

Civil Rights Developments in Vermont, 1982

February 1983

--A clearinghouse report of the Vermont Advisory Committee to the U.S. Commission on Civil Rights, published for the information of the Commission and the people of Vermont. The contents of this report should be attributed to the Vermont Advisory Committee and not to the U.S. Commission on Civil Rights.

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--The U.S. Commission on Civil Rights is an independent, factfinding agency of the Federal Government which investigates issues related to discrimination or denial of equal protection of the laws because of race, color, national origin, religion, sex, handicap and age. The Vermont Advisory Committee is one of 51 such bodies composed of private citizens who advise the Commission on civil rights developments in their States.

CIVIL RIGHTS DEVELOPMENTS IN VERMONT, 1982

Preface

This is the third annual report on civil rights developments in the State prepared by the Vermont Advisory Committee to the U.S. Commission on Civil Rights, as part of the Commission's clearinghouse responsibility. This report attempts to summarize issues and events of 1982 concerning equality under the law for women, minorities, the aged and the handicapped. It is certainly not exhaustive, but it does attempt to explain what steps were taken in 1982 to deal with some of the civil rights problems in Vermont. An effort has been made to put these issues into perspective, rather than merely listing isolated events.

It is difficult to derive trends from an examination of civil rights developments in Vermont in 1982, and to state definitively that the civil rights picture is improving or deteriorating. The legislative enactment and speedy implementation by the State of the "Independence Fund" to enable elderly and handicapped persons to live at home, rather than in institutions, is a positive development. The occurrence of racially motivated vandalism in Vermont is something to be decried. Vermont responded quickly to the defeat of the Federal Equal Rights Amendment by initiating an attempt to add an Equal Rights Amendment to the State constitution. Clearly there has been activity to improve opportunities for women, the elderly, the handicapped and minorities.

How do events in Vermont conform to national trends? Cutbacks in Federal funds for programs designed to overcome inequities, or provide equal opportunity, have affected all States. Another development which affects Vermont as elsewhere, is the effort to curtail Federal regulations. Where civil rights enforcement activities are weakened, the effect can be to decrease the protections available to those covered by the civil rights laws.

Vermont did not conform to national election trends when women increased their representation both in State legislatures and in Congress. In Vermont in 1982, fewer women were elected to the legislature than in 1980. In the area of fair housing legislation, Vermont is taking steps to strengthen its fair housing law whereas proposed amendments to strengthen the Federal housing discrimination law, Title VIII of the Civil Rights Act of 1968, have languished in Congress for more than two years. Unfortunately, Vermont did conform to the nation in terms of increased racially and religiously motivated vandalism and violence. In past years, while activity of this kind was evident elsewhere, it did not occur in Vermont. This year, there were such incidents in Vermont.

It should be noted that the economic picture in Vermont for 1982 has been favorable as compared to the rest of New England and the nation. Unemployment in 1982, which averaged 9.5 percent nationally and 7.8 percent in the Northeast, was 6.4 percent in Vermont, the lowest in the region.

Although the functions and responsibilities of the U.S. Commission on Civil Rights and its Advisory Committees are described elsewhere, a brief description of the Vermont Advisory Committee and its activities in 1982 are in order. The members of the Vermont Advisory Committee are appointed by the Commissioners who are appointed by the President. Advisory Committee members serve without pay, and are responsible for monitoring civil rights developments and studying civil rights issues in Vermont.

In February 1982, the Vermont Advisory Committee released its second annual civil rights developments report at a news conference in Montpelier. Over 500 copies of the 18-page document were distributed to organizations, government officials and interested individuals.

The Committee's primary project for the year was the preparation of an information kit, "Stereotyping and You: A Program for Awareness and Action" which contains a 29-minute film and all the written materials needed to conduct a one-hour workshop. The kit, introduced in September, is now being utilized regularly by schools, church groups and other organizations across the State. (Those interested in obtaining the kit should contact Vermont Advisory Committee member Laurie B. Huse, Vermont-National Education Association, Box 567, 58 E. State Street, Montpelier, VT 05602, 223-6375.)

