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**\*Sonja Dana, Passamaquoddy Tribal Elder, Tribal Council at Motahkomikuk, Indian Township,**

**\*Vice Chief Darrell Newel, Passamaquoddy Tribe at Motahkomikuk, Indian Township**

**\*Edward Bassett, Passamaquoddy Tribe at Sipayik, Pleasant Point, Sipayik Environmental Department**

**speak at the legislative Judiciary Committee's public hearing for LD 2094: "An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act". February 14, 2020.**

**Mark Chavaree, citizen of Penobscot Nation, Penobscot Nation Legal Counsel:**

Let me try to pare this down to make sure I'm meeting the time limit. Good morning. My name is Mark Chavaree and I'm a citizen of the Penobscot Nation. I'm grateful for this opportunity to share my thoughts regarding this bill. I was 18 when the Maine Indian Claim Settlement Act was first ratified, so I've lived under the terms of this act my entire adult life. I was 28 when they began to serve my Tribe as in-house legal counsel, so I've spent most of my career dealing directly with the terms of the Act. The Tribes in this state are at a critical juncture in our relationship and this reform is long overdue. Forty years ago, Tribal leadership in good faith entered into this agreement with an understanding that the "internal Tribal matters" language would protect our inherent authority to govern ourselves within our own territories, free from outside interference.

They also understood the so called municipal language to be an additional grant of Tribal authority enhancing our inherent rights as Tribal governments. Unfortunately, the Settlement Act has not been interpreted consistent with the Tribes' understanding. The "internal Tribal matters" phrase has been so narrowly construed that it has been largely rendered meaningless. The admissible language has been interpreted in a manner that does not recognize our primary status as Tribal nations with inherent sovereign rights that predate, not only the State of Maine, but the United States of America.

Additionally, language which was inserted into the federal Settlement Act, (which others have mentioned) without the Tribes' knowledge or approval, which has deprived the Wabanaki Tribes in Maine from the benefits of and the ability to take advantage of federal legislation intended for all Tribal nations. The intent of LD-2094 is to address these failings and ensure that Wabanaki Tribes are afforded the same rights and enjoy the same benefit as every other federally recognized tribe in the United States.

There is no legitimate reason to exclude the Maine Tribes from these benefits. There are many examples across the country of how surrounding communities thrive when states recognized Tribes' inherent rights of self-governance. This legislation is very much about righting wrongs and repairing harm. Prior to the Settlement Act, the Wabanaki were wrongly treated as wards of the State and regarded as second-class citizens. We were hopeful that the Settlement Act would have remedied that dynamic, but unfortunately that has not been our experience.

Our people have acted in good faith in other ways, also. My uncle Donald Francis served as a Staff Sergeant in the Army infantry during World War II and was killed in the Philippines shortly before the war ended. His body has never been recovered. At the time of his death, he didn't have the right to vote. It wasn't until 1954 that Tribal people in Maine were allowed vote in federal elections. Further, Maine was the last state to recognize our right to vote in state elections, in 1967. It has always with a sense of sadness, that I think about how my uncle was considered citizen enough to go to war and die for this country, but not citizen enough to vote.

It was wrong that he and all Wabanaki citizens were denied the right to vote and that injustice has since been corrected. It is also wrong that the Wabanaki have been denied the fundamental rights of self-governance afforded all other federally-recognized Tribes and it is time that that wrong also be remedied. Thank you for your time and attention and I'm happy to answer any questions.

**Sen Mike Carpenter:**

Thank you Mr. Chavaree. Are there questions of the committee members? Thank you, sir. I'm sorry, Mark. Representative, Reckitt, I missed your hand.

**Representative Reckitt:**

I think it would be helpful for me and perhaps others in the room were you to read the paragraph, you just didn't include, because you didn't have time, which is essentially an essence of sovereignty.

