

# MAINE STATE LEGISLATURE

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LEGISLATIVE RESEARCH COMMITTEE

July 27-29, 1942.

Testimony of NORMAN W. MacDONALD

Re: Indians.

State House, Augusta, July 28, 1942, 2:00 P.M.

NORMAN W. MacDONALD testified as follows:

MR. WEBBER: There was referred to this Committee Senate Paper 395, Legislative Document 694, "An Act relating to Loss of Membership in Indian Tribes by Marriage," and in considering what the Committee might do with this bill it seemed that it was too bad to spend very much time just on this one problem unless we might be considering at the same time some of the broader aspects of the whole Indian situation in Maine, so I suggest that we divide the discussion into two parts and that first we get your opinions as to the merits of the particular bill and practical problems that might be presented if this bill or some amended form of it should be adopted, and then there is the other part of the discussion, general discussion with you as to any larger problems of the Indian situation. Now I am having a record made not because I want to bother you men in any way, shape or manner but simply because in considering so many different problems none of us can retain this stuff in our minds, and if anything occurs to you during the course of the discussion that you prefer to discuss off the record, do not hesitate to say so, because we do not intend to confine you to the record at all.

Now, Mr. MacDonald, you and I have discussed this briefly, and I suggest that you tell the Committee what

you have learned about the background of this bill and what you think of it from a departmental point of view.

Mr. MACDONALD: The background in regard to this bill is an attempt backed up by the Indians in general to try to limit membership in the tribes.

At the time the bill was presented I know that no thought had been given to the fact that the Penobscot laws do provide for a limited ownership of property on the Penobscot reservation, that is Indians who are members of the Penobscot tribe are granted by statute the right to limited title to property on the Penobscot reservation with the provision that these properties cannot be sold to any person who is not a member of the tribe or be transferred in any way to a person who is not a member of the tribe.

When the bill came up for hearing that point was raised, and, while it was given considerable attention, no good solution could be found to that objection, and I am not sure we have any good solution of it yet. In looking through the statutes I did find that Section 256 of Chapter 1 of the Public Laws of 1933, which pertains to the Penobscot tribe, does provide:

"Membership deemed lost when tribe is abandoned. If any member of said tribe shall abandon it and join another tribe of Indians, he shall be deemed to have lost his membership in the Penobscot tribe, and shall not be entitled to any rentals or other money thereafter apportioned among the members of said tribe, nor to any other subsequent rights of membership."

I think that in considering this bill it was felt that was a precedent perhaps for taking away rights of membership from a person who abandoned the tribe, and an Indian woman in marrying a white man was in fact abandoning the tribe and therefore this was not out of line with what was provided in the statutes. On the other hand, it would affect probably certain women on the reservation who did have property and who shouldn't have to just give up their property because of marriage.

MR. WEBBER: As I understand it, the State retains the fee in the land and buildings and the Indians get by statute sort of a qualified ownership which gives them the right to sell and demand the purchase price and transfer, but at all times the underlying fee is in the State of Maine?

A That is right. The law says this property may be transferred during the pleasure of the Legislature or the title may be given during the pleasure of the Legislature, and it goes on further, as I said before, to limit transfer to other members of the tribe, so that while they have this title and it is registered, nevertheless they do not have full control of this property.

CHAIRMAN DOW: Where is it recorded?

A In the registry of deeds and with the Indian agent.

MR. PAYSON: Is it the retroactive features of this law that bother?

A No; I do not think it was the retroactive features

because we realize we could put in a provision so that it would not be retroactive; but there are certain members of reservations who inherit property and do not want to be deprived of their property right through marriage, which really boils down to a question in my mind of how far we are going in this question of Indians in limiting membership in the tribe. Are we going to try to limit membership in the tribe to persons who are actual Indians, or are we going to go ahead with our present laws which could result in the end in having no full-blooded Indians or half-blooded Indians even.

MR. PAYSON: May I go back to the fundamental proposition -- I may have missed it: What is the situation with relation to these tribes? Are they practically people on the State payroll, state-supported and state-sponsored?

A As far as I can find out there was a treaty made between Massachusetts and these two tribes, and when we became a state we made a treaty with the Indians.

MR. PAYSON: What did the treaty provide?

A The treaty provided they would have these reservations and we would pay them so many hogsheads of molasses, so many blankets -- in fact I have got the treaty right here.

MR. PAYSON: What does that translate into money today?

A Between two and three thousand dollars a year.

MR. PAYSON: I don't mean what the treaty provided for, but what is the actual situation?

A The actual situation is we are spending practically \$48,000 on our appropriation for the Penobscot tribe, \$48,000 for last year and this year.

MR. PAYSON: What do they do to support themselves?

A They do various things. Some of them work in the mill in Old Town. They do make some baskets. There has not been much market for Indian baskets during the past two years. They do some guiding, perhaps more so among the Passamaquoddys than the Penobscots. That is about all they do.

CHAIRMAN DOW: Are there any of them self-supporting?

A A few.

Q A hundred per cent? A A few.

MR. PAYSON: But actually they are an independent people?

A Yes; and we have encouraged them to be an independent people. When I say "we" I am not thinking of the department; I am thinking of the people of the State of Maine. I have seen that brought in many Indian Legislative Committees, where there has been the feeling that we have taken all the lands that belonged to the Indians in the State of Maine, that belonged to them at one time, and we owe the Indians a lot and are very much indebted to them and cannot do enough for them. I think you will find that is a reasonably prevalent opinion.

MR. BOUCHER: You hear we owe them a million dollars.

A That is true.

MR. PAYSON: Is there any basis for that?

A No more than the whole country belonged to the Indians at one time.

MR. PAYSON: But we have a treaty relationship with them which does not call for any such expenditure as that?

A Yes. On the other hand they are a group of people within the State of Maine, and under our pauper laws or whatever laws you want they are entitled to relief if they need it. We have set up reservations and specific laws governing the Indians, and have set up provisions in here they shall be provided for. You have got the treaty on the one hand and your laws on the other. Actually the treaty is not being carried out in fact at the present time because we are not giving them the things that the treaty called for. In place of that we are giving them this assistance, giving them all the things that the law has provided for since the treaty was made.

