Janet T. Mills
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

February 26, 2024

Hon. Anne Carney, Chair
Hon. Matt Moonen, Chair
Joint Standing Committee on Judiciary
Room 438, State House
Augusta, Maine 04330

Re: L.D. 2007, *An Act to Advance Self-Determination for Wabanaki Nations*

Dear Sen. Carney and Rep. Moonen:

Please accept this testimony in opposition to L.D. 2007, a concept draft carried over from the first regular session, that has recently been amended to include language from two other bills that my office similarly opposed in recent years.

The first of those bills is L.D. 2004. The Governor vetoed that bill, and the Legislature upheld her veto, in the first regular session of this same biennium. The language of L.D. 2004 has now been reproduced in L.D. 2007 at Secs. 25-28. The concerns I expressed my testimony on that bill, which I have attached here, continue to apply to the language contained in L.D. 2007.

The second of those bills is L.D. 1626 from the 130th Legislature, which died on the Special Appropriations Table. Much of what appears in Secs. 1-24 of L.D. 2007 is drawn from that bill. Other provisions in L.D. 1626 – regarding taxation, gaming, and Tribal-State collaboration – were addressed in L.D. 585 from the 130th Legislature, a bill that the Governor's office and tribal attorneys negotiated together.

Collectively, the provisions in L.D. 2007 would amend 30 M.R.S. §§ 6201 *et seq.*, the Maine Implementing Act ("MIA"). In the short time provided, it was not possible to prepare a detailed analysis of all the bill's provisions and the profound implications they would have for the State. This testimony identifies only some representative examples of problems with the bill.

We oppose L.D. 2007 on both procedural and substantive grounds. The public was afforded just two business days to review this 41-page legislation and prepare for today's hearing, yet L.D. 2007 would bind Maine citizens and future Legislatures to a new jurisdictional framework that limits their rights in ways that few people understand or could explain. Its provisions would exempt all Tribal Territory, including tens of thousands of acres not yet acquired, from most state laws, including all environmental and land use laws. It would limit, and in some cases eliminate, the authority that cities and towns currently have to control whether tribal jurisdictional enclaves are created within their borders. It would allow tribal members to hunt, fish, trap, and take wildlife anywhere in Maine free from any state laws or regulations, except those the State could prove were necessary for undefined "conservation purposes." And it would create tremendous legal confusion by relying on vague terms and poorly understood concepts, including unspecified rights and responsibilities under 18th and 19th century treaties that Congress extinguished with the tribes' consent. We urge you to oppose the bill in its current form, and allow the parties to continue to negotiate legislation that addresses discrete issues in clear language, as we have now done repeatedly with great success.

A Record of Success

More than four years into the Mills Administration, we now have a long track record of achievements that address matters of tribal concern. When the Governor took office, she immediately led an effort to ban the use of Native American mascots in Maine schools. Her Administration then pulled together tribal, state, and federal partners to develop and implement the strictest water quality standards in the nation to protect sustenance fishing. The Governor personally drew upon her criminal law expertise to help draft statutory changes to empower tribal courts to prosecute domestic violence offenses occurring on the Reservations. We negotiated a suite of tax reforms to benefit tribal members and businesses on tribal lands, and were the first state in the nation to put into law a tribal-state collaboration process. We developed legislation to give the Wabanaki Nations an exclusive right to operate mobile sports wagering franchises, becoming one of only two states to do so. We supported bills that transferred to the tribes authority to administer the federal Safe Drinking Water Act on their lands. We put into state law the protections of the Indian Child Welfare Act. And last year, we worked closely with tribal attorneys to draft landmark legislation that for the first time provided to the Mi'kmaq Nation and Houlton Band of Maliseet Indians the same rights and authorities as the Penobscot Nation and the Passamaquoddy Tribe.

In each case, these accomplishments happened because we all took the time to do the hard work of developing clear language to resolve specific issues by consensus. That is how we have made real and enduring progress. What has never worked is trying to push through complex and controversial legislation that few people understand under pressurized political circumstances. But we remain committed to working with tribal representatives and legislative leaders to solve problems in a way that works for everyone.

Amendments to the Maine Implementing Act

When considering potential changes to MIA, it is critical to understand how the complementary state and federal statutes work together. The Maine Indian Land Claims Settlement Act (MICSA), the federal statute, authorizes the Maine Legislature to make changes to MIA, but only with the consent of the affected Tribes. When the Legislature amends MIA, and the tribes consent to those amendments, the Legislature cannot unilaterally repeal or amend the new language in the future, even if it becomes clear that those amendments contain mistakes, reflect misunderstandings, or have led to unintended consequences. This is a crucial point. Amending MIA's jurisdictional provisions is the only context in which a sitting Legislature can, in effect, bind its successors, and not just for some term of years, but *permanently*. In this sense, amending MIA is a more consequential decision than amending the State Constitution, because if a constitutional amendment proves to be problematic in some way, Maine voters can always fix the problem, either through another amendment or by repeal. Not so here.

Against that background, any sitting Legislature considering amendments to MIA should proceed with the utmost caution, and only when it has confidence that the meaning and potential consequences of the amendments are thoroughly understood. For the same reason, and to avoid disputes over interpretation, the language in any such amendments must be explicitly clear. The measure of success in this area is not the enactment of blockbuster legislation, no matter what short-term gratification that might provide. True success requires identifying specific problems, and then developing precise language to resolve the issue. There is no shame in making incremental progress, and to be responsible it is sometimes essential to proceed that way.

The Current Legislative Process

The text of L.D. 2007 was printed and made available for the public after the close of business on February 21, 2024, leaving only two business days for review and preparation before today's public hearing. It is a complex, 41-page bill with enormous consequences, yet this process deprives the public of any meaningful opportunity to understand the bill and its ramifications, and to be heard on the issues.

L.D. 2007 also contains extensive changes to MIA's fish and game laws, yet this legislation has never been referred to the Fish and Wildlife or Marine Resources Committees for their review. The Judiciary Committee itself is not well-positioned to make decisions on major policy changes to fish and game laws, and particularly not within the compressed timeframe available in the remainder of this short legislative session.

