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REPORT OF THE SUB-COMMITTEE ON INDIAN AFFAIRS TO THE TASK FORCE
ON HUMAN RIGHTS

We have endeavored to ascertain the areas where a denial or violation of Indian rights has been, is, or may be found.

We have imposed two limitations on our inquiry.

1. There should be no duplication of activities or projects already undertaken by other persons or groups, e. g. the Indian Advisory Educational Committee.

2. No consideration should be given to privileges - no matter how desirable. Our concern is with rights which may be demanded and secured by administrative or judicial action.

Our study has been within this frame of reference and this report is submitted with the unanimous desire that its recommendations be of service to the Governor in gaining the ends which he set forth in establishing the Task Force on Human Rights.

The rights of Indians are logically a part of human rights. But Indian rights are in fact of an almost entirely separate pattern - they are sui generis. Their affairs are a melange of treaties, land tenancy, trust funds, eleemosynary status, political subordination, and cultural disparity.

We, therefore, recommend that, as a part of a continuing Commission on Human Rights, there be included a semi-autonomous division on Indian Affairs. This division would have little concern with matters like open housing and other dominant matters of human rights. Its interests would be so radically different that to bundle them integrally with other rights might well mean their burial.

The importance of this distinction becomes apparent upon the following enumeration of the proposed and recommended functions and activities of the Indian Affairs division.

1. A study of the so-called Trust Fund to determine exactly its origin, its terms, the history of its administration, current practices, remedial possibilities, and a trust fund policy for the future.

2. Land title problems considering the difficulty of tracing individual titles among the Penobscots and the legal and tenure anomalies inherent in the tribal ownership of the Passamaquoddys.

3. Afford legal assistance in the determination of Indian rights enveloped in a smog of statutory pollution and administrative stagnation.

4. Determine the validity of the high flush boards in Penobscot river and the resultant flooding of islands and loss of riparian values.

5. Laws relating to Indians are a salmagundi of archaic, amended, and inapplicable statutes which have never been codified. The Indian division should furnish the legislature with a solid and

comprehensible basis for an effective and equitable Indian law in usable form.

6. The 89 page Proctor Report of 1942 asks many questions which have never been answered. They cover matters of civil status, financial and others. The Indian division should furnish, as far as possible, the answers to these questions.

Obviously other kindred and related matters not herein enumerated will fall within the purview of this division.

To make possible the accomplishment of these things we strongly recommend that the division be able to anticipate a life of five years, have the services of an independent lawyer working under the direction and answerable to the division, a sufficient appropriation for these purposes and earmarked for this division.

We expect that such an Indian division would be included in the Governor's request for legislation authorizing a continuing Task Force on Human Rights.

We request the Governor to include two other legislative proposals.

1. Make Indian constables subject to the personnel law and have them given a course of training by the State Police in police methods, practices, and powers.
2. Give each Indian tribe full representation in the legislature.

We make this recommendation recognizing the "one man one vote" rule, but invoking the exceptions set forth in the decisions of the Supreme Court.

Respectfully submitted,
The Sub-Committee on Indian Affairs

Dr. Jean Andrew
Hon. John M. Mitchell, Sr.
Hon. Joseph Mitchell
Edward Murrell
Hon. John Stevens
Gerald Talbot, and
Orville S. Poland, Chairman

* "So long as the divergencies...are based on legitimate considerations...some deviations...are permissible" Reynolds v. Sims 377 U. S. 533 @ 577.
And see WMAC v. Lomenzo 377 U. S. 713 decided the same day.
"Population factors must often to some degree be subordinated... A rational plan...will vary from state to state...in terms of a variety of social and economic interests...But so long as a state's apportionment plan reasonably achieves, in the light of the State's own characteristics, effective and balanced representation of all substantial interests, without sacrificing the principle of effective majority rule that plan cannot be considered irrational."

By the courtesy and cooperation of David Smith, chairman of the sub-committee on Community attitudes the following may be added to this report.

1. A reforestation on Indian lands of ash and birch and the encouragement of Indian crafts as an industry.

2. An Indian agent to live on each reservation to act as an ombudsman for the Indians in their dealings with the State. Such ombudsmen should be Indians.

3. Perpetuation of the Indian culture and heritage, including the Indian language in schools serving Indians.