MR. PAYSON: Ten times as much?

A Ten times as much. That is perfectly true.

MR. PAYSON: And what this bill is aimed at is to prevent the extension of this, I will call it pauper support, to people who are not Indians at all?

A That is pretty much what it is. It is to prevent the spreading the the tribe by getting more white people into the tribe.

MR. DOW: Have you studied that treaty pretty carefully? I am not trying to put you on the spot, but are you pretty

familiar with it?

A Yes; I have a copy here.

MR. DOW: Is there any mention made in the treaty about land rights, loss of land as a basis? Do they agree to give us the rest of Maine if we will give them some reservations?

A There is nothing like that in there. I do not think they laid claim to the whole of Maine at that time.

MR. WEBBER: Well, as I recall it the bounds of land that were acquired were reasonably definitely described by the treaties, as distinctly as they described land in those days, and then the obligations were set forth, and we for the most part took over and assumed the original Massachusetts obligations?

A That is right. And then shortly after we became a State -- I think it was in 1833 -- we purchased from the Penobscot Tribe four townships. In other words, their original reservations consisted not only of islands in the Penobscot River but four townships of land. I do not know what price we paid for the land, but we purchased four townships in 1833 and made the provision that the interest from that money could be allocated by the Governor and Council for use of the Indians.

MR. DOW:

Did a deed actually pass signed by the people in charge at that time?

A I understand so from all the records I can find.

MR. WEBBER: Has the department any definite position, having in mind your departmental problems, for or against this bill?

A Well, we are in favor of the bill provided we can work out some scheme whereby we are not going to hurt the rights of the individuals who are involved. I do not think it is fair for us to just arbitrarily legislate a person out of their property without some compensation of some kind for it.

Q That is, insofar as the bill prevents the addition of further white blood into the picture, the department favors it?

A Yes.

Q And a substantial number of Indians also favor it?

A Yes.

Q Insofar as it might have the effect of destroying these property rights such as they are, the department is opposed to the bill unless some amendment or something covers that, and a certain number of Indians would also be opposed to it on that ground?

A That is right.

MR. DOW: Would the opposition by the Indians be practically removed if the property situation were cleared up?

A Yes.

MR. CUMMINGS: Yes; when the bill came out last winter the Penobscots were opposing it until they found out more about it.

MR. DOW: You think if that principal objection was cleared up it would clear up the major objection to the bill by the Indians?

MR. MacDONALD: That is right.

MR. WEBBER: Now Mr. MacDonald, since the conversation you and I had in which we analyzed this problem about this same way have you given any thought to any possible amendment that might clarify the situation?

A Yes; I have given considerable thought to it, but I cannot say I have arrived at any conclusion that did not seem to have holes in it. I wondered if it were not somewhat of a legal matter that would require an attorney to work on it: I mean we could tell that what we thought should be accomplished but I haven't found any fully satisfactory way to meet this particular problem.

MR. PAYSON: Can we find out what you think should be accomplished by the amendment?

A If we can work out some plan whereby they can either retain their property rights for a limited length of time, say ten years, in order to give them a chance to sell it to some other Indian or get rid of it in some way, or if we could work out some plan whereby the State could reimburse them on a satisfactory basis for the value of their property. One of the difficulties you run into there is that the property is not taxed, therefore it is not evaluated. There is no valuation of the property and no way to determine what the value of the property is.

MR. PAYSON: Suppose you retain their rights during the lifetime of persons now holding property there?

A That is a possibility: you could do it during their lifetime and take away their right to sell it except to a member of the tribe.

MR. PAYSON: And take away the right that anyone who inherits it or acquires it by will to do anything except keep it within the bounds of that amendment there?

A That is right. One difficulty you would run into there would be this: Supposing there was a woman who had a choice piece of property on the reservation, a nice house, and she marries a white man and moves off the reservation, and it may be that property will be quite essential for some purposes or it should be used for other members of the tribe, and she might not be willing, through prejudice or something else, to permit the property to be used, and it might even become a fire hazard; I don't know as we would have any control of the property as long as it was in her possession although she might be living in California.

MR. WEBBER: Mr. MacDonald, I think there was another thought you mentioned to me, as I recall it, and that is -- take the same instance that you have imagined, the ability of the Indians themselves to purchase is so limited that she might be absolutely unable to obtain a fair price for it from any other Indian who was qualified under the statute to buy it. In what thinking

I have done on it since you and I discussed it I have been unable to see any solution except to have the State immediately purchase the qualified property right for a fair price to be determined on by some mechanics, as, for example -- just reaching into the air now -- we will say the price to be determined by the Governor and Council upon recommendation of the Indian agent and the Tax Assessor. I am not recommending that, but some such mechanics might be applied and immediately take it over.

A That seems to be the only feasible way to handle it.

MR. PAYSON: What becomes of your situation then? You gradually pick up all the ownership of Indian property and still have to support them.

A Yes. I am not bringing this up as a means of solving the problem of supporting the Indians.

MR. PAYSON: I was just wondering. By this means you would repurchase, might conceivably repurchase every bit of land there, and still the ownership of land in the Indians is the basis on which the Legislature says we have to support them.

MR. BOUCHER: The answer to that is if you do that they are going off the reservation, and if they are off the reservation, who has~~got~~ to take care of them?

MR. McDONALD: Not out of the Indian fund anyway.

MR. PAYSON: I am a little bit afraid you might buy the land and pay them the money and still have to support them.

CHAIRMAN DOW: You might have to support them in Lewiston from some other fund, but it comes out of the taxpayers' pockets.

MR. MacDONALD: I do not think you can determine this around the basis of whether it is going to eliminate the support of the Indians or not. That is an entirely different problem and a much larger problem. I do not think it is a problem we are going to settle here today.

CHAIRMAN DOW: If the law read that anyone who acquires property after the effective date of the act forfeits the rights, would that help out, or is it too big? Supposing the law said that on or after the effective date of this act any member of the tribe who marries a white man forfeits their rights?

MR. MacDONALD: That is what the bill provides. You might say ---

CHAIRMAN DOW: A person who acquires property after the effective date of the act.