**Mark Chavaree:**

Sure. I'd be happy to. If I can get my fingers to work here. And the written testimony I said I would like to end with a quote from an article I wrote in the early 1990s that is still very much relevant today. The very essence of Tribal sovereignty is the ability to self-govern and to protect the health, safety, and welfare of our people within our own territory. We are a separate and

distinct people with a unique history predating this country, those powers and rights that allow us to express that sovereignty are sacred. We will continue to fight to safeguard those rights in honor of our ancestors and in order to preserve a future for our children. Failure to do so would surrender the very essence of who we are as a people.

**Sen Carpenter:**

Thank you, sir. Next I'm looking for Sonja Dana, from Indian Township. Sonja Dana, is she within the sound of my voice? Annette Sockabasin. Well, I'm sorry. Welcome.

**Sonja Dana, Passamaquoddy Tribal Elder, Tribal Council at Motahkomikuk, Indian Township**

**Sonja Dana:**

Hi. I had scratched my name off because I didn't put it down there, but-

**Sen Carpenter:**

... that's fine. Welcome.

**Sonja Dana:**

I'd like to say I am Sonja Dana. I am presently a Tribal Council member for the Indian Township and I am 75-years-old and I am very rich. I have about 10 grandchildren and eight great-grandchildren. And I come from the era of [the Great] Depression. I was born in '44 and many of our men went to war during that time. This is kind of an emotional time for me. And 10 years later we were allowed to vote, but those we lost never had that privilege. Nobody ever blinked an eye to say, "Do not go and fight for others." We went willingly and that part I wanted to share because my husband's brother was shot in Vietnam and died. As many, many young men did. The other part that I would like to speak to is domestic violence.

Many of our women have suffered tremendously and not at times so much from Native men that we have married, but from non-Tribal men that we have married. I am a survivor of that. And it ... the devastation shows up within my grown children for what they experienced. Because of lack of laws, domestic violence is so rampant and the severe mental and physical abuse at times, is unbelievable. The other issue that no one has mentioned is child welfare. We, the Tribe, and you the state, we should be together and I have experienced as the Child Welfare Director and presently not being a Director, watching our Child Welfare Director go through such horrendous meetings with the state when they come in and take our children that are only an eighth Passamaquoddy and not working with us even if they would look at it economically, not that's what I want, I would like to have them understand our culture, our traditions and not come in with what you have been taught should be the way our children should be raised.

It's so heartbreaking; it's shameful. It's heart wrenching, and I know you're here to discuss many of these recommendations that predated you and I am so grateful and thankful. I don't feel shamed standing here amongst you because you've worked so hard at trying to bring us together and I hope you continue to support all these recommendations because they are so vital to us. And yes, we've suffered economically, but I for one have suffered more since the Implementing Act has been instituted. I go all over in DC to meetings and that and it's shameful what we've lost here. Why do we have to be second-rate citizens here? Why are you afraid of us? What have we done to you? We've not done anything to you, but what has been done to us. And I'm asking for justice. And my time is up.

**Sen Carpenter:**

I'm not going to drop you through the floor. Don't worry. Are there questions of Miss Dana? Thank you so much for testifying. Representative Babbidge.

**Representative Babbidge:**

I am just so thankful, Miss Dana. No, I just want to thank you very much from making the decision to step up. That was eloquent and heartfelt and I appreciate that.

**Sonja Dana:**

Thank you.

**Sen Carpenter:**

Other questions of Ms. Dana?

**Sonja Dana:**

I need the exercise since I'm an Elder.

**Sen Carpenter:**

Representative Reckitt.

**Representative Reckitt:**

I sit here thinking about the parallels of our lives. I too am 75. I too have worked on the other side of domestic violence my whole life and I admire your courage of coming forward to tell us, particularly those of us who haven't seen what you have seen and I have only seen a bit of, and I hope that your ... my belief is your heartfelt testimony will help and I'm really appreciative of the courage you took to come forward. And I hope to talk to you at some other time. Thank you.

**Sonja Dana:**

Thank you very much.

