

MAINE STATE LEGISLATURE

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REPORT
to
THE ONE HUNDRED AND SECOND LEGISLATURE

THE ADMINISTRATION OF
INDIAN AFFAIRS

January 1965

STATE OF MAINE

IN HOUSE April 26, 1963

ORDERED, the Senate concurring, that there be created an Interim Joint Committee to consist of 2 on the part of the Senate and 3 on the part of the House to study and report to the 102nd Legislature on the subject matter of the Bill, "An Act Transferring Indian Affairs to Governor and Council", L.D. #1222, introduced at the regular session of the 101st Legislature to determine whether the best interests of the State would be served by the adoption of such legislation; and be it further

ORDERED, that the members of the Committee shall serve without compensation, but shall be reimbursed for their expenses incurred in the performance of their duties under this order; and be it further

ORDERED, that there be appropriated to the Committee from the Legislative appropriation the sum of \$500 to carry out the purposes of this order.

NAME: (Dennett) /s/ William E. Dennett

TOWN: Kittery

(H.P. #1068)

Pursuant to the foregoing joint order, the following Committee was created. On the part of the Senate were named Senators Clyde A. Hichborn of Piscataquis and Samuel W. Philbrick of Penobscot. On the part of the House were named Representatives Warren H. Cookson of Glenburn, Ernest D. Smith of Strong, and William E. Dennett of Kittery.

The Committee has carried out its duties as ordered and begs leave to submit to the 102nd Legislature an account of its study, its findings and its recommendations.

COMMITTEE STUDY

The following report is made to the members of the 102nd Legislature after careful study of the subject matter involved. Your Committee has met with representatives of the Indian Tribes at the Penobscot Reservation at Indian Island and with representatives of the Passamaquoddy Tribe at both Peter Dana Point and Pleasant Point. It has listened attentively to the complaints and to the expressed hopes of the Maine Indians collectively and as individuals. It has consulted with representatives of the Department of Health and Welfare under whose jurisdiction they are presently placed. In its findings and recommendations the Committee has endeavored to be impartial and unbiased. It has felt that its purpose has been to consider both the welfare of the Indians and all of the people of the State of Maine in this report.

To some it may appear superfluous, but it has been deemed advisable that a brief history of the Maine Indians be contained within this report. It is felt that by so doing the members of the 102nd Legislature may gain a deeper insight into the background of the Indian and, with more knowledge of the events which have led to the present day conditions, may be better able to resolve the problem.

For some centuries prior to the advent of the European to that portion of the North American continent now known as the State of Maine, it was peopled by mankind known to us as the "Red Paint People", so called because of the quantities of red ocher found in their graves and at their grave sites. Whether or not these people were the ancestors of the present day Indian is a matter for conjecture. The possibility exists that they were. It is also entirely possible that they were superceded by the ancestors of the Indian

we now know.

When the first white explorers reached these shores they found the inhabitants, who had been misnamed Indians, living as a Stone Age people. They knew nothing of the working of metals, domesticated no animals and had no beasts of burden. They practiced a limited form of agriculture and led a semi-nomadic existence.

The Maine Indian was a member of the great Algonquian ethnic group, a people speaking a similar tongue, who inhabited North America east of the Mississippi from North Carolina to the regions of Hudson Bay. More specifically, the Maine Indian was of the Abnaki or Dawn People, so called because they inhabited the easternmost part or land of the rising sun. The Abnaki were further divided into tribes and sub-tribes, the principal divisions being the Sokoti who dwelt in the region of the Saco River southward, the Assagunticook who were found in the vicinity of the Androscoggin River, the Kaniba along the ranges of the Kennebec, and the Passamaquoddy in what is now Washington County. The Penobscot, one of the larger tribes, dwelt on the banks of the river which bears their name. To the north and east in what is now Canada were found the Malaceet and the Micmac.