MR. MacDONALD: Most of this property is acquired by inheritance, not by purchase.

CHAIRMAN DOW: Regardless of how they acquire it, if they marry outside of the tribe.

MR. MacDONALD: They at least know it in advance.

MR. BOUCHER: There is another thing I want to point out: Mayo referred to them as paupers. They strenuously object to being called paupers: they are State wards. If you get up against them you will know that.

MR. PAYSON: I very carefully prefaced that by saying: "For the purposes of this committee."

MR. DOW: Would that solve the problem at all?

MR. MacDONALD: I think that would certainly help and eventually accomplish just what this bill would accomplish immediately, but I do not know that it would be acceptable to the Indians.

MR. HILDRETH: Just to defer a minute -- why is that limited to a female who marries out -- why not males and females?

MR. MacDONALD: It rather follows the settlement law: the wife takes the status of her husband. We have that throughout all our relief problems in the State of Maine.

MR. HILDRETH: Then by leaving that open it does not let the husband come in to get title to that property?

MR. MacDONALD: No; they cannot get title. It will accomplish the same thing in the end.

CHAIRMAN DOW: It would not be quite ~~so~~ so brutal, to use that word: they know then if they marry out of the tribe it is just too bad, and they have lost their property.

MR. BOUCHER: Or they could dispose of it before they marry.

CHAIRMAN DOW: It would be longer closing the gate, but it would shut it eventually.

MR. MacDONALD: I think it brings up the whole big problem of what we want to do to limit the membership in tribes of Indians. At the present time, so far as I can see, they may be a member of the tribe and have very little Indian blood in them, because the law says membership

may be acquired by birth and adoption into the tribe; that is limited: they cannot adopt anyone who has not at least one-quarter Indian blood; and the third is by marriage to a male member of said tribe provided they have any Indian blood in them themselves. It seems to me we might want to limit that third part: a woman could not become a member of the tribe by marriage unless she had one-quarter of Indian blood. And I think that first one could be limited, because "by birth" it means if a member of the tribe, man or woman, has children these children become members of the tribe. For instance, we had a case where a member of the tribe, a girl who is perhaps half Indian blood, and she has an illegitimate child by a white man, that child, so far as I know, is automatically a member of that tribe, and that child could grow up and have illegitimate children and they could be members of the tribe.

CHAIRMAN DOW: Which is the greater trend, white men marrying squaws or vice versa?

MR. CUMMINGS: White men marrying squaws. At Pleasant Point we have the case of a white man from Marblehead, Mass. who married an Indian girl, and they have now eleven children and she is thirty-six years old. There is quite a feeling among the Indians because this fellow is quite ugly and inclined to be bossy, and he lives on the reservation and the State supports his family.

MR. MacDONALD: Of course they are not very high class white

men that marry in there.

MR. PAYSON: Mr. MacDonald, may I go deeper than this -- talking in words of four syllables, taking it as a sociological proposition, how about segregating these people and keeping them intact as a separate people -- is that the policy of the State?

MR. MacDONALD: No; I think it is physically impossible to do it that way, because under the Federal laws those people are citizens of the United States: they are American citizens if they are born in this State; and while our Constitution does not seem to permit them to vote, so far as I can see there is nothing to prevent them from voting under the Federal law, because there is a Federal law that says any Indian is a citizen of the United States.

MR. PAYSON: What do we do in the way of training or education?

MR. MacDONALD: That is a relic that has come down: the Indians were early converted to Catholicism and they are practically all Catholics, and there are parochial schools on each of the reservations.

MR. PAYSON: Maintained by the church?

MR. MacDONALD: Maintained by the State. The State maintains the schools and pays the teachers and pays the priests. On the other hand, the Indians have the right to go to public schools outside the reservation if they want to, and they have the right to go to high schools outside the reservation, and we pay their tuition to high schools.

MR. PAYSON: Do they receive training such that they are able to go out and earn a living afterward?

MR. MacDONALD: I think so. They have the same opportunities for education that the others do. They go to the Eastport high school and the Old Town high school. We also give them free tuition at the University of Maine if they want to go up there; so the members of the Old Town tribe are in an ideal position to get a college education if they want it, because the board of trustees have always given free tuition to the Indians, and we have, if necessary, provided their carfare from Old Town to Orono.

MR. PAYSON: Isn't the thing that really holds this nucleus together this underlying security they have from the State?

MR. MacDONALD: That is true.

CHAIRMAN DOW: And the white blood is a little more anxious to obtain that living without working than the native is?

MR. MacDONALD: That is right. I think myself it is a serious problem, and a rather difficult problem too.

CHAIRMAN DOW: We might as well be honest about it. It aggravates the problem.

(Off record)

MR. MacDONALD: I think if we could only get some law to prohibit white men living on the reservation: if they married a squaw they have got to leave there.

MR. BOUCHER: If a white man has a squaw, get them off the reservation and keep them off the rest of their life, and the children can't go back.

MR. CUMMINGS: From now on. That would not bother those now there.

MR. PELLETIER: Is that problem alleviated any since this war boom started?

MR. MacDONALD: Yes; of course it is alleviated quite a bit.

MR. PELLETIER: But it exists during depression times?

MR. MacDONALD: During depression times.

MR. CUMMINGS: We have quite a few in the Todd-Bath shipyards on national defense. The only ones really on relief are the old relief cases.

CHAIRMAN DOW: What is the attitude of those in South Portland -- are they willing on their wages to support themselves?

MR. MacDONALD: I do not think the Indians are any worse than any other group of people you run into, but I think they are somewhat discriminated against because of the fact people think of them as wards of the State. I have never found any legal background for this or any reason why they are wards, but they are considered wards, and when there is a time of depression your local employers will say, "The State will take care of them; we will not employ them." They do not have the same advantages in competition for work the white man does.

CHAIRMAN DOW: Wasn't that conclusion reached probably by the moral consideration rather than by the legal situation: we kicked them into two little small places, and, after all, we should take care of them?

MR. MacDONALD: That is the reason behind it.

MR. WEBBER: But under the federal law they are now citizens?

MR. MacDONALD: They are now citizens.

MR. WEBBER: And they know that, but they are not insisting on their rights.