**Sen Carpenter:**

Thank you very much. Other questions? Now you can go. Thank you. I'm now looking for Annette Sockabasin from Pleasant Point. Annette Sockabasin. I know Vice Chief Darrell Newell is here. Good morning, sir. Again.

## **Vice Chief Darrell Newell, Passamaquoddy Tribe at Motahkomikuk, Indian Township :**

### **Vice Chief Darrell Newell, Motahkomikuk, Indian Township:**

Good morning. Woliwon. (Thank you.) Klasi kolpa (I greet you) Wuli spuzuwaiuw. (Good morning) And I speak a language that has been spoken here for thousands of years and I'm grateful to those who have passed that down to us and those who taught me as I was growing up. So I'd like to first recognize the passing of an Elder of our, of the Passamaquoddy Tribe in the night. Rebecca Francis. I'd like to take a moment for that, please. Thank you. I'd like to ask the Chairs and the committee to permit the Passamaquoddy people, in particular of Pleasant Point, where Rebecca Francis is from, if they could submit oral testimony, excuse me, perhaps in on Wednesday and written testimony at their leisure, if that's okay.

### **Sen Carpenter:**

That'd be fine.

### **Vice Chief Darrell Newell:**

Okay. Thank you. All right. I appreciate the introduction as Vice Chief of the Passamaquoddy Tribe at Indian Township, and I'm also an Elder, so I get to bump some of the Tribal leadership with the exception of Chief Francis, but I'm old enough to remember when we were wards of the state, when the state was in a position of caring for the Indians and in a position of having an Indian agent dispense the ... dispense to the needs of Tribal people. And I grew up on Indian Township, Washington County, Maine, under the wards-of-the-state era. I grew up poor, many of us lived in tarpaper shacks. We had no electricity, plumbing, and basic necessities.

We became federally recognized in 1980, or in the early 70s, I'm sorry. From that federal recognition, we enjoyed being that of the status of any other federally recognized Tribe in the country. We were able to strengthen our independence, our self-determination. We were able to make decisions for ourselves without outside interference. We were able to build a new grade school for our children, a new healthcare facility. We were able to build housing infrastructure. We were better able to provide the needs of our people and we were clearly of the status of a government-to-government relationship with the State of Maine and that of the US federal government.

We settled the land claim in 1980. In my opinion, we really settled a claim by the State of Maine to the inherent Sacred sovereign rights of the Native peoples here. The settlement in 1980 reduced us to mere municipalities. I offer respect to the process that I've been involved with a lot of last year. I sat on the, in the absence of our Chief Nicholas, I sat on the Task Force in helping develop the recommendations that are in the bill here. And I offer respect to each of you here in legislature and I respect the sovereignty of the State of Maine. I respect the sovereignty of the Tribes.

Each of our governments have our own constitution, the US Constitution, the State of Maine Constitution and each of our four Tribes here have our own Constitution. And I believe we have common ground among them. I believe that we can work together and again, nurture a government-to-government relationship that has been near void for some time now. I came here today to testify and offer up some words in asking for your support in passing LD-2094 and I want to reiterate what the House Speaker has already spoken to more articulately than I could certainly, but the Task Force was established by resolution by the joint standing committee in June of 2019.

That same month, the legislature issued the following statement as part of a joint resolution to support the development of mutually beneficial solutions to the conflicts arising from the interpretation of an Act to Implement the Maine Indian Claims Settlement and the federal Maine Indian Claims Settlement Act of 1980 and I quote you, "We, the members of the 129th legislature, now assembled in the first regular session on behalf of the people we represent, take this opportunity to recognize that the Maine Tribes should enjoy the same rights, privileges, powers, and immunities as other federally recognized Indian tribes within the United States."

Again, woliwon. Thank you for listening.

**Sen Carpenter:**

Thank you very much, Chief Newell. Are there questions for Vice Chief Newell?

**Vice Chief Darrell Newell:**

No questions. Thank you.

**Sen Carpenter:**

Nice try. Representative Babbidge.

