

Draft  
9.6  
Session

Amendment to S. 2829 in the  
Nature of a Substitute

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Maine Indian Claims Settlement Act of 1980".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY 48

Sec. 2. (a) Congress hereby finds and declares that:

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the grounds that the lands in question were originally transferred in violation of law, including the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this Act by the Penobscot Nation's Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this Act by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this Act by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This Act represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians with a fair and just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective Tribe, Nation or Band, and repeatedly denied that it had jurisdiction over or responsibility for the said Tribe, Nation, and Band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) It is the purpose of this Act—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe and the Penobscot Nation, ~~except to the extent that it is inconsistent with the provisions of this Act,~~  
and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

DEFINITIONS

Sec. 3. For purposes of this Act, the term—

(1) "Houlton Band of Maliseet Indians" means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of the date of the enactment of this Act, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

~~(2) "Indian territory" means (A) the Passamaquoddy Indian Reservation; (B) the Penobscot Indian Reservation; (C) until January 1, 1983, the lands in the State of Maine of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of Raymond Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5, B.K.P.W.K.R. (King and Barlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.; any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Holeb)~~



~~Stream), the lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; and the lands of Diamond International Corporation, International Paper Company and Lincoln Pulp and Paper Company located in Arroyo: Provided, That "Indian territory" within the meaning of this subparagraph may not exceed 300,000 acres of land; and (D) any other lands designated as Passamaquoddy Indian Territory or Penobscot Indian Territory pursuant to the laws of the State;~~

(3) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(4) "Land Acquisition Fund" means the Maine Indian Claims Land Acquisition Fund established under Section 5(c) of this Act;

(5) "laws of the State" means the Constitution, and all statutes, regulations and common laws of the State of Maine and its political subdivisions, and all subsequent amendments thereto or judicial interpretations thereof;

(6) "Maine Implementing Act" means Section 1 and Section 30 of the "Act to Implement the Maine Indian Claims Settlement" enacted by the State of Maine in Chapter 732 of the Public Laws of 1979;

(7) "Passamaquoddy Indian Reservation" means those lands as defined in the Maine Implementing Act;

(8) "Passamaquoddy Indian Territory" means those lands as defined in the Maine Implementing Act;

(9) "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe is represented, as of the date of the enactment of this Act, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate Councils at the Indian Township and Pleasant Point Reservations;

(10) "Penobscot Indian Reservation" means those lands as defined in the Maine Implementing Act;

(11) "Penobscot Indian Territory" means those lands as defined in the Maine Implementing Act;

(12) "Penobscot Nation" means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and successors in interest. The Penobscot Nation is represented, as of the date of the enactment of this Act, by the Penobscot Nation Governor and Council;

(13) "Secretary" means the Secretary of the Interior;

(14) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under Section 5(a) of this Act; and

(15) "transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF INDIAN TITLE AND CLAIMS OF THE  
PASSAMAQUODDY TRIBE, THE PENOBSCOT NATION, THE HOULTON BAND OF MALISEET INDIANS,  
AND ANY OTHER INDIANS, INDIAN NATION, OR TRIBE OR BAND OF INDIANS  
WITHIN THE STATE OF MAINE

Sec. 4. (a)(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, § 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: Provided, however, that nothing in this section shall be construed to affect or eliminate the claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law generally designed to protect non-Indians as well as Indians.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation or tribe or band of Indians any claim under the laws of the State arising before the date of this Act and arising from any transfer of land or natural resources <sup>by any Indian tribe, band or nation</sup> located anywhere within the State of Maine, including

but without limitation any transfer pursuant to any treaty, compact or statute of any state, on the grounds that such transfer was not made in accordance with the laws of the State.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State arising from any transfer of land or natural resources located anywhere within the State from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty or compact with or any statute of any state.

(b) To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of Sec. 5 of this Act

the Treasury of the United States.

ESTABLISHMENT OF FUNDS 22

Sec. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which \$27,000,000 shall be deposited following the appropriation of sums authorized by Section 14 of this Act.

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(b)(1) One-half of the principal of the Settlement Fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the Settlement Fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the Settlement Fund shall be administered by the Secretary in accordance with terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: Provided, That the Secretary may not agree to terms which provide for investment of the Settlement Fund in a manner not in accordance with Section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the respective Tribe or Nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: Provided, further, That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the Settlement Fund as to which there is no agreement.