As before stated, the Indians were semi-nomadic but usually had a winter dwelling place of a more or less permanent status. They were usually deep in the forest and on the bank of a main watercourse. It was their usual custom to migrate to the seashore in the early summer, there to gather the bounty of the sea. In the early autumn they returned to harvest their meager crops and sustain themselves by hunting during the winter that followed.

Thus, no doubt for centuries, the Indian maintained himself in this manner. His only enemies were the Mohawk, a tribal division of the Iroquois, and the climate. Without question the bitter and rigorous Maine winters took

their toll. According to our standards the Indian was certainly ill housed, poorly clothed and at times, no doubt, half starved. Infant mortality was in all probability very high, but the Maine Indian had yet to face the terror of the white man's diseases to which he had little or no immunity. These diseases, such as the measles, scarlet fever and smallpox, were later to decimate his numbers. Though there is no manner in which the early Indian population of the State can be determined, it is unlikely if it ever exceeded much more than ten thousand and this number rapidly dwindled with the coming of the white man.

Though settlements had been established by the English in the early 1600's and seasonal fishing stations maintained at an earlier date, the white population of Maine was not subject to rapid growth. The struggle for control of the North American continent had begun and the forces of England and France were eager to test each other. The Abnaki Indians had been friendly with the French from the beginning and further regarded the English as encroachers upon their domain. As a result they readily cast their lot with the French in their struggle with the English.

The various Indian wars that accompanied this major struggle left the District of Maine in a constant state of turmoil. Gradually the southernmost tribes were all but wiped out and their remnants fled either to Canada or to the remaining tribes. When the strife finally ended only two tribes continued to exist, the Penobscot and the Passamaquoddy.

The District of Maine had for many years been under the control of the Province of Massachusetts and with the independence of the original colonies the General Court in Boston continued its jurisdiction of the tribes and their relations with the people of the Commonwealth.

While documents labeled as treaties were numerous in the nearly two

centuries preceeding the establishment of the State of Maine, they were, for the most part, simply deeds or transfers of land to which the Indians had laid some claim.

In the year 1794, commissioners acting on behalf of the Commonwealth of Massachusetts entered into a treaty with the Passamaquoddy Tribe. This treaty set aside certain lands now known as Indian Township and Pleasant Point for the exclusive use of the tribe. The only consideration appearing was that of the promise that they would not molest their white neighbors.

In 1818, a treaty was negotiated with the Penobscot Tribe whereby not only certain lands and islands in the Penobscot River were set aside for tribal use but annual payments in kind were promised. In 1820, after Maine had become a state, this treaty was renegotiated but was in substantially the same form as the prior treaty with Massachusetts. Both of these treaties are still in existence, copies of which are available at the State Library. It is felt that they are too long to be contained in this report and would serve no useful purpose.

It becomes obvious that a great difference exists between these treaties. The treaty of 1794 between the Passamaquoddy Tribe and the Commonwealth granted the tribe only the right to certain lands and nothing else. The treaty with the Penobscot granted not only certain lands but also the guaranty of annual payments. For some reason the treaty with the Penobscot was renegotiated but apparently no move was ever made toward renegotiation with the Passamaquoddy. However, when Maine became a state it was agreed that all treaties made by Massachusetts with the Indians should be honored, thus there was actually no need of renegotiation of this treaty or land grant.

When the State of Maine came into being the Indians, who once numbered in the thousands, were numbered in the hundreds. They still clung to their old ways and customs. They were disdainful of industry and resisted all

efforts to transform them into agriculturists. They lived as always by hunting and fishing, but as their hunting grounds diminished the Indians were reduced to poverty and forced to seek more aid from the state which had become their self-appointed guardian.

As Maine grew in its white population its Indian inhabitants dwindled. Inter-marriage with whites appeared and in some cases the Indian began to lose his identity as such.

