

**At Loggerheads—
The State of Maine and the Wabanaki**

**Final Report of the
Task Force on Tribal-State Relations**

January 15, 1997*

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The Executive Summary and several appendices have been deleted.

Prologue

I am a Passamaquoddy and I am distinctively different. I need to be treated as such...I do not understand why I have to give up my right to who I am or what I am. Because the outside world says so? That's not enough for me. Why is the State of Maine so bent on making us do what the State of Maine wants? Even when it goes against everything we believe in? So we become like them?...I will never give up my right to be who I am; a Passamaquoddy woman who wants to live the ways of her people before all this outside interference. Would you give up the right to your identity or beliefs because of some outside force demanding it? I certainly would hope not!

It has been sixteen years since the Land Claims Settlement Act has been passed...I view the Settlement Act as a way to push us out of existence as Passamaquoddy people. I felt it then, I see it now. It was not an honorable act...I feel the invasion as I've never felt it before. It has to do with jurisdiction over our lives and who has the right to determine how we govern our people and take care of our lands and resources. It has to do with our right to fish the ocean without outside interference or how we conduct our business. It has to do with being sovereign. It has to do with being treated as a nation within a state. The State of Maine does not want to recognize this, but the bottom line is we are living proof of being a distinctively different people...When the State of Maine can recognize and accept us as such, then maybe we will have a fighting chance of working together to make it a better, safer, peaceful place for all to live.

Recommendations? Simple. Recognize us as different people with different views, different ways of doing things and understand we do it the way it seems, feels right for us. Understand that we are not trying to pull anything over on anyone. We just want to be able to conduct our affairs without outside interference. In every aspect of our lives we need to control our destiny if we are to continue to survive as Passamaquoddy people. Until the State of Maine can see and understand this there will be no peace, no harmony, no balance, no future. Understand that because we do things different does not mean it will be harmful. It just means that within the confines of our world we do what is natural/meaningful for us. The confines of our world will be determined by our land base and all who enter our lands do so with the knowledge that they abide by our laws and if they violate our laws then they pay the consequences under our jurisdiction. The same will be for our people who venture into the State of Maine. Is that so hard for the State of Maine to fathom? Can we really live, side by side like this? We can. We just have to make the effort...

I pray for all our peoples to find common ground in which to move forward.

Margaret Dana
Passamaquoddy Tribe
Pleasant Point

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* This list includes the positions of people at the time of appointment to the Task Force.

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Executive Summary

Learning how an Indian thinks is difficult for a non-Indian and learning how to walk in an Indian's shoes is impossible. When things look the darkest, that is not the time to throw in the towel. We all must keep making the effort. We will never be the same, but we can work together. Bennett Katz, Chair, Maine Indian Tribal-State Commission

The 5,500 Wabanaki people in Maine are from four federally recognized Tribes: the Passamaquoddy Tribe, the Penobscot Nation, the Aroostook Band of Micmacs, and the Houlton Band of Maliseets. There are contacts between the State of Maine and the Tribes in all arenas affected by government, including natural resources, environmental protection, land use regulation, health and human services, law enforcement, transportation, taxation, and the courts.

As a result of the 1980 Maine Indian Claims Settlement Act, the Passamaquoddy Tribe and the Penobscot Nation have a special relationship with the State of Maine. The relationship between the State and these two Tribes, in particular, is an uneasy one and is growing more so every day. Some people believe that the Act is clear and resolved many tribal-state conflicts; others heartily disagree. The State of Maine and the Wabanaki are at loggerheads.

One of the places where this uneasy relationship plays out is before the Maine Indian Tribal-State Commission (MITSC), created as part of the Settlement. Among other things, the MITSC is required to review the effectiveness of the Act and the social, economic, and legal relationship between the State, Passamaquoddy Tribe, and Penobscot Nation. In recent years, the MITSC has informed both the State and the Tribes about its difficulty in fulfilling its responsibilities, given its meager budget and the fact that its recommendations often are not taken seriously.

