

CALLAHAN MINING CORPORATION

277 PARK AVENUE · NEW YORK, N.Y. 10017  
TELEPHONE: (212) 826-2950

August 26, 1966

OFFICE OF THE SECRETARY

Mr. Albert Sandecki  
50 Tanner Street  
Haddonfield, New Jersey 08033

Dear Mr. Sandecki:

Thank you for your letter of August 19th. We are indeed sorry to hear of the damage to your outboard motor and are quite anxious to take whatever action is appropriate.

We would, therefore, appreciate your providing us with the following:

1. A full description of the motor, including the year in which acquired.
2. A brief statement of the damage to the motor.
3. An estimate of the cost of repairing the motor.
4. If beyond repair, an estimate of the cost of replacing the motor.

In order to enable us to be in a position to promptly process a claim with our insurance carriers, it is necessary that any estimate submitted be secured from an independent source such as a repair shop or dealer.

Very truly yours,

CALLAHAN MINING CORPORATION

By Charles D. Sneed, Jr.  
Secretary

CDS, Jr. /gm

50 Turner Street  
Haddonfield,  
New Jersey 08033  
26 August, 1966

Mr. Kenneth P. Nelson  
Horace R. Coe & Co., Inc.  
Philadelphia, PA.

Dear Mr. Nelson,

As per our telephone conversation this afternoon please find enclosed for your safe keeping :

1. Rough draft copy of my letter to The Callahan Mining Co.
2. Receipt for letter sent to Callahan Mining Co.
3. Two photographs denoting saw dust on side of causeway, and my boat mooring in relation to the causeway.
4. Sample of sawdust spread by the blaggards.
5. Two estimates by reputable firms in my area.

Situation:

On the 18th of August the Callahan Mining Companies work force dumped truck loads of sawdust along the Goose Falls causeway, in an effort to stop leaks in the project.

This material was floated off by the tide thus causing the harbor to be saturated with sawdust, on top of as well as beneath the surface of the water in the cove.

On starting my engine while in this cove and running approximately two or three minutes my engine slammed to a complete stop, removal of the engine cover revealed an extremely hot smoking power head.

After consulting a mechanic of marine engines a Mr. Eaton of Castine, Maine, I was informed that the sawdust had indeed clogged the cooling system of my engine. At Mr. Eatons suggestion I informed The Department of Sea and Shore Fisheries in Belfast, Maine, as to the hazard created through Callahan Mining's negligence at Goose Falls Cove on Cape Rosier, Maine.

I have since written to a Mr. Charles Sneed attorney for The Callahan Mining Company at 277 Park Avenue, New York, New York. The letter was sent August 19, 1966.

Sincerely yours,

Albert E. Sandocki

Anita

## Hey, Ed!

Dear Editor:

There is a division of opinion in Brooksville, especially on the harbor side of Cape Rosier. The Callahan Mining Corporation has begun operations. It is getting ready to drain Goose Pond where the strip mine is to be. It has put in two dams, and is starting on the third big one, as it reverses the fresh water drainage from Goose Falls Harbor to Weir Cove, a sizable undertaking, as it turns out. Goose Falls are gone with the blasting away of the rock at the Falls to lower the bottom below low tide. Many people are at work though not mostly from Brooksville. The majority feel that money is coming into town and are pleased.

It is very sad that there must be a dissident minority who are adversely affected--the residents in the vicinity of the Falls, the Holbrook Wild Life Sanctuary which abuts the mine, and the summer residents who come to Cape Rosier because they own property there and came originally because of its natural beauty, which is what the sanctuary has been struggling to preserve. (There are not many summer boarders left on the harbor side.) This unhappy minority has made its voice heard, but the situation is now a fait accompli and has passed beyond the stage where complaint is either useful or healthy. The important thing now is to look constructively toward the future. To what extent and how can the beauty of the harbor side of Cape Rosier eventually be restored?

I am no expert conservationist or geologist, but my eye is caught by what is relevant. I see geologists reporting that the reduction of beauty to waste by strip mining is no longer necessary, and the desolation that strip mining used to leave can now be remedied. I read in the PACKET that Callahan promised to restore Goose Pond when the mining is over, possibly in a mere six or eight years, but I do not learn that that promise has been secured by a bond. It may be that the state must be relied upon for restoration. That would be too bad, but perhaps Callahan could be persuaded to recommit itself to its oral promise so as to reassure the minority which feels robbed of beauty.

But can restoration be accomplished? Is it possible? Here is a quotation from an advertisement of the Bethlehem Steel Company which seems to be trying to recover the beauty it destroys and thus to win public approval.

"In 1962 we closed down our old iron-ore concentrator near Lebanon, Pa. Soon the 'tailings' pond dried up, leaving a 300-acre wasteland of powdered rock--no soil--not a trace of nitrogen--highly alkaline. . . . Native vegetation couldn't take hold. Dust clouds rose when high winds whipped the surface.

