

To: Bill  
From: Tim  
Re: Meeting in Portland to revise the federal Indian Settlement  
legislation  
Date: 7/11/80

A meeting was held in Portland yesterday, July 10, to iron out some of the problems in the federal legislation that came out during the Senate hearings.

1. The Maliseets:

The federal and state acts do not provide any restraints on alienation to protect the land which would be acquired for the Maliseets.

The State: Maine does not feel the restraints are warranted because it feels that the Maliseet claim would fail in court. It contends, and rightly so, that the Maliseets have been included in the settlement only because the other tribes have taken them under their wings. As long as Maliseets are only taking a portion of the settlement which would otherwise have gone to the Penobscots and Passamaquoddy's, the State will not object.

The Maliseets: Contend that, unless restraints are placed on the alienation of the land, it will be lost. History would support their position. The restraints they propose include prohibiting the State from imposing a direct tax on the land. Although the State would still be able to extract "payments in lieu of taxes," it opposes the provision.

Comment: This could be a real problem if a compromise is not effected before the bill goes to mark-up. Those senators from western states will be sensitive to the argument that the Maliseet land will end up in private hands unless protected. The further argument could be made that the Congress should not appropriate money for land which will almost certainly suffer such a fate. I told the parties to the settlement that this should not become the Committee's problem and to work out a compromise for us.

2. Federal money supplanting State money:

Interior: Sec. 6211(4) of the Maine Implementing Act provides that if a resident of the Indian Territory receives federal money which is for a purpose which is "substantially similar" to a state program for which he is eligible, the State contribution will be reduced pro tanto by the federal contribution. Interior objects to this provision as being too broad and being likely to cost the federal government a lot of money. Interior will not yield on this point.

The State: The State says that it did not draft the section with an eye to costing the federal government a lot of money and is amenable to a compromise.

Comment: Although all parties are willing to compromise, it appears from the discussion that finding the exact language will not be easy.

3. Extinguishment:

Interior: Interior raised some objections to the extinguishment language which concerned its trustee duties. They would like to have the tribes stipulate to the dismissal of any cause of action they have against the State of Maine.

Comment: This will be resolved but finding the language will be hard.

Conclusion:

Several other points were made including the Interior Department's concern that, although the tribes were to be given municipality status, they do not have governing charters. Interior is, however, committed to the legislation and will not insist on compromises which would be fatal to it. I should note that the provision in the federal bill providing for in futuro Congressional approval of Tribal-State agreements also came up. I told the parties that the present language and another formula would have to be found.

Interior and the Committee will meet on Monday. Another meeting is scheduled for Portland on July 17, next Thursday.