

DONNA LORING

Blame tribal-state breakdown on commission leaders

Several recent articles have suggested the Legislature's Judiciary Committee is to blame for the breakdown in tribal-state relations. The breakdown has been blamed on the committee's reduction in funding for the Maine Indian Tribal-State Commission and the failure to support LD 2221, a tribal work study group bill.

I have been a member of the Judiciary Committee for almost nine years. It is my feeling that the breakdown was fueled to a large extent by the aggressive and overbearing manner in which MITSC leadership has operated. It has served to alienate the Judiciary Committee, tribal chiefs, legislative leadership and commissioners.

MITSC came before the committee with a request to increase its budget at a time when all other departments were being asked to cut programs and services during the first round of cuts to address the first \$99 million budget shortfall. The most glaring item in the proposed budget was a line item that would pay the MITSC executive director \$91,786 for FY08 plus \$2,500 for travel.

MITSC justified its request by saying it had expanded its duties. The committee felt that this expansion came at a bad time for economic reasons and that MITSC was taking on duties over and above its mission. The

committee refused to grant the requested increase.

MITSC went to the governor who agreed to give the requested increase of \$38,000. MITSC's end run around the Judiciary Committee's decision was a breach of legislative process. That, in and of itself, would be reason to kill a bill. Still, the increase of \$38,000 then showed up in their budget during the second round of cuts when funding was not just being cut, but programs and services were being totally eliminated.

The Judiciary Committee recommended that this increase be taken away as we felt the funding could do some good in services or programs in dire need. The excessive salary was just too much for us to ignore.

The Appropriations Committee approved the cut. MITSC then went to the media and through outside pressure got its funding restored. Its present budget for FY08 is now \$110,227. That does not count the tribes' potential contributions of \$11,500 each.

A second issue is failure of the Tribal State Work Group bill, LD 2221, that sought to boost the tribes' authority. I did not participate in the Tribal State Work Group for two reasons. First, I was once told by an assistant attorney general that the state got such a good deal out of the Settlement Act that

they would never want to change it. I felt this work group was an effort in futility and a waste of tribal resources and time.

Second, I felt that even if everyone including the Attorney General's Office agreed on specific changes, the next step was not immediate legislation but a process of educating the remaining legislators in the House and the Senate. Changes in the Land Claims Settlement Act will not take place without extensive education on both sides, legal experts who have enough time to hammer these issues out, and an attorney general and chief executive who support the changes and will advocate for them.

Finally, a bill to add land in Argyle to Penobscot Nation reservation land was also defeated. The bill was brought up in the last week of session and landed in the middle of heated debates and hard feelings over LD 2221.

The Penobscot Nation Housing Authority had requested the bill so that it could build 50 much-needed housing units on reservation land. The housing director had all the contracts approved and was told by MITSC the best thing to do was to put in a bill to change the status of the land to reservation land. The governor's office agreed to put in a bill to accomplish this at the last minute.

This bill came before the committee when tempers were high and distrust was rampant.

I knew, given the failing relations on both sides, that this bill had little to no chance of passing. The committee first voted to pass this bill, but members then sought to reverse the vote after a rumor surfaced that the tribe was going to use this land for their slot machines. This was a ridiculous and incredulous rumor but nevertheless committee members and other legislators believed it.

I suggested instead that the Land Use Regulation Commission be directed to work with the tribe on housing with neither asserting jurisdiction, an approach that was adopted.

It is true that tribal legislation suffered in this session. If the Tribal-State Working Group process were handled in a slower and wiser manner, we would have had a more productive session. MITSC leadership has been involved in all of the above and has made the legislative atmosphere hostile. The tribes and the state need to clarify the duties and the mission of MITSC or they need to totally restructure the organization.

Donna Loring of Bradley is the Penobscot Nation representative to the Maine House of Representatives.

KF LD2221 "Our tribe made decisions to move forward on all the bills we presented and it is our job to fight for those no matter what was done or who did it.."

I don't think the tribe made the decision to move forward on this bill.

I remember this being discussed in general meeting and the point was brought up that this legislation was never approved to go forward by council or by a public hearing. I also remember an e-mail I sent to you stating that this needs council approval and you said that Jim had explained everything to council and it was okay. I must make it clear that this LD was not one that I sponsored. It was a product of this Tribal State Work Group, staffed by MISTC. The Co-Chairs of this group were Senator Elizabeth Mitchell and Representative Deborah Simpson. Representative Simpson submitted the legislation for the work group.) Senator Mitchell stated from the beginning that she wanted the tribes to take the lead and from that time on MITSC set the agenda and the meeting dates. Strong legislative leadership of this work group was truly key in strategic planning and setting a goal of getting it's legislation through the system. Once the legislative leadership failed to lead whatever legislation was produced was doomed to failure.

KF "It was the committee who marginalized our tribes and its leadership, I was there."

I was there too, it was not the entire committee who marginalized our tribes and its leadership. The Chair of the committee, Senator Barry Hobbins was the lead source of the problems. He has some history with him as he was in the House of Representatives during the Land Claims Settlement Act. He was not open to many of the changes because of that history. He was short tempered and disrespectful. He does owe the Chiefs and the tribal leaders and apology.

It is my feeling that as sovereigns we should not send our Chiefs to these hearings. Our legal counsels and our staffs should attend. State Governors or take it a step further and say that Presidents do not participate in or attend committee hearings. We need to develop protocols and learn to act sovereign.