The 1980 Settlement Acts

The 1980 Settlement Acts were intended to resolve conclusively the land claims of the Maine Tribes, and to establish in statute a clear jurisdictional relationship between the Tribes and the State. 30 M.R.S. § 6202. The Acts provided the Penobscot Nation and Passamaquoddy Tribe both funding and legal authority to acquire 300,000 acres of land, in addition to their then-existing Reservations. The statutes authorized the acquisition of the new Tribal Territory in

agreed-upon portions of eastern, western, and northern Maine. In recognition of the fact that the after-acquired Tribal Territory would be scattered across the State, and created out of privately-owned, non-tribal land, an essential condition of the settlement for the State was that its jurisdiction would continue to apply to Tribal Territory in Maine. Otherwise, dozens of new jurisdictional enclaves could appear throughout the State, with disruptive effects for adjacent non-Tribal communities.

This jurisdictional feature of the settlement was a foundational term for the State. The Legislative Record of both the State and Congressional proceedings is replete with statements emphasizing its importance. For example, during the U.S. Senate Hearings, Senator William Cohen addressed this issue in a colloquoy with Andrew Atkins, a Penobscot tribal member and leader of its negotiating team. Senator Cohen noted that the State viewed its "bottom line" as including "the retention by the State of civil and criminal jurisdiction over the tribes." Mr. Atkins responded, "Senator, our bottom line is 300,000 acres and $27 million. That is our bottom line."

One of the tribes' attorneys also addressed both the importance and legitimacy of the State's interest in the retention of jurisdiction in testimony before the Maine Legislature. He explained how each party came to appreciate the position of the other, as follows:

> For the State this meant, among other things, understanding the Tribes' legitimate interest in managing their internal affairs, in exercising tribal powers in certain areas of particular cultural importance, such as hunting and fishing, and securing basic federal protection against future [loss] of land to be returned in the settlement. For the Indians it meant, among other things, understanding the legitimate interest of the State in having basic laws such as those dealing with the environment apply uniformly throughout Maine.

Report, Hearing Transcript, and Related Memoranda of the Joint Select Committee on Indian Land Claims, Maine Legislative Record, 109th Legislature, 2d. Sess., Tr. 6-7 (1980).

In the negotiations of the Settlement Acts, the Tribes were represented by some of the most highly regarded attorneys in the country, including lawyers from the prestigious international law firm of Hogan and Hartson, the former Solicitor General of the United States and renowned Harvard Law Professor Archibald Cox, and national experts in Indian law. In 1981, a year after the laws had been enacted and after the participants in the negotiation had ample opportunity to reflect on the terms, the Native American Rights Fund wrote a 7-page article about the achievement. In the second paragraph of that article, which is attached to this testimony, they declare, "The Maine Settlement is far and away the greatest Indian victory of its kind in the history of the United States. Never before has so much land been returned to Indian control after so long a time."

Land Acquisition since 1980

Since enactment, the Penobscot Nation and Passamaquoddy Tribe have each acquired much of the 150,000 acres authorized under the Acts. As a result, each Tribe individually now

has more Indian Territory than almost any other tribe east of the Mississippi River. That land was acquired with the understanding, and on the condition, that the State's jurisdiction would continue to apply.

Task Force Process

In 2019, the Legislature established the *Task Force to Study Changes to the Maine Indian Land Claims Settlement Acts*. Some have suggested that this legislation simply implements the recommendations of that task force, implying that it has already been well-vetted. We disagree.

In its meetings, the Task Force invited the views of Tribal leaders, Tribal attorneys, Tribal lobbyists, and national tribal activists on the differences between the Maine Settlement Acts and Indian law in other jurisdictions. No invitations were issued to presenters with a different point of view. The Task Force's focus was entirely on determining the changes to the Settlement Acts the Maine Tribes were seeking, and its staff worked closely with the tribes' attorneys to prepare draft legislation. That draft bill, which would become L.D. 2094 in the 129th Legislature, reflected entirely the statutory amendments that the tribes sought.

L.D. 2094 died when the Legislature adjourned due to the COVID-19 pandemic, but much of its language would be incorporated into L.D. 1626, much of which, in turn, has been incorporated into L.D. 2007. So while some of this language has been circulated before, it has yet to receive the careful public scrutiny that is so important for amendments to MIA.

Problems with L.D. 2007

L.D. 2007 is flawed legislation that, if enacted, would both revive disagreements that the Settlement Acts resolved, and usher in a new era of litigation over the meaning and effect of its ambiguous language. Several representative problems with the bill are discussed below.

1. The bill's language would give new life to the controversy over the meaning of the colonial-era treaties that the Settlement Acts resolved.

Section 3 of the bill would amend 30 M.R.S. § 6202, which sets forth MIA's *Legislative findings and declaration of policy*. Among the changes is a new sentence that would re-characterize the agreement codified in the Settlement Acts as follows:

> The resolution reached among the Indian claimants and State *affirmed* the land transfers and *the reservation of rights embodied within the specific treaties* that gave rise to the claims at issue, and sought to definitively eliminate any prospect that the claims brought by the Indian claimants would cloud private title to land in the State.

(Emphasis added). That seemingly innocuous sentence is legally significant and highly problematic. It wrongly asserts that the Settlement Acts were intended to capture and restate the rights and obligations set forth in the colonial-era treaties. Federal Courts considered and rejected this same argument in the Penobscot Nation's unsuccessful lawsuit seeking control over

a sixty-mile segment of the Penobscot River. *Penobscot Nation v. Frey*, 3 F.4th 484, 498 (1st Cir. 2021) ("There is no plausible argument that the historic treaties referenced in [MIA] govern the interpretation of the Settlement Acts."). To the contrary, one of the core purposes of the Settlement Acts was to extinguish all claims arising from those treaties, the meaning and effect of which were bitterly disputed, and instead agree upon clear, modern, statutory language laying out the rights and responsibilities of the tribes and the State. 25 U.S.C. §§ 1721, 1723 & 1731. By giving new legal significance to the very treaties that formed the basis of the pre-Settlement Act controversy, and that Congress extinguished by agreement in 1980, L.D. 2007 would resurrect old arguments and invite new litigation over the meaning of these laws.[1]

2. **The bill would allow the Tribes to establish Indian Territory within towns and cities over municipal objections.**

L.D. 2007 contains complicated new provisions that describe the process by which the Penobscot Nation and Passamaquoddy Tribe could acquire additional Indian Territory. *See* Secs. 6-8. These provisions would govern the acquisition of the remainder of the 150,000 acres that the Settlement Acts authorized each of those tribes to acquire. Among other things, the bill would allow the Passamaquoddy Tribe to establish Indian Territory within any city or town in Maine where the Tribe currently owns land in fee status, even if that city or town were to object. Additionally, the bill would severely limit the existing authority of cities or towns to object to the establishment of Passamaquoddy or Penobscot Territory within their borders through future land acquisitions. In the Unorganized Territory, local citizens would have no ability to influence whether and how new Indian Territory is established, either through the Land Use Planning Commission or through their elected representatives. Under the terms of the bill, the Houlton Band of Maliseet Indians could acquire new trust land anywhere in Maine.