The Advisory Committee also prepared a 22-page guide on sexual harassment designed for employers. In cooperation with the Vermont Chamber of Commerce and the Governor's Commission on the Status of Women, the guide is being distributed to employers and other interested groups and individuals in Vermont.

Klan activity was monitored by the Advisory Committee, and in a letter to Governor Snelling, the Committee shared with him information about the Klan and its activities obtained by other Advisory Committees. Committee Chairman Philip Hoff attended a meeting in the Governor's office to discuss an appropriate State response to the Klan.

Finally, a report on Franco-Americans in Vermont has been prepared and will be released in 1983.

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I. Population Statistics

Vermont, with 511,456 persons, ranks forty-eighth out of the fifty states in terms of population according to the 1980 Census. Only Alaska and Wyoming have smaller populations. As reported last year, 1980 Census figures show a large percentage increase of "minorities" (blacks, Native Americans, Hispanics and Asians) but, still, these groups compose only about 1-1/2 percent of the State's population. Between 1970 and 1980 there was a 15 percent growth in total population but a 90 percent growth in the number of minorities in Vermont. (Blacks increased 49 percent, Hispanics increased 34 percent, Asians increased 276 percent and Native Americans increased 330 percent). In terms of numbers, this means that the minority population rose from about 4,000 in 1970 to about 8,000 in 1980. However, many groups claim they were undercounted. Census figures report 1,068 Native Americans. The Abenaki Indians, the tribe to which the overwhelming number of Native Americans in Vermont belong, claim that there are 1,500 Abenakis in the State.

During 1982, census figures for white ethnic groups in Vermont became available. Who is a Franco-American and how many Franco-Vermonters are there? In 1970, the census counted 42,193 using "French mother tongue" as the category. In 1980, 57,160 people identified themselves as being of French ancestry and an additional 87,368 identified themselves as of "French and other ancestry groups." The total percentage of Franco-Americans (these two categories) in Vermont is 28 percent.

Definition also is a problem with regard to the handicapped. There is no generally agreed upon count of the "handicapped" in Vermont. The State Department of Education reports that 9.5 percent of school age children in the State (about 10,000) receive special education services. This number includes a broad range of disabilities or handicaps such as dyslexia and speech impairments. The Vermont Association for Retarded Citizens states that about three percent of the population suffers from mental retardation, according to nationwide estimates. This translates into 13,000 mentally retarded persons in Vermont.

The State figure for the "developmentally disabled" (persons who incurred physical or mental impairments which substantially interferes with normal life functions before the age of 22) is 8,200. Another estimate sometimes used for determining the number of "handicapped" is that at any given time some 16 percent could be considered to have a mentally or physically handicapping condition. In Vermont this would mean 81,833 handicapped individuals. Whatever measure or definition of "handicapped" is used, it is clear that there are substantial numbers of handicapped persons in Vermont.

The census data show that the average annual (mean) income for families in Vermont in 1979 was \$19,815 and that the median (50 percent above and 50 percent below) was \$17,206. It is interesting to note that in Vermont the mean incomes for the few black and Asian families in Vermont are higher than that for whites. However, the mean income for American Indian families is much lower (\$12,080 for Indians and \$19,817 for whites.) Also significant is that there are more Native American families in the category of "less than \$5,000" than in any other income categories. For white, black and Hispanic families the mode (the category with the greatest number of families) is the "\$10,000 to \$14,999" range. Seventy-three percent of Native American families have annually incomes of under \$15,000, but only 42 percent of white families earn less than \$15,000.