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(2) Under no circumstances shall any part of the principal of the Settlement Fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either Tribe or Nation: Provided, however, That nothing herein shall prevent the Secretary from investing the principal of said Fund in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in Section 6(d)(2) and without liability to or on the part of the United States, any income received from the investment of that portion of the Settlement Fund allocated to the respective Tribe or Nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation

Settlement Fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the Tribe or Nation, the United States shall have no further trust responsibility to the Tribe or Nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or services purchased therewith.

(c) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which \$54,500,000 shall be deposited following the appropriation of sums authorized by Section 14 of this Act.

(d) The principal of the Land Acquisition Fund shall be apportioned as follows:

- (1) \$900,000 to be held in trust for the Houlton Band of Maliseet Indians;
- (2) \$26,800,000 to be held in trust for the Passamaquoddy Tribe; and
- (3) \$26,800,000 to be held in trust for the Penobscot Nation.

The Secretary is authorized and directed to expend, at the request of the affected Tribe, Nation or Band, the principal and any income accruing to the respective portions of the Land Acquisition Fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation,

*The first 100,000 acres*  
and the Houlton Band of Maliseet Indians and for no other purpose. Land or natural resources acquired *within the area described in the Maine*

and the Penobscot Nation shall be held in trust by the United States for the benefit of the respective Tribe or Nation. *Land or natural resources acquired*

outside the boundaries of *Indian territory* shall be held in fee ~~simple~~ by the respective Tribe or Nation, and the United States shall have no further trust

responsibility with respect thereto. *The Secretary is also authorized to take*

*Implementing H-4 as reg. by J. 11 60 in c. 104*

*Land or natural resources acquired outside the boundaries of Indian territory shall be held in fee simple by the respective Tribe or Nation, and the United States shall have no further trust responsibility with respect thereto. The Secretary is also authorized to take*

in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within Indian territory by purchase, gift, or exchange by such Tribe or Nation. ~~Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the Band: Provided, That no land or natural resources shall be so acquired without the concurrence of authorized officials of the State of Maine. The Houlton Band of Maliseet Indians is authorized to enter into contracts for payment for the provision of services from the State, county, or municipality exercising jurisdiction over the lands so acquired, annually not to exceed an amount equal to the real property taxes which would have been levied in the given year against the owner of the land or natural resources, were they not owned by the United States.~~

Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the Band, provided, that no land or natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseets without the prior enactment of appropriate legislation by the State of Maine approving such acquisition, provided further, that the Passamaquoddy Tribe and the Penobscot Nation shall have a one-half undivided interest in any such property in the event the Houlton Band of Maliseet Indians should terminate their interest in the property.

INSERT



(e) Notwithstanding

the provisions of Section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and Section 1 of the Act of February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title satisfactory to the Attorney General in the United States and concern interests adverse to the ostensible owner. Except for the provisions of this Act, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian <sup>nations or</sup> tribes in the State of Maine.

(f) ~~the~~ The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective Tribe, Nation, or Band have executed appropriate documents relinquishing all



claims to the extent provided by Sections 4, 11, and 12 of this Act and by Section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal of their claims.

(g) (1) The provisions of Section 2116 of the Revised Statutes, shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsection (g)(2), such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, or ~~transfer of land or natural resources held in trust for the Houlton Band of Maliseet Indians,~~ except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe, Penobscot Nation, or Houlton Band of Maliseet Indians to another member of the same Tribe, Nation, or Band, shall be void ab initio and without any validity in law or equity.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of

the Houlton Band of Maliseet Indians may, at the request of the respective Tribe, Nation, or Band, be—

(A) leased in accordance with the Act of August 9, 1955 (69 Stat. 539), as amended;

(B) leased in accordance with the Act of May 11, 1938 (52 Stat. 347), as amended;

(C) sold in accordance with Section 7 of the Act of June 25, 1910 (36 Stat. 857), as amended;

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (62 Stat. 17);

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the Land Acquisition Fund for the benefit of the affected Tribe, Nation, or Band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the Tribe, Nation, or Band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(h) ~~Land~~ Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective Tribe or Nation and agreed to by the Secretary ~~in accordance with Section 102 of the Indian Self-~~

*stat.* ~~determination and Education Assistance Act (38 Stat. 2296), or other~~

*existing law.*

(A)(1) Trust or restricted land or natural resources within the Passamaquoddy or Penobscot Indian Reservations may be condemned for public purposes pursuant to the ~~laws of the State of Maine relating to such lands~~ Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the ~~laws of the State of Maine~~ <sup>Implementing Act</sup> and upon notification to the Secretary of the Interior of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe <sup>of</sup> the Penobscot Nation ~~or the Houlton Band of Maliseet Indians~~ not within the Passamaquoddy or Penobscot Reservations may be condemned for public purposes pursuant to the ~~laws of the State of Maine relating to the condemnation of such land~~ <sup>Maine Implementing Act</sup>. The proceeds from any such condemnation shall be deposited in the Land Acquisition Fund established by Section 5(c) and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine ~~or in~~ ~~territory~~. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective Tribe <sup>or Nation or Band</sup> shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area

taken, which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective Tribe, Nation, or Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries and status of the land acquired.