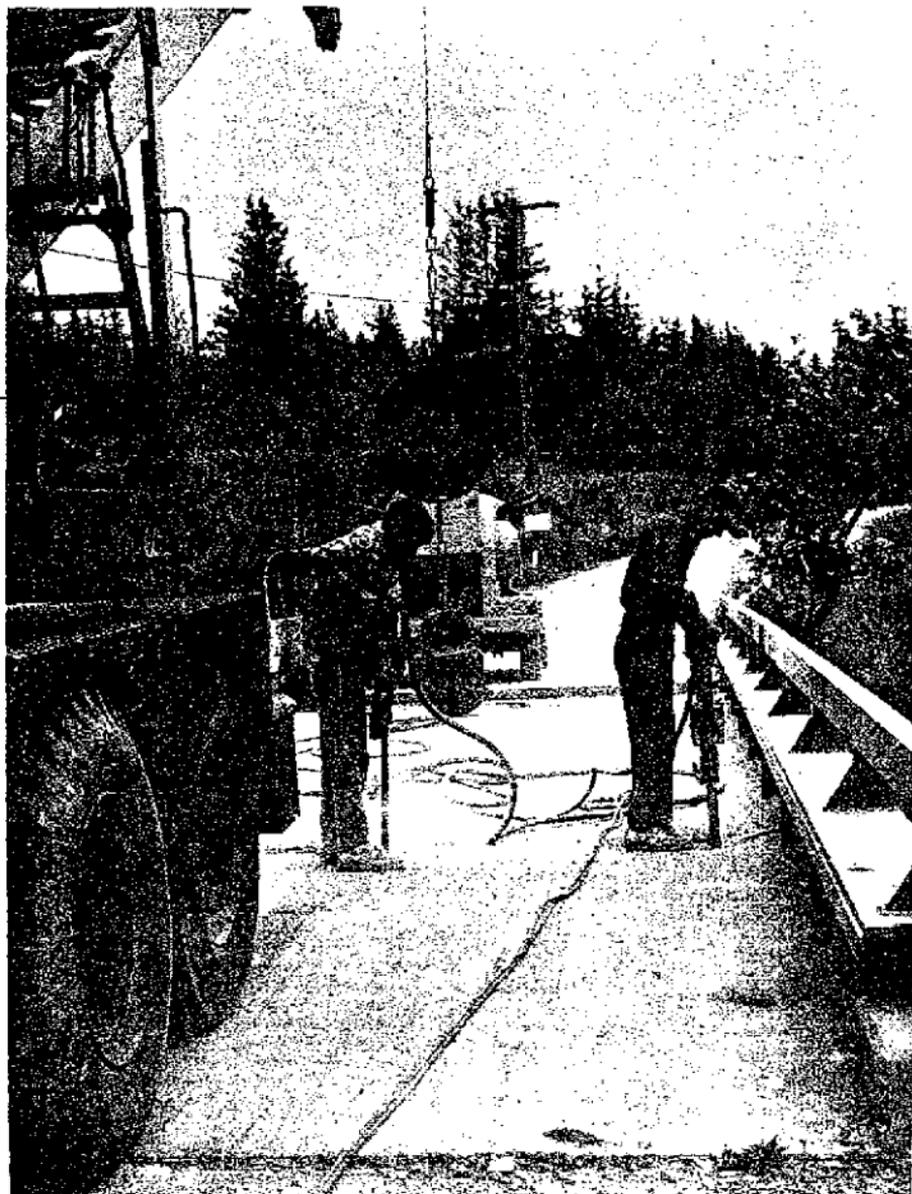
"We assigned our chief forester to the job. He carefully selected a variety of trees, shrubs, and grasses, including nitrogen-fixing black locust, European alder, and legumes. His men hand-planted nearly a quarter of a million tree and shrub seedlings and cuttings, followed by ten varieties of grass seed in fertilized paper-pulp mulch.

"Today the 'wasteland' is a forest of locust, aspen, birch, poplar, spruce, and pine--alder, coralberry, privet, and honeysuckle. It is thick with grasses. Small game and wild fowl abound.

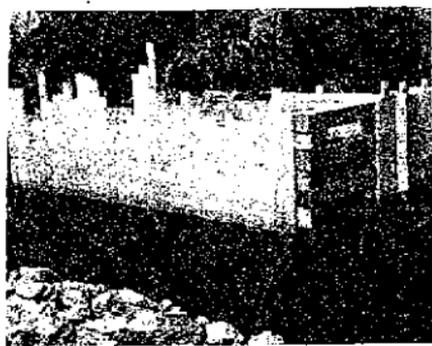
"Lebanon isn't unique. It's just one of many locations where we're converting nuisances and eyesores into community assets. This is typical of the improvements that can be accomplished by industry when it assumes full responsibilities as a good corporate citizen in each community."

Can and will Callahan do as well as Bethlehem says it does? It has a small job ahead, only six or seven acres, not three hundred. Cannot Callahan be persuaded to use the pages of the PACKET to reduce some of the alarm now disturbing Harborside so unfortunately?

Edwin G. Boring  
Harborside, Maine



IN THE LAST few weeks, Callahan Mining Corporation has made a number of rapid developments at the Cape Rosier mine site. (Top) Preliminary work has been begun by construction workers from H. B. Fleming Inc., South Portland, at the Goose Falls Bridge where the mine's salt water dam is to be built. The workers are tearing up the existing concrete surface which crosses the bridge using jackhammers and a crane-operated crusher. The fresh water dam at the head of the pond (center) has been completed, except for the installation of a culvert. Work is also progressing rapidly on the construction of a drainage stream which will allow the fresh water to drain into Weir Cove.--



# *The* **WEEKLY PACKET**

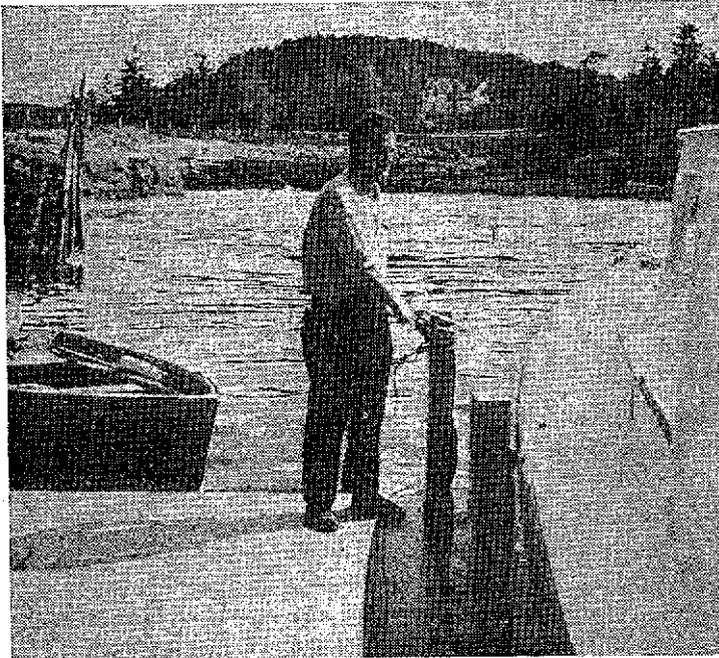
**- NOTICE -**

**THE PUBLIC IS INVITED TO  
VIEW GOOSE FALLS ON  
CAPE ROSIER FOR THE LAST  
TIME. ITS TOTAL DESTRUCTION  
WILL OCCUR VERY SHORTLY.**

**BRING THE CHILDREN  
AND YOUR CAMERA.**

**A. SANDECKI.  
Harborside**

# Miss Anita Harris, The Holbrook Island And The Callahan Mining



Jim Sawyer: "This harbor will freeze."