**Representative Babbidge:**

Thank you. Thank you very much for being here and testifying and I think, I don't intend to ask many questions today, but we have a long day ahead of us, but the one thing that perhaps you as an Elder can help me to understand is the place of the Indian land Settlement in our history because obviously we have a Task Force that has addressed its shortcomings and those are what is before us right now. But, I can't help but think that the Indian Land Claim Settlement during its creation was a time of hope.

I don't know, but I'm assuming trust lands that are around the state today are partially a result of that land claim settlement. And I can remember I lived in Southern Maine even though my family hails from Penobscot Bay area for a long, long time. But, my point is that in Southern Maine we're removed from exposure to this problem. In Central and Northern Maine, I know it was a very emotional time when, for white folks, there was difficulty selling property because of the insecurity of what was happening.

But I can remember cheering for Tom Tureen and the Natives for being able to find what I thought was a wonderful optimism that ... and so why would like you to correct for me, because I'm interested in your testimony that there was federal recognition and an optimism prior evidently to the, I'm familiar with the right to vote and all that, that Miss Dana shared with us, and I taught history, so I'm very much aware of the transgressions and injustices, but I'd like you to comment to me on the pros and cons of the Indian Land Claim Settlement so we can understand where we are in this process, if you could.

**Vice Chief Darrell Newell:**

Yes, thank you. If you remember, we had a legitimate claim to over two-thirds of the State of Maine or what became the State of Maine. That was our inherent home lands, our traditional Native territory. And the resolution to that, I think that the State of Maine and the Tribes had good reason to want to resolve that dispute about land. But I think we went beyond that and we reduced our sovereignty to near non-existence and I think all of our work over the past year or so speaks to that.

It's a method, a mechanism for us to undo the harm. I guess, my response to you is that the Land Claim Settlement of 1980 has been endurable from a Tribal perspective, I know you mentioned trust lands and that has increased our acreage and recovered some of our traditional territories and that's a positive, I agree with you there, but the ability to make decisions for ourselves without outside interference, the ability to self-govern and to self-determine what is best for our people, I think needs to be discussed more and I think we've done that over the past several months.

**Representative Babbidge:**

Thank you.

**Vice Chief Darrell Newell:**

Yeah.

**Sen Carpenter:**

Thank you, Chief Newell. Representative Evangelos.

**Representative Evangelos:**

Thank you, Mr. Chair. Thank you very much, Chief Newell. Just a quick question. In 1980, how much money did the State of Maine contribute to the settlement?

**Darrell Newell:**

I know it's ... I know our attorneys know better that litigation is quite a costly venture. So I really don't have a good response for that, but I would suggest that the federal government offered or contributed more than the State of Maine.

**Sen Carpenter:**

Representative Evangelos.

**Representative Evangelos:**

Yeah, I'm not a lawyer, but a lawyer never asks a question that he doesn't know the answer to. It was zero.

**Sen Carpenter:**

Thank you.

**Vice Chief Darrell Newell:**

Well, thank you.

**Sen Carpenter:**

Thank you you for that question and answer. Other questions of Chief Newell? Thank you, Darrell. It was nice to see you.

**Vice Chief Darrell Newell:**

Thank you.

**Sen Carpenter:**

Edward Bassett. Edward Bassett. Just put your copies right down there and she'll come get them. Thank you.

**Edward Bassett, Passamaquoddy Tribe at Sipayik, Pleasant Point,  
Sipayik Environmental Department:**

**Edward Bassett:**

Okay. I'm somewhat at a dilemma. I wrote something that might take about four minutes, because I was told that was the time I had.

Good morning Senator Carpenter, Representative Bailey, and honorable members of the Judiciary Committee. My name is Edward Bassett. I'm a citizen of the Passamaquoddy Tribe at Pleasant Point and I support LD-2094. Thank you for the opportunity to address this committee. I work in the Tribal Environmental Department and there's a lot of history that has led us here today. That history is too lengthy to cite it all here, but I think it's important that we should touch on some, especially relating to our home, our home land, the Saint Croix, the Passamaquoddy Bay. The Passamaquoddy came from a marine, riverine, and woodland-based culture and had been living off the land here in the Passamaquoddy region for thousands of years. There's three copies. Before European contact, our environment was always a pristine and fertile place where fish and game and other natural resources were very abundant.