(3) The United States shall be a party to any condemnation action under this subsection, ~~and exclusive jurisdiction shall be in the United States District Court for the District of Maine: Provided, that nothing in this section shall affect the jurisdiction of the Maine Superior Court provided for in Section 6205(3)(A) of the Maine Implementing Act to review the finding of the Public Utility Commission or a public entity of the State of Maine.~~

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(4) When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation or the Foulton Band of Maliseet Indians are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (h)(2) of this section.

APPLICATION OF STATE LAWS

25  
Section 8 (e)

Act

Sec. 6. (a) Except as otherwise provided in ~~subsections (d) and (e)~~ of this section, all Indians, Indian nations, tribes, and bands of Indians in the State of Maine, other than the Passamaquoddy Tribe and the Penobscot Nation and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe, or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws

of the State, and to the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein;

Sec. 6 (b) (1)

the Passamaquoddy Tribe, the Penobscot Nation, their members, and the land and natural resources owned by or held in trust for the benefit of the Tribe, Nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementation Act and the Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementation Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of Maine unless expressly provided by this Act.

(4) Not later than October 30, 1982, the Secretary of the Interior is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal-state effort in delivery of similar programs to tribes of comparable population

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(c) The United States shall not have any criminal jurisdiction in the State of Maine under the Act of June 25, 1948 (62 Stat. 757), as amended, or the Act of July 12, 1960 (74 Stat. 469), as amended.

(d)(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and Section 1362 of Title 28, United States Code, shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: Provided, however, That the Passamaquoddy Tribe, the Penobscot Nation and their officers and employees shall be immune from suit when the respective Tribe or Nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within the State of Maine;

*Provided further that nothing in this section shall be construed as vesting jurisdiction in the State over internal tribal affairs*

(2) Notwithstanding the provisions of Section 3477 of the Revised Statutes, as amended, the Secretary shall honor valid <sup>final</sup> orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after the date of the enactment of this Act against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment from the Settlement Fund established pursuant to Section 5(a) of this Act and out of

(The Penobscot Nation or Houlton Band of Maliseet Indians) *Penobscot Nation*

(2)



such future quarterly payments as may be necessary until the judgment is satisfied.

(e)(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: Provided, That such amendment is made with the agreement of the affected Tribe or Nation, and that such amendment relates to

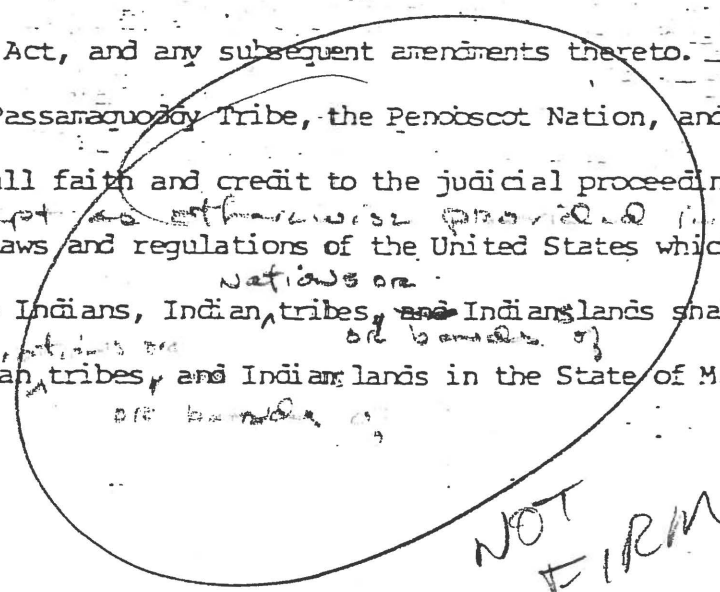
(A) the enforcement or application of civil, criminal or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation and the State within their respective jurisdictions; (B) allocation or determination of governmental responsibility of the State and the Tribe or Nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the Tribe or Nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the Band or its members.

