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August 25, 1980

Honorable John Melcher
Chairman, Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Re: S.2829, Maine Indian Claims Settlement Act

Dear Mr. Chairman:

As you know, we represent the Houlton Band of Maliseet Indians.

We have received a copy of State Attorney General Richard Cohen's August 19 letter to you, proposing certain changes in the amended bill submitted to you by the Secretary of the Interior on August 8.

The Houlton Band of Maliseets strongly opposes the modifications to Section 5 proposed by Attorney General Cohen. As you know from our written testimony, our support for legislation extinguishing Maliseet aboriginal title in Maine is conditioned upon the acquisition of trust land for the Houlton Band. This land must be restricted against alienation and otherwise subject to the ordinary protections of federal law for Indian lands. Otherwise, history teaches that the land will not long remain in Indian ownership.

Section 5 as proposed by the Secretary accomplishes this. Section 5(d)(3) provides that lands acquired for the Band shall be held in trust, the acquisition to be concurred in by authorized state officials, and that certain payments shall be made in lieu of state property taxes. Section 5(f)(2) restricts the land against alienation in the same manner as other Indian trust lands. Section 5(f)(3) provides that the Band may exchange or lease its lands, grant rights-of-way over them or make timber sales in accord with the ordinary federal statutes applicable to Indian trust lands. And Sections 5(h) and (i) provide for condemnation and the use of the proceeds of condemnation to reacquire lands in trust for the Band.

These ordinary protections of federal law are essential for the Band's lands. They concern the relationship between the Band and

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the United States. We thought from our extensive meetings that they had been agreed to by the State. In return, the Band has consented to state jurisdiction over it and its members except as otherwise agreed to by the State. Section 6(e)(2) contemplates jurisdictional agreements between the State and the Band. It takes as given the necessary trust status of lands acquired for the land. The Houlton Band can support S.2829 only if the protections in Section 5(d)(3), 5(f), 5(h) and 5(i) proposed by the Secretary are retained.

We also take exception to the State's proposal (letter, p. 1) amending Section 2(b)(3). The Maine Implementing Act, of course, cannot be "amended" by Congress, because Congress does not amend state legislation. In the case of inconsistencies, federal law governs. We believe that the Maine Implementing Act, standing alone, might be read as subjecting lands of the Houlton Band to state laws such as those assessing state property taxes. For this reason, some clarifying language in Section 2(b)(3) is necessary.

We recognize that your committee will shortly consider this legislation, and strongly urge you to adhere to the Secretary's proposal, with the single exception of the provision (Section 6(h), past proviso) concerning membership in the Houlton Band, which we discussed in our earlier letter to you dated August 20, 1980.

Kind personal regards,

Sincerely,

/s/ Reid Peyton Chambers

Reid Peyton Chambers

RPC/cmt

cc: Honorable Cecil D. Andrus, Secretary, Department of the Interior
Honorable William C. Cohen, United States Senate
Honorable Richard Cohen, Attorney General, Maine
Thomas N. Tureen, Esq.
Terry Polchies, Executive Director, Association of Aroostook Indians
Clair Sabattis, President, Association of Aroostook Indians
Mr. James Wherry