The Tribal way of life and traditional and natural resource-based economy evolved from intimate connections with the land, the waters, the fish, and the animals. We also used an extensive network of trade routes and relations with other Tribes beyond our home land. With the coming of the European, our way of life was tested and strained. First, our traditional fishing village were overrun, villages were overrun for settler towns to build sawmills and dams, fish and wildlife, and trees were over exploited. The Tribe witnessed hundreds of years of destruction, depletion, and pollution in our home land, and in our traditional fishing and hunting grounds. With the destruction of our home land, the Passamaquoddy traditional nature-based economy crashed.

We were unable to feed and sustain our families. This lasted for many, many generations, and in many ways, we are still feeling the effects of this legacy to this day. In the 1700s, George Washington and Massachusetts promised to protect the Tribe and our access to our hunting and fishing grounds, if the Tribe join to fight the British in the Revolution, we answered Washington's call. Many Passamaquoddy enlisted, and fought, and died in the Revolution. At the revolutionary war time, the waters and the environment were still fairly pristine, but soon thereafter came sawmills and pollution.

Feeling pressure from newcomer settlers in 1792, the Passamaquoddy petitioned Massachusetts and reminded them of the promises made during the Revolution. In response, in 1794 Massachusetts entered into a treaty with the Tribe to reserve lands for the Passamaquoddy and to reserve lands in the Passamaquoddy Bay and the Saint Croix area. I live on one of those reserves. This treaty guaranteed the right of the Tribe to fish unmolested in both branches of the Saint Croix, forever.

In 1819 there were 47 mills on the River dumping all the trash and pollution into the River and the fish were dying. By 1825, the fishery of the River collapsed from pollution, dams without fish ways for many, many years and over fishing. In just 46 years, the River went from pristine abundance to a total collapse. No more millions of sea run fish, the Alewife, the Shad, and the Atlantic Salmon in the Saint Croix. This depletion and collapse continued for another 148 more years. In 1887, Louis Mitchell spoke before this legislature here. He explained in detail about the suffering and the poor conditions and violations of rights of the Passamaquoddy and how treaties were broken.

He talked about the value and importance of hunting and fishing to the Passamaquoddy. I submit Mitchell's speech for the record. In 1956, much of the lower river was described as grossly-polluted and all aquatic life had been killed. The Settlement Act passed in 1980, this was supposed to usher in a new era of respect and cooperation and a mechanism for improving Tribal-state relations. This did not happen. As Senator Melcher stated, nothing in this Settlement Act provides for acculturation, nor is it the intent of Congress to disturb the culture or integrity of the Indian people of Maine. Nonetheless, the Passamaquoddy, the original stewards of the watershed, continued to watch as the fish and wildlife that our culture identity depended upon be killed off. In 1987, due to improvements made to the fish ways the Saint Croix had 2.6 million Alewives in the River.

Around that time, in 1989, Maine ordered the closure of the fishways in the River, further blocking sea-run fish migrations. In 2002, the Saint Croix Population of Alewife went down to 900 fish. In 2013, after 20 years of closures, the Saint Croix fishways were finally opened by law. This only happened after significant advocacy by the Tribe. Today, we are still a long way to go. No Salmon. A few Shad, less than half a million Alewives. Despite the odds, the Tribe, along with many others, are working to restore the Saint Croix waters back to bring back the sea-run fishery and its fertility and productivity. We're not trying to over fish. We are trying to restore the fish. As with the Penobscot River restoration experience, we have learned that people can unite to work together to accomplish great things for the environment and for the people.