Miss Anita Harris: "We must think of the future."

By JOHN R. WIGGINS

The Callahan Mining Corporation is dynamiting bedrock at the old Redman farm on Cape Rosier. They will use it to build their controversial dam across Goose Falls, the first step in a plan to drain Goose Pond and establish an open pit copper-zinc mine. One-half mile away on Holbrook Island Miss Anita Harris wages a lonely and unpopular campaign to stop them. So far she has been unsuccessful.

Miss Harris, doyenne of the island families who have summered in Penobscot Bay for almost a century, is proprietress of what has been called "the last of the great estates". Isolated and withdrawn, aloof from the clamor of contemporary life, she lives simply and contentedly on the island farm she grew up on. "My father, Edward Kellerman Harris, bought the place in 1891," she relates. "He was really a Bostonian, but he was an importer and a banker and spent most of his life traveling in the Near East and Europe. He was a superb horseman and he loved gunfire and adventure. In 1870 he quit Heidelberg to carry dispatches between the French and Prussian armies. He made several trips through Turkey alone on horseback. I remember him saying that he wished the Christians possessed the sense of honor that he found among the Moham-

hayfields. We had lovely cattle, no more than we needed for the family." Miss Harris had one sister and a brother who died in childhood, but counting the household help and the farmworkers there were almost a dozen in the household. "At one time it was a beautiful estate." The island, which has three miles of shoreline, contains about 150 acres. It commands superb views of Belfast, Islesboro, Castine and Cape Rosier.

"We'd be here summers. We spent the rest of the time in Florida and Europe, where we had relatives. My sister and I were educated mostly by governesses and at French convents. We lived much of the time in France and Austria.

"I've stayed here permanently since just before World War I. Mother died in 1941. I just go away in the spring for a little while and in the autumn. In the autumn your life isn't worth a plugged nickel here. Hunters have turned this part of the country into a rifle range. But I've always adored Maine and I'm always

appears to be changed hourly, and not a fly disturbs the silent splendor of their barn. "Their milk is so clean that it keeps a week unpasteurized," boasts their owner. She sells the butter in Castine. Rich, unsalted, and sweet, it could be served for a dessert.

"Since then I've traveled about a little. Before my sister died we made some wonderful trips to Spitzbergen, the Near East, and Turkey. We made a memorable trip through Africa. We wanted to see the game preserves before all the animals were killed off. She was always interested in conservation, as I am. Incidentally I think the press has been unfair to the South Africans and the Portuguese. In Mozambique any colored person can take advantage of opportunities if he wants to. You never saw such happy darkies. And I have a tremendous respect for the South Africans. Apartheid is practical and necessary. All those languages and cultures! The government has a tremendous burden."

Miss Harris's interest in conservation ultimately led her to establish the Holbrook Island Sanctuary, a gesture toward wildlife preservation that brought the wrath of Brooksville upon her head. "The sanctuary was

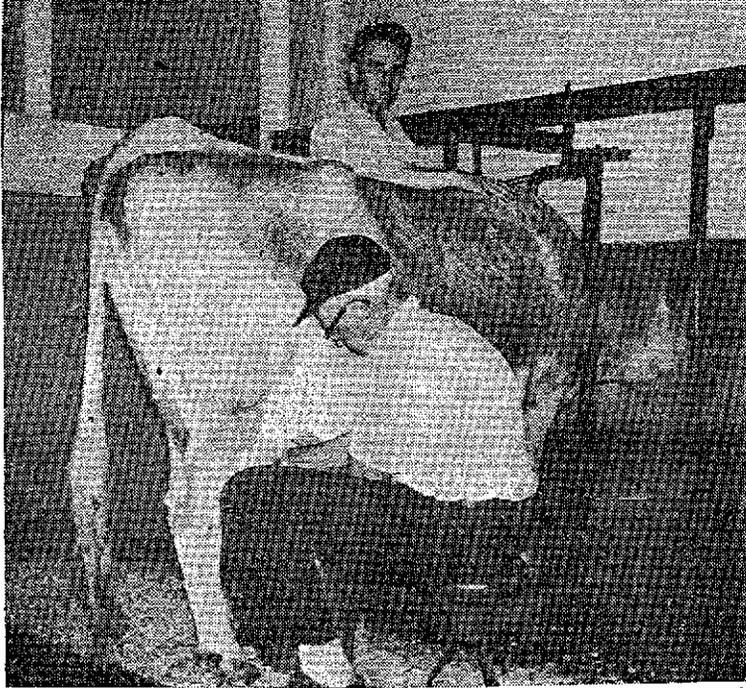
of wildlife where nature could function free of man's influence. The sportsmen were all behind me. They said that game, deer especially, needed a place to breed what with all the poaching going on.

"My warden is Percy Gray. He's a wonderful man. No sooner had I had the place posted than these selectmen in Brooksville decided it couldn't be tax-free. They wanted revenue. They said it helped support their schools. Now no one in Brooksville is illiterate, and anyway I can't see that an education is always helpful if one can judge by some of their actions. I had put two restrictions on use of the sanctuary: that there never be concessions established in the preserve, and that no camping ever be permitted. Both of these restrictions should have helped the local stores and boarding houses. The selectmen just refused to see the benefits of establishing a natural preserve.