MR. MacDONALD: They never insisted on their rights because they know if they take up those rights they are very apt to lose the rights we give them under our state laws. If they insist on the right to vote and the responsibility of citizens, then we have got some good ground for saying there is no need of continuing the Indian tribes as such. I know that is the reason they have never pushed it.

MR. BOUCHER: The suggestion was made at one meeting we would make them full-fledged citizens of the State and that didn't appeal to them at all.

MR. MacDONALD: No; but I think probably it would be the best thing in the world for them.

MR. WEBBER: Wouldn't we be doing the Indians themselves a kindness if we destroyed the reservation system and spread them, offered opportunitis for education for those who could take it in such degree as they could, and attempt in a long-range program to rehabilitate them in diversified places, in business and so forth?

MR. MacDONALD: Yes; I think we would be doing them a favor. On the other hand, I can see many difficulties in trying to accomplish that. I do not think you can

arbitrarily uproot them from the reservations and place them throughout the State of Maine and have them satisfied or happy, and I am positive you would find all kinds of opposition to it.

CHAIRMAN DOW: Not only from the Indians.

MR. MacDONALD: Oh heavens, no.

MR. CUMMINGS: You see we have two reservations, the Passamaquoddy and Pleasant Point in the Passamaquoddy tribe, and there is forty-five miles distance between them. Princeton has 145 and we talked of having those at Princeton move down to Pleasant Point and settle. That is one reason they were separated, because they couldn't get along together, so when Massachusetts and Maine started, because the Indians couldn't get along together, they sent delegates down to Pleasant Point four months and allowed so many Indians to go and then come back and report where they wanted to settle. They found this big lake up in Princeton and one-third of the tribe left Pleasant Point. That solved that problem. I tried several years ago to get those at Princeton to go back to Pleasant Point, but some of the old-timers said, "That is where we do not want to go." They are the same tribe, but they could not get along.

CHAIRMAN DOW: Are there religions differences?

MR. CUMMINGS: Some religions differences.

MR. WEBBER: Is your religions problem with the Penobscots?

MR. CUMMINGS: Yes.

CHAIRMAN DOW: What is the trouble at the other place? What is the religions problem there?

MR. MacDONALD: Some of them are Protestants, and they have established a little Protestant church, and there are the usual fights.

MR. WEBBER: Isn't there more to it than that? The State supports Catholic institutions, church and school, and because the Protestant situation is a newer development the State is not supporting that and that is leading to jealousy as the Protestant group grows larger?

MR. MacDONALD: That is right. We do pay the tuition for the children to attend the Old Town public schools: that is we pay tuition for all Protestant children that want to attend grade schools in Old Town, so they do not have to go to parochial school. On the other hand, they have to cross the river and go to the Old Town schools.

CHAIRMAN DOW: That makes a little friction.

MR. MacDONALD: That is right.

MR. WEBBER: Is crossing of that river a perfectly safe proposition for these children?

MR. MacDONALD: I think so: there is a large boat and ferry that takes the children across.

MR. WEBBER: At all seasons of the year?

MR. MacDONALD: Except when the river is frozen, and then they walk over on the ice. The dangerous part perhaps is a few days in the spring and fall when the river is thawing or freezing.

MR. CUMMINGS: And we pay the transportation on the boat.

CHAIRMAN DOW: Are there enough Protestant children to have a school of their own?

MR. MacDONALD: No. The only solution might be to have public schools on the reservations. I don't imagine they would appreciate that, they have had the other system so long.

CHAIRMAN DOW: Probably the Catholic people couldn't see any reason for uprooting what is already established.

MR. BOUCHER: They would have to have two schools: that is the only way they would have any peace.

CHAIRMAN DOW: In ordinary times they haven't got anything to do but fight, have they?

MR. MacDONALD: I think probably the final solution of this would be a lot of concentrated thought that will result in some long-time plan that perhaps can be carried out. I do not think it is something you can arbitrarily do at one session of the Legislature, unless we can by law set up a plan that will take effect eventually.

CHAIRMAN DOW: We have allowed the situation to go on so long that we cannot shut the door with justice to them.

MR. PAYSON: What would your long-time plan envision?

MR. MacDONALD: I think you would have to set up some plan whereby children born after a certain date, for instance, would not become members of the tribe, and as people who now own property died off their property would revert to the State; and we might make some provision for

these Indian reservations to be included in adjacent towns and to become part of adjacent towns, or else we might divide up the reservations, make them part of adjacent towns, and give to each Indian a certain piece of property, give him title to it and give them the rights of citizenship, let them vote and do everything anybody else does, then he would have the right to sell the property to whoever he pleased. Probably that would be the easiest way to ever get the tribe broken up, because in many instances they would sell and white people would own the reservation and that would scatter the tribe. Whether that is fair or reasonable, I don't know.

MR. PELLETIER: In years to come, being spread over a wide area, they would finally become assimilated.

CHAIRMAN DOW: I do not object to going through with the treaty and paying my share of taxes, but I do not like this situation as it has developed.

MR. WEBBER: Mr. Cummings, or Mr. MacDonald, either one: Approximately how many Indians altogether on the two reservations?

MR. CUMMINGS: Approximately 1200, both tribes.

MR. WEBBER: What percentage would you estimate of real full-blooded Indians?

MR. CUMMINGS: It is pretty thin, pretty small.

MR. BOUCHER: Ten per cent?

MR. CUMMINGS: I do not think so.

MR. WEBBER: Less than a hundred?

MR. CUMMINGS: Yes.

CHAIRMAN DOW: Can I ask a question on that same line:

What is the comparative age of these full-bloods: are they young or medium or old age?

MR. CUMMINGS: Old age.

MR. PAYSON: What is the percentage of dependents?

MR. CUMMINGS: Well, I would say about fifty per cent of them.

MR. PAYSON: That is much higher than the percentage of dependents through the State as a whole.

MR. CUMMINGS: Amongst Indians of a mixed breed of course there is a lot of sickness that holds them back from doing steady work, T.B. and syphilis; that holds them back from doing work.

MR. WEBBER: Is there a large incidence of venereal disease?

