park. 1921 (blueprint)
Maine. Forestry Department.
31½x23 inches. (folded)
Typewritten notes mounted on map.

Proposed Mt. Katahdin National Park. 192?
U.S. Corps of Engineers.
18x24 inches.
2 copies with typewritten note, 1946, attached,
marked differently.

Map of Katahdin Wild Life Sanctuary. 1941 (1949?)
Maine. Dept. of Inland Fisheries and Game.
Map by Joseph S. Stickney.
32x27 inches. (folded)
Outline of Park marked in colored pencil.

The Phillips Road and Trail Map of Baxter State Park. 1950?
24x18 inches.
With photograph of Baxter and quotation.
Laminated on heavy board for framing.

Katahdin Region Map. 1953.
Maine Appalachian Trail Club.
18x14 inches.
Mounted on art board. Hand colored to show hunting
areas. Legend attached.

Map made up of 4 quadrangles to include area of Baxter
State Park. Outline of Park and trails are super-
imposed. Map is laminated in plastic. 1955?
38½x29 inches. (folded) Scale 1:62500

Traveler Mountain quadrangle. 1955.
U.S. Coast and Geodetic Survey.
23x14½ inches.

Continued

MAPS (Continued)

BAXTER STATE PARK (Continued)

Baxter State Park. 1957.
Drawn by Robert M. Wilson, Springvale, for Ronald
Bridges, Sanford, Maine.
Hand lettered and tinted, with illustrations on border.
20x16 inches.

Baxter State Park. n.d.
Prepared by Edward C. Jordan Co.
21x14 inches.

Also 11 small maps. Included are sections cut from
larger maps, maps on linen, and blueprint maps.
Some have handwritten notations and coloring.
One shows date different sections were added to Park.

Mt. KATAHDIN REGION

Plan of Rout to Katahdn sic 1847 R.5-9, T.2-4
Lawrence J. Chamberlain Manuscript map.
Names of men in party (One of the first to explore area)
M.R.Keep R.N.Meservey
J.R.Munsell H.Pratt Information given
A.J.Bates D.N.Rogers on reverse of nap
L.J.Chamberlain B.(?)A.Gray

Katahdin. 1927 revised.
Appalachian Trail Conference.
10x8 inches.

Katahdin to East Branch Pleasant River. 1937.
Based on map prepared by Julian R. Speyers.
21½x15 inches

Katahdin Region. 1938. (blueprint)
Appalachian Mountain Club
29½x28 inches.

Katahdin Region Map. Map #3
Maine Appalachian Trail Club
Editions of 1938, 1940, 1953, 1957, 1963, 1965.
1938 not marked # 3.
Approximately 25x20 inches

Katahdin Region (north) 1949.
11x18½ inches

Mt. Katahdin's Trails and Roads. 1955. map in
Adapted from Prof. H. Walter Leavitt's Katahdin
Skylines. Location of Abenaki Indian legends by
Marion W. Smith

Continued

MAPS (Continued)

MT. KATAHDIN REGION (Continued)

Baxter State Park (Mt. Katahdin Area)

3 drawings.

3 unidentified maps showing townships in the
Katahdin area. (2 are blueprints)

Katahdin Quadrangle

8 maps.

1927 ed. Scale 1:48,000

1930 ed. Scale 1:62500

2 copies with different sections
marked by Baxter

1930. ed. Reprinted 1932, 1939, 1944

1949 ed. 2 copies (coloring varies)

PORTLAND, MAINE

Portland Harbor. 1932.

U.S. Coast and Geodetic Survey.

31½x28 inches.

Reproduced from aerial photograph. Changes marked
in colored pencil.

Baxter Bird Sanctuary. 1935 (blueprint)

23x49 inches. (folded)

Portland, Maine. Park Commission.

Portland, Maine. Congress Square Area. 1935. (blueprint)

12x28½ inches.

Congress Realty Company. Congress Square Area. 1942.

Eastern Underwriters Inspection Bureau, Boston.

11x8½ inches.

Baxter's Woods. 1943. (blueprint)

Plan made for Percival P. Baxter by H.I. Jordan.

15½x20 inches.

Handwritten notes of sale of property, 1944, 1948.

Plan of Forest Ave. Home Property. 1946. (blueprint)

H.I. & E.C. Jordan.

16½x25½ inches.