In other words, it is and will continue to be the Tribes, the original stewards who lead the fight to restore and preserve our ecosystem. Anyone who can look at this tragic history and suggest that we will do anything that violates our Sacred trust to protect the environment and to further destroy our home land is flat out wrong. It is our history and culture, our history and cultural connections that steer us to be environmentally conscious in our decision-making. This is who we are. We are good neighbors and we are the original stewards. There is nothing to fear from this legislation, which will help fulfill the promises made in the past and we will help to level the playing field so Tribes can once again flourish alongside our neighbors.

Leveling the playing field as contemplated through this legislation seems to be successful in other States and there is no reason to believe it cannot work in Maine. Better treatment and cooperation can only have positive results. I urge you to support LD-2094. Thank you for your consideration.

**Sen Carpenter:**

Thank you, Mr. Bassett. Do you have copies? Did you have a copy of Mr. Mitchell's testimony?

**Edward Bassett:**

Yes. I handed, I have another one if you need it. I handed three to her over there.

**Sen Carpenter:**

If you give it to Susan Pinnette, she just came through the door. She'll make sure all of us, I want to see that. I want to read that.

**Edward Bassett:**

Okay. You can have that too.

**Sen Carpenter:**

Thank you. Are there questions from the committee members to Mr. Bassett? Representative DeVeau.

**Representative DeVeau:**

Thank you, Mr. Chair. Thank you, Mr. Bassett. You're with the Environmental Department for your Tribe.

**Edward Bassett:**

Yes.

**Representative DeVeau:**

Can you explain the training certification and educational requirements of the Tribes in their environmental departments?

**Edward Bassett:**

Training and certification, it depends on what position people are working in. Myself, I wasn't trained to do this kind of work. I came into it and it evolved over time. But there are others who work in the Department who have to have certifications for the work that they do, like water quality and they have rigorous standards that they have to go by, and they have to submit co-ops, quality, whatever that that is. I don't have to submit co-ops, because I don't actually collect data, but they do. And so anyone that's has to provide data and back it up, they have to go through that rigorous background and be qualified to do it.

**Representative DeVeau:**

And is that a state requirement or a federal requirement?

**Edward Bassett:**

It's an EPA federal requirement, that I believe also that there's some state requirements. We are also working in air quality as well, we're working with the state. And for my job I work with biologists mostly in the state, there's really not a whole lot of requirements to do fish passage work. If there is anything that requires serious science, we hire people that could do fisheries, science work, and biology.

**Representative DeVeau:**

Is that equal to the municipalities around you?

**Edward Bassett:**

I didn't get that.

**Representative DeVeau:**

Is that an equal to the municipality requirements around you? Do they have to do the same type of certifications and things like that?

**Edward Bassett:**

I'm not aware of what they have to do.

**Representative DeVeau:**

Okay. Thank you.

**Sen Carpenter:**

Other questions? Representative Evangelos.

**Representative Evangelos:**

Thank you, Mr. Chair. Thank you, Mr. Bennett. Mr. Bennett. I know that sustenance fishing is a very important issue for your people. Are there any efforts underway to bring the Atlantic Salmon back on the Saint Croix?

**Edward Bassett:**

Yes. We've had meetings with the state, IFMW and DMR, as well as the Federal Fishing Wildlife and NOAA, and trying to figure out ways to bring the Atlantic Salmon back to the Saint Croix. I believe it's possible. There's some skepticism out there and we've got a long ways to go when it comes to the Atlantic salmon, the environment has changed so much over time that the cold water fish, the Atlantic Salmon, may have a hard time. The water's warming up, and the smallmouth bass and largemouth bass that are currently now existing in the watershed could be a big factor in not having the Atlantic Salmon repopulate, because they're so predatory.

**Edward Bassett:**

And so, we had a lot of hurdles there, and the dams are a big problem as well. The fishways don't work that well. They're really old and aging, and so I think it's possible, but we've got to do a lot of work to get it done.

**Sen Carpenter:**

Thank you, Mr. Bassett. Other questions of the committee? Thank you very much, sir.

**Edward Bassett:**

Thank you.