

# INDIAN LAW RESOURCE CENTER

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## Memorandum re Maine Claim Settlement Bills

At the request of several Penobscot Nation members, I have reviewed the bills proposed by the negotiating team to settle the Maine land claims. Passage of the bills with the approval of the Penobscot Nation would end the land claims and virtually terminate the sovereignty of the Nation. Many fundamental rights of Indian nationhood would be given up by the bills.

The following major points are noted:

1. The draft Settlement Agreement on which the bills are based has not been made available for review nor made public.

2. There is no legal guarantee that Congress will appropriate the money to create the promised Settlement Fund and the Land Acquisition Fund. The bills would extinguish the claims, but without actually guaranteeing payment in return.

3. The bills will place the Penobscot Nation and its lands entirely under the jurisdiction of the State, except for certain internal matters. The Department of the Interior will have vastly increased bureaucratic control over the Penobscot lands. The sovereignty of the Nation will be effectively terminated and the Nation changed into a form of municipal government.

4. All Penobscot lands and personal property will become effectively subject to State and local taxation. Furthermore, there will be no exemption from State sales and income taxes, and other State and local taxes as is enjoyed today here and on other Indian lands.

5. In exchange for extinguishing the Penobscot land claim and extinguishing Penobscot title to all claimed lands and resources outside the present reservation, the bills would authorize a Settlement Fund and a Land Acquisition Fund to be held and administered by the Secretary of the Interior. If money is made available for the funds, the Secretary of the Interior will have the final say over the use of the funds, not the Nation. No money will be paid to the Nation except the income from one half of the settlement fund.

6. The lands to be purchased are not described or identified in any way. No particular lands and no specified amount or type of lands are assured by the bills.

7. Land purchased by the Secretary of the Interior using the Land Acquisition Fund will not have the same legal protection as Indian lands elsewhere:

- The land will apparently be owned "in trust" by the United States, not owned by the Nation.
- The lands will be subject to eminent domain taking.
- The federal Non-intercourse Act and other federal legal safeguards will not apply.
- The Secretary of the Interior will have the final say over how the lands will be used.
- All transfers of Penobscot lands, even between Penobscots, will require the approval of the Secretary of the Interior and the Nation.

8. The bills would remove the Nation's sovereign immunity from suit, except to the limited extent that a municipal government has such immunity. Judgments won against the Nation could be paid by the Secretary of the Interior out of the income that would otherwise be paid to the Nation.

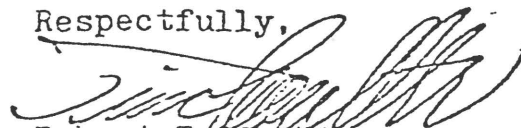
9. The bills provide that all of the federal laws which protect Indian people and lands elsewhere in the United States will not apply in the State of Maine.

10. The State of Maine will be freed from all claims resulting from its handling of Nation funds without any requirement of a proper accounting.

11. The Nation's reservation could not be enlarged without approval by the State and approval of a special commission to be established by the proposed bills. The commission would have a majority of non-Indian members.

Many other problems with the proposed bills are also apparent, such as the absence of clear protections and guarantees of the Nation's governmental powers. I have not tried to list all such dangers here. Clearly these proposed bills could not be safely accepted without giving up most of the essential elements of Indian nationhood and sovereignty.

Respectfully,



Robert T. Coulter,  
Executive Director  
Attorney