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**Veto Message: Governor Salmon  
1973 (S.45)**

**An act relating to the termination of leases in Groton State Forest.**

STATE OF VERMONT  
Executive Department.  
Montpelier, Vt., April 25, 1973

The President laid before the Senate the following veto message in writing from the Governor relating to Senate bill entitled:

S. 45. An act relating to the termination of leases in Groton State Forest.

To the President of the Senate

Sir:

Under the provisions of Section 11, Chapter 11, of the Vermont Constitution, I am returning herewith Senate Bill 45, . An act relating to the termination of leases in Groton State Forest..

For the reasons set forth below, I must refuse to sign this bill:

For approximately one-half century, the State of Vermont has leased campsites on Groton, Marshfield and Rickers Ponds in the Groton State Forest. These leases on State land have invariably contained provisions of termination upon six months notice by either the State or the camp owner, and requirement of removal of the camp by the camp owner should this option be exercised by the State. This situation has been clearly understood by all parties concerned.

It has been the continuing policy of the State Board of Forests and Parks and the Department of Forests and Parks to oppose private leasing. Accordingly, a phasing out process of all lease renewals

was inaugurated by the Department, including a notice to private camp owners dated June 17, 1972, that leases would be terminated no later than December 31, 1982, representing the last date any individual lease would expire. This decision was made consistent with a continuing State Policy not to lease camp lots to private interests which is predicted on the philosophy that public land should be managed for the greatest good of the greatest number.

S. 45 would require the State of Vermont to abandon this policy. A close reading of S. 45 has raised so many legal questions in my mind that I have sought out the counsel of the Attorney General as to fundamental validity and Constitutionality. His opinion, No. 84, is attached to this veto message.

In a word, the bill raises far more questions than it answers. In providing for the sale of the individual lots to camp owners, it requires compliance with 29 V.S.A. Section 104b which sets up a mechanism for public auction of the campsites at a price representing that of the highest bidder. It is unclear whether the Purchasing Director may sell real estate as a reasonable price to a camp owner should no public bids be made on the property.

The more troublesome language appears in Section 1b of the bill which mandates that the lessees of the campsites form a non-profit corporation. As spelled out in the Attorney General's opinion, it is vague and uncertain as to the rights of the lessees as a class in the event that any one or more should decline to join as incorporators. It is not clear that a joinder of all lessees for the purpose of this non-profit corporation is contemplated. The apparent requirement that they must form a corporation with whatever additional responsibilities and liabilities that this may involve has been construed by the Attorney General as violative of the due process clause of the United States Constitution and by making the lessees compulsory agents for the State without compensation may violate Article 1 of Chapter 1 of the Vermont Constitution.

A second legal problem lies in the purpose of the corporation in acquiring, managing and arbitrarily disposing of its campsites not

purchased at public auction. Presumably, this means the corporation is to acquire title to the lands in question. If so, there are no guidelines on what person or agency is authorized to convey title to the corporation and under what terms and conditions or for what consideration title may be passed. Nor is it clear whether the corporation would act as agent for the State in conveying of title or independent of the State on such terms as it sees fit. Nor does this language contemplate that sale of more than one lot could involve meeting of subdivision requirements of the State and to the extent that more than ten parcels were sold under this scheme minute ecological requirements of Act 250. All of these questions would be raised by knowledgeable conveyancers in certifying the marketability of the subject premises.

The bill raises additional concerns that do not require restating here.

In a word, this bill flies in the face of a well-developed policy of Vermont. s Department of Forests and Parks on the one hand, and has legal limitations broad enough to create gaping questions on validity, interpretation and Constitutionality. Any one of these conditions would justify Executive veto.

Sincerely,  
/s/ Thomas P. Salmon  
Thomas P. Salmon

**Communication from Attorney General Louis P. Peck**

April 30, 1973

His Excellency  
Governor Thomas P. Salmon  
Montpelier, Vermont

*Re: Opinion No.84*

Dear Governor Salmon:

You have requested an opinion as to the legal propriety of Senate Bill 45 as passed by the 1973 General Assembly, relating to the sale of certain lands located in the Groton State Forest.

