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Out of the Woods: The Making of the Maine Indian Claims Settlement Act

DEAN J. KOTLOWSKI

“Maine appears out of the woods,” the editor of the *Lewiston Evening Journal* opined, after President Jimmy Carter signed the Maine Indian Claims Settlement Act in 1980.¹ That sigh of relief was heartfelt. During the 1970s, two Native American tribes, the Passamaquoddies and Penobscots, had sparked a long, statewide nightmare when they asserted claim to more than twelve million acres of land in the Pine Tree State. To the Indians, their claim and the ensuing settlement represented long-delayed justice. For private-property owners, however, the controversy unleashed great anxiety about the future of Maine’s economy. To leaders in the Maine statehouse, Congress, and the White House, the matter was a conundrum pitting the demands of an aggrieved racial minority against the ire of an aroused white majority. When Congress, in 1980, granted the Passamaquoddies and Penobscots federal recognition and \$81.5 million in cash, from which they could purchase up to three hundred thousand acres of land, all sides breathed easier.

The land claims of these tribes form a compelling, albeit overlooked (by historians), story that illustrates three larger themes.² The first involves the Native American rights movement, whose leadership and tactics proved quite diverse. Along with elected leaders located on federal reservations and urban-based “Red Power” radicals—the founders of the American Indian Movement (AIM)—it included a new generation of university-educated activists who worked with tribal officials to reclaim Indian land, fishing, and water rights through lawsuits.³ One columnist noted that “the trend among most of the Western tribes seems to be toward organizing for court action and away from violent protest.”⁴ It was a similar story in the East, where Indians, lacking both federal recognition and extensive reservations, had little to lose by suing in court.⁵

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Second, the Maine saga underscores the national scope of white backlash against Indian rights. Clashes over land, fishing, and water rights and the extent of tribal sovereignty had, by the late 1970s, become burning issues in the West.⁶ Euro-American “rights” organizations, such as the Interstate Congress for Equal Rights and Responsibilities (ICERR), stressed that both Indians and non-Indians should enjoy the same rights as citizens, not special privileges as wards of the federal government.⁷ It was just such an argument against permitting separate nations to exist within the United States that Maine residents later voiced in opposing the claims of the Passamaquoddies and Penobscots.⁸

Third, the Maine claims settlement cannot be separated from the shift in Indian policy. Starting in 1970, the US government strove to enhance, not eradiccate, tribal authority under the banner of “self-determination without termination.”⁹ Accordingly, the accepted means of extinguishing tribal claims—cash settlements adjudicated through the Indian Claims Commission—gave way to a different approach: specific legislation to transfer land as well as cash to tribes. This strategy, implemented by presidents Richard M. Nixon and Gerald R. Ford, envisioned tribes and reservations as more than temporary entities destined to disappear, along with Native American identity, in the melting pot of assimilation.¹⁰ Yet both Nixon and Ford enjoyed the luxury of settling claims in the West, where land was plentiful and Indian reservations not uncommon. Carter, in contrast, faced a more problematic issue: land claims by nonfederally recognized tribes in the East, an area long settled by Euro-Americans.

At its core, the Maine Indian Claims Settlement Act signaled an end more than a beginning. The tribes’ expansive claim, the prospect of their victory in court, and the threat of similar suits in other eastern states made the road to restitution particularly long and tortuous. Passamaquoddy and Penobscot leaders at times used heated rhetoric to press their demands. Maine politicians—with the exception of Democratic Senator William D. Hathaway, who eventually brokered a compromise—sided with their non-Indian constituents, thus blocking a settlement. And the Carter administration, hamstrung by its own inexperience in governance generally and in Native American policy particularly, at best lurched toward a solution. Such happenings suggested that the Maine Indian Claims Settlement Act would be the last of its scale for the federal government.¹¹

NATIVE AMERICAN RIGHTS AND MAINE CLAIMS

The claims of the Passamaquoddies and Penobscots had deep roots. In part, they reflected the aspirations of two eastern tribes with centuries of dealing with whites. Yet the Maine claims, extensive as they were, also coincided with an emerging Native American rights movement that was capturing national attention by the late 1960s. As the story of Maine’s Indians shows, timely lawsuits were as, if not more, likely to shake the foundations of Euro-American society as the most dramatic acts of protest.

By the 1960s, Native Americans were demanding “self-determination,” a concept that carried multiple meanings. To rural, tribal-based organizations,

led by the National Congress of American Indians (NCAI), self-determination represented an end to federal efforts to assimilate Indians into mainstream American society. In essence, the government would no longer seek to end its special relationship with tribes, and tribal authority and treaty commitments would be respected.¹² To young, urban Indians, imbued with the rights-conscious spirit that had inspired African Americans, self-determination meant promoting greater cultural awareness for all Indians, not simply those living on reservations, through direct action. Their principal organization was AIM, founded in 1968, and their slogan was “Red Power.” The leadership of AIM became famous for visiting a reservation, where their support was usually slight, staging a protest or armed occupation, and then bargaining with federal officials before moving on to other targets.¹³ Red Power protest, of course, crested early in 1973, when AIM seized at gunpoint the town of Wounded Knee, South Dakota on the Oglala Sioux’s Pine Ridge Reservation and occupied it for seventy-one days.¹⁴

Indians also fought for their rights in court. Lawyers—many of them veterans of the antipoverty programs enacted under Lyndon B. Johnson—“rediscovered” old treaties and the Indian Non-Intercourse Act of 1790, which forbade all transactions between Indians and non-Indians unless ratified by Congress.¹⁵ (Many Euro-Americans, as it turned out, had acquired Indian lands illegally, without congressional approval.) According to one reporter, “the Indians got a good bunch of lawyers,” that is, the Native American Rights Fund (NARF). Founded in 1971, based in Boulder, Colorado, and financed by large foundations, NARF strove to erase the old stereotype of the Indian—“always pushed around, badgered by white intruders, manipulated by officialdom in the form of the Bureau of Indian Affairs.”¹⁶ It no doubt took heart from a landmark court decision in the West.¹⁷ In 1974, US District Judge George Boldt decreed, on the basis of treaties signed during the 1850s, that tribes in Washington State had the right to harvest one-half of all salmon in Puget Sound.¹⁸ This decision underscored the promise of seeking restitution in court.¹⁹

For eastern tribes, a rough but promising road lay before them. The fact that many of these Indians lacked federal recognition, along with the belief that the Non-Intercourse Act of 1790 covered only federally recognized tribes, fed a sense of complacency among Euro-Americans. When they entered the Union, seven of the original thirteen states refused to cede their reservations to a still weak national government.²⁰ With Indians under state charge, whites acquired their lands without congressional approval. But tribes, assisted first by the Indian Rights Association and later by NARF, lobbied for federal recognition. The cause of land claims trailed closely behind.²¹ In 1970, for example, the Oneidas, who claimed 260,000 acres of land in upstate New York, sued, in federal court, Oneida and Madison counties. The tribe asserted that the Oneida-New York State “treaty” of 1795 was void because Congress had never ratified it. The US Supreme Court heard their case and in 1974 unanimously upheld their argument. The Court, in a sweeping decision, ruled that the Non-Intercourse Act applied to all states and remanded the tribe’s lawsuit to lower federal courts. The impact of the decision cannot be overstated, for it

“opened up the federal courts to the Oneidas as well as to all other Indians seeking to get back land in the original thirteen states.”²²

In 1976, the Wampanoags took advantage of the Oneida decision when they sued to regain sixteen thousand acres in Mashpee, Massachusetts, a resort community on Cape Cod. The lawsuit, supported by NARF lawyers and based on the Non-Intercourse Act, raised questions about the validity of property titles, slowed real estate development in the area, and soured Mashpee’s residents.²³ In 1978, however, a federal jury of twelve members found that the Wampanoags had not existed continuously as a tribe; were not a tribe in 1790, the year Congress passed the Non-Intercourse Act, or in 1976, when they filed their suit; and they thus had no right to ownership of the land in question.²⁴ (The Wampanoags’ history was longer and more continuous than the jury indicated.)²⁵ Despite this “outright defeat,” tribes were laying claim to land in other states.²⁶ These included the Narragansetts in Rhode Island, Western Pequots in Connecticut, Cayugas and St. Regis Mohawks in New York, Catawbas in South Carolina, and Passamaquoddies and Penobscots in Maine.²⁷

Like the Wampanoags, the Passamaquoddies and Penobscots had a long history. Although ethnically distinct, both tribes spoke Algonquin languages and had been members of the Wabanaki (“people of the dawn”) Confederacy. Inhabiting the forests of present-day Maine and New Brunswick, the Passamaquoddies clung to the sea around Passamaquoddy Bay, while the Penobscots lived inland along the river that now bears their name. Distant from the English settlements, both tribes kept much of their domain until the period following the American Revolution when Massachusetts and, after 1820, Maine acquired most of their lands in exchange for protection and reservations. In so acting, both states followed precedents from their colonial past and disregarded the Non-Intercourse Act. Under a treaty signed in 1794, the government of Massachusetts gave the Passamaquoddies title to only twenty-three thousand acres in the easternmost part of what became Maine. During the nineteenth and twentieth centuries, further encroachments diminished all reservations in Maine to twenty-two thousand acres, where 2,500 largely impoverished Indians lived by the early 1970s. “There wasn’t much plumbing in some of the Passamaquoddy and Penobscot houses,” Andrew Akins, tribal administrator of the Penobscot Nation during the 1970s, remembered, “and the annual per capita income of an Indian was only seven hundred and fifty dollars—a third of the figure for non-Indians in Maine.” In fact, the Penobscot Nation was so destitute that it had to rely on charitable contributions, dog license fees, and an excise tax on aging automobiles for revenue.²⁸

Such realities bred a spirit of tenacity, even militancy, among Maine’s Indians. For example, in 1955 the Penobscots laid claim to all of Old Town, a village bounded by the Penobscot River. Although the tribe no longer occupied the site, the Penobscots argued that their 1820 treaty with the state of Maine had given this land to them.²⁹ In 1957 the tribe went even further, when Penobscot leaders wrote to Dag Hammarskjöld, secretary general of the United Nations, to affirm their tribe’s “independence” and “its equality as a nation among the nations of the world.”³⁰ While that plea went nowhere, Penobscot and Passamaquoddy leaders successfully fought efforts to remove

their state-protected status, and they compelled Maine's government to form a department of Indian affairs in 1965.³¹

By the 1960s, Maine's Indians, like their fellow tribes nationwide, were acting to protect their culture and enlarge their authority. A group of Penobscots joined forces with like-minded Passamaquoddies in a revived "Wabanaki Federation" devoted to asserting traditional ways in areas of song and dance, customs and ceremony.³² Under President Lyndon B. Johnson's "War on Poverty," Passamaquoddies took a stride toward economic independence when they designed a Community Action Program (CAP) that funded a basket-weaving co-operative to merge traditional artistry with modern production methods.³³ In 1972, the Office of Economic Opportunity, which oversaw the War on Poverty, judged this CAP to be the most successful in the country— "after the Indians insisted it be run their way!"³⁴ Tribal members also insisted on more effective governance and improved services. Accordingly, Akins in 1973 formed a Penobscot-Passamaquoddy Tribal Planning Board that gained, over five years, \$30 million from the federal government to improve housing, education, health care, and a range of public and social services for both tribes.³⁵

For the tribes, the loss of their land remained an open wound. "The elders talked about it quite a bit," recalled Francis Ranco, a Penobscot leader during the 1950s. "My father's father, Peter Ranco, told me about it when he first took me muskrat trapping, before the First World War." During World War II, Ranco's cousin researched the issue at the statehouse in Boston and initiated discussions "about our rights under some treaty or another, but nothing ever became of it." The bridge to the Penobscot Reservation, completed in 1951, opened their island to visitors, including a lawyer from Massachusetts who urged the Penobscots to sue for the recovery of their land. According to Ranco, that "got us thinking that we might have a legal case . . . and that helped pave the way for what has happened since."³⁶ Then, starting in 1957, John Stevens, governor of the Passamaquoddy, rallied his tribe against encroachments by whites on lands granted it under the treaty of 1794. In 1964, after a fruitless meeting with Maine's governor, the Passamaquoddies decided to thwart construction of a road through the disputed land. Tribal members, some seventy-five strong and including Stevens' older brother George, positioned themselves at various points along Route 1.³⁷ "This is where it started," George Stevens remembered in 1980, as he pointed to a dirt mound off Route 1. "This is where we got arrested."³⁸

The Indians' arrest, on charges of disorderly conduct, worked to their advantage, for it introduced them to a lawyer, Donald Gellers, who prepared a lawsuit to restore six thousand acres to the tribe. Following Gellers' conviction for possession of marijuana, the Passamaquoddies enlisted Thomas N. Tureen, a veteran of the Indian Legal Services Unit of Pine Tree Legal Assistance, a program funded by the Office of Economic Opportunity. By 1970, it became apparent to Tureen "that the Passamaquoddy land claim could lead to an incredibly big lawsuit." In 1971 he invited NARF to join the case, and he later went to work for that group. By then, John Stevens had joined NARF's Steering Committee.³⁹

The litigation unfolded during an era of Indian protest, which Passamaquoddies and Penobscots continued to use—when they deemed it to their advantage. Maine, after all, sensed the aftershocks from Wounded Knee. In 1973 John Stevens, by then Maine’s commissioner of Indian affairs, cited the standoff to alert Governor Kenneth M. Curtis to the need for better relations between the state and its tribes.⁴⁰ Meanwhile, Allen Sockabasin, governor of the Passamaquoddy, asserted that the property where two state forestry buildings stood belonged to his tribe. In 1974, Sockabasin and a group of his followers occupied the picnic grounds near these buildings and, meeting no opposition, gave away its trash cans and wooden tables. The next year, one hundred Passamaquoddies seized the buildings.⁴¹ Young Penobscots, moreover, read *Akwesasne Notes*, a Mohawk periodical with a pan-Indian perspective and associated with Red Power activists.⁴² One of them, Timothy Love, even led a group of his compatriots to Wounded Knee in support of AIM. As late as 1976, Penobscot youths wore headbands in the fashion of AIM followers, and a shack on their reservation bore the scrawled motto “Wounded Knee.”⁴³ The AIM leader Russell Means, a veteran of Wounded Knee, later endorsed the claims of Maine’s Indians and pledged to “be on call for any action these tribes deem necessary.”⁴⁴ Stevens, exploiting such threats, warned that if his people received no restitution “Wounded Knee will seem like a picnic.”⁴⁵