MR. CUMMINGS: The doctors are cleaning it up pretty well. There has been: up to ten years ago there was a lot of it. Now we are just commencing to get into pretty good shape. Some of the hard cases of course we will never be able to cure.

CHAIRMAN DOW: Where are those handled -- right on the reservation by the local doctor?

MR. CUMMINGS: Yes; there is a doctor serving each tribe full-time.

MR. MacDONALD: He is not full-time for us, does not give his full time to the Indians, but we have him on contract

been the policy -- I don't know whether it is the policy, but they have always been given free medical care. One of the reasons for that was to try to keep them as healthy as possible; but they still retain that idea there is something they can fall back on if they want to come back to the reservation and be supported if necessary.

CHAIRMAN DOW: Wouldn't that have a tendency with you and me to destroy our initiative

MR. MACDONALD: That is what I say.

CHAIRMAN DOW: It is not peculiar to them.

MR. WEBBER: The WPA feel the world owes them a living and the Indians feel the State of Maine owes them a living.

MR. MACDONALD: Of course there is another solution of this whole problem, if it can be accomplished, and that is let the Federal government take over the Indians. They have all the Indians except a few tribes in the eastern United States.

MR. WEBBER: That was mentioned yesterday. Is there anything that can be done?

MR. MacDONALD: We have talked to the Bureau of Indian Affairs about it. Of course they are adverse to doing it because they say they haven't the money, but if Congress passed a bill I do not see why it couldn't be done.

MR. HILDRETH: I do not see how we can get it done under a New Deal administration unless we elect Brann.

MR. PAYSON: What is the basis for the myth we owe them millions of dollars? Is Massachusetts supposed to have gypped them?

MR. MacDONALD: There is no basis.

MR. BOUCHER: If you want to find out about that, see Miss Shea: she will tell you all about it.

CHAIRMAN DOW: As far as this federalization is concerned, I am a little skeptical about that. The experience has been as far as the Federal government is concerned that we will still pay through the nose in some form of taxes.

(Off record)

MR. BOUCHER: We are paying for tribes here and also for tribes out west.

CHAIRMAN DOW: We can do it cheaper than Washington can do it.

(Off record)

MR. MacDONALD: There might be one advantage in the federal government handling it in that they have Indian schools and facilities that encourage the Indians to be more self-supporting.

MR. HILDRETH: It seems to me the State ought to try to get the federal government to do it but set up a policy, if the federal government wont do it, that will eventually bust it up over a period of time so as not to be so cruel.

MR. MacDONALD: I think it would be more effective coming from the Legislature than from the department. We have discussed it with some members of Congress and the

Indian Affairs Bureau. You know you can talk about breaking up this tribe and all that, but nevertheless I think we have a real responsibility to these Indians to do something to try to get them absorbed if we are going to absorb them at all, and I do not think we are giving them the service today that is going to enable them to do that.

(Off record)

MR. PELLETIER: There has been a bureau in existence to take care of Indians for many years, and whether they have 1200 more wouldn't make but little difference.

CHAIRMAN DOW: I am not finding fault.

MR. PAYSON: Isn't it fundamentally sound that as a long-range program this thing ought to be broken up and have them put out among people and not segregated in a separate community?

MR. MacDONALD: I suppose you can call that a matter of opinion. You can find plenty of people in the State of Maine that will not agree with that at all.

MR. PAYSON: Why?

MR. MacDONALD: Because they feel we owe the Indians everything. You run into that. It is a sentimental feeling regarding the Indians. You will find it very prevalent -- that we have taken a lot away from the Indians and there is not too much we can do for them.

MR. PAYSON: Forgetting that and using a commonsense basis, they are not only entitled to a lot from us but entitled to self-support and an opportunity to earn their own living.

MR. MacDONALD: I agree with you. I think the Indians would be better off in the end if they could become citizens and become absorbed, the same as we have absorbed several other races that have come over here. I think they would be much better off as individuals.

CHAIRMAN DOW: To what extent is this problem prevalent in the west: so that they have some problem in regard to intermarriage?

MR. MacDONALD: Yes; they have some problem.

CHAIRMAN DOW: So they haven't solved that problem?

MR. MacDONALD: They have not.

CHAIRMAN DOW: Is that increasing in the same proportion?

MR. MacDONALD: Of course their tribes are much larger.

CHAIRMAN DOW: Does it increase in the same proportion?

MR. MacDONALD: I do not know about increase in population of tribes.

MR. PAYSON: Do you know what limitations they have put on?

MR. MacDONALD: They have changed them every so often: they are changing them all the time.

MR. PAYSON: But they do put limitations on?

MR. MacDONALD: But they get pressure and have them taken off.

CHAIRMAN DOW: Does it cost any more to support them there than if you scattered them over the State and they didn't improve themselves?

MR. MacDONALD: I don't imagine it would. If they were broken up as a tribe and became citizens they would probably feel their responsibilities more.

CHAIRMAN DOW: Do you feel that way?

MR. CUMMINGS: Here is the way I feel: While they are in a group on the reservation anyone can watch them and see if they are trying to get work, whereas if they are living in town they fall in with the distressed poor and may cost more than on the reservations. While they are on the reservation anyone who has any experience will know Soxabezis should be working, and the agent can go out and get a job for that fellow and go to him and say, "No more relief for you," and if he doesn't go to work he will get no more relief, whereas if they live in town it will take quite a while for the overseers to get acquainted with them.

CHAIRMAN DOW: You think if they were not stimulated it would cost more?

MR. CUMMINGS: I know up in Olamon there are three families who seem to be on relief quite a lot. I think like a lot of other people you will find a percentage who want to be on relief and another group who feel the responsibility put on citizens and do more to be selfsupporting.

CHAIRMAN DOW: If it didn't stimulate them, the exposure to white marriage would be greater?

MR. CUMMINGS: Absolutely. Perhaps intermarriage would be the one thing that would solve your problem.

CHAIRMAN DOW: In time they might develop a conscious feeling of self-support?

MR. CUMMINGS: Yes.

CHAIRMAN DOW: It tends to standardize them on the reservations, turn them all out in the same mould.

MR. MacDONALD: They establish a level and are apt to revert back to it.