The Mills Administration is committed to working with the Wabanaki Nations to ensure they have a full and fair opportunity to obtain all the trust lands to which they are entitled under the law. But the terms of this bill are lopsided, giving the tribes far too much control over the land acquisition process, all at the expense of the municipalities and local residents whose lives stand to be affected. None of that is necessary to achieve a fair outcome.

3. **The bill would create new jurisdictional enclaves out of all current and later-established Indian Territory, where most state laws would no longer apply to the tribes and their members.**

The Maine Constitution vests the Legislature with the "*full power* to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State." Me. Const. Art. IV, Pt. Third (emphasis added). L.D. 2007 would permanently relinquish that

[1] A similar problem, discussed in more detail below, appears in Section 12 of the bill, which would limit the State's regulatory authority of tribal hunting, fishing, trapping, and taking of wildlife to what is "consistent with reserved tribal treaty rights." There are no such reserved treaty rights, because Congress extinguished the treaties and all rights and responsibilities under them in 1980, all with the agreement of the tribes. 25 U.S.C. § 1731.

plenary authority as to all Indian Territory, both as it currently exists and as it may be established in the future. *See, e.g.,* Sec. 12 (regulation of natural resources), Sec. 15 (land use), and Sec. 24, codifying a new § 6215(2):

> ...except as otherwise provided in this Act or by federal Indian law, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and their respective tribal members and tribal entities are not subject to the laws of the State, including state and local civil regulatory jurisdiction, on their respective Indian territory or trust land.

Instead, the Legislature would retain only limited authority over specified matters, such as certain criminal conduct, and only as expressly provided in the bill. For example, L.D. 2007 would repeal all Maine's environmental laws, including the Natural Resources Protection Act, the Site Location of Development Law, the Shoreland Zoning Law, Wetlands Protection Laws, and Mining Laws throughout current and future Indian Territory – an expanse that likely already approaches 300,000 acres, and will eventually expand well beyond that. *See* Sec. 5 (repealing 30 M.R.S. § 6204, which sets forth the State's environmental and land use regulatory authority as to Tribal Territory).

4. **The bill would limit the State's ability to regulate hunting, fishing, trapping, and taking of wildlife by Tribal members anywhere in the State, including outside of Tribal Territory.**

Under current law, the Penobscot Nation and Passamaquoddy Tribe have authority to control hunting, trapping, and taking of wildlife within their Tribal Territory, and members of those Tribes can engage in sustenance fishing within their Reservations free from State regulation, subject only to oversight from the Commissioner of Inland Fish and Wildlife to ensure preservation of fish and wildlife stocks. 30 M.R.S. §§ 6207(1), (4) & (6). Section 12 of L.D. 2007 would add a new provision that would curtail the State's jurisdiction to regulate hunting, fishing, trapping, and taking of wildlife by tribal members outside Tribal Territory, anywhere in the State. The State would retain jurisdiction "solely" for undefined "conservation purposes," and "to the extent permitted under federal Indian law and consistent with reserved tribal treaty rights." This language is highly problematic. There is no clear and universally accepted understanding of what "solely for conservation purposes" means or what federal Indian law permits in this area. Worse, the Tribes have no "reserved tribal treaty rights" in Maine because Congress extinguished any such potential claims in 1980. 25 U.S.C. § 1731. To imply in new legislation that such rights exist, and make no effort to define what those rights are or how they work, would be a terrible mistake.

Consider how this language, which would be codified in MIA and therefore not subject to amendment or repeal by the Legislature without the agreement of the affected tribes, would apply to Sunday hunting laws or all manner of hunting and fishing regulations that are not necessarily driven by conservation needs, but instead safety or sporting considerations. Consider also the arguments that would likely emerge in the context of highly regulated fisheries like elvers and lobsters. Currently, tribal and non-tribal members participate in those fisheries

together according to state law. This language would give rise to new questions about which laws and regulations apply to tribal members – and which do not – even when they may be participating in a fishery hundreds of miles outside of their Tribal Territory. Confusion and conflict over this is not just a possibility; it would be a certainty.

Conclusion

These are just a few examples of how L.D. 2007, as currently drafted, would lead to serious confusion and conflict. While we must oppose the bill in its current form, we remain committed to working with the sponsor and tribal leaders to find common ground on these important issues.

Sincerely,

Gerald D. Reid
Chief Legal Counsel

Attachment A

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

Janet T. Mills
GOVERNOR

May 31, 2023

Hon. Anne Carney, Chair
Hon. Matt Moonen, Chair
Joint Standing Committee on Judiciary
Room 438, State House
Augusta, Maine 04330

Re: LD 2004, *An Act to Amend the Maine Indian Claims Settlement Implementing Act Regarding the Application of Beneficial Federal Laws to the Wabanaki Nations.*

Dear Sen. Carney and Rep. Moonen:

Please accept this testimony on behalf of the Office of the Governor in opposition to LD 2004.

Overview

This bill attempts to override a federal statute in the Maine Indian Land Claims Settlement Act (MICSA) that addresses how federal Indian law applies in Maine. Specifically, this bill purports to make a subset of federal laws applicable in Maine when a federal statute makes the same laws inapplicable in the State. It would do so by a wholesale repeal of an undefined class of state laws, and a permanent release of the Maine Legislature's jurisdiction. The bill irrevocably transfers the State's jurisdiction to the federal government. It would apply to both pre-existing and future and federal enactments.