"They refused to talk it over with a lawyer. They just went and sued me for taxes. Arnold Veague represented them in court. Finally it ended up in the State Supreme Court, which ruled that the sanctuary was neither educational nor charitable. If the mine goes there it'll be ruined as a sanctuary."



# brook Sanctuary, g Corporation



Frank Babson and George Dyer, whose family settled Cape Rosier in 1637.

good deal. His son Orville has always been inordinately interested in the possibilities of re-opening the mine. I have always been opposed to it. There's nothing there. Investigators have come and gone, and all of them rejected it. Once, when their plans came to nothing, it was even said that I had stopped it by sleeping with Gov. Brewster. Can you see me playing Pompadour to poor old Gov. Brewster? I was greatly amused by the suggestion.

"Then came the war, and they were desperate for copper. The U.S. Bureau of Mines sent some men here and they tested and drilled all through the winter. They gave it up. They said the amount of ore, though of good quality, is minimal.

"Callahan moved into action in the autumn of 1964. The winter of 1965 was hell on earth for me. I can go for days without food or water, but if I don't get my sleep I'm undone. Their compressor was going night and day with just twenty minutes between shifts. I'm only one-half mile away. Finally I went to Boston and stayed with a friend on Beacon St. I was so weakened by lack of sleep I was a wreck.

"At last they stopped work. They got into their heads that they wanted to drain the pond

Callahan has any serious intentions there. "What I'm afraid of is that they'll just mess things up and move out. There isn't enough copper on Cape Rosier to put into a watch fob.

"Now they've started up again and I can't open my windows. If it isn't Callahan, it's the Bucksport stench from the papermill or that nitrate factory in Searsport. The air is like a foul sewer. Sometimes I think that carrion is on the beach. It even makes my dog sick. I can't sit outside. I can't breathe. In the morning I can't raise my head from my pillow. Maine is no longer the quiet peaceful place it was when people came here for the pure air."

Miss Harris has resorted to every legal recourse she can think of to stop Callahan's activity. "My lawyer got in touch with the Department of Interior. They're opposed to it as a source of pollution, but they can't prevent it. The Federal Fish and Wildlife Commission has set conditions that it hopes will be met but their power is only advisory. We offered them the entire sanctuary but they wouldn't take it because it's under 2000 acres.

"The State Water Pollution Commission investigated it. They dyed the water in the falls to check its course to see how far

Brooksville, who, she acknowledges, refer to her as an "old bitch" and a "bitch". She is unprejudiced about the latter term, being a dog lover herself. "Actually, a bitch is the most loyal, intelligent, and devoted of creatures. To be called one is the highest compliment." The rudeness of her fellow citizens has been sufficient, however, to cause her to change her postal address to Castine just to avoid unpleasantness at the post office. Local venom has been such that she wonders how far her adversaries may go.

The beleaguered lady has four loyal supporters in the men who work for her. George Dyer, 25, does maintenance work on the farm. His family settled on Goose Pond in 1637, but they have had to sell their house to Callahan because it is perched on the edge of what will be an open pit.

Jim Sawyer, former chairman of the Hancock County Democrats, is her caretaker. He also handles her boat. He fears that when the falls are dammed the entire harbor will freeze without the flow of tidal water.

Percy Gray is employed as gamekeeper on the preserve. He has the lonely task of defending wildlife against the depredations of poachers.

Frank Babson milks the cows and does general work on the farm. "They're all wonderful men," says their employer, who does her own housework. "Jim's daughter comes in once a week and helps me, but the rest of the time I'm on my own. I hate housework. The place looks like hell's delight right now, it's so disorderly." The house is far from disorderly.

When told the popular story that she had offered to buy the entire Callahan Corporation outright, she disclaimed it with a gay laugh. "I'm supposed to be worth millions. I'm not. I can afford to live modestly and comfortably, but my resources are not unlimited. I have sacrificed a great deal for the sanctuary, and the result is very disheartening."

She does indeed live modestly. She participates in little social life, and for years her daily diet has been chiefly the eggs and milk from her own farm. Her life might almost be termed Spartan.

"I'm the last of my family," she declares. "I have no relatives. This land is the only tangible I have, and it won't be worth a nickel with that mine on my doorstep. My roots have always been

They told me that if I would sell them the sanctuary's riparian rights they would give me the mine when they were through with it. I said, 'I don't want your old hole in the ground.' Anyway I have nothing to say about the sanctuary. It's in the hands of the directors.

"Then they talked to the Governor, trying to get eminent domain. Actually as a salt water estuary it's already under federal jurisdiction. The Governor bypassed the screening committee and put a bill before the legislature himself. A special session was held that cost the taxpayers \$20,000. They couldn't decide, so they put it to the State Supreme Court, which declared that it was the duty of the state to develop all its resources."

It may be recalled that there were charges of a news leak between the time of the court's decision and the time that it was announced the next day. By 11:00 a.m. on the day of the announcement, Callahan's stock had climbed three points on the N.Y. Stock Exchange. Callahan stock has ranged between \$7 and \$14 in the past two years. It now sells for about \$12.

Miss Harris does not see herself standing in the way of progress, as her detractors claim. She honestly doesn't think that

it would come. The wild birds were against it but the dye traveled to Indian Bar, around Gray's Head, and all the way to Sheep's Island, over two miles. Copper and zinc are deadly to marine life. It's going to kill every fish, clam, lobster, and seal. Eight hours a day, seven days a week, between 800 and 900 gallons of effluent will be flowing out every minute. Can you imagine its effect? What will the blasting do to water table and to wells? What about the stench and the hazard to health when the centuries of sewage on the bottom of the pond is exposed?

"This year is the 50th anniversary of a treaty between the U.S. and Canada protecting migratory birds. The treaty is being violated.

"This summer the Army Engineers gave Callahan their permission to dam and drain. Carl Buchheister, President of the National Audubon Society, has protested the spoiling of a sanctuary. The Eastern Yacht Club has protested the spoiling of a harborage. Many others wrote letters, but they are ignored. The Army Engineers seem to be a power unto themselves." Not quite. They are susceptible to political pressure.

