Public Access to Privately Owned Land in Maine

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Abstract
In Maine, people have long used private land for recreation. James Acheson points out that this “open land” tradition—unique in the nation—has huge economic implications, especially for the state’s tourism industry. In recent years, there has been a substantial increase in land posting, largely in response to abuses by the public. Although a number of different kinds of institutions have arisen to allow continued public access to private land, Acheson suggests that more needs to be done if Maine’s “open land” tradition is to be maintained.

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time of year, when you were full of the early summer green I fell in love with. But I have something I should have told you years ago, and it’s mostly the reason why I left. You need to know that you really stink in one big quality-of-life aspect: public land. It’s true. I was starving for access to public lands, even after I looked really hard for places to bring my park management students. Yeah, Baxter and Acadia are pretty awesome, but that was all you could offer my University of Maine students – a five-hour drive for a class on protected places. I ended up sending many of them to do internships in the sprawling public land systems of the American West. In Maine, people have long used private land for recreation. James Acheson points out that this “open land” tradition—unique in the nation—has huge economic implications, especially for the state’s tourism industry. In recent years, there has been a substantial increase in land posting, largely in response to abuses by the public. Although a number of different kinds of institutions have arisen to allow continued public access to private land, Acheson suggests that more needs to be done if Maine’s “open land” tradition is to be maintained. Neither does the public have a general right to pass over privately-owned upland to obtain access to the intertidal area to engage in the permitted uses of “fishing, fowling, or navigation.” However, the public has rights to use the upland if it is publicly owned, subject to any governmental regulations. The public also may acquire certain rights to use upland areas through a variety of transactions or claims. At about the same time, the Maine Legislature enacted The Public Trust in Intertidal Land Act.6 The Act declared that “the intertidal lands of the State are impressed with a public trust,” and therefore the public has the right to use intertidal land for recreation.” [Deadline looms to buy land that would add public access to Maine island beach]. Each of the town’s three other beaches are in a different position. Short Sands Beach has been owned and maintained by the town since 1917. Cape Neddick Beach, said Burns, is privately owned by a small group of landowners. With regard to York Harbor Beach, it, too, is privately owned, with the Stage Neck Colony condominium community owning half and the Hartley Mason Reservation owning the other half. Burns said there’s been no discussion with Stage Neck officials to forge an agreement. But with the Hartley Mason Reservation, Mason in 1921 made clear he wanted unimpeded public access to the beach.