The Task Force on Tribal-State Relations was created by the 117th Maine Legislature. It worked from June 1996 through early January 1997 to explore ways of improving the tribal-state relationship and the effectiveness of the MITSC, as well as to determine the appropriate role of the Aroostook Band of Micmacs and the Houlton Band of Maliseets in the MITSC.

The Task Force strongly encourages the State and the Tribes to build on the important dialogue and education which have begun during its short life. The Task Force offers several recommendations which can provide the foundation of mutual respect and trust, necessary to support a productive relationship between the State and the Tribes:

1. Round Table Discussions. MITSC should facilitate "round table" or "talking circle" discussions involving representatives of the State and the Tribes to explore the issues of assimilation and sovereignty. This means *listening* to one another, not debating one another.
2. Annual Assembly. MITSC should convene an annual Assembly of Governors and Chiefs, including the Governors of the State of Maine and the Passamaquoddy Tribe and the Chiefs of the Penobscot Nation, the Houlton Band of Maliseets, and the Aroostook Band of Micmacs. The desired outcomes of the Assembly include consensus about priority issues, issues to be addressed by the MITSC over the coming year, and any issues to be addressed outside the MITSC.
3. Advisory Committee. The State, the Passamaquoddy Tribe, and the Penobscot Nation should support the creation of an Advisory Committee on Tribal State Relations. Appointed and supported by the MITSC, the Advisory Committee should serve as a sounding board, bring expertise not found among the MITSC members, and provide a forum for discussion of any aspect of tribal-state relations and concerns, whether or not they are related to the Settlement. The Advisory Committee should include at least the Passamaquoddy Tribal Representative, the Penobscot Tribal Representative, a representative of the Aroostook Band of Micmacs, a representative of the Houlton Band of Maliseets, and two members of the Maine Legislature.

4. Strengthening the Commission. The MITSC should develop a written conflict of interest policy to guide both appointments to the MITSC and the conduct of its members. The State, the Passamaquoddy Tribe, and the Penobscot Nation should support an amendment to the Settlement to change the quorum requirement for the MITSC from seven to six members, provided that at least one representative of each of the three parties is present. The MITSC should formulate an annual plan with long and short-term goals and distribute an annual report describing the priority issues it has addressed and the extent to which it has met its goals. The MITSC should propose a plan and budget for performing its public information function.
5. Protecting Tribal Fish and Wildlife. The MITSC should create a committee of the whole to undertake studies and make recommendations with respect fish and wildlife management policies on non-tribal lands, in order to protect fish and wildlife stocks on tribal lands. It should develop a long range plan for the regulation of tribal waters within its jurisdiction.
6. Consideration of Tribal Needs and Concerns. The Governor of Maine should consider issuing an Executive Order to require executive branch agencies to take into account tribal needs and concerns in the development of legislation, rules, policies, and programs. Legislative Leaders should consider instructing legislators to take into account tribal needs and concerns as they review and act upon the legislative proposals before them.
7. Workshops. The MITSC should develop and offer workshops about the Wabanaki, the racism they experience, the Settlement, and tribal-state relations to legislators and cabinet members on a bi-annual basis and to other state employees on an annual basis. Churches and other organizations should conduct prejudice reduction workshops for individuals involved in Indian/non-Indian relationships.
8. Tribal Representatives. The Micmacs and Maliseets each should have a non-voting representative in the Legislature.
9. MITSC's Need for Resources. State and tribal leaders should discuss and work toward agreement about the level of support for the MITSC and whether or not parity in cost sharing between the State and the Tribes should continue.
10. Legislation. The State, the Passamaquoddy Tribe, and the Penobscot Nation all should support legislation proposed by the Task Force to create the Advisory Committee on Tribal-State Relations (#3) and to change the MITSC's quorum requirement (#4). The Task Force has submitted this proposed legislation separately from this report.

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