The would-be philanthropist has also met rude treatment at the hands of the citizens of

here, and I expect to the next. I have struggled to preserve for the future a piece of the unspoiled Maine that I used to know."

## Bea's Antekes

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# Ells. Downeast Festival

AUGUST 5-6-7

HOLBROOK ISLAND SANCTUARY  
Special Meeting of Directors

A special meeting of the Directors of Holbrook Island Sanctuary was held at Holbrook Island, Castine, Maine, on June , 1963. All of the Directors were present in person and/or waived notice of the meeting and assented to all action taken thereat as hereinafter set forth.

Anita Harris, President of the corporation, presided, and reported that Oliver H. Bakeman, Jr. had been employed as Warden and caretaker of the sanctuary area at a salary of \$200 per month, and had started his employment on March 1, 1963; and on motion duly made and seconded, it was unanimously

VOTED: To confirm the employment of Oliver H. Bakeman, Jr. as Warden at a salary of \$200 per month.

Miss Harris further reported that signs had been placed at the highway boundaries of the sanctuary area; that surveyor, Roger Danforth, with the assistance of Oliver H. Bakeman, Jr., was making a survey of the various parcels of real estate conveyed to the corporation; and that they would clearly mark the exterior boundaries of the sanctuary and provide a survey plan showing its boundaries.

It was suggested to the meeting that the corporate purposes be implemented by specific rules for the use and maintenance of the sanctuary area, and on motion duly made and seconded, it was unanimously

VOTED: To adopt the following rules:

1. The Sanctuary area shall remain completely in its natural state for the protection and preservation of animal, bird, tree and plant life within its boundaries, surrounded by an inhabited community.
2. There is to be no interference with the balance of nature - sometimes called the biological balance - by destroying one species of life in order to encourage another. For example, predatory animals may not be destroyed for the protection of another species.

3. Hay, salt or other food may be provided for the deer population and grain for the birds, especially in the winter when natural feeds are scarce.

4. No roads for the passage of vehicles are to be constructed within the area and existing non-public roads will be discontinued and allowed to grow back to their natural state. A minimum of foot paths will be maintained for patrol by the Warden and other authorized use.

5. Recreational use of the area, such as, but not limited to, camping, picnicking, hiking, sight seeing, fishing and hunting is prohibited as being inconsistent with the completely natural state of the Sanctuary.

6. Educational and scientific institutions engaged in the study of nature, ornithological societies and nature study societies may, upon application to the Warden, make appointments to enter the Sanctuary when accompanied by the Warden for the purposes of nature study, observation and photography. In all other respects the Sanctuary area shall be closed to the public.

7. There shall be no smoking or making of fires within the Sanctuary.

There having been no occasion for holding the annual meeting of members in April, it was suggested that there be a special meeting of members, and the Secretary was instructed to call a meeting of the members to be held on Holbrook Island at o'clock in the noon on , the day of , 1963.

On motion duly made and seconded, it was unanimously

VOTED: To adjourn.

Adjourned as voted.

A true record.

Attest:

\_\_\_\_\_  
Secretary

Notice waived and action assented to:

\_\_\_\_\_  
Anita Harris

\_\_\_\_\_  
James G. Sawyer

\_\_\_\_\_  
Mary Porter

①

Draft of Purpose Clause for Holbrook Island Sanctuary

To acquire and to hold real estate in the State of Maine and personal property; to set aside an area or areas and to devote the same to the preservation and protection of and the prevention of cruelty to such wild birds and beasts as may come thereon; to maintain facilities for their feeding and shelter; to preserve the unspoiled natural beauty of the said areas; to expend moneys for the prevention of cruelty to animals, for the furtherance of humane education and for any or all other purposes connected therewith which shall be conducive to the welfare of animals and wildlife, whether on land owned by the corporation or not. No moneys of the corporation shall inure to the benefit of any member of the corporation or any other individual.

Draft of Income Clause in Charitable Trust

The trustees shall pay the income of the trust fund or such sums as they shall deem necessary to Holbrook Island Sanctuary, a Maine corporation, to enable it to maintain wildlife sanctuaries and, in the event that said payments shall not exhaust the net income of the trust, may pay from such excess income such sums as they may determine to such charitable corporations or trusts as they shall determine upon each date of payment are conscientiously and efficiently carrying on the work in which the settlor has long been interested in the prevention of cruelty to animals, both generally and through combating the cruel practices of vivisection

①

and which charitable corporations or trusts are within the definition contained in Section 2055 of the Internal Revenue Code of the United States or of any statutory provision which may be enacted in substitution therefor, and they may specifically make such payments to any or all of the Hancock County (Maine) Society for the Prevention of Cruelty to Animals, the New England Anti-Vivisection Society, the National Wildlife Federation, and the National Catholic Society for Animal Welfare but only so long as they shall determine that each of such societies to which payments are proposed to be made continues to meet the standards presently maintained, by it, including the maintenance by such ~~six~~ society of adequate and vigilant watch over all its employees to prevent release of any animal under its protection to any medical or research laboratory or experimental institution, either scientific, educational, charitable or commercial and maintaining active cooperation in the intelligent and vigorous enforcement of all state or federal laws for the protection of and prevention of cruelty to animals, both domestic and wild, and especially of seal, deer and moose.

Date Opinion Filed  
November 16, 1965

Reporter of Decisions  
Docket No. 215  
Law Docket No. 481

HOLBROOK ISLAND SANCTUARY

Vs.

THE INHABITANTS OF THE TOWN OF BROOKSVILLE, et al

RESCRIPT  
WILLIAMSON, C. J.

This is a complaint for a declaratory judgment and other relief designed to establish whether plaintiff's real estate used as a wild-life sanctuary is exempt from taxation by statute. R.S.1954, c. 91-A § 10-11 (now 36 M.R.S.A. § 652).<sup>1</sup> The plaintiff Holbrook Island Sanctuary is a corporation without capital stock organized under R. S. c. 54, § 1 (now 13 M.R.S.A. § 901) "or for any . . . scientific, . . . charitable, . . . or benevolent purpose; . . ."

