

MAINE STATE LEGISLATURE

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Preliminary Findings and
Recommendations:

FEDERAL AND STATE SERVICES AND THE MAINE INDIAN

An Interim Report of the
Maine State Advisory Committee to
the U.S. Commission on Civil Rights

December 1973



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This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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"I'm tired of fighting.....

That's been a fight for twenty years.....

It's been a long fight and I'm tired"

a statement by the Commissioner of
Indian Affairs, State of Maine, before
the Maine Advisory Committee to the
U. S. Commission on Civil Rights,
February 7, 1973

PRELIMINARY FINDINGS AND RECOMMENDATIONS

Introduction

On February 7 and 8, 1973, the Maine Advisory Committee to the United States Commission on Civil Rights met in open session in the Federal Building in Bangor, Maine, to receive information from private citizens and public officials on Federal and State services to Maine Indians.

Approximately 70 persons appeared before the Committee in 22 hours of hearings. The Committee heard many oral statements and received numerous exhibits which it continues to analyse and assess. However, in view of the urgency of the situation confronting the nearly 3,000 Indians in Maine, the Committee decided that the preliminary findings of this report should be submitted to the U. S. Commission on Civil Rights and made public. At a later date a full, formal report will be submitted to the Commission and to the public.

Throughout this report the term "Maine Indians" refers to four tribes--Maliseet, Micmac, Passamaquoddy and Penobscot--unless another tribe is specifically named.

FINDINGS

The Maine Advisory Committee to the United States Commission on Civil Rights finds:

1. The Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS), two important Federal agencies which provide services to many American Indians, do not provide such services to Maine Indians. The denial of services by the BIA, an agency within the Department of the Interior, is based on a restrictive interpretation by the Department of the Snyder Act (42 Stat. 208, 24 U.S.C.A. § 13). This 1921 law authorizes government appropriations for a broad range of services for the "benefit, care and assistance" of Indians "throughout the United States" but is interpreted to exclude Maine and most Eastern Indians.^{1/} The denial of services by the IHS of the Department of Health, Education and Welfare (HEW), according to HEW representatives who appeared before the Committee, appears to be based primarily on economic consideration--program funds are too limited to provide health services to Maine and Eastern Indians. Secondly, the IHS effectively follows the administrative decision of the BIA to expend funds only for Indians who meet BIA's definition

^{1/} The Passamaquoddy Tribe and the Penobscot Nation have litigation filed in Federal court challenging the Department of the Interior's similarly restrictive interpretation of the Trade and Intercourse Act of 1790 (4 Stat. 730, R. S. § 2116) affecting the Indian lands in Maine.

of eligibility under the Snyder Act. This IHS policy appears particularly harmful in Maine where the health needs of Indians, on and off reservations, are acute. Maine's Regional Medical Program in a recent study stated:

the general health status of the Indians is far below that of the U. S. general population. They have high infant mortality, low life expectancy, high morbidity and numerous infectious diseases due to impoverished physical and sanitary conditions.

2. The provision of services to Maine Indians by the BIA and the IHS would drastically improve services to Maine Indians, and result in a better balance in Federal-State responsibility for meeting the needs of Indians. The National Council on Indian Opportunity, a Federal coordinating body headed by the Vice President, provided the Committee with data which show that two states with Indian populations similar to Maine's are each currently receiving an annual appropriation of approximately \$4.5 million from BIA and \$.5 million from IHS. In lieu of this potential resource of \$5 million in Federal revenues, the State of Maine now asks its taxpayers to provide approximately \$1 million in yearly appropriations for Indians.
3. The announced elimination, reduction or transfer of certain Federal programs and services may seriously threaten the health and welfare of Maine Indians. Although the precise details of the announced reductions are not available at this time, statements by public officials and private citizens indicate that a

severe crisis may be in the offing for Maine Indians. Programs which currently serve Maine Indians may be jeopardized by transfers from one Federal agency to another, particularly if the receiving agency is the BIA and if the funds are administered under the BIA's current restrictive interpretation of the Snyder Act. For example, programs administered by the Economic Development Administration (EDA) of the Department of Commerce have funded water and sewer projects on Maine Indian reservations. These programs are to be transferred to the Bureau of Indian Affairs. In turn, housing projects on Indian reservations in Maine will be stymied if EDA (or BIA) funds are not available to Maine Indians for water and sewer projects. While the Committee was told that existing projects would not be impaired, no confirmation of this has been obtained from BIA, and future projects remain in doubt.