Federal laws may override – or preempt – inconsistent state laws, but the same is not true in reverse. In MICSA, Congress authorized the Tribes and the State to amend the Maine Implementing Act (MIA) by mutual consent to reallocate jurisdictional authority between themselves. But nothing in MICSA authorizes the Tribes and the State to reallocate jurisdictional authority between the State and the federal government. The manner in which LD 2004 attempts to accomplish this result – by repeal of a set of unspecified state laws contained throughout the Maine Revised Statutes, as well as the permanent release of the jurisdiction the Legislature relied upon to enact those laws – is unprecedented and constitutionally suspect.

The bill also suffers from public notice problems, both as a matter of legislative process and in its potential implementation. This would be a highly consequential amendment to MIA, yet the bill is being heard on a single day's notice at the end of a long legislative session. Substantively, the bill's language does not meaningfully apprise the public of which state laws are being repealed and to what extent. As a result, Maine citizens could not know with any certainty what laws are in effect – a basic element of due process.

In addition to these legal defects, we oppose this bill because it will lead to extensive litigation and confusion about the state of the law in Maine, and because there is a far more straightforward way to ensure the Wabanaki Nations are appropriately benefitting from federal Indian law. The Wabanaki Nations, the Governor, and the Congressional delegation should work together to identify federal statutes that benefit Indians generally, but that do not or may not apply in Maine under MICSA. As those statutes are identified, the Wabanaki Nations can determine whether they seek to make them applicable in Maine, and the State can assess any potential impacts. In this process we can achieve the goal of this bill, while also providing clarity and certainty for Maine people about which federal laws will become applicable and what consequences that will have.

Background on the Maine's Indian Land Claims Settlement Acts

In the 1970s, the Penobscot Nation and the Passamaquoddy Tribe asserted claims to nearly two-thirds of the land in the State of Maine. The complexity of the issues and the risk to all parties led a negotiated agreement which was codified in two statutes, one state and one federal. The state law, the *Maine Implementing Act*, 30 M.R.S. §§ 6201 *et seq.*, puts in place a jurisdictional framework that, with certain exceptions, makes state law applicable to Tribal lands and Tribal members to the same extent as non-tribal lands and citizens. The federal statute, the *Maine Indian Claims Settlement Act of 1980*, Pub. L. No. 96-420, ratified the jurisdictional provisions of MIA, extinguished the land claims, created a settlement trust fund of $27,000,000, and a $54,500,000 land acquisition fund to allow the Penobscot Nation and Passamaquoddy Tribe each to acquire up to 150,000 acres of Indian Territory in addition to their existing reservations. The Houlton Band of Maliseet Indians was also included in MICSA, and the Aroostook Band of Micmacs (now known as the Mi'kmaq Nation) negotiated a separate Settlement Act with the State in 1991 through Pub. L. No. 102-171.

The Settlement Acts authorized the Tribes to purchase from willing sellers multiple parcels that could comprise 150,000 acres for each Tribe, in the aggregate. Of necessity, many of these lands are located far from the existing reservations, and had been privately owned by non-tribal parties since Maine first became a state. The jurisdictional terms of the settlement – that Maine law would apply uniformly to Tribal and non-tribal lands alike – were essential to avoid the disruptive effects that would otherwise result from numerous Tribal jurisdictional enclaves appearing throughout the State in areas that had long been regarded as non-tribal. The Maine settlement afforded the Penobscot Nation and Passamaquoddy Tribe among the greatest Tribal land holdings east of the Mississippi, on the condition that those lands would remain subject to state law as had historically been the case.

All four Wabanaki Nations have authority to acquire more Tribal Territory or Trust Lands, so those terms do not carry with them fixed locations. The acquisition of future parcels will be controlled by the Wabanaki Nations and the federal government, without state involvement.

The Settlement Acts generally guarantee the Wabanaki Nations receive the benefit of federal laws, with a limited exception. MICSA provides:

> As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians.

25 U.S.C. § 1731(i). The impact of this provision has been tremendous. According to a federal financial disclosure website maintained under the Digital Accountability and Transparency Act, since FY 2019, the Wabanaki Nations appear to have collectively received $423.6 million in federal grants (775), direct payments (62), contracts (54), and contract IDVs (2).[1] It is therefore clear that the Wabanaki Nations are currently benefitting substantially from federal Indian law.

The only federal laws that benefit Indians generally but do not apply in Maine are those that would affect or preempt the State's jurisdiction. To ensure that Congress did not inadvertently disrupt the jurisdictional agreement the parties had negotiated, MICSA provides that such laws do not apply in Maine unless specifically made applicable. 25 U.S.C. §§ 1725(h) & 1735(b). As to future enactments, this serves "as a warning signal to later Congresses to stop, look, and listen before weakening the foundation on which the settlement between Maine and the Tribe rests." *Passamaquoddy Tribe v. Maine*, 75 F.3d 784, 789 (1st Cir. 1996).

Due Process

LD 2004 suffers from a basic due process problem. The core of the legislation is the following:

> The purpose of the amendments to this Act enacted in 2023 is *to modify and withdraw the jurisdiction of and the application of the laws of this State to the limited extent that such laws otherwise would be affected or preempted* by the application of the statutes and regulations of the United States which are generally applicable to, enacted for the benefit of Indians, or relate to a special status or right of Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians.

LD 2004, Sec. 1 (emphasis added). This language – "to modify and withdraw the jurisdiction of and application of the laws of this State to the limited extent that such laws otherwise would be

[1] *See* www.usaspending.gov . Searches can be performed by inserting the name of the recipient, limited by date and other filters.

affected or preempted" – is too vague to inform Maine citizens what state laws apply. It is simply not possible for ordinary people to rely upon this language to make informed decisions about which state laws have been effectively repealed, and to what extent they may remain in effect. "A statute may be void for vagueness when people of common intelligence must guess at its meaning." *State v. Witham,* 2005 ME 79, ¶ 7, 876 A.2d 40. That would be the case here. Providing clarity and certainty are always important legislative goals, but they are of paramount importance in any proposed amendment to the Maine Implementing Act.

Amending MIA

It is important to note that this bill would amend MIA. As part of a settlement agreement, MIA operates like a legislative contract. When the Legislature amends MIA, and the Wabanaki Nations ratify that amendment, the Legislature cannot unilaterally repeal or make changes to the amendment in the future without the consent of the Wabanaki Nations. It is the only context in which a sitting legislature can bind its successors. It is therefore critically important that the Legislature understand clearly and thoroughly the nature of the amendment and its potential consequences, and ensure that Maine citizens are equally well apprised.

