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**TESTIMONY REGARDING LD 1662
AN ACT TO CLARIFY THE LAW GOVERNING THE
MAINTENANCE OF VETERANS' GRAVES**

Good afternoon Senator Tuttle, Representative Luchini, and members of the Committee on Veterans and Legal Affairs.

My name is Helen Shaw. I live in Rockport. I am one of three board certificated genealogists in the state of Maine; one of my areas of expertise is cemetery history and research. I am president of the Maine Genealogical Society, legislative liaison for the Maine Old Cemetery Association (MOCA), a member of the cemetery committee for the town of Rockport, and was a member of the Stakeholder Group for the Development of a Plan for the Inventory and Proper Care of Veterans' Graves. However, I do not speak to you today on behalf of those organizations, but as a citizen interested in preserving the burial sites of Maine's earliest settlers and one of the authors of LD 274, a law which took effect in September 2013 and which LD 1662 seeks to overturn.

LD 274 was heard before the Committee on State and Local Government so this committee did not have the opportunity to hear the reasons for the bill. There were two major reasons behind the submission of LD 274.

First is the issue of veterans. It has been reported often in the press and to MOCA that ancient burying grounds are frequent victims of neglect and vandals. The usual excuse for this behavior is that there is no proof a veteran is buried in the cemetery and thus it does not merit respect.

Burials prior to the mid-1800s, especially in a poor, rural state like Maine, were often marked only by a field stone or a wooden cross with no identifying information. When family members died or moved away there often was no one left who knew who was buried where and as time passed even the burying ground was forgotten. The attached table shows the number of Revolutionary War patriots reported to be buried in Knox County and the number of cemeteries (public and ancient) in each town. Based on records compiled by MOCA and the Daughters of the American Revolution, there are 399 patriots who lived in what is now Knox County. Four of those 399 are reported to have died outside their home town leaving 396 whose graves are located in one of the 15 towns in Knox County. Of those 396, the burial location of 124 is not known. For just this one war, for one Maine County, the place of burial for one third of the Revolutionary War soldiers is not known or is uncertain. All these men died prior to the Civil War. Most of the known burials are in cemeteries maintained by a town or by an association or family. How many of the men for whom a burial place is not known are in ancient burial grounds not cared for by anyone?

It is impossible to prove a veteran is NOT buried in a particular ancient burying ground. On May 8, 1792 the US Militia law was passed codifying for all states how militias were to be organized and the requirement all men (with a few exemptions) age 18 and under 45 serve in the militia. Mandatory militia

service in Maine was repealed in 1844. The militia played an important part in the defense of Maine not just in the colonial period and Revolutionary War, but also during the War of 1812 and the Aroostook War of 1839. One could say the grave of every adult male prior to the Civil War should be treated as that of a veteran. That is why the wording about the Revolutionary War and veterans was removed from MRSA 1101, paragraph 1.

The second reason for separating ancient burying grounds from public cemeteries was that the people buried in ancient burying grounds, these early settlers of Maine, are our ancestors, our family; they were fishermen, carpenters, farmers, housewives, teachers, doctors, merchants, and ministers. Their place of burial deserves the respect we give to our present dead. I do not think any of us would want the graves of our loved ones to be treated in the manner of many ancient burying grounds.

The intent of LD 274 was to give the towns ultimate responsibility for ancient burying grounds; to provide continuity of care over time and to prevent property owners from erasing the existence of these cemeteries. LD 274 allowed towns to formally recognize cemetery associations, families, veterans groups, historical and lineage societies, scout troops, and even individual citizens as designated caretakers of an ancient burying ground thereby relieving the town of the cost of that care. When association members or family members become unable to care for "their" cemetery, the town could step in until a new caretaker was designated.

After a careful reading of LD 1662 I think it can be amended to retain the protection for ancient burying grounds that so many of us worked so hard to achieve while reducing expenses for municipalities by limiting the required level of care for headstones, monuments, and markers in ancient burying grounds to those of veterans, but retaining the provision that municipalities (or a designated caretaker) "...keep the grass, weeds and brush suitably cut and trimmed..." on all graves to the best of their "ability given the location and accessibility of the ancient burying ground." [Proposed amendments are attached.]

The statement added by LD 1662 to MRSA 1101 paragraph 2 requiring municipalities to "...adopt standards of good condition and repair..." for veterans' graves in public cemeteries should be extended to include veterans' graves in ancient burying grounds. This would require the change I have noted below in Sec. 3. Adoption of standards.