Vermont Population Statistics

<u>Population Groups</u>	<u>Number</u>	<u>Percent</u>
<u>Total</u>	511,456	100%
<u>Race</u>		
White (not including Hispanic)	503,345	98.41%
Black	1,183	0.23%
American Indian	1,068	0.22%
Asian	1,640	0.32%
Hispanic	3,377	0.66%
Other	607	0.19%
<u>White Ethnic Groups</u>		
Dutch	1,807	0.35%
English	79,019	15.45%
French	57,160	11.18%
German	11,617	2.27%
Greek	528	.10%
Hungarian	771	.15%
Irish	23,353	4.57%
Italian	8,769	1.71%
Norwegian	838	0.16%
Polish	5,485	1.07%
Portuguese	340	0.06%
Russian	1,824	0.36%
Scots	5,922	1.67%
Swedish	2,534	0.50%
Ukrainian	384	0.07%
Other	26,889	5.26%
Multi-Ethnic	198,656	38.84%
Not specified or reported	85,560	16.73%
<u>Sex</u>		
Males	231,536	45.3%
Females	279,920	54.7%
<u>Persons over Age 54</u>		
55 to 59	23,896	4.67%
60 and 61	8,527	1.66%
62 and 64	12,190	2.38%
65 to 74	33,508	6.55%
75 to 84	18,554	3.62%
85 and over	6,090	1.19%
TOTAL	102,765	20.09%

Source: U.S. Department of Commerce, Bureau of the Census, 1980
 Census of Population and Housing, as in Vermont State Data Center,
 Summary Tape File Publication Services

Income of Families by Race

	<u>White</u>	<u>Black</u>	<u>Nat. American</u>	<u>Asian</u>	<u>Hispanic</u>
Less than \$5,000	8,061	0	63	27	42
\$5,000 to \$7,499	9,712	2	53	22	52
\$7,500 to \$9,999	10,676	25	37	8	30
\$10,000 to \$14,999	24,346	40	38	25	152
\$15,000 to \$19,999	24,090	27	19	43	108
\$20,000 to \$24,999	18,672	37	20	41	134
\$25,000 to \$34,999	19,804	37	15	33	105
\$35,000 to \$49,999	8,786	20	16	48	24
\$50,000 or more	4,076	9	0	19	24
TOTAL	128,223	197	261	266	671
MEAN AVERAGE	\$19,817	\$23,314	\$12,080	\$24,406	\$19,591

Source: U.S. Department of Commerce, Bureau of the Census, 1980
Census of Population and Housing, as in Vermont State Data Center,
Summary Tape File Publication Services

II. Bigotry and Extremism

In the last few years acts of violence and vandalism motivated by racial or religious hatred such as cross-burnings and desecration of synagogues have increased nationwide. There has also been a resurgence of the Ku Klux Klan, and Connecticut has been an important target for Klan organizing since 1980. However, until last year no racially or religiously motivated incidents were reported in Vermont; nor was there any evidence of the presence of the Klan in the State. In 1982, this changed.

For the first time since the 1920s, the Ku Klux Klan staged a demonstration in Vermont. On May 15, about 15 Klan members from Connecticut conducted a rally in the southern Vermont town of Wilmington. They were confronted by about 150 counter-demonstrators, many of whom were also from out-of-state. Local and State police were able to maintain order and no violence occurred. In connection with the Wilmington rally, four Connecticut Klansmen, arrested for a weapons violation prior to the demonstration, were later convicted. Another rally was held in Brattleboro on May 29, at which 300 counter-demonstrators appeared to protest the presence of 14 robed KKK members. Again at this rally, there was no violence.

The effort of the Klan to secure a foothold in Vermont was short-lived. Despite several announcements from the Klan that it was planning other events in Vermont, none materialized, except for the distribution of Klan literature in Saxon's River. By August, it appeared that Klan efforts to organize in Vermont had ceased.

The public reaction to the Klan's brief organizing effort was overwhelmingly negative. Anti-Klan rallies were held in Burlington and Brattleboro and anti-Klan petitions were distributed. The State legislature and several municipalities passed resolutions condemning the Klan. An organization calling itself the Vermont Anti-Klan Network was formed to take "direct action" against Klan activities in Vermont and to develop educational programs about racism and the dangers of the Klan. Since the threat of the Klan has diminished, the organization has become inactive, according to one of its founders.