For a time following the establishment of the State of Maine as a separate political entity, negotiations with the tribes was entirely legislative and for the moment the Indians were left to themselves. As the years progressed the plight of the Indians became more apparent. Legislative matters also were becoming deep and complicated and the needs and wants of a growing white population came first. The problems of the Indians were shunted about by a succession of legislatures, finally ending up with the Department of Health and Welfare.

In both the 100th and 101st Legislatures bills were introduced which would have transferred the supervision and administration of Indian Affairs from the Department of Health and Welfare to the Governor and Council. In both sessions these bills were heard by the Committee on State Government. In the 100th the bill failed of passage and in the 101st it was referred to the study which is the basis of this report.

While these bills as introduced at both sessions had much to be said in their favor, there appeared to be a division among the Indians themselves. At the time the Penobscot Tribe was clearly divided into two camps and the Passamaquoddy appeared to have little if any interest. As a result of these hearings and the contradictions that appeared, the members of the legislature were hesitant at making changes without a clearer picture of the existing situation.

Pursuant to the order setting up the study committee, a meeting was held in Augusta and the Committee organized with Senator Clyde A. Hichborn of Piscataquis as chairman and Representative William E. Dennett of Kittery as secretary.

Meetings and interviews were had with various members of the Department of Health and Welfare. Meetings were also held at Indian Island with the Governor and Council of the Penobscot Tribe and at Peter Dana Point and at Pleasant Point with officials of the Passamaquoddy Tribe.

The meeting at Indian Island with the Penobscot again brought forth the suggestion that there is a division among the Indians living on that reservation. It would appear, however, that among a majority is a clear and concise opinion that the tribe would be in a better position if separated from the jurisdiction of the Department of Health and Welfare and placed under some other type of governmental agency. A feeling seemed to exist to the extent that there was a certain stigma attached in having their affairs administered by a welfare department and that the Indians would be better served in some other manner. Counter to this opinion was that of making no changes and continuing as present.

The meetings with the members of the Passamaquoddy Tribe at both Peter Dana Point and Pleasant Point were along similar lines with the exception of the Passamaquoddy finding more to complain about than did the Penobscot. This may possibly be due to the fact that economically the Penobscot Indians are in a far better position. Indian Island is relatively near to centers of industry and most Indians willing to work can find employment. The Passamaquoddy Indians are not so fortunate and few of them appear to have steady work. Contrary to some reports, it would appear that most of these Indians are willing to work if employment could be found. They reside in an area that presently offers little to any of its inhabitants.

COMMITTEE FINDINGS

It is the opinion of this Committee that the affairs of the Indian tribes within this State are not being handled in a manner that is conducive to the best interests of the Indian. In making this statement the Committee wishes to make clear that this implies no condemnation of the Department of Health and Welfare nor any of its employees who have been charged with the administration of Indian Affairs. It is our sincere and honest belief that they have discharged their duties according to statute and in the manner intended by the several legislatures.

We feel instead that any onus of blame falls rightly upon the many legislatures that failed to do anything other than to see that the Indian had shelter, was clothed and fed and that he kept his distance from the legislature itself. The State of Maine, for all purposes, is dealing with the Indian today in the same manner in which he dealt with him one hundred and forty-five years ago. One could not rightfully make any claim as to mistreatment of the Indian but he has been more or less ignored rather than mistreated. The Indian is by nature an independent person but he has in many instances become frustrated in his efforts to rise above the guardianship the state has imposed upon him.

There appears to be a feeling among the Indians of both tribes that all initiative has been taken from them. They feel that they, as Indians, should have a greater voice in their own affairs and perhaps ultimately a voice in the distribution of tribal monies. They feel that they are a mature people and the knowledge that they are dependent to a great extent upon the largess of a government made up of members of another race is not conducive to the enhancement of their dignity.

