

95TH CONGRESS
1ST SESSION

File
S. 842

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 21), 1977

Mr. HATHAWAY (for himself and Mr. MUSKIE) introduced the following bill;
which was read twice and referred to the Select Committee on Indian
Affairs

A BILL

Relating to certain Indian land claims in the State of Maine, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **That this Act may be cited as the "State of Maine Aboriginal**
4 **Claims Act of 1977".**

5 **DECLARATION OF FINDINGS**

6 **SEC. 2.** Congress finds and declares that—

7 (1) there are currently pending aboriginal land
8 claims by the Passamaquoddy and Penobscot Indian
9 Tribes of the State of Maine which may involve over 40
10 per centum of the land area of the State of Maine and

1 which may result in a cloud on the title of the potential-
2 ly affected land areas;

3 (2) these aboriginal land claims were presumed ex-
4 tinguished by conquest, abandonment or by treaties
5 entered into in the late eighteenth and early nineteenth
6 centuries;

7 (3) the mere pendency of these claims for the
8 return of aboriginal lands may result in irreparable
9 damage and substantial adverse consequences for the
10 State of Maine and its citizens which consequences are
11 disproportionate to the ultimate resolution of the
12 litigation;

13 (4) while the legal basis for the claims rests in
14 large part on the alleged failure of the Federal Govern-
15 ment to carry out its trust responsibility to the Passama-
16 quoddy and Penobscot Indian Tribes, the burden of the
17 claims falls upon the State of Maine and present-day
18 good-faith titleholders in the State of Maine;

19 (5) a monetary remedy, if any, shall be the exclu-
20 sive remedy available for any claims arising out of or
21 based upon any claims of violation of aboriginal title
22 rights which may be brought by the Passamaquoddy or
23 Penobscot Indian Tribes; and

24 (6) no provision of this Act shall be construed as
25 replacing or diminishing any right, privilege, or obliga-

1 tion of members of the Passamaquoddy or Penobscot
2 Indian Tribes as citizens of the United States or of the
3 State of Maine, or relieving, replacing, or diminishing
4 any obligation of the United States or of the State of
5 Maine to protect and promote the rights or welfare of
6 the members of these tribes as citizens of the United
7 States or of the State of Maine.

8 DECLARATION OF TITLE EXTINGUISHMENT

9 SEC. 3. (a) To the extent, if any, that the Passama-
10 quoddy or Penobscot Indian Tribes held aboriginal title to
11 or interests in lands or waters, or both, in the area now com-
12 prising the State of Maine, the Congress hereby recognizes
13 all prior conveyances of such title and interests from such
14 Indian tribes to the State of Maine and its predecessor in
15 interest, the Commonwealth of Massachusetts, and deems
16 all such title and interests to have been extinguished as of
17 the date of such conveyances.

18 (b) Any relief which may hereafter be granted as a
19 result of any claims arising out of or based upon the alleged
20 wrongful loss of aboriginal title rights in the State of Maine
21 by the Passamaquoddy and Penobscot Indian Tribes shall be
22 limited to monetary damages which shall be the exclusive
23 remedy available for any such claim.

24 SEC. 4. Notwithstanding any other provision of law,
25 any action brought in any district court other than the United

1 States District Court for the District of Maine shall be trans-
2 ferred to that court immediately upon a determination that
3 the action involved the construction, application, or con-
4 stitutionality of this Act. The United States District Court
5 for the District of Maine shall have the duty to expedite to
6 the greatest extent possible the disposition of the issue of such
7 construction, application, or constitutionality and a decision
8 of the district court of that issue shall be deemed to be a
9 final order for purposes of review.

10 **SEC. 5.** If any section of this Act, or any portion thereof
11 or any particular application thereof is held invalid, the
12 remainder of the Act, and any application of this Act not
13 held invalid, shall not be affected thereby.