4. The inadequate budget of the Maine Department of Indian Affairs (DIA), and the restriction of the Department's services to on-reservation Indians seriously limits the Department's ability to meet the needs of all Maine Indians. Present legislation authorizes the DIA to serve the health and welfare of reservation Indians only. Yet, approximately half of Maine's nearly 3,000 Indians live off-reservation. In many instances, off-reservation Indians live in poverty, not only below most white living standards in the State, but even below that of reservation Indians. Furthermore, with the backlog of problems confronting the DIA, and with

the prospect of the possible loss of Federal funds in some program areas, the recommended increase in the DIA's budget was only \$12,000--a less than 3 percent increase over the current fiscal year budget. This augmented budget is insufficient to meet the needs of reservation Indians, and does not provide any funds to meet the pressing needs of off-reservation Indians. The present restriction of DIA's ability to serve non-reservation Indians leaves a significant portion of Maine's Native Americans without the admittedly meagre State resources which are available to reservation Indians.

5. In too many instances, Maine Indians have not shared in the development, management and implementation of programs ostensibly designed for Indians. Non-Indians have written proposals for programs to serve Indians, in whole or in part, without meaningful Indian participation. Programs for Indians have been funded which do not serve Indians in a substantial manner. Programs for Indians have been operated with limited or no Indian staff. Testimony at the Committee's hearings indicated that, in addition to the above, Indians rarely have been represented on citizen boards and committees which participate in policy decisions on Federal programs which relate to Indians.
6. Indians have had almost no success in obtaining jobs in State agencies. The Governor's Executive Order No. 11 and the newly enacted Federal Equal Employment Opportunity Act of 1972 have

had little beneficial affect on Indians. Testimony at the Committee's hearing indicated that Indians were seldom employed in State jobs even in areas where they make up a significant percentage of the population; nor were they represented in those occupations which require only minimal qualifications. With the possible exception of the Department of Mental Health and Correction, Indians make up less than 1 percent of State employment. The Maine State Personnel Board has not developed affirmative measures to recruit and hire Indians, and thereby has contributed to the critical employment problems facing Indians.

RECOMMENDATIONS

The Maine Advisory Committee to the U. S. Commission on Civil Rights, after preliminary assessment of the data collected at open sessions on February 7 and 8, submits the following initial recommendations:

1. The Maine Committee to the U. S. Commission on Civil Rights, with representatives of the State of Maine including the U. S. Senators and U. S. Representatives, should hold discussions at the highest possible level with representatives of the Executive Office of the President, the Bureau of Indian Affairs, the Chairman of the Appropriations Committee of the House of Representatives, and the Indian desks of appropriate Federal departments and agencies concerning restrictions which prohibit Maine Indians from taking advantage of and participating in many Federal programs.
2. As soon as details concerning the reduction of Federal programs and services become available, the Governor should convene a meeting of State officials, Indian leaders and members of Congress to discuss means by which essential services and programs may continue.
3. In view of the critical problems facing on and off-reservation Indians, and in view of the announced reduction in Federal services, the State Legislature should significantly increase the budget of the Maine Department of Indian Affairs. In terms of human need, there is no basis for the distinction between reservation and

non-reservation Indians. The Department of Indian Affairs should be authorized and charged with serving all Indians in Maine. The Department should be provided with adequate funds to carry out this additional responsibility.

4. Federal, State and private agencies and organizations should take steps to insure that no proposal is written, no program developed and no operation carried out which concerns Indians without early, effective and meaningful participation of Indians.
5. The Governor should direct the Maine Commission on Human Rights to conduct a full review of the effectiveness of Executive Order No. 11 and the Equal Employment Opportunity Act of 1972, and to recommend means by which the implementation of these measures may be strengthened. The Commission on Human Rights should be provided with an adequate budget and staff to carry out this function.

These preliminary findings and recommendations are submitted at this time, before a full report is completed, because the Committee feels a sense of urgency in relation to the problems confronting the Indians of this State. In its later report additional recommendations concerning each of the subjects considered at its hearings--education, health, welfare, housing, community development, law enforcement and Federal and State recognition--will be presented.

The Maine Advisory Committee is one of fifty-one such bodies in the country which serves in an advisory capacity to the U. S. Commission on Civil Rights. The Commission on Civil Rights is an independent, bipartisan, Federal agency which was created by the Congress under the Civil Rights Act of 1957.

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