State Nullification of Federal law

LD 2004 would declare that all federal statutes and regulations that provide rights or benefits unique to Indian tribes or their members apply in Maine. This conflicts with 25 U.S.C. §§ 1725(h) & 1735(b), which explicitly state that a limited subset of those federal laws do not apply in Maine – if they affect or preempt the State's jurisdiction. As noted above, there are serious questions whether the Legislature has the authority to make federal statutes applicable in Maine when federal law makes currently makes those same statutes inapplicable. Congressional action is the only way to ensure that result.

In MICSA, Congress gave its advance consent to the State and the Tribes to amend MIA in a manner that adjusts the jurisdictional boundary between the Tribes and the State. That provision reads in its entirety as follows:

> **(e) Federal consent for amendment of Maine Implementing Act; nature and scope of amendments; agreement respecting State jurisdiction over Houlton Band lands**
>
> **(1)** The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided,* That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

25 U.S.C. § 1725(e)(1). Nothing in this provision, or elsewhere in MICSA, authorizes the Tribes and the State to redraw broad jurisdictional boundaries between the State and federal government. Nor could it, because any such change would require Congressional action. If enacted, LD 2004's attempt to nullify a conflicting federal statute would certainly be challenged in court on this basis.

151 Federal Statutes That Accord Unique Rights, Benefits or Status to Indians

In 2019, researchers at Suffolk University prepared a report that identifies 151 federal laws enacted since 1980 that accord special rights, benefits, or status to Indian Tribes or their members.[2] It is important to note that this is not a list of laws that MICSA bars from applying in Maine; it is a list of all beneficial federal Indian statutes enacted since 1980, many of which are already fully applicable to the Wabanaki Nations. For example, numerous statutes that provide funding to support healthcare, education, infrastructure, natural resource management, etc., and have no jurisdictional impact, apply to the Wabanaki Nations just as they do other tribes.

Many of the 151 laws would seem to have little or no impact to the Wabanaki Nations if they were applicable here (e.g. the Nuclear Waste Policy Act of 1982, the Abandoned Shipwreck Act of 1987, the Indian Dams Safety Act of 1994). Some, like the Stafford Act and the Indian Healthcare Improvement Act, contain provisions that are not now applicable in Maine due to jurisdictional impacts, but the Governor would support making them applicable through amendments to federal law. A few, like the Water Quality Act of 1987, should not be made applicable in Maine due to potentially serious impacts on non-tribal communities.

Still others could inadvertently cause significant confusion if they were suddenly made applicable in Maine. For example, Maine's Probate Code has always applied to members of the Wabanaki Nations, just as it does all Maine citizens. What would it mean to declare that the American Indian Probate Reform Act of 2004 applies in Maine? Has anyone examined the practical and legal consequences of making this one, seemingly mundane, change in the law?

The point here is that each federal statute is different and needs to be evaluated individually to understand its potential consequences for tribal and non-tribal members and communities. It would be a serious mistake for the Legislature to agree that a large swath of federal statutes, together with their implementing regulations, are now applicable in Maine without first undertaking that assessment.

A Path Forward

Ensuring that the Wabanaki Nations are appropriately benefiting from federal Indian statutes can and should be resolved collaboratively. The Wabanaki Nations, the Governor's Office, and the Congressional delegation should work together to identify those statutes that the Wabanaki Nations believe would provide significant rights or benefits, and that are not or may not currently be applicable in Maine. With the agreement and support of all parties, it is realistic to expect that legislation could be introduced and enacted that makes the necessary changes,

[2] https://legislature.maine.gov/doc/3815 at pp. 260-64.

without creating confusion, triggering litigation, or risking unintended consequences. We would be pleased to be part of that process.

For all of these reasons, the Office of the Governor urges you to oppose LD 2004. Thank you for your consideration.

Sincerely,

Gerald D. Reid
Chief Legal Counsel

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Attachment B

ANNOUNCEMENTS
Native American Rights Fund

The Eastern Indian Land Claims

Part I: The Maine Land Claims Settlement

On October 10, 1980, President Carter signed into law the Maine Indian Settlement Act of 1980 (Public Law 96-420). The Settlement Act authorized $81.5 million to, first, enable the Passamaquoddy Tribe and the Penobscot Nation of Maine to reacquire 300,000 acres of the 12 million acres of land which was taken from them in unratified transactions over 160 years ago; and second, establish a $27 million trust fund for these tribes for economic development.

The Maine settlement is far and away the greatest Indian victory of its kind in the history of the United States. Never before has so much land been returned to Indian control after so long a time. One of the most remarkable aspects of this settlement is that it benefits Indians who, ten years ago, were virtually unknown to other Indians and the rest of the country. Small in numbers and exceedingly poor, the Passamaquoddy and Penobscot people lived on three reservations totalling 22,000 acres. The Maine tribes were not federally recognized and, therefore, have not benefited from the special programs that Congress has established for federally-recognized Indian tribes. Legally, they were wards of the State of Maine.

The Maine Indian claims were originated by John Stevens, a member of the Passamaquoddy Tribe and a member of NARF's Steering Committee. Shortly after returning from the Korean War, and early in his 17-year term as Governor of the Indian Township Passamaquoddy Reservation, Mr. Stevens was shown a copy of the Passamaquoddy's 1794 treaty with the Commonwealth of Massachusetts. The treaty was among the papers of an elderly member of the Tribe and had been all but forgotten. Upon reading the treaty, Mr. Stevens realized that the 17,000-acre Reservation once included 23,000 acres. Sensing that his Tribe had rights which were not being enforced, Mr. Stevens set out to study the history of his Tribe's land losses and to investigate the legality of the apparent losses.

It was not until 12 years later, in 1971, that Mr. Stevens and the Passamaquoddy Tribe asked Tom Tureen, a recent law graduate who had opened the Indian Legal Services unit of Pine Tree Legal Assistance in Calais, Maine, to review the Tribe's claims. Tureen, who would soon leave Pine Tree and become a full-time NARF staff attorney, asked NARF attorney Robert Pelcyger and Stewart Ross of the Hogan and Hartson firm of Washington, D.C., to join with him in evaluating the Tribe's claims.