1 § 652. Property of institutions and organizations  
The following property of institutions and organizations is exempt from taxation:

"1. Property of institutions and organizations.

"A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State, and none of these shall be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied."

\* \* \* \* \*

"B. The real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions.

"C. Further conditions to the right of exemption under paragraphs A and B are that:

The defendants are the Inhabitants of the Town of Brooksville, and the assessors and tax collector of the town for the year 1963. While the action in terms tests the assessment and taxation of the real estate in 1963, the purpose is to determine its taxable status as well for the future under like laws and like circumstances. In the Superior Court the defendants moved to dismiss the complaint on two grounds: First, that plaintiff had not filed a true and perfect list of all its assets, real and personal, not by law exempt from taxation on April 1, 1963; and secondly, that there is no allegation of a written request for abatement or denial of application for abatement. R.S. 1954, c. 91-A, §§ 34, 48 (now 36 M.R.S.A. §§ 706. 841).

The motion was dismissed and subsequently the parties joined in an agreed statement of facts and a request granted in the Superior Court that the case be reported to the Law Court for "such decision as the rights of the parties require." We consider that the defendants in agreeing to a report of the case waived any claim of error in the refusal of the Court to dismiss the complaint.

The case is before us on the merits, not on appeal from adverse rulings below. No jurisdictional issue was raised by the motion, which indeed begs the very question whether the property was exempt

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"(1) Any corporation claiming exemption under paragraph A shall be organized and conducted exclusively for benevolent and charitable purposes; . . ."

from taxation. If exempt, there was no necessity of filing the list and seeking an abatement, or of paying the tax and then suing to recover, although such procedures have been followed. Stockman v. South Portland, 147 Me. 376, 87 A. 2d 679 (recovery of taxes paid); Green Acre Baha'i Inst. v. Eliot, 150 Me. 350, 110 A. 2d 581; 159 Me. 395, 193 A. 2d 564 (denial of abatement).

We need not consider what interest the assessors of 1963 and the tax collector of 1963 presently have in the case. It is sufficient that the defendant town has an interest. Counsel at oral argument agreed that the taxes for 1963, 1964, and 1965 will be governed by our decision. The action comes within the principles governing declaratory judgments. R.S. 1954, c. 107, § 50 et seq (now 14 M.R.S.A. § 5951 et seq). See Borchard, Declaratory Judgments (2d ed. 1941) p. 844.

From the agreed statement of facts we find:

The corporate purposes of Holbrook Island Sanctuary, as amended in January 1963, are:

"Charitable, educational and benevolent purposes, to wit: to acquire by gift, purchase, lease or otherwise real estate within the State of Maine and personal property; to set aside an area or areas to devote the same to the preservation and protection of and the prevention of cruelty to such wild birds and beasts as may come thereon; to maintain facilities for their feeding and shelter; to preserve the unspoiled natural beauty of said areas; to expend moneys for the prevention of cruelty to animals, for the furtherance of humane education and for any or all other purposes connected therewith which shall be conducive to the welfare of animals and wildlife, whether on land owned by the corporation or not; to accept gifts of personal property; to accept and receive donations of money, general legacies and devises of real estate to be used for the foregoing purposes; provided, however, that the corporation shall not be conducted for gain or profit, and that no part of the net earnings shall inure to the benefit

of any member upon dissolution of the corporation or otherwise, but shall always be devoted to the aforesaid charitable purposes; to sell, mortgage, lease or convey any and all real and personal property acquired as aforesaid, and doing and performing all things in connection therewith or incidental thereto in carrying out the foregoing purposes."

The real estate in the plaintiff's sanctuary "comprises approximately eleven hundred acres of uninhabited wildlands in the Harborside section of Brooksville, heavily wooded and containing in excess of one mile of waterfront property bordering the waters of Penobscot Bay, . . . The only building on the land which is presently used for any purpose is a small single-story three room structure used as an office and housing a small library of books on nature and conservation belonging to the corporation."

\* \* \* \* \*

"As of April 1, 1963, said real estate of Holbrook Island Sanctuary was used in the following manner: The entire area was left in its natural state for the protection and preservation of animal, bird, tree and plant life within its boundaries. Roads for the passage of vehicles were within the area but it is intended that existing roads (except for the rown road) be permitted to grow back to their natural state. Several old cemeteries exist within the area and the access roads to these are presently blocked by felled trees and fences. Present inhabitants of the town have relatives buried in these cemeteries. These roads have been used by the public for over 100 yrs. A minimum of footpaths were and will be maintained for the purposes of fire patrol and study and observation by persons admitted to the area accompanied by the Warden. The area was posted with signs reading "WILD LIFE SANTUARY NO DOGS OR FIREARMS ALLOWED". The corporation employed a full-time Warden

(not a member of the Warden Service but a Constable appointed by the Town) with an additional helper during the summer months and the hunting season. All persons wishing to enter the sanctuary were and are asked to register at the office and to apply to the Warden for permission to enter the sanctuary. Persons and organizations engaged in nature study were permitted in the Sanctuary accompanied by the Warden for the purpose of nature study, observation and photography. The public was directed not to enter the sanctuary for any other purpose. The Warden and his assistant were instructed to prohibit hunting in the area. The Warden kept a census of animal and plant life within the area and is instructed to make regular patrols of the area to prevent fire. The policy of the corporation was and is, in general, that there be no interference with the balance of nature. Therefore, even restricted hunting, of the game management type now favored by the Maine State Department of Inland Fisheries and Game, is prohibited. The corporation provided and will provide hay, salt and other foods for the animal population and grain for the birds. A number of bird-feeding stations have been established."

\* \* \* \* \*

"The valuation of the properties presently owned by the Holbrook Island Sanctuary amounts to \$43,840.00, producing a tax of \$920.64. The deletion of the Holbrook Island Sanctuary property from the tax rolls as tax exempt would result in approximately 30¢ per thousand increase in taxes to the residents of the Town."