KF "... The one Statement that is really concerning is the argyle piece, this legislation was again supported by tribal leadership and we wanted it done, but to even suggest that LURC work with the tribes is not consistent with our firm belief that lurc has no authority over tribal lands period."

Again, I don't know if the council approved this or if it was a process that MITSC leadership suggested. The timing of its arrival in committee couldn't have been worse and I stated that to you but you insisted that this needed to be done and that the Governor had put in the bill to allow us to go forward. Any time the Governor does something for us it makes me suspicious although I agreed to sponsor the bill I did feeling like I was being set up because this was a lose lose scenario. This bill was not going to pass given the hard feelings that the work group bill was causing. I went to the Governor's Chief legal aide and asked him if the Governors office was going to advocate for this bill in front of the Committee. He said "No, he has given you the vehicle and its up to you to get

it passed." I knew we were in trouble then. The only solution I could come up with to help the housing authority get the construction moving was to suggest to the committee that LURC be told to work with the tribe putting the question of jurisdiction aside. We have worked cooperatively in this manner in the past.

MY THOUGHTS ON MITSC

This organization was formed by the SA. Its purpose is to advise on Settlement issues and make some regulatory decisions. MITSC has never really understood what its mission is and from time to time it discusses this and decides on what to do. It has always been an entity of extremes either too weak or too strong. The leadership of Paul Bisulca and JDK has created an organization that is too strong and uncontrollable. It has also created a hostile environment for the tribes in the legislature. Their aggressive ways does not make friends even though they think they have friends like the governor. The Governor has said in private conversations with various legislators that MITSC has become a nuisance. The Deputy Commissioner of education feels the same way. Paul told her in a meeting of VIP educators like the Deans of Umaine and USM and Native Studies people that they meaning JDK and Paul and James Sappier represent the Chiefs. This of course is not true and I told Chief Francis about this and he immediately told Paul to stop saying that. Paul and JDK used Brenda Fields and the Penobscot Nation to put in a grant for them from ANA and when they could not provide the programming for the money it then was given to the University of Maine to administer instead of the Penobscot Cultural Center which has been left out of this process. It seems Paul demanded the Cultural Center send him their kit, which they have developed for curriculum needs and he thought he was going to evaluate it. Maria refused and has since been left out of the loop. I know how that feels as I am left out of the loop on every turn. MITSC refused to allow the Tribal Representatives namely myself and Representative Donald Soctomah, into the meeting of the governor and chiefs. MITSC sponsored the meeting that took place at the Veazie Salmon club. Paul also has gone to the governor to complain about me stating that I was poisoning the judiciary committee against him and JDK. The governor called in the committee chairs to discuss this and the chairs asked Paul if he was elected to represent the tribe. He said no. Senator Hobbins then said well in that case "We will listen to the elected representative. He and JDK have gone to leadership and the legislative council to change the process of the path of legislation once it gets signed into law. It has always gone through the Clerk of the House because that is where the Tribal Reps are seated. Paul and JDK were allowed to interfere with this process and now the Senate has the notification responsibility. This makes no common sense whatsoever as the Reps have no power or control in the Senate. Why they were allowed to do such a thing is beyond reason. The legislature would never allow an outside organization to dictate legislative procedure and this occurred without the tribal reps input or knowledge! It is just plain wrong and we will address this in the near future. These two have taken committee judiciary members aside during committee debate on LD2221 and the Argyle bill and just when we thought we would compromise Senator Hastings or Hobbins would come to me and say no deal because Paul or JDK has explained things differently then they were led to believe by me or by the Housing director. The only time we got anywhere was when these two were gone and that was with the Houlton Band issues. They were there interfering all week but finally one night they left and we were able to come to an agreement. The agreement was for naught because the tribes voted against it anyway. The fact that the Houlton Band was negotiating with towns was a deal breaker. The tribes felt

and I agree that to negotiate with a town to change the SA is like equating your tribe as a political subdivision of the State. We are not nor do we want to appear as such.

Now the chiefs have pulled their representation from MITSC that is all except Chief Commander and it is ironic because they are not members of MITSC even though they are the only ones who paid their dues. I told Chief Commander when their membership was approved, (but the Penobscot Nation failed to act on the vote in time) that she needed to resubmit the bill again and it would go through with no problem because the only reason it didn't become law the last time was the lateness of the Penobscot general meeting approval. Again enter Paul and JDK who convinced her to add her bill to LD2221 and not do a separate bill. The work-group bill died and so did her requests for membership. They also had Diana Scully up for appointment to the MITSC board as a State member. The Committee was all ready to vote her in when it was discovered that there was no slot for her on the board! She was bitterly disappointed and embarrassed. There was no board slot because the Houlton Band was not an official member and therefore there was no slot for the State member. MITSC has been a big problem because of their interference in the legislative process. The Chiefs and the State must get together and agree on clear duties for this organization or they must create something totally new. The point was made that the committee disrespected the Chiefs. The committee needs to apologize for this and to create committee rules that will set protocol when the Chiefs or tribal leaders testify before it.

As for cutting ties with the State that is a very broad statement. I think it should be refined to state that we will cut ties where it makes sense for us to do so. We will strengthen other ties and we will create new ties where none exist. We will go forward as a sovereign nation and we will expect to be treated as such.

We do need an expert committee on tribes and whether that is a Judiciary sub-committee or a Joint Standing committee remains to be seen. Legislative leadership and myself and Representative Soctomah will be discussing this within the next few weeks with present and prospective legislative leadership.