What they discovered was that the Passamaquoddy Tribe and the Penobscot Nation could seek return of *not just 6,000 acres, but of all the land which had been taken in their unratified treaties with Maine and Massachusetts — upwards of 12,000,000 acres, or two-thirds of the State of Maine.* For under the terms of the Indian Trade and Intercourse Act of 1790, all transfers of Indian land which did not receive federal approval are null and void. And since the treaties with Maine and Massachusetts were never ratified by Congress, the land transfers were void.

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Native American Rights Fund

The Native American Rights Fund is a non-profit organization specializing in the protection of Indian rights. The priorities of NARF are: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law.

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Val Cordova (Taos Pueblo), Vice-Chairman ..... New Mexico
Robert Bojorcas (Klamath) ..... Oregon
John Stevens (Passamaquoddy) ..... Maine

Other Members:
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ReNee Howell (Oglala Sioux) ..... South Dakota
Roger Jim (Yakima) ..... Washington
Bernard Kayate (Laguna Pueblo) ..... New Mexico
Leo LaClair (Muckleshoot) ..... Washington
Louis LaRose (Winnebago) ..... Nebraska
Leroy Logan (Osage) ..... Oklahoma
Jerry Running Foxe (Coquille) ..... Oregon

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John Stevens, of Maine's Passamaquoddy Tribe, has been a member of NARF's Steering Committee since its inception. Mr. Stevens first became involved in the land claims of his tribe in the 1950s, but it was not until the early 1970s that actual litigation was initiated. During the eight years of negotiations, he served as a member of the negotiating committee. He is a past Governor of his Tribe and is now Director of Social Services for the Passamaquoddy Tribe.

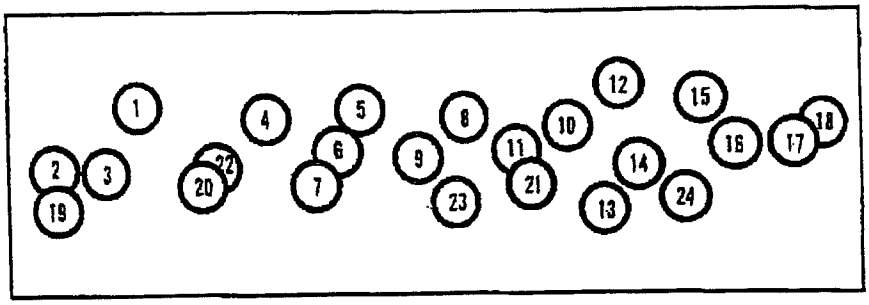
George Mitchell (left), a member of the Penobscot negotiation committee in the Maine land claims, is pictured here at an Indian Island (Maine) traditional dance.

The claims were to raise a host of difficult and novel legal questions, not the least of which was whether the Non-Intercourse Act applied at all within New England. The Passamaquoddy Tribe, nonetheless, authorized its new team of lawyers to proceed with this approach. The Maine Indian claim began in February of 1972 when the Governors of the Passamaquoddy Tribe asked the Commissioner of Indian Affairs to have the federal government initiate a suit to recover all lands taken from the Passamaquoddy Tribe in violation of the Non-Intercourse Act. A similar request was subsequently submitted on behalf of the Penobscot Nation. The federal government responded to these requests by maintaining that the Non-Intercourse Act applied only to federally-recognized Indian tribes. NARF then filed suit on behalf of the tribes against the Secretary of the Interior and the United States Attorney General. NARF obtained an initial court order requiring the federal government to file preliminary protective suits on behalf of the tribes prior to the expiration of a federal statute of limitations. Finally, in 1975, NARF obtained a federal court judgment which held that the Non-Intercourse Act protects all *bona fide* Indian tribes, whether federally recognized or not. This decision was unanimously affirmed on appeal.

Despite this victory, the claims of the Passamaquoddy tribe and the Penobscot Nation were not taken seriously until 1976. In the fall of that year, private attorneys practicing within the land claim area began taking note of the pendency of the Indian claims in their land title opinions. More importantly, in September of 1976, a distinguished Boston firm which did most of the bond work in New England, Ropes and Gray, refused to certify that towns within the claim area had clear legal authority to collect the taxes needed to repay their bond indebtedness. This, in turn, led to the collapse of Maine's municipal bond market and resulted in the introduction of legislation in Congress, which if enacted, would have wiped out the Indians' claim. Nonetheless, in early 1977, the Justice Department announced that if the Administration and Congress did not provide for an alternative, it would file suit on behalf of the tribes.

This was the situtation when President Carter took office. He responded to the situation by appointing a special representative who, after considerable study, recommended that the Passamaquoddy Tribe and Penobscot Nation receive 100,000 acres of land and $25 million in settlement of their claims. He also suggested, however, that if the tribes were unwilling to accept this amount, the President should support the unilateral extinguishment of the tribes' claim against all private parties (approximately 90% of their claims) and limit the tribes to suing for approximately 400,000 acres of state-held land.

Pictured here are most of the principals involved in the Maine land claims negotiations which extended over eight years, and involved the U.S. government, the State of Maine, the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and their respective officials and counsel.



1. **John M.R. Paterson,** Deputy Attorney General, State of Maine.
2. **Joseph E. Brennan,** Governor, State of Maine.
3. **Estelle Lavoise,** Aide, U.S. Senator George Mitchell.
4. **John Martin,** Speaker, Maine House of Representatives.
5. **Gerald Connelly,** Maine Senate Minority Leader.
6. **Michael Pearson,** Chairman, Maine Joint Appropriations Committee.
7. **Hartley Nicholas,** Governor, Pleasant Point Passamaquoddy Reservation.
8. **Allan Sockabasin,** Tribal Council Member, Indian Township Passamaquoddy Reservation.
9. **Carl Nicholas,** Lt. Governor, Indian Township Passamaquoddy Reservation.
10. **George Stevens,** Council Member, Indian Township Passamaquoddy Reservation.
11. **James Sappier,** Negotiating Committee, Penobscot Nation.
12. **Stuart P. Ross,** co-counsel for NARF.
13. **Tim Love,** Governor, Penobscot Nation.
14. **Terrance Polchies,** Chairman, Houlton Band of Maliseet Indians.
15. **James Case,** Assistant, Senator George Mitchell.
16. **Andrew Akins,** Chairman, Passamaquoddy/Penobscot Negotiating Committee, Penobscot Nation.
17. **Rueben Phillips,** Negotiating Committee, Penobscot Nation.
18. **David Flanagan,** Counsel to Governor Brennan.
19. **Janmarie Toker,** Aide to Senator Mitchell.
20. **Senator George Mitchell.**
21. **Richard Cohen,** Attorney General, State of Maine.
22. Not identified.
23. **Tom Tureen,** NARF staff attorney, Passamaquoddy and Penobscot Tribes.
24. **Suzan Shown Harjo,** NARF Legislative Liaison for the Maine Settlement legislation.