(Off record)

MR. MacDONALD: I wonder if there would be any possibility of getting at this whole problem by providing some money to employ somebody to make a real study of the Indian situation from 1820 on, and, believe me, that is no easy problem. It would be a long-time study, but I think it would bring out a lot of very valuable information to use as a basis for determining what our future policy should be.

MR. PAYSON: Shouldn't that be a trained social welfare worker?

MR. MacDONALD: I don't know that it needs to be a social worker but it certainly needs to be a trained research worker.

MR. PAYSON: I have in mind the money involved in this thing immediately is a small item compared to the long-range problem of how these people should be handled. It would seem to me to be a social service proposition rather than an economic proposition.

MR. MacDONALD: I grant you the social service proposition enters in there. I did not know but a research person could dig out the information and show what the developments of these tribes have been and the development of our laws

pertaining to Indians and why they change.

CHAIRMAN DOW: You might want a social worker to help interpret those problems which the research worker would not be able to interpret.

MR. MacDONALD: I was thinking primarily of digging out the facts. Of course we still have with us up in Ferry a man who can be of help to us, Justin Gove, Indian Agent for the Passamaquoddy tribe for a good many years.

MR. LIBBY: As I understand it, there are quite a lot of able-bodied men in the two tribes who practically do nothing?

MR. MacDONALD: Not at the present time.

MR. LIBBY: There are not a lot of able-bodied men or men qualified to go out and work at the present time who are on these reservations?

MR. MacDONALD: That is right.

MR. LIBBY: Aren't there many of your better grade Indians who are getting out now and working?

MR. MacDONALD: That is right.

CHAIRMAN DOW: He made the statement before you came in that practically all support was for pauper support, old people, crippled people, during these abnormal times.

MR. LIBBY: And some degraded white men who would marry Indian women and live on the reservation.

MR. DOW: On the bounty of the State.

MR. MacDONALD: It is a real problem. That is the reason I have always felt we did not have enough information to work on. I started, as I believe I mentioned before,

when there was ERA or CWA money available for projects, and we did get a person started on making research on the Indians. It was a girl who had had library experience and who had been trained in research work. What she did was done very well, but she didn't get very far. She spent several months on it. My experience there makes me believe it would take considerable time to do a good job, but with the information we have got it might be very valuable to us in trying to plot our way for the future.  
(Off record)

MR. HILDRETH: I feel rather hard-boiled about it. I feel the problem is not to atone for injuries which we did to their forebears, most of which we cannot help anyway, and we have got the scrapings of the barrel pretty well adulterated. I think we should look at the situation as we find it, instead of spending a lot of time and money on research. I want to do my best by those people, but as far as the sentiment they are really Indians, as I am getting the picture there is very little Indian left, but mostly poor-blooded whites.

MR. MacDONALD: I don't know whether I can go with you all the way on that.

MR. BOUCHER: I will go all the way with him on white blood in there, but the real Indians I think a good deal the way Bob says.

(Off record)

MR. PAYSON: I don't care whether they are Indians or whites: we invited them in there under this cock-eyed segregation

we set up. This bill here tackles only one symptom of the proposition, and I wouldn't want to say yes or no on that bill until I knew how it fitted into the long-range plan that would work this thing out and solve this problem in the future on a sensible long-range proposition. I wouldn't have any opinion on this bill at the moment. It might not fit into the long-range plan. I think it should be directed by <sup>a</sup>social service man with a technical person working under his direction to get the facts he wants, so that when the thing is worked out we can say we have got a long-range program that we think will make them happy and useful citizens of the state instead of wards of the State of Maine, because we are not doing very well by them now: they are still paupers, whatever we call them if they are taking aid from the state, and they have no self-dependence or self-reliance or anything that makes for a happy life.

MR. BOUCHER: They are not taking aid from the State: the State owes them this money.

MR. WEBBER: Well, the State owes this money to a lot of non-existent Indians.

MR. PAYSON: What money?

MR. WEBBER: I don't see how the State owes a lot of money to a lot of people who aren't more white than Indian. I will go along with Horace on that.

MR. MacDONALD: I am basing it partly on the fact we have been over-protecting and even unwise in the handling

of Indian affairs from the beginning, and if we have made a mistake then I think we have some obligation to try to correct that and do it in some way that will not be detrimental to the Indians.

MR. HILDRETH: I think we all agree with that statement.

MR. MacDONALD: That is the point I was trying to bring out.

MR. WEBBER: On this question of research, I am again with Horace until convinced otherwise. What is a research going to prove except how you got into what we now acknowledge to be a bad condition. You can still appraise your present condition intelligently, and I do not see why it is more than a lot of ancient history.

MR. PAYSON: I can't appraise the present situation intelligently: it may be a lack of intellectual development; but I find in government more and more if I can get all kinds of facts, relevant facts, of what has happened, and have somebody who is capable to interpret those facts, I can get a lot farther on a future proposition than I can just by going ahead by main strength and saying, "This is what we need to do," because this problem, it seems to me, is a real problem: it is a miniature slave problem. You gave the slaves in the south emancipation, made them all free men, but you didn't solve anything so far as the economic problem was concerned. We have got a miniature slave problem here, and it seems to me we need to be careful in working it out, not by the Legislature but by people who know how to work people out of a bad proposition as a social proposition.

MR. WEBBER: More specifically, what do you want to know about the past?

MR. PAYSON: If I knew that, I would know how to answer the question myself. I would be a social worker.

MR. WEBBER: Are you, for example, going to take each family and say "Who was your father and mother and who was your grandfather and grandmother," and determine what percentage of Indian blood remains?

MR. PAYSON: It is the human proposition.

MR. WEBBER: I cannot get it into my head what you want to know about the past that would be helpful.

MR. MacDONALD: Wouldn't you like to know why we made the treaty with the Indians in the first place, and, after making the treaty, we have reached the point that we have today, why we have utterly ignored the treaty and set up a new group of laws to govern Indian affairs, and, since we did, what has been the effect?

CHAIRMAN DOW: And to what extent did the Indians acquiesce as we went along and how much was forced on them.