Handwritten notes of sale, 1948.

Deering Oaks Park of Portland. n.d. (blueprint)

28½x34 inches. (folded)

Greater Portland area. n.d.

32x32 inches. Reproduced from Aerial photograph.

MAPS (Continued)

Townships and Ranges

T.2 - R.10	1949	2 in. = 1 mile	GNPCo
T.3 - R.2&3	1930	4 in = 1 mile	Prentiss & Carlisle Co.(blueprint)
T.3 - R.8	1934	2 in = 1 mile	GNPCo
T.3 - R.9	1933	2 in. = 1 mile	GNPCo
T.3 - R.9	1930	2 in. = 1 mile	GNPCo (blueprint)
T.3 - R.10	1908, 1916	2 in. = 1 mile	GNPCo (blueprints)
T.3 - R.10	n.d.	2/3 in. = 1 mile	GNPCo (blueprint, small)
T.3 - R.10	1916	2 in. = 1 mile	3 copies, marked differently
T.4 - R.8	1934	2 in. = 1 mile	GNPCo
T.4 - R.10	1942	2 in. = 1 mile	GNPCo
T.4 - R.10	1931	1 in. = 4 chains	Sewall (blueprint)
T.4 - R.10	1942	2 in. = 1 mile	GNPCo (blueprint
T.4 - R.10	n.d.	1 in. = 1 mile	n.pub.
T.5 - R.7 south ½		1 in. = 40 chains	Prentiss & Carlisle(blueprint)
T.5 - R.8	1942	2 in. = 1 mile	GNPCo
T.5 - R.9	1927	2 in. = 1 mile	GNPCo (blueprint)
	1915		
T.5 - R.9	reduced 1925	1 in. = 1 mile	Sewall
T.5 - R.9	surveyed 1832 by Webber; drawn by Hodgkins		2 in. = 1 mile
	photographic negative		
T.5 - R.10	1915	S.W. quarter	4 in. = 1 mile GNPCo
T.6 - R.8 west ½	1899	30 chains = 1 inch	Eastman (blueprint)
T.6 - R.8	1939	2 in. = 1 mile	GNPCo
T.6 - R.10	1949	1 in. = 1 mile	Eastern Corp.
T.6 - R.11	1917	2 in. = 1 mile	Lincoln Pulpwood Co.

In lower drawer of map case in Vault

MAPS (Continued)

MISCELLANEOUS

Great Northern Paper Company.

- East Branch District, Penobscot Watershed. n.d.
- West Branch Drainage Area from Chesuncook Lake to
Dolby Pond. 1937. 1"=1 mile. (blueprint)
- West Branch Watershed, Penobscot River. 1/3"=1 mile.
1932. Also, same map reduced in size.
- Topographic map, showing territory between North Twin
Dam and Quakish Lake. 1936, Revised 1943. (blueprint)
1"=100 feet.

Maine. Forestry District.

- Katahdin District, Penobscot Watershed. n.d.
36x34 inches. (folded)

U.S. Geological Survey

- Telos Lake Quadrangle. 1953. 1:62500, Scale
- Tug Mountain Quadrangle. 1941. 1:62500, Scale

Maine. State Highway Commission.

- Maine. revised 1935. 22½x16 inches.
- General Highway Map, Piscataquis County. 1938. 47x35 in.
(folded)
- Minor Civil Divisions of Maine. 1952. 24x17 in.

U.S. National Park Service.

- Recreational Areas of the United States. 1939. 32½x43 in.

Bangor and Aroostook Railroad.

- Northern Maine. n.d. Inset shows coastal area,
Boston to Machias. 26½x18½ inches.

Townships 1-3; Ranges 6-10. n.d. 22x22 inches.

Parc "National" des Laurentides. n.d. 29x21½ inches.
Pictorial map.

17.

MOUNTED PLAQUES

Filing Cabinet - Bottom Drawer

Maine Council of New England Council

Outstanding Son of Maine n.d.

Maine AMVETS

Outstanding contribution to the People of Maine 1956

Appreciative Citizens of Portland

Recognition of Many Lasting Gifts 1962

American Legion. Cumberland County Council. Dept. of Maine

Humanitarian Award 1967

Awards to Percival P. Baxter

Engraved Citations

PICTURES

The collection of pictures is arranged by subject in Folders 114 - 132. The identification (if known) is marked on the back of each picture, but no list has been made.