Jeannette Neptune of Indian Township, Maine, was one of the negotiators for the Passamaquoddy Tribe.

Indian opposition to the suggestion of an imposed settlement led President Carter to appoint a three-member White House work group to negotiate with the tribes. Negotiations with this work group led to an agreement in which the tribes agreed to accept a settlement involving 300,000 acres and a $25 million trust fund, plus a pledge on the part of the State of Maine to continue providing services to the tribes for 15 years.

The agreement worked out with the White House Task Force met with significant hostility when it was presented in Maine. The Indian claims had become a major political issue in the State, and emotions by this time were running high. The Governor accused the tribes of blackmail and seeking to establish a separate "nation within a nation." The State Attorney General was maintaining that the Court had addressed the wrong issue in the 1975 case. The real issue, he said, was not whether the Non-Intercourse Act applied to non-recognized tribes, but whether the Act was geographically applicable outside an area known as "Indian country" which he maintained never included land within Maine. For these reasons, Maine vigorously opposed the jurisdictional provisions of the proposed settlement, which provided that the tribes' lands would constitute "Indian country." In addition, Maine's large landowners were outraged by that part of the proposal which would have had them contribute the 300,000 acres at $5.00 per acre, a figure well below market price.

By the summer of 1979, the tribes had reached a tentative agreement with the Carter Administration whereby the President would support a settlement which would provide the tribes with 300,000 acres to be paid for with federal funds. But when this proposal was presented to the Maine congressional delegation, they declared that no such proposal could move forward in Congress until it had the support of the State of Maine. However, since obtaining the support of the State required an agreement on jurisdiction, and since the tribes and the State were far apart on this issue, a lengthy negotiation process ensued.

Agreement on the jurisdiction issue might never have come about but for two decisions, each of which brought into sharp focus for each side the risk of proceeding further in court. The first of these cases was *State of Maine v. Dana*, a decision by the Maine Supreme Judicial Court. *Dana* was a criminal case in which two Indian defendants challenged Maine's assertion of criminal jurisdiction over the Passamaquoddy Reservations. Since its creation in 1820, Maine had always assumed that it had complete governmental authority within these reservations. Prior decisions of the Maine Supreme Judicial Court had held that the Maine tribes had long since lost their sovereignty and were subject fully to State control. Because of these prior decisions and because jurisdiction was directly linked to the central issue in the land claims — the Indian defendants were asserting that the reservations constituted federal "Indian country" because they were protected by the Non-Intercourse Act — Maine decided to use *Dana* as its primary testing ground for its new theories concerning the geographic applicability of the Non-Intercourse Act. However, the decision of the State's high court was unanimously in the Indians' favor and undoubtedly came as a shock to the State officials handling the claims. The Court held that the reservations constituted federal "Indian country" and rejected Maine's theories about the geographic limitations of the Non-Intercourse Act.

If *Dana* was a shock to the State, the U.S. Supreme Court's decision in *Wilson v. Omaha Tribe* was an equal shock to the tribes. Decided three days before *Dana* (and without the knowledge of the Maine court), the Supreme Court in *Omaha* seemingly adopted Maine's argument and said that the 1834 Indian Trade and Intercourse Act applied only within "Indian coutry" as defined at that time. While the issue had not been briefed by any of the parties (the Supreme Court addressed the issue on its own initiative), and was directly contrary to what the Supreme Court had said in a 1974 decision concerning the Non-Intercourse Act, the Supreme Court is nonetheless the last word on such questions. If it had agreed to review *State of Maine v. Dana* and merely reaffirm in the context of the *Dana* case what it had just said in *Wilson*, the tribes' land claims and its hope of obtaining federal jurisdictional status could have been dashed. Unlike several of the other tribes which are pursuing Non-Intercourse Act claims (most notably the New York tribes) whose reservations and internal affairs are protected by federal ties, the Maine tribes did not have these protections, and the threat of defeat on the jurisdiction issues was a matter of real concern.

The State of Maine, on the other hand, also had substantial reason to fear a showdown in the U.S. Supreme Court. In every instance in which the Maine tribes had had an opportunity to argue the Non-Intercourse Act issue in court, they had won. If the Supreme Court granted review in *Dana* and *reversed* its position in *Wilson* on the Non-Intercourse Act, the tribes' hand would have been immeasurably strengthened in the land claims, and the State might well not

The Signing Ceremony for the Maine Indian Claims Settlement Act

Remarks of the President

Governor Brennan of Maine
Senator Mitchell of Maine
Secretary of State Muskie
Tom Tureen, NARF Attorney

THE PRESIDENT: Governor Brennan and Secretary Muskie, Senator Mitchell, Representatives of the Passamaquoddy, and the Penobscot, and Maliseet Tribes, this is indeed a culmination of a great deal of effort of perhaps everyone in this room and a lot of those who are not assembled here today because the room is not large enough to hold those who have worked on this important legislation. This is also a great day for all the people of Maine, for the Indian tribes involved, for Maine's landowners, and also a good day for the Congress of the United States because they are all satisfied with the settlement act, because we have a settlement act rather than lengthy and extremely costly litigation, a mutual consent agreement, rather than acrimonious debate and further division among the people of Maine. It's a good day for me as President as well.

When I first came to office in 1977, I was determined to help resolve the uncertainties surrounding the land ownership question in Maine. It was an intolerable situation. On the one hand, the federal government had failed to live up to its responsibility to the Maine Indians. On the other hand, the citizens of Maine were subjected to fear and uncertainty about the title of the land they considered to be their own. The federal government owes a special responsibility to all the people of Maine, of course, Indian and non-Indian, to settle this claim.