(f) The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(g) The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

*except as otherwise provided in this Act,*  
(h) The laws and regulations of the United States which are generally applicable to Indians, Indian tribes, ~~and~~ <sup>Nations or</sup> Indian lands shall be applicable to Indians, Indian tribes, <sup>or bands of</sup> and Indian lands in the State of Maine, except that no



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law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal or regulatory jurisdiction of the State of Maine, shall apply within the State: Provided, however, That the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians, and for the purposes of determining eligibility for such financial benefits the respective Tribe, Nation, or Band shall be deemed to be Federally recognized Indian tribes: Provided, further, That the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be considered Federally recognized tribes for the purposes of Federal taxation and any lands owned by or held in trust for the respective Tribe, Nation, or Band shall be considered Federal Indian reservations for purposes of Federal taxation: Provided, however, That no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseet Indians for purposes of the provision of Federal services or benefits.

the State, Provided, however, That As Federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to



*changed*

other Indians, Indian nations or tribes or bands of Indians, Provided, further, That the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other Federally recognized tribes for the purposes of Federal taxation and any lands owned by or held in trust for the respective Tribe, Nation, or Band shall be considered Federal Indian reservations for purposes of Federal taxation.

TRIBAL ORGANIZATION

(a)

Sec. 7. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for their common welfare, and adopt an appropriate instrument in writing to govern the affairs of the Tribe, Nation, or Band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of their organic governing document and any amendments thereto.

(b) For purposes of benefits under this Act and the recognition

extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except for persons, as of the date of this Act, who are enrolled members on the Band's existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document or amendments thereto subject to the approval of the Secretary.

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT 4/6

Sec. 8. (a) The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069). Before the respective Tribe or Nation may assume such jurisdiction over Indian child custody proceedings, the respective Tribe or Nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by Sections 108(a)-(c) of said Act.

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with Sections 108(b) and (c) of the Act.

(c) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation ~~shall be deemed to be~~ are "reservations" within Section 4(10) of the Act, ~~and the Passamaquoddy Tribe and the Penobscot Nation shall be deemed to be "Indian tribes" within Section 4(9)~~ of the Act.

(e) For the purposes of this section, the Houlton Band of Maliseet Indians <sup>15</sup> are an "Indian tribe" within Section 4(8) of the Act.

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(e) Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over the Indian child custody proceedings of that Tribe or Nation.

~~(f) Except as may otherwise be subsequently agreed to by the Houlton Band of Maliseet Indians and the State of Maine pursuant to Section 6(e)(2) of this Act, Section 102 of the Indian Child Welfare Act of 1978 shall apply to the Houlton Band of Maliseet Indians to the same extent that that section applies to Indian tribes as defined in Section 4 of the Act.~~

EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE, PENOBSCOT NATION, AND HOULTON BAND OF MALISEET INDIANS

Sec. 9.(a) No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians pursuant to the terms of this Act shall be considered by any agency or department of the United States in determining or computing the State of Maine's eligibility for participation in any financial aid program of the United States.

(b) The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: Provided, That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this <sup>sub</sup> section from considering the actual financial situation of the applicant.

(c) The availability of funds or distribution of funds pursuant to Section 5 of this Act may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any Federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be entitled.

*as holder of the land or otherwise acquired in name of the United States or of its representative. Tribes Nation*

DEFERRAL OF CAPITAL GAINS 25

Sec. 10. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer by private owners of land purchased by the Secretary with moneys from the Land Acquisition Fund shall be deemed to be an involuntary conversion within the meaning of Section 1033 of the Internal Revenue Code of 1954, as amended.

*or otherwise acquired*

TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE OF MAINE 57

Sec. 11. All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of the effective date of this Act shall be transferred to the Secretary to be held in trust for the respective Tribe or Nation and shall be added to the principal of the Settlement Fund allocated to that Tribe or Nation. The receipt of said State funds by the

Secretary shall constitute a full discharge of any claim of the respective Tribe or Nation, its predecessors and successors in interest, and its members, may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective Tribe and Nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

OTHER CLAIMS DISCHARGED BY THIS ACT 327

Sec. 12. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation or tribe or band of Indians or the United States as trustee therefor, including those actions presently pending in the United States District Court for the District of Maine captioned United States of America v. State of Maine (Civil Action Nos. 1966-ND and 1969-ND).

LIMITATION OF ACTIONS - 26

Sec. 13. Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

AUTHORIZATION 13

Sec. 14. There is hereby authorized to be appropriated \$81,500,000 for transfer to the Funds established by Section 5 of this Act.

INSEPARABILITY 14

Sec. 15. In the event that any provision of Section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

CONSTRUCTION 12

Sec. 16. In the event a conflict in interpretation of the provisions of the Maine Implementing Act and this Act should emerge, the provisions of this Act shall govern.