By that point, however, Maine’s tribes and their lawyers were relying on a more mainstream method to reclaim Indian rights. Tureen and his staff studied the Non-Intercourse Act, federal law concerning Indians, and the US Constitution. They overcame an array of impediments: the argument that the Indians had waited too long to seek restitution, cries of “squatters’ rights” by non-Indians, the Constitution’s Eleventh Amendment, which forbade private parties from suing a state, and a deadline—18 July 1972—set by Congress for filing monetary claims by Indians. Convinced that the Non-Intercourse Act applied to all tribes and that Maine had violated the law through its land acquisitions, Tureen advised Passamaquoddy leaders to claim their tribe’s ancestral hunting ground, an area between the Narraguagus and the St. Croix rivers spanning one million acres.⁴⁶ A series of victories followed. Judge Edward T. Gignoux of the US District Court of Appeals for the First Circuit ordered the federal government to enter the case. In 1972, the US Department of the Interior, which represented the rights of Native Americans, filed a pair of \$150 million damage suits against the state of Maine on behalf of each tribe. (Later, Maine’s tribes demanded to be compensated with land.) Equally important, Gignoux ruled in *Passamaquoddy v. Morton* (1975) that the Non-Intercourse Act, the crux of Tureen’s case, covered all tribes, federally recognized or not.⁴⁷

Interestingly, non-Indians at first seemed indifferent to the threat posed by the Maine litigation. In 1971, aides to Senator Edmund S. Muskie, Democrat of Maine, read the arguments of Tureen and prepared suggestions “for suitable legislation.”⁴⁸ Yet no bill to settle the claim emerged from the senator’s office. Statewide opinion on the suit ranged from acceptance to derision. While Governor Curtis affirmed the Passamaquoddies and Penobscots “should have their day in court,” many people, according to

Tureen, “thought it was just Indians—they’ll have some hippie lawyer who hasn’t done his work.”⁴⁹ During 1973 and 1974 such complacency helped the tribes by enabling *Passamaquoddy v. Morton* “to be litigated in a calm, almost academic manner.”⁵⁰ In the half decade following the decision rendered in that case, the political environment in Maine became anything but calm.

THE POLITICS OF BACKLASH AND DEADLOCK

The claims of Maine’s tribes cast a shadow over that state’s politics. In Maine as well as the nation, popular sympathy for Native American rights, so obvious during the early 1970s, had ebbed. As federal policy shifted toward strengthening, not terminating, tribal authority, many non-Indians objected. Yet only following Wounded Knee, the passage of laws to promote tribal authority, and the filing of lawsuits to reclaim large portions of land did their objections command attention in Congress. In Maine, officials disinclined toward the Penobscot and Passamaquoddy claims—the governor, attorney general, and both congressmen—sounded forceful in their opposition while politicians who might have defended Indian rights remained, for the most part, tentative, even silent.

During the later part of the twentieth century, federal Indian policy underwent a revolutionary change, from assimilating Native Americans into Euro-American society to respecting, even promoting, tribal authority. After World War II the US government had pursued a policy known as “termination” in which tribes were to lose all privileges related to treaties with the federal government, and Indians were to become subject to the same laws as non-Indians. Many Native Americans, however, resisted termination, which gradually waned. In 1970 President Nixon repudiated that policy as “morally and legally unacceptable.”⁵¹ Nixon also affirmed the “immense moral and legal force” of Indian treaties and urged Congress to pass specific measures to enhance tribal authority.⁵²

Reactions to this change proved mixed. Nixon told aides that “a grave injustice has been worked against [Indians] for a century and a half and the nation at large will appreciate our having a more active policy of concern for their plight.”⁵³ Many non-Indians in the West disagreed, especially when any expansion of tribal authority threatened to diminish their fishing, land, and water rights. In 1976, they founded the ICERR, an organization that cloaked a policy agenda from the 1950s in the language of civil rights activists from the 1960s.⁵⁴ Reviving the idea of termination, ICERR proposed abrogating all Indian treaties and eliminating, not enlarging, reservations, which it claimed created “a most favored citizen unique among all races.”⁵⁵ As its name hinted, the group favored equal rights and responsibilities for all citizens, Indian or not.⁵⁶

Small and cash strapped, the ICERR exercised modest influence on policy.⁵⁷ Rather than organized lobbying, it was a general sense that the Native American movement was going too far that caused policy makers concern.⁵⁸ The rising number of land claims turned some friends of Indian rights, such as Representative Lloyd Meeds, a Democrat from Washington State and a

former chair of the Subcommittee on Indian Affairs, into foes. During the early 1970s, Meeds explained, “there was this feeling around the House that [Indian bills] were pretty good civil rights votes.” Aroused by the Boldt decision to expand Indian fishing rights in his state, Meeds, along with other members of Congress, began dismissing tribal claims as “outrageous.”⁵⁹

Maine’s lawsuits caused the greatest worry. In 1975, after Federal District Judge Gignoux ruled that the US government had trust responsibilities for both the Passamaquoddies and Penobscots and that the Non-Intercourse Act of 1790 applied to both tribes, Tureen attempted to negotiate a settlement. When Maine officials demurred, he shifted the Indians’ demand from cash to land.⁶⁰ The Passamaquoddies and Penobscot stood to gain more than 60 percent of Maine because Massachusetts, and later Maine, had acquired more than twelve million acres of tribal land without congressional approval through treaties in 1794 and 1818.⁶¹ The exact area was uncertain because the watershed of the Penobscot River marked the tribes’ ancestral lands. But it covered the northern and eastern parts of the state, which are famous for their timber industry, one hundred municipalities including the city of Bangor, and the homes of nearly three hundred thousand people.⁶² The tribal claims raised widespread concern, casting doubt on property titles and forcing the cancellation of a \$27 million bond designed to assist local governments, schools, and hospitals.⁶³

Officials in Maine sounded strangely confident that the state would prevail in court. Joseph E. Brennan, Maine’s attorney general, asserted that because Maine had not entered the union until 1820 and the land transactions had occurred before that year, Massachusetts was responsible for paying any damages to the tribes. Brennan also argued that because Congress had known of Massachusetts’ treaties with the Indians before Maine’s statehood, it tacitly approved them, in accordance with the Non-Intercourse Act, when the House and Senate voted to admit Maine to the Union.⁶⁴ The attorney general then characterized tribes’ claims as “preposterous,” “frivolous,” and “without merit.”⁶⁵ His arguments and tough talk failed to impress members of President Ford’s staff who were examining the case. But they were well received at Maine’s statehouse.⁶⁶

Personal certitude, political inexperience, and an ignorance of Native American issues all shaped the governor’s response to these claims. Elected in 1974 as the nation’s only Independent governor, James B. Longley faced perhaps the gravest crisis in Maine’s history. Known for business acumen—he had risen from working-class origins to build a thriving insurance firm—Longley placed himself above routine partisan politics, which he disdained, preached fiscal responsibility, and reveled in his independence—rigidity, some critics argued—of thought.⁶⁷ William D. Hathaway, a onetime friend (and later political rival), remembered the governor as “charismatic,” a “top-notch salesman,” and, at bottom, “a very conservative person.”⁶⁸ Longley sounded as such when he defined the body polity as a community of individuals having shared aims and then attacked the “selfishness” of specific groups.⁶⁹

Longley appealed to broad principles—unity, fairness, and equal treatment—to resolve the land claims. Only in 1976, after the Indians demanded

land, did the governor recognize the hazards of their suit.⁷⁰ Seeing this dispute as regional in scope, he asked other governors in the East, facing similar claims, for their support and invited Maine's four-member congressional delegation to cooperate in finding a solution.⁷¹ Concerned about his non-Indian constituents, Longley asked Maine's tribes to refrain from engaging in "economic blackmail" and to accept cash as compensation.⁷² He made little effort to solicit tribal views and saw his "duty" as safeguarding the rights "of all Maine citizens, Indians and non-Indians alike."⁷³ In private, the governor betrayed his bias, labeling Euro-Americans "innocent people" mistreated by a federal government beholden to "special interests."⁷⁴ By 1978, Longley was attacking Native American sovereignty, asserting that a tribe must not exist as a "nation within a nation."⁷⁵ Although Stevens likened Longley's stance to unleashing a "racial war," it reflected the views of many Euro-Americans.⁷⁶

Longley's efforts failed to resolve this dispute. His fellow governors did not ride to Maine's rescue, and the Penobscots and Passamaquoddies reasserted their demand for land.⁷⁷ And, although Longley's prodding roused Maine's congressional delegation from its stance of "strict neutrality," the quartet's proposals met with resistance.⁷⁸ In February 1977, the delegation offered to settle the claims with cash, a futile gesture, and asked President Jimmy Carter for assistance, a more promising request.⁷⁹ A month later, it went further by submitting a bill to ratify all transactions with the Indians since 1790. This proposal to extinguish the claims angered Passamaquoddy and Penobscot leaders, who vowed "years of disruptive lawsuits,"⁸⁰ as well as James G. Abourezk, a Democrat from South Dakota and chair of the Senate Select Committee on Indian Affairs, who declined to hold hearings on it.⁸¹ Thereafter, Longley weakened the very unity he had sought. In 1978, still swayed by Brennan's forecast of victory, the governor backed legislation permitting the US Court of Claims to adjudicate the dispute and the federal government to pay any damages in cash. Representatives David F. Emery and William B. Cohen, both Republicans, backed this approach, which promised a quick, although not necessarily equitable, solution. But Senators Muskie and Hathaway opposed it.⁸² One Muskie aide vented that Longley had no "plan," just "a simple idea."⁸³

The governor's failings also stemmed from the attitudes of both his fellow politicians and his Euro-American constituents. Longley, with some justification, chided Muskie for opposing the governor's solution without advancing one of his own.⁸⁴ The senior senator and his staff, for their part, believed the state had a duty to address this matter before Congress tackled it.⁸⁵ Accordingly, Muskie was informed of, but not involved with, developments in the land dispute. He recommended talks between the parties and occasionally met with tribal representatives and, later, with members of the Carter White House who became engaged in resolving the dispute.⁸⁶ In general, however, Muskie left this matter to aides and to the administration in Washington.⁸⁷ Interestingly, when discussing the claims issue in private, the senator could sound much like Longley, worrying about the "economic consequences" of this "monstrous claim" on all "innocent parties," meaning Euro-Americans.⁸⁸

To some extent, the responses of Longley and Muskie were reflective of, and reinforced by, the ire of non-Indians in Maine. At times their fury

surfaced in blatant racism, accusing Indians of sponging off taxpayers, subsisting on welfare, and “doing little except complain that we owe them something.”⁸⁹ Some Euro-Americans dismissed the tribes’ claims as absurd. One man facetiously proposed “a formal declaration of war against both tribes” and, following the end of hostilities, the negotiation of new treaties.⁹⁰ Others invoked the language of backlash by championing both the integration of Native Americans and nondiscrimination for all citizens. The editor of the *Ellsworth American*, for example, rejected tribal sovereignty, the root of the claims, as promoting “a perpetually separate and apartheid existence for the Indians,” a program at odds, he wrote, “with my own views on segregation.”⁹¹ As the prospect of an Indian victory in court became less remote, some Euro-Americans discussed violent resistance. “Talk that has always been frankly bigoted is now becoming threatening,” a constituent warned Representative Cohen.⁹²

That last quotation requires further explanation. Antipathy toward Indians had long been present in Maine, as evidenced by the state’s effort to terminate the Passamaquoddies and Penobscots during the 1950s.⁹³ The sympathy that Longley and Muskie privately expressed for non-Indian property owners during the land claims crisis underscored this bias. But the claims issue, statewide in scope and emerging after a decade of successful activism by Indians (in Maine and nationwide), posed a more direct threat to private property rights than earlier efforts to expand tribal authority. Neil Rolde, a historian of Maine, did not exaggerate when he wrote of a “war of words” over the land dispute and of an “explosive” reaction by non-Indians upset over efforts to resolve it.⁹⁴

In 1978, the Indian claims issue influenced Maine’s US Senate race. Then and there, a divisive debate unfolded in a spirited party system.⁹⁵ The fiercest opponent of the Passamaquoddy and Penobscot claims turned out to be an Independent candidate, Hayes E. Gahagan, who proposed abrogating the federal government’s trustee relationship with all tribes.⁹⁶ In one swoop, Gahagan would abolish every reservation, treaty, and land claim relating to Indians. “They should assume the full rights and responsibilities of citizenship,” he averred, sounding like many Euro-Americans in the West and in Maine.⁹⁷

Of the two major party candidates, William Cohen, a Republican whose House district spanned much of the disputed area, proved less amenable to the Passamaquoddy and Penobscot land claims. While known for his integrity, independence, and moderation on domestic issues, Cohen was not immune to political opportunism. Observers noticed his gradual move to the right, especially regarding foreign and defense policy.⁹⁸ On the Maine land claims issue, his position also shifted. In January 1977, Cohen was inclined to introduce “a strong anti-Indian legislative measure.”⁹⁹ He later agreed, with other members of his state’s delegation, to restrict his public comments on the issue and to allow a mediator appointed by President Carter a chance to examine the dispute.¹⁰⁰ By the close of 1977, however, Cohen had joined the anti-Indian backlash in Congress by fighting a bill to settle the Sioux’s claim to the Black Hills.¹⁰¹

In contrast, William Hathaway, the Democratic incumbent, approached this ticking time bomb with a rare blend of political courage and ineptitude. Unlike Longley and Brennan, the junior senator, a lawyer by training, studied the issue and deemed the Indians' claim to possess some merit. Hathaway believed that a negotiated settlement would allow Euro-Americans to fulfill their "moral obligations" to Indians without disrupting his state's economy.¹⁰² Although, in 1977, the senator cooperated with other members of Maine's congressional delegation on legislation to extinguish the claims, he later opposed the governor's Court of Claims solution.¹⁰³ It deprived the tribes of their current claim, he asserted, and, rejected by both the tribes and the Carter White House, it had no prospect for passage.¹⁰⁴ As an attorney, Hathaway knew the value of negotiating a settlement: "No lawyer in his right mind is going to let a case like that go to the jury when there's twelve million acres involved." As a public servant, he believed in being guided by conscience, giving the people, in his words, "the benefit of your judgment and if they don't like your judgment, they'll kick you out." As a politician, Hathaway was confident of his ability to explain controversial stands to voters. "I don't think it hurt me one iota," he remarked, in recalling the claims issue and the election of 1978.¹⁰⁵ The evidence suggests otherwise.