In 1977, I appointed a very distinguished former Georgia Supreme Court Justice, William Gunter, to evaluate the claims, and to advise me on an appropriate course for the federal government to follow. At his suggestion, we appointed a working group which undertook extensive negotiations with the tribes and with the representatives of various landowners in the state of Maine. These negotiations have paved the way for satisfactory out-of-court settlement of what might otherwise have been a lengthy and costly and bitter lawsuit.

The settlement authorizes a permanent land base and trust fund for the tribe and also resolves once and for all the title to the land for all the people who reside in Maine.

The Settlement Act does something else as well. It's a reaffirmation that our system of government works. A hundred and ninety years after the Passamaquoddy and Penobscot Indians and Maine settlers fought side by side to protect Maine's borders, to help defend all thirteen colonies in the Revolutionary War, the people of Maine have again shown themselves to be an example to us all.

by working together, by acting with patience and fairness and understanding. This should be a proud day for everyone who was involved in this effort. Many of them are here today, the tribes who placed their trust in the system that has not always treated them fairly, the leaders of the state of Maine who came openly to the bargaining table, the landowners who helped make the settlement a reality by offering land for sale that they might not otherwise have wanted to sell, the members of Congress who realize the necessity of acting and all the citizens of Maine who have worked together to resolve this problem of land title.

And now it's with a great deal of pleasure that I, as President of our country, sign into law this bill which settles once and for all in a fair and equitable manner a dispute that has concerned all of us over many years.

I think I'll let a few people comment if you'll have a brief period of time. Governor, would you say a word first?

GOVERNOR BRENNAN: Mr. President, I wish to thank you and commend you and your Administration for a superb response to solving the most difficult problem that has faced Maine in its history. By virtue of the efforts of your Administration in the signing of this bill, an economic cloud has been removed from Maine and the opening of a new relationship between Indians and non-Indians will begin. Thank you very, very much.

SENATOR MITCHELL: Well, I'd just like to add my thanks to those of the governor and, Mr. President, this is but one example of your responsiveness to the problems of the people of Maine that has existed since you took office, the Lowe Air Force Base, the Bath Iron Works, this settlement, your prompt response to the governor's request last week for disaster recognition for the Maine coast demonstrated a concern and responsibility in dealing with the problems of the citizens of Maine. And I know everybody in Maine is deeply appreciative of that and very thankful to you. Thank you.

have been able to negotiate a settlement in which the cost was eventually borne entirely by the United States.

In the summer of 1979 the tribes and the State of Maine entered into serious negotiations for the first time on the question of jurisdiction. By March of 1980, a detailed agreement had been reached between the tribal Negotiating Committee and the State Attorney General's office which provided that the tribes' existing reservation lands, *plus* all land acquired in trust for them in connection with the settlement, would be subject to a federal restriction against alienation.

The agreement also provides that the Maine tribes will continue to be considered federally-recognized tribes, a status which they obtained in 1976. The federal government is obliged under the settlement to provide services to the Maine tribes to the same extent that it provides services to other Indian tribes. The tribes are also eligible under the agreement for all services which the State of Maine provides to any of its municipalities. Under the terms of the settlement, the tribes will control hunting and trapping on all of their lands, fishing on some of their waters, and will operate tribal courts with powers similar to those of tribal courts operated by other federally-recognized tribes.

SECRETARY MUSKIE: Mr. President, I contemplate the history of this complicated problem. I can only think of one appropriate word to say. Amen.

MR. TUREEN: We thank you. It's a problem not just for these tribes but for our whole system. If it hadn't been for your courage, who knows what would have happened in these cases. There's a temptation to turn your back on what was right, and you resisted that and we'll all be appreciative. Thank you very much.

THE PRESIDENT: I might say as a personal note that this is one of the most difficult issues I've ever gotten involved in. I aroused the animosity and the criticism of almost everyone at least for transient periods of time. But I felt it was my responsibility as President representing all the people of this country to stay with it, and I imported a very fine and distinguished jurist from Georgia to help me with it. And I think that his basic recommendation and the courage of all those here to face a difficult issue head-on has resulted in a settlement that is gratifying to everyone involved. Again, I want to thank all of you for coming here. I think the people of Maine responded well to a very difficult and potentially permanently divisive issue in your state. And I think that the final resolution has been a credit to our system of government.

SECRETARY MUSKIE: Mr. President, if I may mention one other person that is not to be forgotten, who can't be with us and that's Governor Jim Longley who really fought for Maine's best interests, who persisted with you and I think his involvement and contribution ought to be recognized.

MR. PRESIDENT: Thank you all.

Tom Tureen, NARF staff attorney, was lead counsel for the Passamaquoddy and Penobscot Tribes during the long years of litigation and negotiations that ended in the successful settlement of the Maine Indian land claims. A graduate of George Washington Law School, he left a local legal services program in 1972 to join NARF in order to work full-time on the legal problems of the Eastern tribes. In addition to the Maine claims, Tom has successfully negotiated settlement of the land claims of the Narragansett Tribe of Rhode Island. As of counsel for NARF, he is now in the process of settling the land claims of Wampanoags of Gay Head, Western Pequot and Schaghticoke Indians.

Maine's general laws are to be applicable to the tribes, but only to the extent that they do not interfere with internal tribal affairs. The tribes will control access to tribal lands and determine whether non-Indians may live on their lands, but non-Indians who are permitted to live on tribal lands will not have the right to vote in tribal elections.

The settlement was approved by the tribes in March of 1980, by the State of Maine on April 2, 1980, and was signed into law by President Carter on October 10, 1980. Funds to effectuate the settlement, which did not become effective under the terms of the agreement until all funds were appropriated, were provided by Congress on December 12, 1980. The settlement agreement gives the Maine tribes the option of having their permanent trust fund privately invested. Until a decision is made by the tribes on this question, the funds will be invested by the Department of the Interior in the same manner as it invests other Indian trust funds (i.e., treasury bills and federally guaranteed certificates of deposit). In keeping with the luck which seemed to follow the Maine tribes throughout their claims, the Settlement Act funds were appropriated by Congress, on the same day that interest rates reached an all-time high in the United States, and the initial investments were made at a composite rate of 20.91%.

A decade ago, few would have believed possible a victory on the scale of the Maine Indian settlement. The Native American Rights Fund is rightfully proud of its central role in litigating these claims and in bringing about this settlement.

The next issue of *Announcements* will include Part II of this NARF report on the status of the Eastern Indian land claims.