In my judgment there are very obvious difficulties which are manifest even on the face of this enactment. I have particular reference to Section 1(b).

This section clearly mandates that certain lessees of the lands in question . shall form a nonprofit corporation. (for the purposes specified).

There are several problems with this requirement. In the first instance it is vague and uncertain as to the rights of the . lessees. as a class in the event that any one or more should decline to join as incorporators. In other words, may any number of lessees, of which, I am informed there are approximately forty, join to form the corporation notwithstanding the wishes and rights of others? On the other hand, may one or more lessees defeat the rights of others to form the corporation by refusing to participate as incorporators, assuming they have such an option.

If less than all lessees may form the corporation, will a majority satisfy the requirements of the Act? Under the provisions of the nonprofit corporations law, *one* person may form such a corporation (11 V.S.A. § 2401). It seems to me the possible difficulties are clear unless it can be said that *all* lessees must join as incorporators.

Assuming that a joinder of all lessees is contemplated, and I reiterate that the wording leaves the intent open to considerable speculation at best, the fact that the bill attempts to require them to form a corporation, with whatever attendant responsibilities and liabilities that may involve, violates at least the due process clauses of the United States Constitution, and by making the lessees compulsory agents for the State (if that is in fact the intent) without compensation, it may well violate Article I of Chapter I of the Vermont Constitution, thus rendering the bill unconstitutional.

I note too that a lessee is required to be an incorporator even though he has no interest and does not wish to exercise his rights under subsection 1 (a).

A second problem lies in the prescribed purpose of the corporation, . to acquire, manage and equitably dispose of. those campsites which are not disposed of under subsection (a) of the bill. This phraseology, particularly the obligation to . acquire. the property is again vague and confusing. I assume this means the corporation is to acquire title to the lands in question. This *seems* to be the intent since a subsequent clause mandates reversion to the State in 1982, of all land not purchased by that time.

But if the corporation is to acquire the title, there are no guidelines on several desirable if not essential considerations. First, no person or agency is authorized to convey title to the corporation. Secondly, under what terms, conditions, or for what consideration may title be passed?

Furthermore, this wording leaves the status of the corporation open to considerable doubt. It is not really clear whether it is to act merely as an agent for the State in the management and disposal of the property, or whether it will act independently of the State, bound only by vague and very broad limitations. If the former is intended, it will transfer title in the name of the State, in the latter case it will have title (although subject to reversion in 1982), which it would convey away in its own name and on such terms as it sees fit.

In either case, it appears to me that the power to . manage. , without more, and to dispose of the property with no more guide than that it be done . equitably. is too broad and vague and therefore may well constitute an improper delegation of the legislative power.

Subsection (b) is so uncertain as to the rights and responsibilities of all concerned, including potential purchasers, that it should at least be clarified to protect and afford certainty and security to those who act under it or who may be affected by it. I include in my thinking members of the general public who should be secure

in their rights to purchase as against those who have presently a more direct interest, and who stand in a position to control the land through participation in the corporation. And finally the same problem concerning Chapter 1, Article I, of the Vermont Constitution discussed above, appears applicable to the corporation as to the lessees.

There are several other issues in connection with this bill which concern me to a greater or lesser degree. These doubts involve primarily subsection 1(a), both alone and in relation to 1 (b), and Section 3. I will be glad to review them with you at any time, but from a general overview, I am satisfied that Subsection 1(b) is sufficiently bad in itself and when considered with other sections and subsections to taint the entire bill.

Very truly yours,  
/s/ Louis P. Peck  
LOUIS P. PECK  
Assistant Attorney General  
APPROVED:  
/s/ Kimberly B. Cheney  
Attorney General

\* Note: This was is a pocket veto that the legislature responded to in the adjourned session.

**Governor' s Veto Sustained**  
**S.45, 1974**

The Governor's veto was overridden in the Senate:  
Yeas 29 Nays 0

The Governor's veto was sustained in the House:  
Yeas 51 Nays 94

*Journal of the Senate, January 3, 1974 (pages 13-16 and 24);  
Journal of the House, January 17, 1974 (pages 95-97)*