Among the younger Indians there is a definite desire to break with many

of the conditions of the past. Many desire an education and under some of the present conditions this appears to be difficult. Although the Committee did not delve too deeply into the educational facet of Indian life, one aspect of the system was glaring. The Committee found that the reservation schools alone among all public and parochial schools were not under the supervision of the Department of Education. It is felt that a recommendation to place these schools under the jurisdiction of this department would not only be timely but vital.

Under the laws of the State of Maine an Indian is one who possesses at least one-quarter Indian blood and without this requirement one cannot be a member of the tribe. Once the blood is diluted beyond that point, one is not eligible for membership in the tribe nor can he participate in tribal benefits. Inter-marriage with whites has been common but it is entirely doubtful if the tribes will cease to exist through this process. Most Indians take pride in their blood and heritage and desire to remain Indians.

Today discrimination is a popular subject and under these circumstances it is not strange that one hears charges of discrimination against the Indian. At the several hearings held on the reservations this subject was brought up by the Committee inasmuch as news media within the State were mentioning discrimination charges. Among the Penobscot there appeared to be no feeling that tribal members had been discriminated against and their relationship with the inhabitants of neighboring communities appeared to be most cordial.

At Peter Dana Point there was one charge of discrimination in neighboring Princeton but in general the relations between tribe and other inhabitants appeared to be good.

At Pleasant Point there was no mention of discrimination. In fact several members of the tribal council exhibited great pleasure because of the

fact that a young lady resident on the reservation was elected "Queen" of the Freshman Dance at Eastport High School.

It must be remembered that the Indian, like all human beings, is both good and bad. There are shiftless members of the tribes even as there are shiftless members of white communities. It would appear, however, that the Indian has been given a greater reason to be shiftless than his white counterpart. His treatment as a person under guardianship, a ward of the state, has not been particularly helpful to his self respect. Of course the Indian is free to leave the reservation and many do. Upon leaving the reservation some feel that they are losing their identity and are no longer part of their people. It would appear that most tribal members would like to advance in all the facets of living yet they wish to retain their identity as Indians. It is along these lines that it is felt they should have every assistance.

The complaints of members of both tribes were numerous but basically they were of an administrative nature and not particularly the concern of the Committee. It might be noted that a sizeable group of Penobscot, who now have a member of their own tribe as Indian Agent, suggested that they might do better if they had a white Indian Agent. On the other hand, the Passamaquoddy have had a white Indian Agent until his death and they now suggest that an Indian would be more beneficial to them.

Among the Passamaquoddy charges flew of the poor treatment by their agent. A check on the instances referred to brought to light that some of these occurrences were upward to thirty years ago and amounted more to clashes of personalities than valid grievances.

In conclusion, the Committee finds that it is the desire of the Maine Indian to improve his lot. He feels that he must be given the opportunity to have a voice in governing himself and his affairs. He is cognizant of the fact that this cannot come about overnight but by necessity must be a long range affair. He does not wish to lose his identity as an Indian but

believes with some assistance both he and his tribe can show progress. He believes that the system as it has existed over the past one hundred and forty-five years has not done as much to help as it could and that the white man has been pre-occupied in helping the white man and has not been particularly interested in the Indian. He further feels that the hour has come when he should make a stronger effort to help himself but also feels that he could better accomplish this if under the administration of some agency other than the Department of Health and Welfare.

COMMITTEE RECOMMENDATIONS

1. That the 102nd Legislature adopt such legislation that will establish and set up a Division of Indian Affairs to supervise and administer the affairs of both Indian Tribes.
2. That an Indian Agent be appointed by the Governor with the advice and consent of council to head the Division of Indian Affairs.
3. That the Department of Education take jurisdiction over all reservation schools in the same manner as all public and parochial schools.

INTERIM JOINT COMMITTEE ON
INDIAN AFFAIRS
101st LEGISLATURE

Senator Clyde A. Hichborn, Chairman
Senator Samuel W. Philbrick
Representative William E. Dennett
Representative Ernest D. Smith
Representative Warren H. Cookson

January 1965