Facing his first reelection bid, Hathaway looked to the White House, as well as his conscience, for assistance on this most difficult issue.¹⁰⁶ Early in 1978, he backed an administration-drafted solution that, in exchange for dropping their land claims, offered the tribes \$25 million in federal funds, \$25.5 million from the state, and the opportunity to purchase three hundred thousand acres from large landowners at \$5 an acre. Longley dismissed the plan as coercive, an assault on private property. When asked what his constituents thought of the proposal, Hathaway conceded: "They're generally against it."¹⁰⁷ Most newspapers in the state concurred.¹⁰⁸ One editor, while praising the junior senator's guts, chided his comments as ill timed.¹⁰⁹ Hathaway later admitted to being too eager to back the White House's settlement: "I supported it and maybe I shouldn't have at the time."¹¹⁰

On the claims issue, Hathaway proved no match for Cohen. In private, the incumbent disparaged his challenger: "Does Billy Cohen really know what he's doing on Indian claims?"¹¹¹ Politically, he did. While Hathaway and his staff dissected Cohen's public statements for errors and inconsistencies and while the senator attacked his critics for "playing politics" with a complex issue—which he then explicated—the Republican candidate chose a blunter appeal.¹¹² Cohen reiterated his support for taking the case to the US Court of Claims and assailed the Hathaway-backed White House plan.¹¹³ "There's trouble in Maine!" a television spot warned. "Hathaway supported the White House plan to give up Maine lands. Bill Cohen called it an outrage . . . Bill Cohen. He speaks for Maine."¹¹⁴ To be certain, the outcome of this race turned on many issues.¹¹⁵ Yet it is hard to believe that the claims issue did not define its parameters. Hathaway's support of Carter's proposed settlement was, one newspaper noted, the "major mistake" of his campaign.¹¹⁶

The 1978 campaign highlighted the perils of backing any scheme to transfer a large amount of land to Maine's Indians. Cohen went on to

beat Hathaway by a “wide margin” while State Senator Olympia Snowe, a Republican who denounced the White House’s initial proposal, won election to Cohen’s House seat.¹¹⁷ Similarly, Attorney General Brennan, making “political mileage” with his hard line against Indian claims, succeeded the retiring Longley, who had vowed to serve one term.¹¹⁸ Yet none of the eventual victors had offered a credible solution. Instead, it was Hathaway who claimed that honor during the final stages of the 1978 contest, following nearly two years of on-again, off-again leadership from the White House.

SLOUCHING TOWARD A SETTLEMENT

Settlement of the Maine dispute partly reflected Jimmy Carter’s approach to governance and timely leadership from Congress. But it also stemmed from a change in how the federal government settled Native American claims. Before the 1970s, any Indian group having a dispute with the government had to take its case to the Indian Claims Commission, an agency established by Congress in 1946, to plead for compensation in cash.¹¹⁹ This approach sought to foster assimilation because final settlement of all claims, in US currency on a per capita basis, was one way of ending the special status of tribes and encouraging Indians’ movement into mainstream society.¹²⁰ By the 1960s, with policies to promote assimilation waning and Indians asserting their treaty rights, long-standing efforts by tribes to recover lost land gained new traction. For example, the Taos Pueblo successfully lobbied to regain forty-eight thousand acres around Blue Lake, New Mexico.¹²¹ After returning Blue Lake, Congress passed and Nixon signed legislation granting Alaskan Natives \$1 billion and forty million acres of land. In 1975 Congress also added 185,000 acres around Grand Canyon National Park to the Havasupai Reservation in Arizona. By the time the mandate of the Indian Claims Commission expired in 1978, different forms of compensation, such as land, and other branches of the federal government, such as the White House and Congress, had entered into the process of settling Native claims.¹²²

The Ford administration sensed that legislation might be needed to resolve the claims of Maine’s Indians. Going the legislative route reflected the experiences of Ford’s staff, especially Bradley H. Patterson Jr. Patterson, who had handled Indian policy for both Nixon and Ford, believed that if the federal government fulfilled its duty and litigated the Indians’ claims, Maine’s tribes stood to gain a sizeable portion of that state. Moreover, an Indian victory in court could trigger similar lawsuits in other states.¹²³ Late in 1976, Patterson prepared a set of options for the president’s consideration. His memorandum rejected a number of choices: litigating the lawsuit (the tribes might win), ratifying the treaties (a “unilateral action”), and naming a commission to decide the case (considered too laborious).¹²⁴ Instead, Patterson preferred to sit down with all parties and then craft a “Maine Native Claims Settlement Act” modeled after the Alaska Native Claims Settlement Act, which he had helped to draft.¹²⁵ In December 1976, however, Ford decided to leave this “problem” to his successor.¹²⁶

The new administration, after considerable study and debate, accepted the same solution that Patterson had urged. Carter’s shifting policy-making

style impeded a swift settlement. As an outsider to Washington, the former governor of Georgia was skeptical of politics as usual, untutored in the ways of Capitol Hill, and averse to bargaining with established interest groups. He was confident of his ability to study a problem and reach a solution “irrespective of the political consequences.” As a politician determined to behave as a “trustee of the public good,” the president governed in contradictions.¹²⁷ He assembled a cabinet of Washington veterans and newcomers but staffed the White House with close political associates from Georgia.¹²⁸ Intelligent and diligent, Carter, at his best, mastered the details of issues and, at his worst, micromanaged his aides.¹²⁹ His striving for comprehensive answers to multifaceted problems usually consumed time, occasionally involved talks with interested parties, and yielded both stunning successes (the Camp David Accords) and regrettable failures (welfare reform).¹³⁰ Nevertheless, Carter remained a politician, and electoral considerations became more evident in his policy decisions.¹³¹ Together, the president’s idealistic intentions, adjustment to political realities, and changing policy making made for a slow resolution of the Maine dispute.

The new president’s uncertainty about Indian issues did not help matters. During the campaign of 1976, Carter backed the Nixon/Ford policy of Indian self-determination, pledging “full consultation” with tribal leaders and that “the majority of decisions will be made in the Tribal Council room and not in Washington.”¹³² Yet, as president, he showed only general interest in the subject.¹³³ Carter designated no White House staff member to oversee Indian matters and, unlike President Nixon, he issued no statement explaining his policy. “There probably is never a right time to do this study,” one Carter aide reckoned. “Its recommendations will inevitably be unpopular in the West (except with the Indians).”¹³⁴ In the face of anti-Indian backlash, such hesitancy bred confusion. Secretary of the Interior Cecil D. Andrus, to whom the Bureau of Indian Affairs (BIA) reported, favored a statement of policy, while Attorney General Griffin B. Bell, who remained reluctant even to litigate on behalf of Indians, did not.¹³⁵ Associate Attorney General Michael J. Egen failed to find “any evidence of an Administration Indian policy.”¹³⁶ Accordingly, LaDonna Harris, head of Americans for Indian Opportunity, vented that “there is so much that this administration, particularly the White House, needs to know about Indians.”¹³⁷

The president seldom became directly engaged in the Maine dispute. Carter’s stance derived partly from the explosiveness of this issue. “Politically, the President can’t afford the chaos that will result if the Tribes file their suit and pursue it,” Leo M. Krulitz, the Department of the Interior’s solicitor, explained. “Neither can he afford a settlement so large that it looks like he ‘bought off the Indians.’”¹³⁸ In 1978, speaking in Bangor, Carter admitted there was no “advantage in trying to resolve a question of this kind.”¹³⁹ Mostly, however, the president’s distance reflected Carter’s determination to locate the proper personnel and procedures for resolving a given problem, a trait that the historian John Dumbrell called his “technocratic faith and concern with governmental processes.”¹⁴⁰ Overall, regarding the Maine claims, Carter was neither the overextended workaholic of conventional wisdom nor the apolitical trustee of scholarly accounts.¹⁴¹

At the outset, the crisis in Maine forced the Carter administration to calm public fear. Early in 1977, Maine's commissioner of Indian affairs warned of a "BIG Squeeze" by the state against the tribes while the *Washington Post* editorialized about "The Indian's Raid on Maine."¹⁴² In response, the administration assembled a working group drawn from the Departments of Justice and the Interior and directed by outgoing Assistant Attorney General for Natural Resources Peter R. Taft and White House Counsel Robert J. Lipshutz. This group, along with tribal governors, state officials, and Maine's delegation in Congress, outlined a course of action.¹⁴³ On 1 March, the Department of Justice announced that the tribes would withdraw their claim to land settled by non-Indians, the department would litigate the remainder of their claim (between five and eight million acres of sparsely populated forest), and the president would name a representative to mediate an agreement subject to congressional approval.¹⁴⁴ This statement allayed state officials, who hoped Congress would indemnify the Indians and end the crisis, and the tribes, by acknowledging their claim to a sizeable chunk of Maine.¹⁴⁵ It also undermined support in Congress for the bill, introduced by Maine's delegation, to ratify the relevant treaties and snuff out the claims.¹⁴⁶ At the same time, however, the statement encouraged delegations from other states, such as Massachusetts, to request similar help in resolving Native American disputes.¹⁴⁷

In selecting a conciliator, Carter reverted to his unique, almost apolitical style of policy making. He named retiring Judge William B. Gunter of the State Supreme Court of Georgia. By tapping someone close to himself, not to Maine or its woes, the president sought a trusted, neutral opinion.¹⁴⁸ But, after listening to the parties, Gunter assumed the familiar role of judge, not conciliator, by studying the facts and rendering his decision.¹⁴⁹ Carter never defined Gunter's mission clearly as mediation, and neither the president nor his aides monitored the judge's efforts.¹⁵⁰ By declining to mediate, Gunter allowed the months following the 1 March announcement, which Taft thought "most promising" for "meaningful negotiations," to slip away.¹⁵¹

Carter's trust in the judge proved misplaced. Gunter, unfamiliar with Native American issues and skeptical about the future of tribal sovereignty, alienated Maine's Indians.¹⁵² In July 1977, the judge announced that the tribes' claims were credible, but the people of Maine bore no responsibility for the current crisis. Gunter proposed giving the tribes \$25 million, one hundred thousand acres in the disputed area, and the option to purchase an additional four hundred thousand acres. If they rejected this plan, he recommended that Congress extinguish "all aboriginal title" to privately held land and allow the Indians' claim to publicly owned land to proceed in court.¹⁵³ Carter, with his preference for all-inclusive solutions, extolled Gunter's recommendations as "very judicious and wise." But tribal leaders in Maine objected to any effort to jettison their claim in return for a tiny fraction of the territory in question.¹⁵⁴ Thinking that Gunter was on their side, state officials vowed to forfeit no land and continue litigating, a challenge welcomed by the tribes.¹⁵⁵ Meanwhile, Patterson, from afar, urged Carter's staff to follow the example of the Alaska settlement act: confer with state officials and tribal leaders before advancing a solution.¹⁵⁶

Patterson's advice went unheeded. By the close of 1977, the administration adopted a hybrid of its earlier policy making and found itself, once again, negotiating with one party. Following criticism of the judge's report, Carter named a three-member task force, with representatives from the Department of the Interior, the Office of Management and Budget, and Gunter's law firm, to revise the judge's plan.¹⁵⁷ Lipshutz also charged the panel with addressing "various matters of concern" to the Indians, meaning federal recognition.¹⁵⁸ Longley, troubled by this "second dealing of the cards," shunned the task force.¹⁵⁹ But the tribes, seizing their opportunity, agreed to parley.¹⁶⁰ In exchange for relinquishing their claims, the Indians requested, among other things, \$50 million in cash, five hundred thousand acres of land, and access to social services provided by the BIA.¹⁶¹ The panel replied with its own blend of land, cash, and federal services.¹⁶²

If Gunter's recommendations tilted toward the state, the task force's proposals leaned in the opposite direction. After the negotiations had ended in February 1978, the Passamaquoddies and Penobscots agreed to relinquish all claims against small private landholders (that is, anyone possessing fewer than fifty thousand acres of land) in exchange for \$25 million from the federal government. They agreed to withdraw their claims against large private landowners (that is, anyone possessing more than fifty thousand acres) in return for three hundred thousand acres of land. The federal government would indemnify the large landowners, numbering just fourteen, with payment of \$1.5 million—a cost, at \$5 an acre, far below the market price. The tribes, bolstered by another federal payment of \$3.5 million, then would have the option of acquiring up to two hundred thousand acres of additional land, at market price, from the large landowners. Lastly, the tribes agreed to surrender their claim to the 350,000 acres held by Maine's government provided that the state maintain social services for their members at present amounts (\$1.7 million annually) over ten years.¹⁶³