The entire property was given to the plaintiff in 1963 by Miss Anita Harris of Brooksville who with her sister had acquired it between 1939 and 1963.

On the death of her sister in 1962, Miss Harris decided to make plans for the wildlife sanctuary during her life. Her attorneys and financial advisers advised her (1) to create the plaintiff corporation; (2) that the gift of the real estate would be income tax deductible; (3) that the real estate would be exempt from local taxation, and (4) that additional property would be exempt from estate and inheritance tax. Miss Harris was in part motivated by the advice relating to tax exemption. Her motive, we point out, is not material in reaching our decision. Camp Emoh Associates v. Inhabitants of Lyman, 132 Me. 67, 166 A. 69.

The plaintiff has received no money or property from any sources other than Miss Harris and a trust created by her for its benefit. Except for certain cutting of wood in 1960-62, "the area has, in general, remained unchanged over the past twenty-five years." The plaintiff will receive the proceeds from wood cut since its organization in 1962.

"The funds of the corporation have been used for the following purposes relating to the land in Brooksville, namely: Payment of wages and travel expense to the Warden and assistants: surveying and blueprinting; constructing and painting signs; purchases of salt, hay, feed and bird seed; employment taxes on employees; construction of bird-feeding stations; office repairs; insurance premiums for liability and fire insurance; and legal fees in organizing the corporation and acquiring the real estate."

\* \* \* \* \*

"At or about the time that this property was transferred to the Sanctuary, Anita Harris, President of Holbrook Island Sanctuary,

contacted the Maine Fish and Game Department seeking cooperation in the control of hunting in the area. Mr. J. William Peppard, Regional Game Biologist, of the Department, came to Brooksville and inspected the premises. He was and is familiar with the policies of the Department. He advised the officers of the Sanctuary that it was the policy of the State not to acquire or accept any properties to be operated as a game sanctuary or a game preserve; that the State prefers to operate game management areas in which the animals are protected but the deer population, from time to time, in the discretion of the Department, may be reduced by killing some of the animals; that the experience of the Department has been that, unless the deer herd in a given sanctuary or preserve is periodically reduced, the animals tend to increase to a point where the food supply is insufficient, resulting in the starvation of some animals; and that consequently the State prefers to be able to reduce the number of deer on a scheduled program which cannot be done in a sanctuary of this type."

The plaintiff contends that it is either a benevolent and charitable or a scientific institution, and is tax exempt in whichever category it may belong. The burden of establishing tax exemption is upon the plaintiff. "Exemption is a special favor conferred. The party claiming it must bring his case unmistakably within the spirit and intent of the act creating the exemption." Bangor v. Masonic Lodge, 73 Me. 428. See also Green Acre Bahai Institute v. Eliot, supra; Camp Emoh Associates v. Inhabitants of Lyman, supra.

The purpose in the plaintiff's charter in which we have a particular interest reads: ". . . to set aside an area or areas and to devote the same to the preservation and protection of and the prevention of cruelty to such wild birds and beasts as may come thereon; to maintain facilities for their feeding and shelter; . . ." The meaning of the charter provision may be gathered from the action of the corporation. It has acquired, as we have said, by gift eleven hundred acres of uninhabited wild land with a mile frontage on the Atlantic Ocean at Brooksville. It uses the land as a game preserve with restrictions more stringent in the protection of game than would be the case in a game preserve created by the Legislature. The public use of the area is limited to persons and organizations engaged in nature study.

We accept the contention of the plaintiff that the corporation purposes include the creation and maintenance of a game preserve with the conditions and limitations expressed in the agreed statement.

In determining whether the plaintiff is a benevolent or charitable institution under the tax exemption statute, we need give no consideration to the word "benevolent." In the leading case Bangor v. Masonic Lodge, supra, the Court said, at p. 433:

"The statute upon which the defendants rely, uses the word benevolent, but there is no question that this word, when used in connection with charitable, is to be regarded as synonymous with it and as defining and limiting the nature of the charity intended."

We conclude that the purposes so stated are not "charitable" within the meaning of the word in the tax exemption statute. First,

the interested parties here endeavor to place in the ownership of a tax exempt corporation nothing in substance more than a game preserve. The purpose is plainly to benefit wild animals. We find no benefit to the community or to the public in the proposed sanctuary within the principles relating to charitable trusts involving animals.

The general rule relating to charitable trusts other than those for the relief of poverty, advancement of education and religion, promotion of health, and governmental or municipal purposes is found in Restatement, Trusts 2d § 374, as follows:

"Promotion of Other Purposes Beneficial to the Community. A trust for the promotion of purposes which are of a character sufficiently beneficial to the community to justify permitting property to be devoted forever to their accomplishment is charitable."

\* \* \* \* \*

"c. Relief of animals. A trust to prevent or alleviate the suffering of animals is charitable. Thus, a trust for the prevention of cruelty to animals, or a trust to establish a home for animals, or a trust for the prevention or cure or treatment of diseases or of injuries to animals, is charitable."

In England the Court of Appeals in Re Grove-Grady (1929) 1 Ch. 557, 66 A.L.R. 448 with annotation, held, with one Justice dissenting, that a bequest in trust for a sanctuary for animals and birds could not be sustained as a valid charitable trust. The Court found lacking therein that benefit to mankind which must appear in a charitable trust. Lord Justice Russell said, at 66 A.L.R. 463:

"Assuming that I have correctly interpreted object No. 1. it comes down to this, that the residuary estate may be applied in acquiring a tract of land, in turning it into an animal sanctuary, and keeping a staff of employees to ensure that no human being shall ever molest or destroy any of the animals there. Is that a good charitable trust within the authorities?"