There were plans to submit, for the next legislative cycle, changes to Section 2, Title 13 MRSA §1101-B which stipulates access to and maintenance of ancient burying grounds, but as long as the subject of ancient burying grounds is under consideration here, I have included the proposed changes on the attached page. The change of paragraph 1 assures any fines come back to the municipality to take care of the cemetery. The changes to paragraph 2 increase the power of the municipality to assure ancient burying grounds are being properly cared for and to avoid any fines charged for lack of proper care.

Maine's early settlers and veterans who rest in unknown graves deserve respect and protection. I ask you to amend LD 1662 to preserve and protect ALL ancient burying grounds and to give municipalities more power to oversee their care.

Revolutionary War Burials & Cemeteries in Knox County

Town	Number of Patriots	Burial Location Unknown	Number of identified burial locations	Number of cemeteries within town borders	Number of cemeteries cared for by the town
Appleton	14	5	5	10	8
Camden	24	5 + 1 lost at sea	1	2	2
Cushing	23	7 + 1 questionable	9 + 1 questionable	about 23	2
Friendship	22	5 + 3 "believed to be"	7	15	0
Hope	14	5	4	2	2
North Haven	13	1	7	3	0
Owls Head	9	1 + 1 not found	3	11	6
Rockland	38	6 + 1 questionable	3	6	0
Rockport	4	0	2	7	6
St George	34	10 + 1 questionable	7	4 or 5	0
South Thomaston	24	7 + 1 questionable	4 + 1 questionable	6	6
Thomaston	42	18 + 1 lost at sea, 1 died on prison ship, 1 thought to be buried out of state	3	5 or 6	1
Union	44	16 + 2 unmarked graves, 2 questionable	4	5	5
Vinalhaven	18	7	7	4+	most of them
Warren	76	21 + 1 questionable	8 + 1 questionable	21	21
TOTAL	399	124		about 126	about 63

Proposed amendments to LD 1662

Wording in red with strikeout is to be deleted; wording in green is to be added.

§ 1101. Maintenance and repairs; municipality

1. ~~Grave sites of veterans in~~ **Ancient burying grounds.** In any ancient burying ground, as referenced in Title 30-A, section 5723, the municipality in which that burying ground is located, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep in good condition all graves, headstones, monuments and markers ~~and, to of Revolutionary soldiers and sailors and designating the burial place of any veterans of the Armed Forces of the United States.~~ To the best of its ability given the location and accessibility of the ancient burying ground, the municipality shall keep the grass, weeds and brush suitably cut and trimmed on those all graves from May 1st to September 30th of each year. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's responsibilities regarding an ancient burying ground.

Sec. 2. 13 MRSA §1101-A, sub-§4 is enacted to read:

4. Public burying ground. "Public burying ground" means a burying ground or cemetery that is municipally owned and operated.

Sec. 3. Adoption of standards. By June 30, 2016, a municipality that is required to maintain and repair a veteran's grave site pursuant to the Maine Revised Statutes, Title 13, section 1101, subsections 1 and 2 shall adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept.

Proposal to amend related statutes:

Sec. 2. 13 MRSA §1101-B. Ancient burying grounds

1. Access to ancient burying grounds on privately owned land. The owner of an ancient burying ground shall provide a municipality or its caretaker designated pursuant to section 1101 access necessary to perform the duties pursuant to section 1101 and Title 30-A, section 2901. Any unreasonable denial to provide access may result in the owner being held responsible for any fines, court costs and attorney's fees incurred by municipalities in legally obtaining access or for failing to meet the requirements of section 1101. Any fines levied for failing to meet the requirements of section 1101 shall be used for the maintenance and repair of the ancient burying ground.

2. Maintenance by landowner. A person who owns a parcel of land that contains an ancient burying ground and chooses to deny access to the municipality or its caretaker designated pursuant to section 1101 shall assume the duties as described in section 1101 and Title 30-A, section 2901, subsection 1. Maintenance of an ancient burying ground by the owner exempts the municipality from performing the duties as described in section 1101.

A municipality or its caretaker designated pursuant to section 1101 shall have access to any ancient burying ground located within its boundaries in order to determine if it is being maintained in the manner required in section 1101 and Title 30-A, section 2901, subsection 1 and the standards adopted by the municipality for the care of veterans' graves. If an ancient burying ground or veterans' graves therein are not being properly maintained, the municipality may take over the care or appoint a caretaker of its choosing.