See list of Folders in this notebook for general subjects.

In addition to these are the following pictures too large for the filing cabinet. They are in a lower drawer of the map case in the Library Vault.

4 photographs of Percival P. Baxter

Photograph of Mt. Katahdin. 1923

Aerial view of Mackworth Island

Aerial view of Katahdin Region

3 photographs of members of the Baxter Family

Cartoon signed by Bill Clark

Shows Baxter with Baxter State Park and Mackworth Island.

Maine House of Representatives. 1905.

Baxter is included

Framed photograph of James Phinney Baxter

~~2 pictures too large for the Map Case are laid on~~
~~shelf near filing cabinet:~~ (These were unrolled and placed in map case 12/72)
With those listed above.

Print of Young Fisherman and Dory, by Andrew Wyeth

Panoramic photograph of Mackworth Island and Casco Bay

PRINTED MATERIAL

The printed material in Folders 104 - 113 was found in drawers of the filing cabinet. It has been sorted by subject but separate catalog cards were not made. Some are publications which included articles about Baxter and Baxter State Park. Others are publications kept because they were about subjects in which Baxter was interested.

For subjects included see the list of Folders in this notebook.

SCRAPBOOKS

28 Volumes

PERSONAL PAPERS AND CLIPPINGS Vol. 1 - 5

Vol.1 May 1915 - Sept. 1921

Vol.2 1925 - 1932

Vol.3 1923 - 1938

Vol.4 1935 - 1963

Vol.5 1940 - 1968

GENERAL Vol. 6 - 14

Vol.6 1894 - 1917

Vol.7 July 1919 - Mar. 1921

Vol.8 Aug. 1921 - May 1922

Vol.9 April 1922 - Sept. 1922

Vol.10 Oct. 1922 - April 1923

Vol.11 April 1923 - Sept. 1923

Vol.12 Sept. 1923 - Feb. 1924

Vol.13 Mar. 1924 - Sept. 1924

Vol.14 Sept. 1924 - Jan. 1925

Volumes 7 - 14 were kept during Baxter's years as Governor of Maine. There appears to be a volume lacking which would include Mar. to Aug. 1921

STATE PAPERS Vol. 15 - 23

Addresses, letters, resolutions, veto messages, and other State papers.

These volumes have various binder's titles and dates on covers. Dates on contents do not always match.

Vol.15 1911 - 1920

Vol.16 Jan. - June 1921

Vol.17 June - Dec. 1921

Vol.18 Oct. 1921 - Dec. 1922

Vol.19 Jan. - June 1923

Vol.20 Jan. - Oct. 1923

Vol.21 Oct. 1923 - Apr. 1924

SCRAPBOOKS (Continued)

Vol.22 May - Sept. 1924

Vol.23 Oct. 1924 - Jan. 1925

WATER POWER TRUST AND OTHER STATE PAPERS Vol. 24 - 26

Vol.24 Jan. - May 1917

Vol.25 1918 - 1920

Vol.26 Jan. 1918 - Jan. 1921

DOGS AND OTHER ANIMALS

Vol.27 1923 - 1924

JAMES PHINNEY BAXTER, 1831-1921

Vol.28 1921 - 1922

SPEECHES

In the Baxter Collection are 4 bound volumes with copies of printed addresses by Baxter.

Addresses 1921-1924

80th Legislature

1921-1923

1921-1925

There is duplication in contents, but none is complete for the period covered, although 1921-1925 contains most of them.

In addition the scrapbooks and Folders contain many typewritten copies.

Speeches given later than 1925 were not printed but typewritten copies appear in the Scrapbooks and Folders. Many of these have handwritten changes and corrections.

A catalog card is filed in the catalog in the Maine Room for each speech, with all locations listed. Several have more than one copy.

BAXTER COLLECTION

Gov. Percival Proctor Baxter

SCRAPBOOKS

Volumes 1-28

Index

Arrangement of the index is alphabetical by subject including places and personal names.

Format (newspaper clipping, typed paper, souvenir item, etc.) is not indicated in the reference.

Inclusive paging is given when the same subject is scattered through several pages of a volume. This has been done to eliminate long lists of page numbers.

v.p. meaning various pages is used following a volume number when a subject recurs frequently throughout the volume.

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