Negotiating with the task force was clearly in the tribes' interests. Andrew Akins, administrator for the Penobscot Nation and a member of the Passamaquoddy-Penobscot Negotiating Committee, rejected the advice of some observers that his tribe had an "airtight case" and should "go for broke in court." "They forget," he explained to one interviewer, "that if we did go to court it would be defendant's choice for a jury trial. Can you imagine how a jury made up of twelve white landowners would judge the merits of our claim?" Besides, talking with federal officials was pointing the way toward some sort of settlement of the land claims. "We had been invisible for so long . . . that the whites simply couldn't conceive that we had any rights except those they chose to confer on us," Akins affirmed. "Well, we're not invisible any longer." Nevertheless, the "vileness of the reaction in Maine" to the tribes' agreement with the White House remained with Akins years later. "It was as if we had touched a raw nerve that extended back into the innermost recesses of the true personality of the white people around here and unleashed all their deep hatred of Indians, together with their guilt for what they had done to Indians."¹⁶⁴

With its elements of redistribution and compensation, at odds with Euro-Americans' belief in the sanctity of private property, the revised plan sparked

outrage. Large landowners, such as the Great Northern Paper Company, expressed “shock” at the latest proposal and lobbied against it.¹⁶⁵ “If it is wrong for Maine’s small landowner to surrender property at the government behest,” the *Bangor Daily News* editorialized, “it is just as wrong to ask big landowners to ante up acreage.”¹⁶⁶ The *Waterville Morning Sentinel* compared the latest plan to “blackmail.”¹⁶⁷ State officials agreed. Longley associated the new proposal with communism while Brennan, deeming it “irresponsible and indefensible,” broke off talks with the tribes. Cohen exploited his opposition to the plan during his campaign to unseat Hathaway, who had endorsed it. Muskie, in contrast, “matter-of-factly” noted that the task force had advanced nothing more than an “offer” to the Indians.¹⁶⁸ The *Bangor Daily News* rightly sensed an absence of “creative leadership” on this issue.¹⁶⁹

That lament applied to national leaders as well. Carter remained aloof from the land claim problem. “I don’t know an easy answer to it,” he told one reporter.¹⁷⁰ Attorney General Bell, like Gunter a onetime judge from Georgia, stepped into the vacuum. Bell undermined the administration’s most recent solution by ruling out any lawsuit by his department against large landowners.¹⁷¹ Understanding the scope of land claims in the East, he asserted that the Department of Justice represented the interests of both Indians and the nation as a whole and thus could not sue the latter on behalf of the former.¹⁷² NARF protested this decision and Bell’s call for a review of the federal government’s trust relationship with Indians. Furthermore, Senator Edward M. Kennedy of Massachusetts, past chair of a Senate panel on Indian natural resources and a contender for the Democratic nomination for president in 1980, noticed “growing unrest” among Indians over the president’s policies.¹⁷³ “If the administration is to speak with one voice on the Maine issue,” Lipshutz warned Carter, “your involvement is required.”¹⁷⁴

Instead, the administration bounced the ball to state leaders. Bell’s questioning of the government’s trust relationship with tribes forced the White House to reexamine its Native American policy, diverting staff energy away from the Maine controversy.¹⁷⁵ In the meantime, representatives from the Department of Interior, the Department of Justice, and the Office of Management and Budget, under the aegis of Doug Huron, one of Lipshutz’s aides, discussed settling the dispute with federal dollars.¹⁷⁶ At that point, Hathaway took time away from his reelection campaign to parley with attorneys for the tribes and the large landowners. The White House backed his mediation, stressing, with an eye on Maine’s Senate race, “Sen. H’s leadership in putting the deal together.”¹⁷⁷ The “deal” promised the tribes \$62 million in federal money: a \$27 million trust fund, \$25 million through existing Department of the Interior programs, and \$10 million, from which they could purchase one hundred thousand acres of land.¹⁷⁸ On 23 October, Brennan, Longley, Hathaway, and Cohen met at the governor’s mansion and praised this settlement as “best for the state.”¹⁷⁹ Muskie, in Rome for the installation of Pope John Paul II, also endorsed the proposal. Yet Hathaway, when recalling these discussions, asserted that “Ed should have supported me more than he did.”¹⁸⁰

Why, after two years of deadlock, did Maine’s political elite line up behind this agreement? Clearly, all the uncertainty and disquiet, name-calling and

threats, mediators and working groups, had, together, taken a toll. No politician wanted to be on the outside of any serious attempt to end this dispute. According to Hathaway, both Cohen and Brennan realized that some sort of negotiated settlement was “inevitable.” Under this one, the federal government would foot the bill and only a modest amount of territory would pass to the tribes. “They would have looked very bad in not [accepting] that and then go to court and lose a lot more,” Hathaway emphasized.¹⁸¹ Furthermore, supporting the accord carried political advantages. Cohen backed it “grudgingly,” thus maintaining his skeptical posture on the claims.¹⁸² The hero of the day was Hathaway who, alone among the state’s leaders, was leading Maine out of the woods. But the senator’s triumph proved fleeting, partly because he faced the charge that his mediation was politically inspired and partly because Maine newspapers, largely Republican owned, were reluctant to credit Cohen’s opponent with brokering the deal.¹⁸³

Those editors had reason to pause, for Hathaway’s proposal was not an end, just a step toward resolving the dispute. By enlisting state leaders, Hathaway removed this emotional issue from the political arena and thus paved the way for negotiations. Yet the warring parties still had to agree on the details. In 1979 the tribes insisted on three hundred thousand acres, the amount the administration had promised in February 1978, and, in so doing, they hiked the cost of Hathaway’s plan to \$79 million.¹⁸⁴ With the Department of the Interior opposed, but White House aides amenable, to a larger compensation, the parties continued to haggle over several points of contention.¹⁸⁵ In addition to the amount of land available for purchase, these included the degree of state jurisdiction over the tribes’ reservations, the cost of the federal services they would receive, and the merits of a recent claim by the Maliseets, a non-federally recognized tribe, to territory along the St. John River in Aroostook County.¹⁸⁶ By mid-1979, the talks had deadlocked again.¹⁸⁷

The White House’s failure, for the third time, to secure a settlement gave state leaders their second crack at resolving the dispute. Here, the efforts of Richard Cohen, who succeeded Brennan as attorney general, proved crucial. Cohen, taking a “flexible” position on jurisdiction, met with Passamaquoddy leaders and convinced them that their lands should fall under both federal and state authority.¹⁸⁸ In 1980, the attorney general reported “substantial progress” and declared a negotiated settlement “in the best interests of all of Maine’s citizens.”¹⁸⁹ “It’s far and away the most complex thing I’ve ever been involved in,” Akins, speaking for the Penobscots, said of the talks.¹⁹⁰ Early in 1980, the tribes and large landowners struck a deal: Congress would appropriate a pair of trust funds, \$27 million and \$54.5 million, for the Passamaquoddies and the Penobscots. The latter amount would enable Maine’s tribes, including the Maliseets, to acquire up to three hundred thousand acres of “average” woodland from large landowners, chiefly paper companies, in the state’s thinly populated northern region.¹⁹¹ The tribes agreed to adopt the criminal and civil laws of Maine, as any city would, while being recognized as federal reservations eligible for services from the BIA.¹⁹² Maine’s legislature and governor, for their parts, quickly ratified the agreement, but Richard Cohen worried that Congress, in a budget-slashing mood, would not follow suit.¹⁹³

Among the nation's political leadership, it was William Cohen, more than Carter, who pushed the deal through Congress. The freshman senator, shedding his "grudging" support, joined George Mitchell, his Democratic counterpart, in introducing the package in the Senate. For Cohen, the bill was attractive because it would "settle the claims forever" and, hopefully, alleviate the "suffering and hard feelings" of recent years.¹⁹⁴ (For these reasons, Cohen continued to support legislation to settle land claims with tribes in New England into the 1980s.)¹⁹⁵ Cohen and Mitchell lessened the package's cost by agreeing to delay payments until fiscal year 1981.¹⁹⁶ Meanwhile Timothy Woodcock, an aide to Cohen, met with representatives of the state, tribes, and landowners to iron out wrinkles in the measure.¹⁹⁷ And, not to be overlooked was the lobbying blitz directed by NARF and assisted by the tribal leaders, including Timothy Love, the onetime rebel turned Penobscot governor.¹⁹⁸ Their efforts paid off in the fall of 1980, when the House and Senate approved the \$81.5 million package by voice votes.¹⁹⁹

Carter, in contrast, had to be persuaded to back the agreement. The price concerned this fiscally conservative president. But Stuart Eizenstat and Lloyd Cutler, Carter's chief domestic advisers, asserted that the time had arrived to close this "volatile" question, "which has so far eluded our efforts at resolution." Besides, Muskie, now secretary of state, and Judge Gunter both favored the deal. Emblematic, perhaps, of his administration's on-again, off-again involvement in the controversy, the president agreed to "state no objection" to the agreement rather than to champion it outright. He also commented, somewhat disingenuously: "We could always have had this kind of settlement."²⁰⁰ Given his distance from the negotiations surrounding the Maine dispute—and from Indian policy in general—one wonders how Carter could have known that.

The final irony in this most ironic story involved the president's approval of the Maine Indian Claims Settlement Act. During a White House ceremony, Carter, who had merely declined to oppose the bill, eventually signed it with a flourish using an eagle quill. Fellow Democrats Muskie, whose public leadership on the issue was scant, and Governor Brennan, who earlier had attacked the settlement's price tag as "exorbitant," flanked him.²⁰¹ The president's campaign staff and White House advisers had urged a "brief signing ceremony," arguing that it "will be well received in Maine."²⁰² But just as the administration's mediation had failed to resolve the Maine land claims, Carter's belated attempt to gain credit for the settlement did little to enhance his reelection prospects in Maine much less in the nation as a whole.

The Maine claims settlement reveals a complex portrait of Carter's presidency. On the one hand, there is the familiar picture of a White House lacking experience, focus, and direction and becoming the servant, not the master, of events. On the Maine dispute, the administration's tactical shifts, from involvement to detachment, were the products of trial and error, not intention and design.²⁰³ On the other hand, Carter at times seemed more self-interested than one might have expected. His political instincts helped push him away from greater personal engagement and a possible swifter solution. Direct talks with *all* parties at the outset, whether at presidential insistence

or under presidential auspices, would have taken advantage of Carter's honeymoon, as Peter Taft had hinted, followed the Alaskan Native Claims Settlement Act, as Patterson had advised, and signaled that the White House regarded Indian claims as a subject worthy of deliberation and settlement. Instead, the administration drifted as Carter stayed low.

AFTERMATH

At an elemental level, the controversy over the Maine claims involved a question of power. Since the 1960s, the Native American movement had been flexing its muscle in a variety of ways, from civil disobedience to headline-grabbing litigation. In response, non-Indians asserted their rights through grassroots organizations and their elected officials. Partly as a result, the federal government found its latitude to settle Indian claims with land narrowing. Cast in this matter, it is possible to see Maine's Indians prevailing in the short run, anti-Indian backlash in the long run, and the Carter administration hardly at all.

The Passamaquoddies and Penobscots gained a great deal from the settlement. They acquired the means to buy land, rebuild homes, develop business enterprises, charter banks, send their young people to universities, and expand programs to teach their Native languages. Furthermore, under a state law passed in 1987, Maine's Indians also won the right to sponsor high-stakes bingo games.²⁰⁴ Both the Penobscots and Passamaquoddies secured federal recognition, with jurisdiction over their reservations' affairs comparable to that of a municipality. With federal funds, they improved sewage systems, established health clinics, and enhanced their police and fire departments. Such trends encouraged tribal members to return to the reservations and bred goodwill, as the tribes bought goods from, loaned money to, and provided employment for non-Indians. But progress of this sort carried a price. "The land claims and federal recognition have meant more dependency on the government and a greater welfare state," the director of trust services for the Penobscots asserted in 1995. That same year, an eighty-two-year-old Penobscot lamented that only a handful of his compatriots "know how to do the old things." "Everything's changed, especially since the land claims, much good, much bad."²⁰⁵ The prosperity stemming from enhanced tribal resources and authority has, to some extent, challenged traditional culture, abetting a more subtle form of assimilation.

Although the Penobscot leader Andrew Akins hailed the settlement act for aiding "the rebirth of an Indian nation in the state of Maine," that assertion did not hold true for all tribes.²⁰⁶ The Aroostook Band of Micmacs, who lived near Maine's border with New Brunswick, Canada, was not included in the 1980 settlement act. Like the Passamaquoddies and Penobscots, the Micmacs spoke Algonquin, had been part of the Wabanaki Confederacy, and had joined their fellow tribes in Maine to resurrect that confederation in the 1970s. Unlike the other tribes, however, the Micmacs were small in number and possessed no reservation. Because the majority of Micmacs lived in the provinces of New Brunswick, Nova Scotia, and Quebec, the US government

regarded them as Canadian aboriginals and denied them any formal status. Although Maine's Department of Indian Affairs had extended social services to the Aroostook Micmacs, they failed to gain inclusion in the settlement partly "because they had not yet gathered the ethnohistorical evidence necessary to substantiate their claim."²⁰⁷ After assembling such evidence, and after a decade of further lobbying, the Aroostook Band of Micmacs in 1991 gained from Congress both federal recognition and \$900,000 from which the tribe could purchase up to five thousand acres of land.²⁰⁸

Meanwhile, Euro-Americans acted to end the uncertainty caused by other claims. In South Carolina, Representative Kenneth L. Holland, a Democrat, likened efforts to resolve a claim by the Catawbas, by awarding them 144,000 acres in his state, to "ransom."²⁰⁹ The Cayugas' claim to sixty-four thousand acres in New York State led Representative Gary A. Lee and Senator Alfonse M. D'Amato, both Republicans, to draft the Ancient Indian Land Settlement Claims Act, which ratified past transactions between Indians and non-Indians and made cash the only form of compensation in claims cases.²¹⁰ The Reagan administration supported the bill with qualifications, making it, the Indian Law Resources Center fumed, the "first major anti-Indian legislation to receive White House endorsement since the infamous Indian Termination era of the early 1950s."²¹¹

While Congress did not pass Lee's bill, the debate over it influenced federal policy.²¹² The White House insisted that it would no longer "bail out" states and localities with federal dollars alone to resolve Indian land disputes.²¹³ When in 1985, Senator Bill Bradley, Democrat of New Jersey, proposed legislation to transfer 1.3 million acres of federal land in the Black Hills of South Dakota to the Sioux, the Reagan administration kept quiet.²¹⁴ This claim remained unresolved, largely because non-Indian politicians in South Dakota opposed the transfer of any part of the Black Hills, and the Sioux Nation has rejected any settlement based on cash alone.²¹⁵ The Catawbas, in contrast, pursued their claim in the courts before ultimately settling for federal recognition and social services as well as compensation in dollars—not land—under legislation signed by President Bill Clinton in 1993.²¹⁶ Clearly, the age of resolving tribal claims with sizeable tracts of land and trust funds provided by Congress had come to a close.

