



TESTIMONY OF MICHAEL KEBEDE, ESQ.  
LD 958 – Ought to Pass

**An Act to Prohibit Eminent Domain on Tribal Lands**

Joint Standing Committee on Judiciary  
April 4, 2025

PO Box 7860  
Portland, ME 04112

(207) 774-5444  
ACLUMaine.org  
@ACLUMaine

Senator Carney, Representative Kuhn and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Michael Kebede and I am a policy director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to support LD 958.

If enacted, this bill would amend the 1980 Act to Implement the Maine Indian Claims Settlement (also known as the Maine Implementing Act or MIA) and the 2023 Mi'kmaq Nation Restoration Act to prevent the state from seizing Wabanaki Nations' land for public uses.

For over a century, Maine has treated Wabanaki Nations not as sovereigns, but as municipalities with a legal status akin to that of the state's towns and cities. In 1925, for example, Maine used eminent domain to take land from the Passamaquoddy Nation to make room for Route 190. The state received no input from the Passamaquoddy Nation.

Control over land is a cornerstone of sovereignty. Multiple federal appellate courts have held that when a tribe holds an undivided interest in land, a state cannot take the tribal land through eminent domain. *See Nebraska Public Power District v 100.95 Acres of Land in County of Thurston, Hiram Grant*, 719 F.2d 956, 961 (8th Cir. 1983) (concluding that tribal land was not subject to state condemnation under section 25 U.S.C. 357, a federal statute governing state power to take tribal land); *United States v Pend Oreille Public Utility District No. 1*, 28 F.3d 1544, 1551–52 (9th Cir 1994); *Public Service Co of New Mexico v Barboan*, 857 F.3d 1101, 1105 (10th Cir. 2017), cert denied, 138 S.Ct 1695 (2018). The MIA created an exception to this rule, giving Wabanaki Nations a diminished form of sovereignty relative to the rights enjoyed by more than five hundred other federally recognized tribal nations.

This bill would help put Wabanaki Nations on equal footing with other tribal nations in the country. As a matter of basic fairness, tribal nations in Maine



deserve no less control over their own destiny than those enjoyed by other tribes in other states.

I urge you to vote *ought to pass*.