"In my opinion it is not. It is merely a trust to secure that all animals within the area shall be free from molestation or destruction by man. It is not a trust directed to ensure absence or diminution of pain or cruelty in the destruction of animal life. If this trust is carried out according to its tenor, no animal within the area may be destroyed by man no matter how necessary that destruction may be in the interests of mankind or in the interests of the other denizens of the area or in the interests of the animal itself; and no matter how painlessly such destruction may be brought about. 'It seems to me impossible to say that the carrying out of such a trust necessarily involves benefit to the public.'"

In R.S.P.C.A. v. New South Wales v. Benevolent Society of N.S.W. et als, 33 A.L.J.R. 436 (1960), the High Court of Australia held "(t)hat the requirement that a small area of suburban land near the sea coast should be made accessible to birds and that there should be food and water for them did not come with the principles on which trusts for the benefit of animals were held charitable, and was void."

For unfavorable comment on Re Grove-Grady, supra, see IV Scott on Trusts § 374. 2 (2d ed.) and Bogert Trusts § 379, p. 188 (2d ed.).

The purposes of the Holbrook Island Sanctuary are not limited to the prevention of cruelty to animals. Massachusetts S.P.C.A. v. City of Boston (Mass.) 6 N.E. 840; Pitney v. Bugbee (N.J.) 118 A. 780 (S.P.C.A.); 15 Am.Jur., 2d Charities § 88.

The plaintiff is not engaged in research or disease control. In The University of London v. Yarrow (1857). 1 De Gex and Jones's Reports 57, 44 Eng. Reprint 649, the Court of Appeal in Chancery

(to quote the headnote)held: "A bequest to a corporation for founding, establishing, and upholding an institution within a mile of Westminster, Southwark, or Dublin, for studying and endeavouring to cure maladies of any quadrupeds or birds useful to man, held a good charitable bequest. . . ."

The purposes here are not those of the New Jersey Corporation, of which the Court said:

"We, therefore, hold that when, as here, the purposes of a non-profit corporation are to conserve game birds, to establish hatcheries, refuges and to teach vermin control, those purposes are charitable purposes."  
More Game Birds in America, Inc. v. Boettger (N.J.)  
 14 A. 2 d 778, 780.

The instances we have mentioned in each of which the charitable purpose plainly appears, differ widely in our view from the case at bar. We conclude that the community, that is to say the public, does not benefit from the proposed game preserve within the requirements of the established law relating to charitable trusts.

Furthermore, the public policy of the State prohibits the classification of the declared purpose as charitable.

"Purpose contrary to public policy. A trust for a purpose the accomplishment of which is contrary to public policy, although not forbidden by law, is invalid. Thus, a trust to establish a course of lectures in a medical school in which a theory of treatment of disease should be taught which has been proved to be dangerous, is invalid."  
 Restatement, Trusts 2 d § 377, comment c.

The control of wildlife rests with the State. "There can be no question of the right of the State to conserve, protect and regulate its wild life. . . The results of proper and efficient wild life conservation in large measure promote the economic welfare and well-being of the citizenry of the State. One of the most important and effective means of wild life conservation is the medium of the game preserve established and regulated by legislative enactment."

State of Maine v. McKinnon. 153 Me. 15, 18, 133 A. 2 d 885.

The State may establish game management areas and for this purpose may acquire or lease land. <sup>2</sup>

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2 12 M.R.S.A. § 1901

- "7. Game management. 'Game management' is the art or science of producing wild animals and birds and of improving wildlife conditions in the State. It may specifically include the following:
- "A. Regulation of hunting, fishing and trapping;
  - "B. Environmental controls (control of water, food or cover, special features and animal diseases);
  - "C. Research or investigations to provide a basis for sound management in Maine;
  - "D. Manipulation of hunting pressure;
  - "E. Establishment of game lands (parks, forests, refuges, game management areas, etc.);
  - "F. Predator control;
  - "G. Artificial replenishment (game farming and restocking);
  - "H. Introduction of exotic species of wild animals or birds where needed.

The Legislature has designated a long list of areas as sanctuaries and preserves, and has authorized for example temporary game preserves, state game farms, and cooperative action with the Federal Government in wildlife restoration projects.<sup>3</sup> The inclusion of one's land in a game preserve is not a taking of property. State of Maine v. McKinnon, supra. The State may where it will and when it will prohibit hunting on any land within the State. We are satisfied, therefore, that it is the policy of the State and not the wish of the individual which controls the protection and preservation of the wildlife of our State.

Operating under its stated charter purposes, the plaintiff seeks to create a game preserve or at most a game management area with conditions deemed harmful by the regional game biologist of the Fish and Game Department. The Holbrook Island Sanctuary in face of

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2 "8. Game management area. A 'game management area' is any tract of land or body of water owned or leased by the Department of Inland Fisheries and Game for the purposes of game management as defined in subsection 7 or created by an Act of the Legislature."

3 12 M.R.S.A. § 2101 et seq (Chap. 309 - entitled "Sanctuaries and Preserves").

"§ 2101. Designation of preserves and sanctuaries  
 "No person shall, except as provided, at any time, trap, hunt, pursue, shoot at or kill any wild animal or any game or other wild birds within the following described territories: . . ."

this expert opinion adverse to its desires seeks an exemption from the normal support of government. Such a purpose may not be called a charitable purpose. It follows that the plaintiff is a corporation not "organized and conducted exclusively for benevolent and charitable purposes" within the meaning of the tax statute Section 652, note 1, supra, and accordingly is not entitled to tax exemption.

The plaintiff urges that it is a scientific institution and is thus entitled to tax exemption. We are fully satisfied that the purposes for which the plaintiff was organized and to which its property was exclusively devoted are not scientific within the meaning of Section 652, note 1, supra. The purpose of the corporation was to establish a game preserve, as we have stated above. The availability of the area for nature study, observation and photography, the small library of books on nature and conservation, and the census of animals by the warden, are uses too small on which to place the plaintiff in the ranks of scientific institutions. Such uses are only incidental to the main object of the plaintiff.

The property in question is subject to taxation by the town.

The entry will be

Remanded for entry of a decree  
in accordance with this opinion.

Sullivan, J. sat at argument but retired before the opinion was adopted.

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