The beginning of the end occurred during Jimmy Carter's presidency. Carter's improvised policy making provided little direction as to how land disputes might be resolved, and the success of any mediation, undertaken on a case-by-case basis, proved hit or miss.²¹⁷ Regarding the claim of the Narragansetts to more than three thousand acres in Rhode Island, officials in Carter's White House encouraged state leaders to outline a settlement. They later stepped in to resolve small disputes before the president signed a bill to transfer 1,800 acres to the tribe.²¹⁸ In contrast, Carter's reliance on interagency task forces to settle the claims of the Catawbas and the Cayugas consumed time and ultimately crashed against anti-Indian backlash. As a freshman congressman, Lee, wishing to avoid going to court, pleaded for White House mediation to settle the Cayugas' claim. After sixteen months, however, he "was very surprised to hear that [Interior] had yet to develop a

game plan to solve this most difficult situation.”²¹⁹ Stronger leadership from Carter might have averted Lee’s opposition in 1980 to a settlement bill for the Cayugas and his later effort to extinguish Indian claims.²²⁰ In a way, then, the settling of Indian land claims exemplified Carter’s capacity for doing “good things badly.”²²¹

Nevertheless, the Maine Indian Claims Settlement Act, almost a decade in the making, stands out as a landmark. The Passamaquoddies and Penobscots received additional land for their reservations, federal recognition, and greater resources, albeit at some expense to their traditional ways. Euro-Americans, in turn, sent a strong message to their elected representatives that they would not allow their property to be redistributed, in any large amount, to Native Americans. In striving for a settlement, the Carter administration showed itself capable of acting ineffectively and opportunistically. Although the issue of Indian land claims is hardly dead, a settlement on the scale of the Maine act seems unlikely to be repeated unless federal policy changes.

NOTES

1. “Indian Settlement Welcome,” *Lewiston (ME) Evening Journal*, 26 September 1980, folder: Maine Indian Claims—General II, box 5, series 16: Records of Suzan J. Harjo, National Congress of American Indians (hereafter NCAI) Papers, National Anthropological Archives (hereafter NAA), Smithsonian Institution (hereafter SI), Museum Support Center, Suitland, MD.

2. This oversight partly reflects scholarly preoccupation with the rise of Red Power during the 1960s, showdowns between AIM and federal officials during the 1970s, and the far-reaching policies of presidents Richard M. Nixon and Gerald R. Ford, whereby the US government repudiated its past efforts to terminate tribes and assimilate Indians forcibly into Euro-American society. Moreover, Carter’s Native American policies, of which the Maine claims settlement was an integral part, have yet to be explored in an archive-based study. On Red Power and AIM-led confrontations, see Vine Deloria Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (New York: Delacorte Press, 1974); Hazel Whitman Hertzberg, “The Indian Rights Movement,” in vol. IV of *Handbook of North American Indians: History of Indian-White Relations*, eds. William E. Sturtevant and Wilcomb E. Washburn (Washington, DC: Smithsonian Institution, 1988); M. Annette Jaimes, *The State of Native America: Genocide, Colonization, and Resistance* (Boston: South End Press, 1992); Troy R. Johnson, *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism* (Urbana: University of Illinois Press, 1996); Paul Chaat Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee* (New York: New Press, 1996); Joane Nagel, *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1996); Troy Johnson, Joane Nagel, and Duane Champagne, eds., *American Indian Activism: Alcatraz to the Longest Walk* (Urbana: University of Illinois Press, 1997); Peter Iverson, “We Are Still Here”: *American Indians in the Twentieth Century* (Wheeling, IL: Harlan Davidson, 1998); and Alvin M. Josephy Jr., Joane Nagel, and Troy R. Johnson, eds., *Red Power: The American Indians’ Fight for Freedom* (Lincoln: University of Nebraska Press, 1999). For the shift in federal Indian policy, consult Francis Paul Prucha, *The Great Father: The United States Government and the*

American Indians, vol. 2 (Lincoln: University of Nebraska Press, 1984), 1085–1208; Vine Deloria Jr., “The Evolution of Federal Policy-Making,” in *American Indian Policy in the Twentieth Century*, ed. Vine Deloria Jr. (Norman: University of Oklahoma Press, 1985); Lawrence C. Kelly, “United States Indian Policies, 1900–1980,” in vol. IV of *Handbook of North American Indians*, eds. Sturtevant and Washburn; Thomas Clarkin, *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969* (Albuquerque: University of New Mexico Press, 2001); George Pierre Castile, *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975* (Tucson: University of Arizona Press, 1998); Jack D. Forbes, *Native Americans and Nixon: Presidential Politics and Minority Self-Determination* (Los Angeles: UCLA American Indian Studies Center, 1981); Joan Hoff, *Nixon Reconsidered* (New York: Basic Books, 1994), 27–44; Melvin Small, *The Presidency of Richard Nixon* (Lawrence: University Press of Kansas, 1999); Dean J. Kotlowski, *Nixon’s Civil Rights: Politics, Principle, and Policy* (Cambridge, MA: Harvard University Press, 2001), 188–215; and Dean J. Kotlowski, “Alcatraz, Wounded Knee, and Beyond: The Nixon and Ford Administrations Respond to Native American Protest,” *Pacific Historical Review* 72, no. 2 (2003): 201–27.

3. Neal R. Peirce, “Indian-White Conflict: Civil Rights, Treaty Rights, Water Rights,” *Washington Post*, 13 September 1976, folder: News Clips (1), box 4, Bradley H. Patterson Jr. Files, Gerald R. Ford Library (hereafter GRFL), Ann Arbor, MI.

4. Noel Sterling, “Indians Rights May Haunt Us,” 9 February 1976, folder: Indian News Clips (3), box 35, Theodore Marrs Files, GRFL.

5. Although the claims of Maine’s Indians drew considerable attention from the president’s staff, Carter fails to mention the matter in his memoir, *Keeping Faith: Memoirs of a President* (New York: Bantam, 1982). The same holds true for Burton Kaufman’s *The Presidency of James Earl Carter, Jr.* (Lawrence: University Press of Kansas, 1993). Yet, some studies are helpful to understand the story of Indian claims under Carter. See Prucha, *Great Father*, 1172–76; Arrell M. Gibson, “Indian Land Transfers,” in vol. IV of *Handbook of North American Indians*, ed. Sturtevant and Washburn, 211–29; Albert Nason, “The Carter Administration and Native Indian Affairs: The Case of the Hopi-Navajo Land Dispute,” *Proceedings and Papers of the Georgia Association of Historians* 11 (1990): 136–52; and Jerry Reynolds, “Assessing the Presidents: Jimmy Carter,” *Indian Country Today* (12 May 2004): B1 and B3. The only full account of the Maine Indian Claims case is Paul Brodeur, “Annals of Law: Restitution,” *New Yorker*, 11 October 1982, 76–155. Brodeur later published his lengthy articles on Indian land claims as a brief book. See Paul Brodeur, *Restitution: The Land Claims of the Mashpee, Passamaquoddy and Penobscot Indians of New England* (Boston: Northeastern University Press, 1985). Other helpful studies include Francis J. O’Toole and Thomas N. Tureen, “State Power and the Passamaquoddy Tribe: A Gross Hypocrisy?” *Maine Law Review* 23, no. 1 (1971): 1–39; Tim Vollmann, “A Survey of Eastern Indian Land Claims: 1970–1979,” *Maine Law Review* 31, no. 5 (1979): 5–16; and John M. R. Paterson and David Roseman, “A Reexamination of *Passamaquoddy V. Morton*,” *Maine Law Review* 31, no. 5 (1979): 115–52.

6. “Group Opposing Indian Policy Expands,” *Billings Gazette*, n.d., folder: News Clips (1), box 4, Patterson Files, GRFL and “MOD Lists Basic Problem Areas,” *The Herald-News* (Wolf Point, MT), 30 September 1976, 6.

7. See Stephen McConahey telegram, 27 July 1976 and Foster Chanock to Ronald Nessen and John G. Carlson, 22 July 1976—both in box 2, IN—Indian Affairs, White House Central Files (hereafter WHCF), GRFL.

8. Governor James B. Longley, "An Open Letter to the People of Maine," 19 May 1978, folder 1, box 188, Statements and Press Releases Series, James B. Longley Papers, Edmund S. Muskie Archives and Special Collections Library, Bates College (hereafter BC), Lewiston, ME.

9. Kotlowski, *Nixon's Civil Rights*, 200.

10. Kotlowski, "Alcatraz, Wounded Knee, and Beyond," 209 and 222.

11. Gibson, "Indian Land Transfers," 229.

12. Kotlowski, "Alcatraz, Wounded Knee, and Beyond," 204.

13. Iverson, "*We Are Still Here*," 149.

14. Kotlowski, "Alcatraz, Wounded Knee, and Beyond," 211–13.

15. "Indian Sovereignty Is Reborn in U.S.," *New York Times*, 27 March 1977, E5.

16. "Indian Tribal Nationalism Is Reborn," *Washington Post*, 1 January 1977, A7.

17. "Indian Sovereignty Is Reborn," *New York Times*, E5.

18. "Armed Feds to Back Boldt Injunction," *Tacoma News Tribune*, 7 June 1978, A1 and A2.

19. "Indian Tribal Nationalism Is Reborn," *Washington Post*, A7.

20. The states included Connecticut, Massachusetts, New York, Pennsylvania, Rhode Island, South Carolina, and Virginia. Edmund S. Muskie News Release, 1 April 1971, folder 6, box 2758, US Senate: Senate Office, Edmund S. Muskie Papers, Edmund S. Muskie Archives and Special Collections Library, BC.

21. The Coalition of Eastern Native Americans (hereafter CENA) was the major organization of eastern Indians. American Indian Press Association news releases, n.d., folder: Eastern Indians; "Eastern Chief Works to Regain Land," *Christian Science Monitor*, 23 May 1974, folder: Eastern Indians (CENA) I—both in box 24, Patterson Files, Richard M. Nixon Presidential Materials, National Archives, College Park, MD (hereafter NACP).

22. Laurence M. Hauptman, "An Historical Introduction," in George C. Shattuck, *The Oneida Land Claims: A Legal History* (Syracuse: Syracuse University Press, 1991), xvii–xviii and xix (quotation).

23. "Suit by Indians Stops Town's Growth," *Washington Post*, 28 August 1977, E1.

24. "Indians Defeated in First Round of Land Dispute," *Washington Post*, 7 January 1978, A1; "Indians Lose in Court in Fight to Gain Land," *New York Times*, 7 January 1978, 1. "In effect, the jury found that the Mashpees had once constituted a tribe, but had lost their tribal status by abandonment or assimilation between 1842 and 1869." See "The Unilateral Termination of Tribal Status: *Mashpee Tribe v. New Seabury Corp.*," *Maine Law Review* 31, no. 5 (1979): 154–55. Two months later, Federal District Judge Walter J. Skinner dismissed the Indians' suit and upheld the jury's decision, saying it was "perfectly rational and does not reflect a lack of understanding." See "Land Suit of Indians Dismissed by Judge," *New York Times*, 25 March 1978, 6.

25. See, e.g., David J. Silverman, *Faith and Boundaries: Colonists, Christianity, and Community among Wampanoag Indians of Martha's Vineyard, 1600–1871* (New York: Cambridge University Press, 2005). The Reagan administration, however, decided not to extend federal recognition to the Wampanoags of Gay Head, Massachusetts on the grounds that the Commonwealth of Massachusetts had not recognized the tribe between 1870 and 1976. Ross O. Swimmer, "Proposed Finding against Federal Acknowledgement of the Wampanoag Tribal Council of Gay Head, Inc.," in *Evidence for Proposed Finding against Federal Acknowledgement of the Wampanoag Tribal Council of Gay Head*, copy in Herman B Wells Library, Indiana University, Bloomington.

