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State of Maine

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FOR IMMEDIATE RELEASE
STATEMENT OF GOVERNOR JOSEPH E. BRENNAN
REGARDING THE INDIAN LAND CLAIMS SETTLEMENT
March 21, 1980

I have promised to make my decision on the proposed Indian land claim settlement public this morning.

I have asked the President of the Senate, Joseph E. Sewall, and the Speaker of the House, John Martin, to join me today. As leaders of the Legislature, they are the two other ranking representatives of the people of our state. Their presence underscores the tremendous importance of this issue to all the people of Maine and affirms the bi-partisan nature of our efforts to resolve this litigation.

As you know, the original claims were of incredible dimensions.

The Penobscot and Passamaquoddy tribes have argued that their lands were transferred illegally between 1794 and 1834 to the states of Massachusetts and Maine, and to private citizens. They claimed that the consent of the federal Congress was necessary before these lands could be conveyed -- but that the consent was never given.

So these claims are nearly 200 years old.

They involved nearly half the state -- more than 12 million acres.

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And the claim for the lost rental value of the land topped \$25 billion.

So long as these claims exist, there will be a threat to the transfer of property in northern and eastern Maine.

There may also be a serious problem with selling state bonds.

These two problems could potentially seriously affect the economy of our state.

Since these claims were first brought to court in 1972, there have been a number of decisions concerning the legal status of Maine's Indians.

First, in 1974 in Passamaquoddy Tribe v. Morton, the Maine Federal District Court and the Circuit Court in Boston both decided that the Maine tribes were entitled to the representation of the United States government in assessing the validity of the claims against the state.

Subsequent decisions have suggested that these tribes are entitled to the same kind of sovereign immunity as western tribes and even to application of federal law in federal courts in criminal cases.

Elsewhere in the country a very confused and uncertain picture has emerged as to the status of Indians all over the eastern United States.

During much of this claims period I served Maine as Attorney General and was directly and daily involved in the problems presented by the Indian claims.

After very extensive consideration, I formed the conclusion that the legal claims of these tribes could be successfully defended.

I continue to hold to that conviction.

I believe that if this case has to be tried, the state will ultimately prevail. However, there is very respectable legal authority which believes that litigation would mean some risks.

I believe that the Congress did in fact ratify the land transfers and that it has always acted as if the land belonged to the non-Indian owners.

But with a claim of this magnitude, you may be sure that every party would take every appeal, exhaust every avenue, and litigate every issue to the bitter end. This prolonged legal combat would undoubtedly require one and possibly several appeals to the United States Supreme Court. It would probably take another decade of litigation. It would certainly take hundreds of thousands, if not millions of dollars, to resolve. And during this long period, as I noted, there could be adverse economic consequences for the state and the people.

Because of these considerations, because of these potential costs, I have always felt that, while the state would ultimately win, the best interests of the people could be better served if we could achieve a fair and equitable settlement.

We have tried to achieve such a settlement before.

Two years ago, the President appointed Judge Gunther, a retired Georgia Supreme Court Justice, to look into the matter and make recommendations.

But, his report called for the donation of state land and money to the settlement he proposed, and was, therefore rejected.

Later a "White House Work Group" came up with a scheme that not only would have required the state to contribute \$25 million, but also would have forced private landowners to "sell" their land for \$5 an acre.

Needless to say, this was totally unacceptable to us.

Then, in the fall of 1978, the so-called Hathaway Plan was advanced. This solution called for the federal government to create a \$27 million trust fund for the tribes and a \$10 million land acquisition fund with which to purchase 100,000 acres. This proposal did not have any terms regarding jurisdiction. Those would be worked out later. This settlement was agreed to by former Governor Longley, Senators Muskie and Hathaway and Representatives Emery and Cohen and myself as Attorney General, but never came to fruition.

With this difficult history, Attorney General Cohen began anew the negotiations a year ago.

At the outset of his negotiations I laid down two principles for a settlement which I always believed were absolutely essential before I could accept any agreement.

First, the claims should not be settled with any state money.

Second, the sovereignty of the state government over all the land and all the people of Maine should not be compromised in any substantial way.

I have always been guided by these two principles because I have always believed that the people of Maine were guilty of no wrongdoing other and, therefore, should not have to pay for the mistakes others may have made.

Likewise, I have always believed that all the people of Maine, regardless of race, religion, ethnic origin or sex should be treated equally.

We could not have a "nation within a nation."

I have examined this settlement very carefully, both step-by-step as the parties were developing it over the last year, and as a whole since it was submitted to us about two weeks ago.

Part of the settlement proposal involves the state and the people of Maine and requires the approval of the Legislature and the Governor.

I am satisfied that this part meets my two tests.

It does not involve state money.

And it does not diminish the sovereignty of the state as we have known it.

On the contrary, this proposal offers the potential for building a whole new relationship with our Indian citizens, a relationship unlike that which exists in any other state.

By treating the Indian territories as municipalities, this settlement provides that our Indian citizens will be on a substantially equal footing with their fellow citizens in other towns for the first time in our history.

The Indians would be full-fledged citizens responsible for their own services, taxes, welfare and destiny, just like the other people in every other Maine town and city.

I am hopeful that this settlement will mark a new era in which Indians will live and govern with the same dignity and self-respect as other citizens.

So this settlement would not only eliminate a serious threat of prolonged, expensive and unproductive litigation, but would also promise an opportunity for a new beginning for the members of these tribes.

I am sure that these considerations have led President Sewall and Speaker Martin to join me here today, for as you can see, this is a jurisdictional agreement that is of major and lasting significance and one that transcends all considerations of partisan interest or selfish political gain.

So I will introduce legislation concerning jurisdiction to settle and conclude the role of the state in this continuing controversy.

Obviously, this legislation and this Legislature cannot and will not address the federal questions raised by the potential settlement between the tribes and the present land owners and the federal government itself.

The tribes and the landowners have apparently reached an agreement for the sale of some 300,000 acres for an announced price of \$54 million.

This would be, in addition, as I understand it, to the \$27 million trust fund proposed in the old Hathaway Plan.

I was not involved on this aspect of the proposed settlement.

And understandably so.

It is not our land

It is not our money.

We were never in a position to evaluate the true value of the land in question.

Nor were we in a position to dictate how or how much federal money would be spent.

These are issues that can only be addressed by our national counterparts -- the President of the United States and the Congress.

And I know that, just as we have been evaluating very closely the state jurisdictional issues, our Congressional delegation will be scrutinizing the money aspect of this settlement very closely.

I will only say that for any resolution on the federal level to be successful, it will require the same kind of bi-partisan spirit Senator Sewall and Speaker Martin have represented at the state level.

I am sure you can all imagine the disarray and confusion which would be caused if Senators Muskie and Cohen and Representatives Emery and Snowe each advocated or endorsed a different figure.

But I know that they all well understand the immense importance of a fair and equitable settlement to all the people of Maine -- Indian and non-Indian alike.

So I am very hopeful that after their careful deliberation with all the parties, our Congressional representatives will reach a consensus and present the united front so important to the success of this settlement.

I will, of course, support the ultimate consensus figure they develop.

In conclusion, I am hopeful that with this jurisdictional agreement and the enactment of the legislation I will submit to the Maine Legislature, we will make significant progress toward a solution to the outstanding problem facing Maine today -- the just and equitable resolution of the Indian land claims case.

I want to thank President Sewall and Speaker Martin for joining me for this occasion in an ecumenical and non-partisan basis.

I believe they share my hope that this settlement will bring an end to this difficult problem in a way that ensure justice for all the citizens of Maine.

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