MR. PAYSON: And is this generation any better able to take care of themselves, and will they stick it out or fall down, all these different factors, what can be done with them, what are their capabilities and how should they be developed and educated and trained so that they can go out and be worthwhile citizens -- that is the stuff I am interested in as well as the sociological background

which develops into maudlin sympathy and makes sensible action impossible.

MR. HILDRETH: One other note of alarm from my point of view: I can see how a lot of this would be nice, but I think it is a question of how far would you go. I had an awful lot rather work rapidly enough so to be sure of getting something done if it was only sixty per cent right than to take so much time on research that all the people who started the research are out and you start over again, and with a report ten years from now you start where we might be starting today.

MR. PAYSON: You capitalize your annual appropriation for these people and see what you have got invested in them.

MR. MacDONALD: \$100,000, both tribes.

MR. PAYSON: Capitalize that and see whether it is worth ten or twelve thousand dollars. That is the outside figure for an investigation I can conceive of.

MR. BOUCHER: If you go back 122 years, it would amount to some money.

MR. PAYSON: If you are paying interest at the rate of \$100,000 a year on your problem, I don't know what that capitalizes at, but it is very well worth while spending a very few thousand to solve that problem and solve it right.

CHAIRMAN DOW: Fifty million dollars, isn't it, at 2 per cent?

MR. MacDONALD: I would agree with Horace to the extent you wouldn't want something so long drawn out you wouldn't get anywhere in ten years, but I don't think that is necessary. I would agree with Mayo I wouldn't want to go off on the 60 per cent basis.

MR. BOUCHER: I think that could be done between now and the first of the year when the new Legislature convenes, if you had the money.

MR. HILDRETH: You have got to get an appropriation from the Legislature.

MR. MacDONALD: I think you could do it between Legislatures.

MR. HILDRETH: That would be '45 before you would get the recommendation before the Legislature to start to answer your problem.

MR. PAYSON: Well, they have let the thing drag for 140 years, so I guess two or three more wont make much difference.

MR. WEBBER: My point is that on this as on other prblems there is the ever-present danger of what is for us an interesting discussion and a report that is perhaps semi-meaningless and nothing else following.

MR. MacDONALD: That is the danger you run into in anything.

MR. WEBBER: I am always concerned that in any topic we have up we will have a nice discussion about it -- period.

CHAIRMAN DOW: And make a report that doesn't mean anything.

MR. PAYSON: That brings us back to the point, Don, of whether or not we areg going to recognize there are

problems we can't settle in two weeks. There are problems we cannot settle in two weeks because of insufficient information, and we have got to recognize it and perhaps recommend a remedy to approach the problem, because our committee anyway cannot solve it.

MR. WEBBER: Let me see if I can state the skeleton of the Payson report: No. 1. We have no specific information as to the bill presented because it is so closely woven into a much larger problem. No. 2. We have no present information as to the answers to the entire Indian problem, but we recommend to the Legislature a substantial appropriation in line with the investment we have in the Indians and in line with what we are spending on them, to proceed over a two-year period in an effort to base upon the historical development of the Indian situation and the present current problem once it is analyzed an ultimate long-range plan.

MR. PAYSON: There might be one other thing come in there as a little face-saving proposition. If we can get enough facts from any source to destroy the myth the Indians own the State and we are paying them interest on that ownership, if we can get rid of that whole phase by reporting this whole thing as a deal between the Indians and the State of Maine and they have been doing pretty well -- maybe the facts will develop that -- we might be able to lay a little background for a long-range plan that wouldn't

have so much maudlin sympathy. When they have come in for Indian pay in the Legislature I have always voted against it.

MR. WEBBER: Mr. Cummings, let me ask you this specific question which may be entirely unfair: Supposing the Indians suddenly found developing with some momentum what appeared to be a long-range plan which would destroy the reservation and the nation as such, would they, in your opinion, go so far as to resort to litigation against the State of Maine in some form or other, attempt to?

MR. CUMMINGS: I think there are quite a few lawyers interested in the Indians and when the Indians have trouble if enough of them go to this lawyer they would put up quite a battle, I should say.

MR. MacDONALD: You would find a certain few who would definitely try to make trouble. Gene can tell you who they are.

MR. CUMMINGS: More in the Penobscot tribe you will find the troublemakers. I have some in the Penobscots, but they are not bad in the Passamaquoddys. In the Penobscot tribe you have a few that even if you give them all the money in the State treasury they will come back and want a pair of shoes.

MR. MacDONALD: After all, it would come down to education and a selling program. After we start up the long-range program it seems to me we would have to sell the idea to the Indians: it is for their benefit and they are not losing by it. I think that is the kind of program we want. We

want a program that is going to help them assume their place in this country with the rest of us and do it on a satisfactory basis.

MR. WEBBER: Do you think though that your ideas of what was to their advantage would ever conceivably coincide with theirs?

MR. MacDONALD: I think it is reasonable to assume it might.

MR. PAYSON: Your old people you have got there now, you can't change the situation: you have got to start in school.

MR. MacDONALD: That is what we have got to do, I think: any long-range plan has got to be based on the present young generation, on the children. We cannot even change our old people in the white race: some of them will stick in the mose God-awful places.

MR. LIBBY: You could start with an educational plan in your schools and on the reservations and see to it that the Indian children who were growing up were taught to believe they should go out and assume their proper place in the State.

MR. MacDONALD: I shouldn't be surprised if we got the support of the Catholic church in doing it.

MR. BOUCHER: I think you would in anything that would better the situation.

MR. PAYSON: If you restrict their marriage laws you can force them out a lot of ways: you can force them out by their own choice.

CHAIRMAN DOW: A person will lose their property if they marry outside.

MR. MacDONALD: You might not have to wait for anything to do that.

MR. BOUCHER: I think Bob's approach to the situation is best, because if we draw up anything at all that would smell as if we were trying to dissolve the tribes we are going to bump up against a stone wall.

MR. MacDONALD: I think we realize that they have a definite security.

MR. BOUCHER: They certainly know what they get and they know what their rights are.

MR. WEBBER: Just like a State pauper does.

MR. PAYSON: Perhaps we had better find out what their rights are.

MR. BOUCHER: That is why your investigation is a good idea, to find out what are their rights.

MR. DOW: If any.