26. Paul Brodeur, "Reporter at Large: The Mashpees," *New Yorker*, 6 November 1978, 68.
27. Vollman, "A Survey of Eastern Indian Land Claims," 12–14.
28. Brodeur, *Restitution*, 133 (quotation); Neil Rolde, *Maine: A Narrative History* (Gardiner, ME: Harpswell Press, 1990), 338–42; Brodeur, "Annals of Law: Restitution," 81–82; Vincent O. Erickson, "Maliseet-Passamaquoddy," in vol. XV of *Handbook of North American Indians: Northeast*, ed. William E. Sturtevant and Wilcomb E. Washburn (Washington, DC: Smithsonian Institution, 1978), 123–36; David L. Ghere, "Passamaquoddy/Penobscot," in *Encyclopedia of North American Indians*, ed. Frederick E. Hoxie (Boston: Houghton Mifflin, 1996), 469–71; Christopher B. Tower, "Passamaquoddy" and Ed Decker, "Penobscot," in vol. I of *Gale Encyclopedia of Native American Tribes: Northeast, Southeast, Caribbean*, ed. Sharon Malinowski and Anna Sheets (New York: Gale, 1998), 223–28 and 234–38, respectively; "U.S. Eyes Indian Aid in Maine," *Washington Post*, 8 May 1976, D5; Willis Johnson, "White Men Call Him Sir," *Yankee*, May 1982, 61; Native American Rights Fund (hereafter NARF) *Announcements* (May 1981), 1, folder: AILCSA of 1982 Miscellaneous VII, box 2, series 16: Harjo Records, NCAI Papers, NAA, SI.
29. "Penobscot Indians Lay Claim to Entire City of Old Town," *The Patriot (Bangor, ME)*, 11 February 1955, 12.
30. Governor Francis Ranco et al. to Dag Hammarskjöld, 25 May 1957, folder: Maine Indians (Penobscot Tribe), 1953, 1954, 1958, box 120, series 4: Tribal Files, NCAI Papers, NAA, SI.
31. David L. Ghere, "Assimilation, Termination or Tribal Rejuvenation: Maine Indian Affairs in the 1950s," *Maine Historical Society Quarterly* 24, no. 2 (1984): 239–64.
32. Pauleena MacDougall, *The Penobscot Dance of Resistance: Tradition in the History of a People* (Durham: University of New Hampshire Press, 2004), 23–24.
33. The Passamaquoddies' CAP improved when its tribal governors removed the CAP from the jurisdiction of Washington County, Maine and administered it directly. Eugene Francis et al. to Bradley H. Patterson Jr., 10 April 1973, folder 19, box 1077, William D. Hathaway Papers, University of Maine Library, Orono (hereafter UMO).
34. Susan M. Strevens, "A Brief History of the Passamaquoddy Indians," 1972, folder 9, box 2326, US Senate: Senate Office Series, Muskie Papers, BC.
35. Brodeur, *Restitution*, 133.
36. *Ibid.*, 138.
37. Brodeur, "Annals of Law: Restitution," 76–85.
38. Brodeur, *Restitution*, 141.
39. *Ibid.*, 76–85 and 84 (quotation); NARF *Announcements* (May 1981), 1, folder: AILCSA of 1982 Miscellaneous VII, box 2, series 16: Harjo Records, NCAI Papers, NAA, SI.
40. "All Indian reservations are having internal problems of control which may generate a long hot summer," Stevens warned. John Stevens to Kenneth M. Curtis, 8 March 1973, folder 19, box 1077, Hathaway Papers, UMO.
41. News clipping, "Indians Continue Occupation of State Buildings in Maine," 17 August 1975, folder: Indian News Clips (2), box 35, Marrs Files, GRFL.
42. MacDougall, *The Penobscot Dance of Resistance*, 25.
43. Johnson, "White Men Call Him Sir," 61 and "Thanksgiving 355 Years Later: Indians Sue for Land," *New York Times*, 25 November 1976, 1.

44. "Indian Leader Boosts N.E.," *Christian Science Monitor*, 2 March 1977, folder 7, box 2760, US Senate: Senate Office Series, Muskie Papers, BC.
45. "Stevens Talks of 'Wounded Knee' if Indian Claims Are Thwarted," *Waterville (ME) Morning Sentinel*, 5 March 1977, folder 2, box 2760, US Senate: Senate Office Series, Muskie Papers, BC.
46. O'Toole and Tureen, "State Power and the Passamaquoddy Tribe," 38–39 and Brodeur, "Annals of Law: Restitution," 86–95.
47. Tureen had enlisted the support of the BIA, which recommended a suit on the tribes' behalf, but the Department of the Interior refused, arguing that the Passamaquoddies and Penobscots were not federally recognized tribes. Judge Gignoux's decisions helped clarify the tribes' status and push their lawsuit forward. "Land Claims Chronology," folder 2, box 2760, US Senate: Senate Office Series, Muskie Papers, BC.
48. Jeff Sakas to Charlie Micoleau, n.d. and "Charlie" to "John/Dan," 23 August 1971 (quotation), folder 9, box 2706, US Senate: Senate Office Series, Muskie Papers, BC.
49. "Indians, Seeking 2/3 of Maine, May Undo 200 Years of History," *New York Times*, 24 October 1976, 59.
50. Brodeur, "Annals of Law: Restitution," 100.
51. Kotlowski, "Alcatraz, Wounded Knee, and Beyond," 201–2 and Kotlowski, *Nixon's Civil Rights*, 200.
52. Prucha, *Great Father*, 1112–13
53. Kotlowski, *Nixon's Civil Rights*, 194.
54. "Declaration of Purpose: 'Interstate Congress for Equal Rights and Responsibilities,'" n.d., folder 17, box 3, Kenneth McLeod Papers, Accession #2487-005, University of Washington (hereafter UW) Libraries, Seattle.
55. Interstate Congress for Equal Rights and Responsibilities, "Are We Giving America Back to the Indians?" n.d., 16, folder 9, box 4, McLeod Papers, Accession #2487-005, UW.
56. "Statement of Howard Gray, Interstate Congress on Equal Rights and Responsibilities, before the US Commission on Civil Rights in Seattle, Washington," n.d., folder 29, box 3, McLeod Papers, Accession #2487-005, UW.
57. Blair K. Richendifer to Kenneth McLeod, 14 May 1979 and G. George Ostrom to "Embattled, Frustrated and Concerned Non-Tribal Citizen Leaders," 3 February 1983, folder 19, box 3, McLeod Papers, Accession #2487-005, UW.
58. The Interstate Congress' memorably named affiliates, such as Montanans Opposing Discrimination (MOD), sent elected officials letters and requests for meetings. Members of President Carter's staff greeted a MOD delegation in April 1977 but considered the organization too radical. Teresa Smith to Marilyn Haft, n.d. [April 1977], folder: Interstate Congress for Equal Rights and Responsibilities, box 86, Public Liaison Office—Jane Wales Files, Jimmy Carter Library (hereafter JCL), Atlanta, Georgia.
59. "Hill Cools in Attitude on Indians," *Washington Post*, 9 October 1977, A1 and A8 (quotation). "Strong backlashes resulted from these claims actions." Jack Campisi, "The Trade and Intercourse Acts: Land Claims on the Eastern Seaboard," in *Irredeemable America: The Indians' Estate and Land Claims*, ed. Imre Sutton (Albuquerque: University of New Mexico Press, 1985), 360.

60. Brodeur, "Annals of Law: Restitution," 102.

61. Bradley H. Patterson Jr. and George W. Humphreys to James M. Cannon, 15 November 1976, folder: IN Ex 8/16/76-1/20/77, box 2, IN—Indian Affairs, WHCF, GRFL.

62. "Indians, Seeking 2/3 of Maine," *New York Times*, 59.

63. "U.S. Agency Backs Maine on Its Bond Issues," *New York Times*, 26 October 1976, 20.

64. Joseph E. Brennan to the Members of the Maine Legislature, 18 February 1977, attached to Brennan to Robert J. Lipshutz, 25 February 1977, folder: Indian Land Claims—Maine Background 1/2/77, box 19, Counsel's Office—Robert J. Lipshutz Files, JCL.

65. Patterson and Humphreys to Cannon, 15 November 1976, folder: IN Ex 8/16/76-1/20/77, box 2, IN—Indian Affairs, WHCF, GRFL.

66. *Ibid.*, see James B. Longley to William B. Gunter, 22 March 1977, folder 2, box 2762, US Senate: Senate Office Series, Muskie Papers, BC.

67. "Independents Add Gusto, but Not Weight, to Election," *New York Times*, 22 October 1974, 30 and "Maine's Surprise Victor: James B. Longley," *New York Times*, 7 November 1974, 31.

68. William D. Hathaway interview with the author, 14 May 2005, McLean, VA.

69. "New Maine Governor Undaunted by Clashes with Powerful Forces," *New York Times*, 2 March 1975, 47.

70. Longley to Donald Hansen, 12 October 1976, folder 1, box 2762, US Senate: Senate Office Series, Muskie Papers, BC.

71. Longley to Ella Grasso, 3 February 1977, folder 7, box 2766 and Longley to Muskie, 25 March 1977, folder 2, box 2762—both in US Senate: Senate Office Series, Muskie Papers, BC.

72. Longley to Francis J. Nicholas et al., 22 March 1977, folder 2, box 2762, US Senate: Senate Office Series, Muskie Papers, BC.

73. "Statement by Gov. James B. Longley," 2 February 1977, folder 5, box 187, Statements and Press Releases Series, Longley Papers, BC.

74. Longley to Brennan, 20 July 1977, folder 7, box 82, Commissioners Series, Longley Papers, BC (first quotation) and Longley to Jimmy Carter, 12 January 1978, folder: Ex IN 1/1/78-1/31/78, box 1, IN—Indian Affairs, WHCF, JCL (second quotation).

75. "Maine Viewpoint: One Nation," *Times Record (Maine)*, 22 May 1978, folder 3, box 2935, US Senate: Senate Office Series, Muskie Papers, BC.

76. "Indian Charges Racism, Hypocrisy," *Waterville (ME) Morning Sentinel*, 11 March 1978, 9.

77. "Indians, Seeking 2/3 of Maine," *New York Times*, 59.

78. Estelle Lavoie to Files, 1 July 1976, folder 2, box 2762, US Senate: Senate Office Series, Muskie Papers, BC.

79. Maine Congressional Delegation press release, 2 October 1976, folder 3, box 2762, US Senate: Senate Office Series, Muskie Papers, BC and Edmund S. Muskie et al. to Carter, 10 February 1977, folder: 2/15/77 [1], box 8, Presidential Handwriting File, JCL (quotation).

80. "Longley Won't Tolerate Violence over Indians," *Waterville (ME) Morning Sentinel*, 5 March 1977, folder 2, box 2760, US Senate: Senate Office Series, BC.

81. Brodeur, "Annals of Law: Restitution," 106.
82. Editorial, "The Divided Delegation," *Bangor Daily News*, 24 May 1978, 12 and Muskie to Longley, 11 May 1978, folder 16, box 3114, US Senate: Senate Office Series, Muskie Papers, BC (quotation).
83. Clyde MacDonald to Jim Case and Bob Rose, 11 August 1978, folder 3, box 3115, US Senate: Senate Office Series, Muskie Papers, BC.
84. Ibid.
85. R. D. Folsom to Lavoie, 11 January 1977, folder 2, box 2765, US Senate: Senate Office Series, Muskie Papers, BC, 9.
86. Editorial, "Muskie on Indian Claims," *Lewiston (ME) Evening Journal*, 4 April 1978, folder 5, box 2760; "Estelle" [Lavoie] to Files Re: ESM End of Conversation with Tom Tureen, 29 June 1977, folder 1, box 2765—both in US Senate: Senate Office Series, Muskie Papers, BC; and Doug Huron and Lipshutz to Carter, 14 February 1977, folder: Ex IN 1/20/77-5/31/77, box 1, IN—Indian Affairs, WHCF, JCL.
87. Lavoie/Jim Case to Muskie, 1 February 1977, folder 1, box 2765, US Senate: Senate Office Series, Muskie Papers, BC.
88. "ESM Meeting with Tom Tureen, Barry Margolin, Stuart Ross, and Archibald Cox," 4 February 1977, folder 1, box 2765, US Senate: Senate Office Series, Muskie Papers, BC.
89. Mark A. Armstrong to William S. Cohen, 6 March 1977, folder: Legislative Correspondence Indian Affairs 1977 (4 of 5), box 9, House: Legislation Series, William S. Cohen Papers, UMO.
90. Michael T. LaChance to Cohen, 21 March 1977, folder: Legislative Correspondence Indian Affairs 1977 (3 of 5), box 9, House: Legislation Series, Cohen Papers, UMO.
91. M. Edward Cassidy to Cohen, 29 June 1977, folder: Legislative Correspondence Indian Affairs 1977 (5 of 5), box 9, House: Legislation Series, Cohen Papers, UMO.
92. Ron MacKechnie to Cohen, 22 February 1977, folder: Legislative Correspondence Indian Affairs 1977 (2 of 5), box 9, House: Legislation Series, Cohen Papers, UMO.
93. Ghere, "Assimilation, Termination or Tribal Rejuvenation," 239-64.
94. Rolde, *Maine*, 340-41.
95. David S. Broder, "The Maine Course," *Washington Post*, 3 October 1979, A23.
96. "Gahagan: End Indian Trusteeship," *Bangor Daily News*, 25 August 1978, folder 3, box 3115, US Senate: Senate Office Series, Muskie Papers, BC.
97. Hayes E. Gahagan to Longley, 18 October 1978, folder 2, box 3115, US Senate: Senate Office Series, Muskie Papers, BC.
98. "William S. Cohen," *Current Biography Yearbook 1982*, ed. Charles Moritz (Dublin: H. W. Wilson and Company, 1982), 72-74.
99. Lavoie to Muskie, 10 January 1977, folder 1, box 2765, US Senate: Senate Office Series, Muskie Papers, BC.
100. Cohen to Mark Edward Winter, 18 May 1977, folder: Legislative Correspondence Indian Affairs 1977, box 9, House: Legislation Series, Cohen Papers, UMO.
101. "Hill Cooling on Indians as Tribal Claims Grow," *Washington Post*, 9 October 1977, A1 and A8.

102. Longley to William D. Hathaway, 25 February 1977 and Hathaway to Longley, 25 February 1977, folder 2, box 213, Congressional Delegation Series, Longley Papers, BC.

103. Cohen et al. to Jimmy Carter, 9 February 1977, folder: Ex IN 1/20/77–5/31/77, box 1, IN—Indian Affairs, WHCF, JCL.

104. Hathaway to Longley, 9 August 1978, folder 11, box 213, Congressional Delegation Series, Longley Papers, BC.

105. Hathaway interview with the author, 14 May 2005.

106. William Frederick to Patricia Barrio, 13 December 1977, folder: Ex PL/ST 19—1/20/77 to 1/20/81, box 5, PL—Political Affairs, WHCF, JCL.

