

Introduction

Maine is the only State in the United States to have Tribal Representatives seated in its legislative body. These Tribal Representatives represent their respective Tribal Governments, not districts. Two Tribal Governments are represented, the Penobscot Nation, and the Passamaquoddy Tribe.

This diary is a record of my experiences as the Penobscot Nation's Representative to the Maine State Legislature. I wrote this diary for the record in order that Tribal Representatives following me might have a better idea of what they would be facing.

I was going to use "For the Record" as a title. I chose to use the present title as a result of an extraordinary event that happened to me when I attended a Flemming Fellows Retreat in the mountains of West Virginia. (That story is told within the pages of this diary.)

After deciding to keep a record for the Penobscot people and the Representatives who would follow me, I soon realized that this should be a record for others as well.

The actual experiences of my daily contacts, relationships with fellow legislators, the intricacies of the State Legislative political system and my struggle as a non-voting Tribal Government Representative equally need to be told. Indian Representatives of the past chose not to write about their daily experiences perhaps fearing some sort of repercussions against them personally or their tribe in general. I believe that now is the time to write about these experiences. There will be some legislators who will not like what I have written or said about them. I know that the legislature has a long institutional memory, however I have decided to take the risk and let the chips fall where they may. I hope my fellow legislators do not judge me too harshly. I have learned many valuable lessons during my tenure in the State Legislature. One of the most important lessons is that politics is fluid. What might be of crucial importance to me one day may not be so important the next day or the next week or the next year. A legislator may be my worst enemy on one issue but my biggest supporter on another. Representatives or Senators that I did not like for one reason or another I later came to not only like but to respect. Do not misunderstand me there are legislators that I will most likely be at odds with on every issue and those that I will never be a friend with but for the most part they are reasonable and honorable people.

I have found the House to be one huge family that unites in crises regardless of party affiliations. The Senate is an entity unto itself and one that remains a barrier and closed to Indian representation. (Tribal Representatives are working to break down this barrier)

I truly believe that now is the time to end our one hundred and eighty-year silence. It is my hope that with the publication of this diary whoever reads it will be enlightened and have a deeper sense of the plight and the contributions of Maine Indian people and their governments. It is also my hope that through communication and education the State of Maine will recognize and reconcile its past injustices and move forward to develop a beneficial partnership with Maine Tribal Governments.

← Insert or noting historical legislation passed in period covered by this diary

about the roles and experiences of tribal representatives in Maine.

**A BRIEF HISTORY OF INDIAN
LEGISLATIVE REPRESENTATIVES IN
THE MAINE LEGISLATURE**

BY
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The earliest record of Representatives being sent from the Penobscots is in 1823 and of the Passamaquoddies in 1842. At that time there was no State law regarding election of Indian Delegates or Representatives to the Legislature and the choice of this person or persons was determined by tribal law or custom only. Massachusetts records show that the practice of the two tribes sending Representatives to the State Legislature was not new with the formation of the new State of Maine in 1820 but probably had been going on since before the Revolutionary War.

The differences between the old and New Parties in the Penobscot Tribe in the 1830's and 1840's caused such confusion that these two parties signed an agreement in 1850 which provided, among other things, that "an election should be held every year to choose one member of the Tribe to represent the Tribe before the Legislature and the Governor and Council." This agreement governed the choice of Representative until the Legislature passed the so-called "Special Law" of 1866 which, with the Tribe's agreement, finally settled the procedure of election for not only its Representative but Governor and Lieutenant Governor, as well.

A similar agreement setting forth the form of their Tribal Government was made between the two Passamaquoddy Reservations in what is known as the "Treaty of Peace of 1852." The system of government established by this document has remained unchanged in its essential provisions ever since, although it was not enacted into State Law until the Passamaquoddy Tribe petitioned the Legislature to do so in 1927. Among the Passamaquoddies, the Representative was to be elected alternately from each of the two Reservations.

****A great deal more research must be done in regard to Indian Representation in the Maine Legislature, but our present meager knowledge of the subject shows that over the last half of the nineteenth century there was a gradual growth and development of the Indian Representative's status in the Legislative Halls.**

Only from the middle 1890's was there verbatim Legislative Record made, and not until 1907 is it provided with an index, but from that year on we can read clearly the record in session after session where the Indian Representatives were seated, sometimes spoke, and were accorded other privileges.

This gradual improvement in the status of Indian Representatives resulted in an effort during the 1939 Legislature to place Indian Representatives on a nearly equal footing with the others. This effort failed, however, and the 1941 session passed legislation that ousted the Indians entirely from the Hall of the House, their status being reduced to little better than state paid lobbyists. Since 1965, a gradual change for the better has occurred. Salaries and allowances have increased, and seating and speaking privileges were restored in 1975, after a lapse of thirty-four years.

The closest analogy to Indian representation in the Maine Legislature now existing are probably the Federal Laws that allow the territories and the District of Columbia to seat Delegates in the Federal House of Representatives. Under Federal Law and House Rule a delegate can do anything a regular House Member can do except vote on pending legislation. He can sit on a Committee and vote in Committee, he receives the same salary and allowances, and for all practical purposes, except the House vote, does what any member of Congress can do.

Opinions by the Office of the Maine Attorney General over the years would seem to indicate that Indian Representatives to the Maine House could have a position in the Maine Legislature very similar to delegates of the territories in Congress, under the law and House Rules as they now stand. At any rate, it is to be hoped that improvements in status will continue, for with the settlement of the Maine Indian Land Claims in 1980, establishing an entirely new relationship with the State, the need for competent representation of the Indian Tribes in the Legislature is more vital than ever before.

In 1996, the Tribal Representatives sponsored a Native Bill for the first time ever, and in 1999 a rule change allowed the Passamaquoddy and Penobscot Representatives to Co-sponsor any Bill, statewide.

Currently in 2001 there are several provisions in statute and in the House Rules and Joint Rules related to the rights, privileges and duties of the Tribal Representatives.(1) The Provisions are these:

- 3 MRSA subsection 1
- 3 MRSA subsection 2
- *Rules of the House, Rule 525
- Joint Rules, Rule 206 (3)

Under these provisions Tribal Representatives

- Must be granted seats in the House
- Must be granted the privilege by consent of the Speaker, of speaking on pending legislation.
- Must be appointed to sit as non-voting members of Joint Standing Committees
- May sponsor Legislation specifically relating to Indians and Indian land claims,
- Co-sponsor any other legislation and either sponsor or Co-sponsor expressions of legislative sentiment

May be granted any other rights and privileges as voted by the House

*May amend their own legislation from the floor of the House

Are entitled to per diem and expenses for each day's attendance during regular sessions and to the same allowances as other members during special sessions.

Currently, the Wisconsin, New Brunswick, and New Zealand Legislatures are reviewing Passamaquoddy and Penobscot Representative status.

Tribal Representatives are now working towards a vote in Committee similar to what the territorial delegates have in Congress.

Note: The above narrative of Indian Representation in the Legislature, is based on information derived from the Legislative Record, Federal and State Rules, State Department Reports, Maine Public Laws, Resolves, Private and Special Laws, Federal Laws, Newspaper Articles, and other published accounts.

- *This was the latest Joint Rule to be past during the 120th Legislative session.
- (1) Final Report of the Committee to Address the Recognition of the Tribal Government Representatives of the Maine's Sovereign Nations in the Legislature
- ** The Joint Standing Committee on Maine's Sovereign Nations Native Representation is the most recent in depth study of the duties and history of the Tribal Representatives. It sets forth recommendations to both Houses of the Legislature which to date have been ignored.