MR. BOUCHER: They got one by being the first settlers.

MR. WEBBER: Well, as I understand it, roughly, they gave up certain land but retained certain timber rights and fishing rights and so forth, and for that there was a consideration. The type of consideration is now outmoded and out of date and it would not do them any good if they had it, and instead of that they are getting an appropriation which is way in excess of the fair value of that stipulated consideration that they would have gotten under the treaty. Now they have lost their

fishing rights and timber rights through acts of the State of Maine.

CHAIRMAN DOW: They have lost their fishing rights.

MR. CUMMINGS: They can have free hunting and fishing now.

MR. MacDONALD: They are subject to our hunting and fishing laws: they have to have a license but they don't pay for it.

MR. WEBBER: Weren't they supposed in the first place to have exclusive fishing rights?

MR. MacDONALD: I don't know: I have heard they were, but I have never seen the law.

MR. BOUCHER: One of the cries from the Indians has been, "You have taken away all our rights: we used to be able to fish and hunt where we wanted to."

MR. LIBBY: They will tell you they can cut down an ash tree anywhere they find it to make baskets.

MR. MacDONALD: That is wrong: the Attorney General says it is wrong. There are some things research would bring out.

MR. WEBBER: The thing to do would be to appraise the thing to see whether the excess they get by way of appropriation or have gotten in the past over the equivalent of what the treaty gave them is worth as much or more than the timber rights or exclusive fishing rights, if there are any, that have apparently been taken away from them; then you would know how nearly you have come in the past to paying them for what they have lost. I

have grave doubts in my own mind whether they could ever recover more than one dollar if they could ever get into litigation. I think the State of Maine could come pretty close to showing payment for what they have bought.

MR. BOUCHER: Norman, did you ever look up the treaty between England and the United States when the northern boundary of this State was established? I think you will find an appendix in there concerning the Indians.

MR. DOW: That is the Webster-Ashburton treaty.

MR. BOUCHER: Charlie Fogg told me there was an appendix in there referring to the Indians. I think that is what they are basing their claim on mostly.

MR. MacDONALD: I would like to look that up.

MR. PAYSON: Third party beneficiary.

MR. WEBBER: The State of Maine would not be a party to that treaty.

MR. MacDONALD: I suppose we would be subject to any treaty the Federal government made.

MR. WEBBER: But the State as a sovereignty could not be charged with violation of a treaty of the United States government: the United States government would be the chargeable party.

MR. BOUCHER: I think that was 1812, before the State existed: that was the war of 1812 with England, and I think you will find that treaty was before the State existed.

Mr. MacDONALD: Anyway, regardless of that, no state could make any law that was going to conflict with a United States treaty with another nation, could it?

MR. PAYSON: No, it couldn't: a treaty is the supreme law of the land.

CHAIRMAN DOW: What is the custom of the Supreme Court respecting treaties -- aren't they pretty well upheld?

MR. PAYSON: A treaty is the supreme law of the land as I understand it and no State or individual can violate it, but the treaty may be merely an obligation of the United States today. We have a legend around Portland that when Portland annexed Deering there was an agreement that they would plow all the sidewalks to homes in Deering, and I have got a standing offer of ten dollars to anyone that will show it to me. I hear that every winter about fifty times. I tell every one of them: "Go to the City Clerk's office and go through the records and show me that agreement and I will pay you ten dollars, because I have never been able to find it.

CHAIRMAN DOW: The situation has developed over a period of years and we have been partly responsible for it in this particular situation, and I do not think we can be too brutal in rectifying our own mistakes at somebody else's expense.

MR. PAYSON: It would not be profitable even if we could. If you shove these people out, as Mr. Cummings said, probably it

would cost you more to put them somewhere else, because you would not have centralized control.

CHAIRMAN DOW: Another thing: What particular right would they have to say to me if I was on an Indian reservation, "We are going to put you in Madison and your sister we will put down in Galais," and to my father and mother, "We will put you in Fort Kent."

MR. MacDONALD: I do not think you can solve it that way. I think the way to do it would be by making the reservation part of the adjoining town and divide it up amongst the Indians.

MR. PAYSON: You have got to persuade them out.

MR. WEBBER: The towns would be awful mad to have to take that territory over, wouldn't they?

MR. BOUCHER: They would have to install public services which they haven't got.

MR. MacDONALD: They have got as many public services on these reservations as in any towns.

(Off record)

MR. MacDONALD: They have water and sewerage and lights on the island. I will admit there would be all kinds of difficulties in trying to do this.

MR. BOUCHER: I know if I lived in Old Town I wouldn't want them to be part of Old Town.

MR. PAYSON: It is awful hard to solve the problem when you don't even know what the problem is.

MR. WEBBER: Is there anything else we need to discuss?

MR. MacDONALD: I certainly hopes it results in something.

MR. WEBBER: The only thing I am going to say: they have got me more confused, if possible, because I didn't think it was much of a problem.

MR. BOUCHER: That is the nucleus of the whole thing: if we can stop the white man problem amongst the Indians.

MR. MacDONALD: I don't know why you couldn't follow Mr. Dow's suggestion as a starter.

CHAIRMAN DOW: Gene, does the church take any attitude regarding intermarriage?

MR. BOUCHER: They don't like it. I can say from my experience in the Catholic church, they do not like intermarriages of any kind.

MR. WEBBER: Then you gentlemen would hate to see this committee report they have no opinion on the proposed bill because it is part of a larger problem: you had rather see something for or against, with an amendment or something?

MR. MacDONALD: I would feel that was one of the basic problems. There are two problems here. We can plan on a long-time program which might result in the disintegration of the Indian tribes as such, their absorption in this part of the state, and we have perhaps an immediate problem to try and prevent these tribes from getting any larger than they are getting through intermarriage with white people. We might take immediate steps to try and control that in some way and yet work on this larger problem. Of course time may eventually help this

problem because it will result in there being no Indians as such in Maine, but unless you are going to make a long-range plan you are still going to have a reservation of white men called Indians.

(Off record)

MR. WEBBER: I think in every discussion we have had before I have ended up with a decided opinion, right or wrong, but all I feel now is a state of utter confusion.

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