107. “Hathaway, Muskie Back Settlement,” *Kennebec (ME) Journal*, 16 February 1978, 1.

108. “What Maine’s Newspapers Think of the Proposed Indian Settlement,” *Maine Sunday Telegram*, 26 February 1978, 5C.

109. New clipping, “Bad Timing for Senator Bill,” n.d., folder: Hathaway Position Papers—Indian Affairs (4 of 4), box 16, Campaign 1978 Series, Cohen Papers, UMO.

110. Hathaway interview with the author, 14 May 2005.

111. Typescript memorandum, n.d., folder 15, box 1077, Hathaway Papers, UMO.

112. “ELB” to “WDH,” 4 October 1977, folder 15, box 1077, Hathaway Papers, UMO and “Hathaway Hits Longley on Claims,” *Bangor Daily News*, 7 March 1978, folder: Hathaway Position Papers—Indian Affairs (4 of 4), box 16, Campaign 1978 Series, Cohen Papers, UMO.

113. Handbill, “Who Represents You?” n.d., folder: Hathaway Position Papers—Indian Affairs (4 of 4), box 16, Campaign 1978 Series, Cohen Papers, UMO.

114. “Transcript of Congressman Cohen’s television ads regarding the Maine Indian land claims case,” n.d. [1978], folder: Indian Land Claims—Key Memos 9/11/78, box 20, Counsel’s Office—Lipshutz Files, JCL.

115. Hathaway had sided with Carter on foreign policy matters, and the party controlling the White House usually loses seats in mid-term elections. Hathaway, almost thirty years later, blamed his troubles in the campaign on a poor organization at the grass roots and low voter turnout. “William S. Cohen,” *Current Biography Yearbook 1982*, 73; Hathaway interview with the author, 14 May 2005.

116. Editorial, “Hathaway Endorsement,” *Lewiston (ME) Daily Sun*, 18 February 1978, folder: Hathaway Position Papers—Indian Affairs (4 of 4), box 16, Campaign 1978 Series, Cohen Papers, UMO.

117. “New England Voters Show Favor for Conservatives and New Faces,” *New York Times*, 9 November 1978, A24 (quotation); “Indian Claims Settlement Unfair, Candidate Feels,” *Lewiston (ME) Evening Journal*, 21 February 1978, folder 5, box 2935, US Senate: Senate Office Series, Muskie Papers, BC.

118. “Brennan’s Motives,” *Waterville (ME) Morning Sentinel*, 24 February 1978, folder 4, box 2760, US Senate: Senate Office Series, Muskie Papers, BC; “New England Voters Show Favor,” *New York Times*, A24; and “Longley Preference on Successor Is a Key in Maine Governor Race,” *Washington Post*, 22 October 1978, A6.

119. Prucha, *Great Father*, 1019–21.

120. Paul C. Rosier, *Native American Issues* (Westport, CT: Greenwood Press, 2003), 62–63.

121. Kotlowski, *Nixon’s Civil Rights*, 202.

122. Kotlowski, "Alcatraz, Wounded Knee, and Beyond," 209 and 222 and Gibson, "Indian Land Transfers," 228–29.

123. Humphreys to Cannon, 18 October 1976, folder: Maine Indians (Passamaquoddy) (1), box 13, Humphreys Files, GRFL.

124. Passamaquoddy/Penobscot Case Optional Courses of Action," n.d. [1976], folder: Maine Indians (Passamaquoddy) (2), box 13, Humphreys Files, GRFL.

125. Patterson to Nessen, 18 October 1976, folder: Passamaquoddy/Penobscot Land Claims, box 4, Patterson Files, GRFL.

126. Bradley H. Patterson Jr. handwritten comment on Cannon to Phil Buchen and Patterson, 3 December 1976, folder: Passamaquoddy/Penobscot Land Claims, box 4, Patterson Files, GRFL.

127. Hugh Davis Graham, "Civil Rights Policy in the Carter Presidency," in *The Carter Presidency: Policy Choices in the Post-New Deal Era*, eds. Gary M. Fink and Hugh Davis Graham (Lawrence: University Press of Kansas, 1998), 218 and Kaufman, *The Presidency of James Earl Carter, Jr.*, 3. Both Graham and Kaufman were tapping into an early school of scholarship that stressed Carter's vision of a "trusteeship" presidency. See Edwin C. Hargrove, "Jimmy Carter: The Politics of Public Goods," in *Leadership in the Modern Presidency*, ed. Fred I. Greenstein (Cambridge, MA: Harvard University Press, 1988), 213; Edwin C. Hargrove, *Jimmy Carter as President: Leadership and the Politics of the Public Good* (Baton Rouge: Louisiana State University Press, 1988); and Charles O. Jones, *The Trusteeship Presidency: Jimmy Carter and the United States Congress* (Baton Rouge: Louisiana State University Press, 1988).

128. Carter, *Keeping Faith*, 40–62.

129. Carter to Staff Re: A Matter of Grammar, 29 September 1977, folder: 9/29/77, box 52; Carter handwritten comment on Hugh Carter Jr. to Carter, 11 February 1977, box 9—both in Presidential Handwriting File, JCL.

130. Such methods, the political scientist Fred I. Greenstein observed, "proved in general to be an invitation to reinvent less adequate versions of the wheel." Fred I. Greenstein, "Nine Presidents in Search of a Modern Presidency," in *Leadership in the Modern Presidency*, ed. Greenstein, 339. Carter's success in negotiating a peace treaty between Israel and Egypt is well known. On welfare reform, see James T. Patterson, "Jimmy Carter and Welfare Reform," in *The Carter Presidency*, eds. Fink and Graham, 131–32 and Joseph A. Califano Jr., *Governing America: An Insider's Report from the White House to the Cabinet* (New York: Simon and Schuster, 1981), 320–67.

131. Hargrove, "Jimmy Carter: The Politics of Public Goods," 231–32.

132. "Carter Views on Indian Affairs," *Indian Record* (December 1976), folder: Indians and Bureau of Indian Affairs, box 82, Public Liaison Office—Wales Files, JCL.

133. Carter rather blandly assured Senator Abourezk of his "commitment to protecting the rights of Indians." Carter to James Abourezk, 2 October 1978, folder: Ex IN 10/1/78–12/31/78, box 2, IN—Indian Affairs, WHCF, JCL.

134. Handwritten memorandum, 13 March 1978, folder: Civil Rights/Liberties—Indian Affairs [2], box 165, Domestic Policy Staff—Stuart Eizenstat Files, JCL.

135. Kathy Fletcher to Stuart Eizenstat, 2 March 1978 and Forrest Gerard to Eizenstat, 1 March 1978, folder: Civil Rights/Liberties—Indian Affairs [2], box 165, Domestic Policy Staff—Eizenstat Files; "Indian Rights Place Bell in Quandary," *Atlanta Journal and Constitution*, 14 August 1977, folder: CF IN 1/20/77–1/20/81, box 1, IN—Indian Affairs, WHCF—all in JCL.

136. Michael J. Egen to Eizenstat, 29 September 1977, folder: Ex IN 6/1/77–12/31/77, box 1, IN—Indian Affairs, WHCF, JCL.

137. LaDonna Harris to Sarah Weddington, 6 October 1978, folder: Gen IN 10/1/78–8/31/79, box 3, IN—Indian Affairs, WHCF, JCL.

138. Leo Krulitz (“Solicitor”) to Cecil Andrus (“Secretary”), 23 July 1979, folder: Ex IN 6/1/79–9/30/79, box 2, IN—Indian Affairs, WHCF, JCL.

139. “Bangor, Maine: Remarks and a Question-and-Answer Session at a Town Meeting,” 17 February 1978, *Public Papers of the Presidents: Jimmy Carter (1978), Book I* (Washington, DC: US Government Printing Office, 1979), 341.

140. John Dumbrell, *The Carter Presidency: A Re-evaluation* (Manchester, UK: Manchester University Press, 1993), 52.

141. For Carter’s work habits see, Hamilton Jordan, *Crisis: The Last Year of the Carter Presidency* (New York: G. P. Putnam’s Sons, 1982), 57; Zbigniew Brzezinski, *Power and Principle: Memoirs of the National Security Adviser, 1977–1981* (New York: Farrar, Straus, Giroux, 1983), 522; Dumbrell, *The Carter Presidency*, 31; and Peter G. Bourne, *Jimmy Carter: A Comprehensive Biography from Plains to Postpresidency* (New York: Scribner, 1997), 361.

142. George Mitchell statement before the Intra-Departmental Council on Indian Affairs, 8 February 1977, folder: Maine Indians, box 111, series 4: Tribal Files, NCAI Papers, NAA, SI (first quotation); Winfred A. Stevens to Carter, 25 January 1977, folder: Gen IN 1/20/77–3/31/77, box 2, IN—Indian Affairs, WHCF, JCL (second quotation); and Andrew W. Ebona to the Editor, *Washington Post*, 10 March 1977, folder: Maine Indians, box 111, series 4: Tribal Files, NCAI Papers, NAA, SI (third quotation).

143. Lipshutz to Griffin Bell, 31 January 1977 and undated note—both in folder: Indian Land Claims—Maine—Key Memos 1/77, box 20, Counsel’s Office—Lipshutz Files, JCL.

144. Department of the Interior news release, 1 March 1977, folder: Indians—Passamaquoddy—Penobscot—Maine, box 85, Public Liaison Office—Wales Files, JCL.

145. Brennan’s certitude, that the tribes’ case lacked merit, had begun to lessen. See Lipshutz to Bell, 31 January 1977, undated note, and Huron to the File Re: Conversation with Peter Taft, 18 February 1977—all in folder: Indian Land Claims—Maine—Key Memos 1/77, box 20, Counsel’s Office—Lipshutz Files, JCL.

146. Morris K. Udall to Carter, 28 March 1977 and Carter to Udall, 7 April 1977, folder: Ex IN 1/20/77–5/31/77, box 1, IN—Indian Affairs, WHCF, JCL.

147. Edward M. Kennedy et al. to Carter, 9 February 1977 and Edward W. Brooke to Carter, 25 March 1977, folder: Mashpee Land Suit 1976–78, box 458, Edward W. Brooke Papers, Manuscript Division, Library of Congress, Washington, DC.

148. Carter did not press for the obvious candidate: Maine’s former governor, Kenneth Curtis, whom the tribes deemed a friend. Curtis evinced no interest in the assignment and, as a Democrat, was unacceptable to Longley. See Kenneth M. Curtis to Patterson, 29 August 1973, folder: Maine Indians, box 48, Patterson Files, Nixon Presidential Materials, NACP; Taft to Lipshutz, 14 January 1977, folder: Indian Land Claims—Key Memos—Maine 1/77; and Huron, Memorandum for the Record, 11 February 1977, folder: Indian Land Claims—Maine—Key Memos 2–9/77—both in box 20, Counsel’s Office—Lipshutz Files, JCL.

149. Notes of White House Meeting, 29 March 1977, folder 1, box 2765, US

Senate: Senate Office Series, Muskie Papers, BC; White House press release, 15 July 1977, folder: Indian Land Claims—Maine—Key Memos 2–9/77, box 20, Counsel’s Office—Lipshutz Files, JCL.

150. No White House aide had the authority to enforce his will because Carter had refused to name a chief of staff until 1979. Dumbrell, *The Carter Presidency*, 30.

151. Huron to the File Re: Conversation with Peter Taft, 18 February 1977, folder: Indian Land Claims—Maine—Key Memos 2–9/77, box 20, Counsel’s Office—Lipshutz Files, JCL.

152. According to Gunter: “They talk about preserving their own culture and own way of life, but I’m doubtful they can in 1978.” “Gunter Says Maine Land Claims the Toughest Assignment He’s Had,” *Bangor Daily News*, 27 February 1978, folder: Maine Indians Land Claims General VI, box 6, series 16: Harjo Records, NCAI Papers, NAA, SI.

153. Gunter to Carter, n.d. [July 1977], folder: Passamaquoddy and Penobscot (Maine) 1968–1987, box 120, series 4: Tribal Files, NCAI Papers, NAA, SI.

154. “Settling Indian Claims,” *Washington Star*, 21 July 1977, folder: Maine Indians, box 111, series 4: Tribal Files, NCAI Papers, NAA, SI (quotation) and Lipshutz to the File, 30 July 1977, folder: Indian Land Claims—Maine—Key Memos 2–9/77, box 20, Counsel’s Office—Lipshutz Files, JCL.

155. “Indians and Maine Support Plan for a Lawsuit Over Land Claims,” *New York Times*, 30 July 1977, 22.

156. Patterson to Haft, 18 July 1977, folder: Indian Correspondence 6/77–8/77, box 82, Public Liaison Office—Wales Files, JCL.

157. They included Leo M. Krulitz, the general counsel at the Department of the Interior, Eliot Cutler, associate director of the Office of Management and Budget, and A. Stephens Clay, Gunter’s law partner. White House press release, “Statement on Maine Indian Land Dispute,” 8 October 1977, folder: Ex IN 6/1/77–12/31/77, box 1, IN—Indian Affairs, WHCF, JCL.

158. Lipshutz to Carter, 6 October 1977, folder: Indian Land Claims—Maine—Key Memos 10/77–1/78, box 20, Counsel’s Office—Lipshutz Files, JCL.

159. Longley to Carter, 7 October 1977, folder: Indian Land Claims—Maine—Longley Correspondence, box 19, Counsel’s Office—Lipshutz Files, JCL.

160. “Maine Indian Land Claims,” 16 February 1978, 5, folder: Indian Land Claims—Maine Background 5/77–2/78, box 19, Counsel’s Office—Lipshutz Files, JCL.

161. Passamaquoddy/Penobscot Negotiation Committee to Eliot Cutler et al., 11 November 1977, folder: Maine Indians Land Claims General I (1 of 3), box 5, series 16: Harjo Records, NCAI Papers, NAA, SI.

