

STATEMENT OF SEN. WILLIAM S. COHEN
AT THE MARK-UP OF S. 2829, THE MAINE
INDIAN CLAIMS SETTLEMENT ACT, BY THE
SENATE SELECT COMMITTEE ON INDIAN
AFFAIRS: SEPTEMBER 16, 1980

Mr. Chairman and my colleagues on the Senate Indian Committee, today we meet once again to consider S. 2829, the Maine Indian Claims Settlement Act.

As this Committee is well aware, this legislation is intended to effect a settlement of claims raised by three Maine Tribes based on the assertion that the lands over which they once exercised exclusive aboriginal rights of use and occupancy were transferred from their control without the approval of the federal government. The Tribes contend that federal approval of the transfer of any of their lands was required by the Trade and Intercourse Act of 1790 and later re-enactments of it. The State of Maine contends that the Trade and Intercourse Acts were never intended to apply within its borders and that all land transfers in which the Tribes participated are valid.

In recognition of the extreme complexity which characterizes this case and the potential economic harm which could be worked on the 350,000 innocent landowners who live on the 12.5 million acres of now-disputed land, the Administration, in 1977, counseled the parties to begin negotiations to reach a settlement out of court.

The negotiating process has continued ever since and, although a number of settlements have been proposed in that time, none has won the agreement of all the parties until settlement we are now considering was announced.

This proposed settlement consists of two parts. The first is embodied in legislation which was passed by the Maine State Legislature in April of this year and signed by the Governor of the State that same day. This legislation, which known as the Maine Implementing Act, covers a complex jurisdictional arrangement between the Maine Tribes and the State. It is complemented by the legislation before us today, the Maine Indian Claims Settlement Act.

The proposed federal legislation to implement this settlement would accomplish two objectives: it would completely extinguish the Tribes' claims and provide compensation to them in the form of two trust funds. Section 5 of this Act would establish a Land Acquisition Trust Fund of \$54.5 million to acquire 300,000 acres for the Tribes. The same section of this Act would also create a \$27 million trust fund for the benefit of the Passamaquoddy and Penobscot Tribes.

On July 1 and 2 of this year, this Committee held hearings on S. 2829 and accepted testimony from those parties who had participated in drafting the settlement legislation as well as from those who opposed its enactment. At that time, Secretary of the Interior Cecil Andrus testified at length on the terms of the proposed legislation then before us. Secretary Andrus advised this Committee that, although he supported the settlement as generally conceived,

he held reservations about the operation of some of its provisions.

Chief among those concerns was the possibility that sections 6211(2) and (4) of the Maine Implementing Act might cause federal and State funding to interact in such a way that, if these sections were enacted by the all the other states, the cost to the Indian Health Service alone would be \$285 million annually. Following this testimony by the Secretary, each of the parties to the settlement, as he appeared to testify, was questioned as to the intended affect of the State-federal funding provisions of the Maine Implementing Act. All the parties responded that the provisions were not intended to have the affect Secretary Andrus feared and each pledged to work to redraft this Act so that any possibility ^{it would set} that such an undesirable precedent would be eliminated altogether.

Shortly after the hearings were adjourned, the State, the Tribes, and legal counsel to the landowners met with representatives of the Departments of Justice and the Interior to find solutions to the problems which were highlighted at the July hearings. After more than two months of discussions, the parties have agreed on the legislation which the Committee is considering today.

The solution to the federal-State funding problem is found at section 6(b) of this Act. It provides that, unless expressly authorized by this Act, nothing in the funding section shall supersede either federal laws or federal regulations. It also

directs the Secretary of the Interior to monitor the interaction of State and federal funding and to submit a report to this Committee and the appropriate Committee in the House of Representatives on their operation by October 30, 1982.

The Committee Report addresses the problem at still greater length in a separate section entitled "Analysis of the Maine Implementing Act." This section describes the contemplated operation of State and federal funding and contains letters from the State of Maine, the Tribes, and the Department of the Interior which detail their understanding of these provisions. All parties to the settlement have reviewed and agree on the content of these letters.

Other concerns raised by Secretary Andrus and by this Committee were also addressed at the negotiations which followed the July hearings and the solutions to each has been incorporated into this bill.

I believe the passage of this bill is in the best interests of the people of Maine and urge the Committee act favorably upon it.

Before closing, I should note that, because this bill will not have been reported by May 15 of this year, this Committee must also report a resolution pursuant to section 402(c) of the Budget Act waiving section 402(a) of that Act.

I would like to thank the Committee for affording me the opportunity to speak on this bill and I yield to the Chairman.