162. Cutler et al. to Passamaquoddy/Penobscot Negotiation Committee, 18 December 1977, folder: Maine Indians Land Claims General I (1 of 3), box 5, series 16: Harjo Records, NCAI Papers, NAA, SI.

163. Office of the Solicitor, US Department of the Interior, “Status of Maine Indian Land Claims,” 10 February 1978, folder: Indian Land Claims—Maine—Key Memos 2/78, box 20, Counsel’s Office—Lipshutz Files, JCL.

164. Brodeur, *Restitution*, 134.

165. “Plan Shocks Big Landowners,” *Bangor Daily News*, 11 and 12 February 1978, 1–2.

166. "A Frightened Maine," *Bangor Daily News*, 17 February 1978, 14.
167. "What Maine's Newspapers Think," *Maine Sunday Telegram*, 5C.
168. "Wonder, Rage Meet Claim Plan," *Portland Press Herald*, 10 February 1978, folder: Maine Indians Land Claims General VI, box 6, series 16: Harjo Records, NCAI Papers, NAA, SI.
169. "A Frightened Maine," *Bangor Daily News*, 14.
170. "Transcript of the President's News Conference," *New York Times*, 5 May 1978, A14.
171. Lipshutz to Andrus, 8 August 1978, folder: Maine Indians Land Claims General I (1 of 3), box 5, series 16: Harjo Records, NCAI Papers, NAA, SI. The attorney general, a former member of restricted clubs, a conservative on school desegregation, and a lukewarm supporter of affirmative action, enjoyed little respect among minority groups. Kaufman, *Presidency of James Earl Carter, Jr.*, 25–27 and 69–71. Interestingly, Carter referred to Bell only twice in his memoirs. See Carter, *Keeping Faith*, 49 and 391.
172. Magnuson and Henry Jackson to Bell, 1 March 1978, folder: Ex IN 2/1/78–6/30/78, box 1, IN—Indian Affairs, WHCF, JCL; Bell to Kennedy, 3 October 1978, folder: Maine Indian Case, box 17, Domestic Policy Staff—Frank White Files, JCL.
173. Kennedy to Bell, 14 September 1978, folder: Maine Indians Land Claims General I (3 of 3), box 5, series 16: Harjo Records, NCAI Papers, NAA, SI.
174. Lipshutz to Carter, 9 August 1978, folder: 8/9/78, box 99, Presidential Handwriting File, JCL.
175. Carter's assistants planned to say nothing about the land dispute until mid-November 1978. Lipshutz, Memorandum for the File, 13 September 1978, folder: Indian Land Claims—Key Memos 9–11/78, box 20, Counsel's Office—Lipshutz Files, JCL.
176. Doug Huron, Memorandum for the File, 22 September 1978, folder: Indian Land Claims—Key Memos 9–11/78, box 20, Counsel's Office—Lipshutz Files, JCL.
177. Doug Huron Notes, 6 October 1978 and 23 October 1978 (quotation), folder: Indian Land Claims Maine—Notes—Doug Huron, box 19, Counsel's Office—Lipshutz Files, JCL.
178. "Accord Reached on Maine Indian Claims," *Washington Post*, 18 October 1978, A4 and "Longley Backs Plan to Settle Land Claims in Maine," *Washington Post*, 24 October 1978, A2.
179. Huron Notes, 23 October 1978, folder: Indian Land Claims Maine—Notes—Doug Huron, box 19, Counsel's Office—Lipshutz Files, JCL.
180. "Longley Backs Plan to Settle Indian Land Claims in Maine," *Washington Post*, A2 and Hathaway interview with the author, 14 May 2005.
181. *Ibid.*
182. "Longley Backs Plan to Settle Indian Land Claims in Maine," *Washington Post*, A2.
183. "Accord Reached on Maine Indian Claims," *Washington Post*, A4 and Hathaway interview with the author, 14 May 2005.
184. "Maine Indians Raise the Price of Land Accord," *Washington Post*, 5 August 1979, 14.
185. Secretary of the Interior Cecil Andrus, willing to implement Hathaway's plan or risk litigation, took a hard line: "The Administration should not increase the offer." Andrus to Lipshutz, 8 July 1979, folder: Indian Land Claims Maine 2/78–7/79, box 19, Counsel's Office—Lipshutz Files, JCL.

186. Krulitz to Reid Peyton Chambers, 12 September 1979 and Chambers to Lipshutz, 20 August 1979, folder: Gen IN 9/1/79-1/20/81, box 3, IN—Indian Affairs, WHCF, JCL.

187. The Carter administration and the tribes came to a tentative agreement on three hundred thousand acres by the summer of 1979. But Maine's congressional delegation insisted on getting the support of the state, and state officials would not agree until the issue of federal versus state jurisdiction was resolved. NARF *Announcements* (May 1981), 1, folder: AILCSA of 1982 Miscellaneous VII, box 2, series 16: Harjo Records, NCAI Papers, NAA, SI.

188. Huron, Memorandum for the File, 6 February 1979, folder: Indian Land Claims—Key Memos 12/78-6/79, box 20, Counsel's Office—Lipshutz Files, JCL (quotation).

189. "Accord on Indian Claims Is Believed Near," *New York Times*, 10 February 1980, 28.

190. Brodeur, *Restitution*, 134.

191. "Accord Is Approved by Indians in Maine," *New York Times*, 15 March 1980, 6.

192. Harold J. Lewey et al. to Richard Cohen, 7 September 1979, folder: Maine, box 4, series 16: Harjo Records, NCAI Papers, NAA, SI; NARF *Announcements* (May 1981), 7, folder: AILCSA of 1982 Miscellaneous VII, box 2, series 16: Harjo Records, NCAI Papers, NAA, SI.

193. "Maine Signs Settlement of Indians' Land Claims," *New York Times*, 4 April 1980, A8.

194. Cohen to Strom Thurmond, 14 October 1982, folder 3, box 9, Indian Affairs Files, Barry M. Goldwater Papers, Arizona Historical Foundation, Hayden Library, Arizona State University (hereafter ASU), Tempe.

195. Lowell P. Weicker Jr. and Cohen to Thurmond, 20 December 1982, folder: Western Pequot I, box 9, series 16: Harjo Records, NCAI Papers, NAA, SI.

196. William Cohen, "S.2829—Maine Indian Claims Settlement Act of 1980," *United States Congressional Record*, 13 June 1980, folder: Indian Affairs 1980-1981, box 7, S: Press: Speeches H-M, Cohen Papers, UMO and undated meeting notes, folder: Maine Passamaquoddy and Penobscot Settlement 3-80 (1 of 2) box 7, series 16: Harjo Records, NCAI Papers, NAA, SI.

197. Timothy Woodcock to Cohen, 5 and 8 September 1980, folder: Maine Indian Land Claims: S.2829 Revisions 2 of 7, box 8, Indians, S: Leg: Env: L&R Management, T. Woodcock Files, Cohen Papers, UMO.

198. Rena to Suzan [Harjo], 18 September 1980, folder: Maine Passamaquoddy and Penobscot Settlement 3-80 (1 of 2), box 7, series 16: Harjo Records, NCAI Papers, NAA, SI.

199. "House Votes \$81.5 Million for Maine Indians," *Washington Post*, 23 September 1980, A5 and "Carter Signs Agreement on Indian Claims in Maine," *New York Times*, 11 October 1980, 6.

200. Lloyd Cutler and Stuart Eizenstat to Carter (with Carter's handwritten comment), 28 June 1980, folder: Ex IN 2/1/80-6/30/80, box 2, IN—Indian Affairs, WHCF, JCL.

201. William Cohen, unwilling to identify himself with an unpopular Democratic president, did not attend the event. See "Carter Signs Agreement on Indian Claims on

Maine,” *New York Times*, 6. On Brennan, see “Brennan ‘Disappointed’ by New Indian Proposal,” *Bangor Daily News*, 7 August 1979, folder 5, box 3115, US Senate: Senate Office, Muskie Papers, BC.

202. Eizenstat and R. D. Folsom to Carter, 3 October 1980, folder: Ex IN 7/1/80–1/20/81, box 2, IN—Indian Affairs, WHCF, JCL (quotation); “Carter Playing Trump Cards of Incumbent,” *New York Times*, 12 October 1980, 1 and 32; and Rolde, *Maine*, 341–42.

203. One staff member conceded as much in 1980, when he told Carter: “Three administration proposals to date, which you have reviewed, have failed to achieve a settlement, primarily because one or more of the interested parties . . . believed the proposals to be deficient.” James T. McIntyre Jr. to Carter, 28 June 1980, folder: Ex IN 2/1/80–6/30/80, box 2, IN—Indian Affairs, WHCF, JCL.

204. The law ended a four-year jurisdictional dispute with the state. “Maine Indian Tribes Revive Bingo under New State Law,” *New York Times*, 18 October 1987, 67.

205. The combined population of both tribes was 4,400 in 1991, and it was almost double the number in 1976. Ghere, “Passamaquoddy/Penobscot,” in *Encyclopedia of North American Indians*, 471; Tower, “Passamaquoddy” in vol. 1 of *Gale Encyclopedia of Native American Tribes*, eds. Malinowski and Sheets, 223 and 227; Decker, “Penobscot,” in *ibid.*, 234 and 237 (both quotations). See also Brodeur, *Restitution*, 133 and “Tribal Investment Bank Helps Indians and Maine,” *New York Times*, 4 August 1985, 20.

206. Brodeur, *Restitution*, 134.

207. Philip K. Bock, “Micmac,” in vol. XV of *Handbook of North American Indians*, eds. Sturtevant and Washburn, 109–22; Kenneth R. Shepherd, “Micmac” in vol. 1 of *Gale Encyclopedia of Native American Tribes*, eds. Malinowski and Sheets, 134–41; Harald E. L. Prins, *The Mi'kmaq: Resistance, Accommodation, and Cultural Survival* (New York: Harcourt Brace, 1996), 212 and 213 (quotation).

208. Congressional Quarterly, *Almanac 102nd Congress, 1st Session . . . 1991*, vol. XLVII (Washington, DC: Congressional Quarterly, 1992), 387–88 and Prins, *The Mi'kmaq*, 214.

209. “Delegation Threatens Action to Settle Catawba Claim,” *The State* (Columbia, SC), 22 March 1979, 19-B.

210. *News from US Senator Al D'Amato*, 9 February 1982 (first quotation) and transcript, “CBS Evening News with Morton Dean,” 18 July 1982 (second quotation)—both in folder: AILCSA of 1982 Correspondence and Testimony II, box 1, series 16: Harjo Records, NCAI Papers, NAA, SI.

211. The Reagan administration wanted states to pay a greater portion of any land claims settlements. See William Coldiron to Barry M. Goldwater, 27 August 1982, folder 3, box 9, Indian Affairs Files, Goldwater Papers, ASU. See also Robert A. McConnell to Eugene W. Taylor, 29 June 1982, ID# 080210CU, box 3, IN—Indians Affairs, White House Office of Records Management (hereafter WHORM): Subject File, Ronald Reagan Library (hereafter RRL), Simi Valley, CA; and news release, Indian Law Resources Center, 9 February 1982, folder: AILCSA of 1982 Correspondence and Testimony II, box 1, series 16: Harjo Records, NCAI Papers, NAA, SI (quotation).

212. Republican moderates, such as Cohen and Senator Richard G. Lugar of Indiana, opposed the bill as too “sweeping” and Representative Morris K. Udall, a Democrat and chair of the House Committee on Interior and Insular Affairs, also opposed it and refused to let it out of committee. See Richard G. Lugar to Will H.

Hays Jr., 13 August 1982, folder: Western Pequot III, box 10, series 16: Harjo Records, NCAI Papers, NAA, SI and "G.O.P. Sees Hard Choice in a House Race Upstate," *New York Times*, 11 September 1982, 26.

213. News clipping, "Lee Bill Appears Dead, Backers Say," 24 June 1982, folder: AILCSA of 1982 Correspondence and Testimony II, box 1, series 16: Harjo Records, NCAI Papers, NAA, SI. Thinking (incorrectly) it would save money, the Reagan administration considered settling land claims with cash, with the price determined not by current value of the property but by how much the government paid for it at the time, plus interest. See Letter to the Editor, "Reagan's Grand Plan to Pay Indian Claims," *New York Times*, 9 May 1983, A18.

214. "Bradley Introduces Sioux Nation Black Hills Act," Bill Bradley press release, 17 July 1985, folder: Sioux Nation Black Hills Act [1985], box 177, Series 6: Committees and Special Issues Files, NCAI Papers, NAA, SI and Rosier, *Native American Issues*, 64.

215. Imre Sutton, "Not All Aboriginal Territory Is Irredeemable," *American Indian Culture and Research Journal* 24, no. 1 (2000): 140.

216. John C. Christie Jr., "The Catawba Indian Land Claim: A Giant among Indian Land Claims," *American Indian Culture and Research Journal* 24, no. 1 (2000): 180–81.

217. The president's management of domestic policy oscillated between reliance on the White House Domestic Policy Staff, on the one hand, and interagency task forces guided by a White House staff member. See Dumbrell, *The Carter Presidency*, 36.

218. Margaret McKenna, Memoranda for the File, 1 February and 6 March 1978, folder: Rhode Island Indians—White House memoranda, box 142, Counsel's Office—Margaret McKenna Files, JCL; "First Eastern Indian Land Claim Is Settled," *Washington Post*, May 10, 1978; and Prucha, *Great Father*, 1174.

219. Department of the Interior News Release, 17 April 1978, folder: Catawba III, box 3; Gary A. Lee to Andrus, 9 March 1979 (quotation), folder: Cayuga Nation, box 4—both in series 16: Harjo Records, NCAI Papers, NAA, SI.

220. "House Rejects Accord on Claim by Cayugas," *New York Times*, 19 March 1980, B3.

221. Gary W. Reichard, "Early Returns: Assessing Jimmy Carter," *Presidential Studies Quarterly* 20 (Summer 1990): 616.