State Representative Michael Bernhardt, South Londonderry, believes that the Klan might have been looking for a place to establish a paramilitary training camp when it came to Vermont last spring. To prevent such an occurrence, he has introduced a bill in the 1983 legislative session which would prohibit such training in Vermont. A number of other States have adopted similar laws in recent years.

In past years no incidents of racially or religiously motivated violence or vandalism had been reported, but in 1982 at least three

such incidents occurred. In May, a black man from Burlington received a threatening letter, and in the same month a black woman's automobile was damaged by rocks. In June, a cross was burned in the yard of the only black family in the town of Concord. These incidents occurred during the period that the Klan was attempting to organize in the State. While there is no evidence to link these incidents with the Klan, the victims believe that the presence of, and the publicity given to, the Klan gave rise to an atmosphere which encouraged others to act out their racism.

And 1982 saw the resolution of a charge of defamation. A Poultney printing firm was found not to be liable for printing a racial slur in the 1976 Poultney High School yearbook. The family of the only black graduate of the high school sued the firm for printing the yearbook which contained a racial slur as a favorite saying of one of the other seniors. The picture of the black graduate appeared on the page next to the remark. In September, a jury found that the printing firm was not liable for defamation. The family had originally brought suit for libel against the school district, as well as the printer, but the school district had settled the suit prior to trial.

III. Civil Rights Enforcement

Vermont is the only New England State that has no human rights commission to enforce State laws prohibiting discrimination and to promote human rights. (A defunct commission currently is funded at one dollar a year.) In Vermont, complaints of employment discrimination are handled by the Public Protection Division of the Attorney General's Office, but Vermont's laws prohibiting discrimination in the areas of housing, education, public accommodations and credit are spotty and are not enforced by a State agency. Some kinds of discrimination which are illegal in other States are not prohibited in Vermont, such as sex discrimination in housing.

Denise Johnson, Chief of the Public Protection Division of the Attorney General's Office, reports that in 1982 the number of employment discrimination complaints increased 13 percent over 1981. (One hundred twenty cases were filed in 1982 as compared to 106 in 1981.) The higher case load is largely attributable to an increase in complaints of age and handicap discrimination. In July 1981 a new law adding age and handicap as categories protected from employment discrimination became effective. In 1982, age discrimination complaints accounted for 28 percent of the cases filed, and handicap complaints, about 14 percent. Almost 45 percent of the cases filed in 1982 were charges of sex discrimination. Prior to the enactment of the new law, about 90 percent of the complaints filed with the Attorney General's Office were charges of sex discrimination. Johnson reports that almost 70 percent of the complaints filed are settled prior to a determination.

The Public Protection Division is funded in part by State funds and in part by Federal funds from the Equal Employment Opportunity Commission. The Division received a small increase in EEOC funds for fiscal 1982 and was able to hire a new investigator bringing its total staff to three investigators and one lawyer. However, the Division still has a smaller staff than in 1980 when it had a staff of six.

IV. Employment Discrimination Cases

Several important employment discrimination cases reached the courts in 1982:

Age Discrimination

The first case to go to court under the new State law prohibiting age discrimination in employment resulted in Sears Roebuck and Company modifying its policy against hiring anyone over 70. Sears fired Mildred Ritchie, a dressing room attendant, after learning that she was 72. She complained to the Attorney General's Office which brought the case to the Superior court. Unlike the Federal law and most State laws, where protection against age discrimination ceases at age 70, Vermont's statute does not contain an upper age limit. The case was settled in March by a consent decree in which Sears agreed to change its policy and not to require mandatory retirement in Vermont, to rehire Ritchie, and to pay her back pay and attorney's fees.

A 65-year-old woman, Helen A. Pena, who was stripped of her responsibilities as the administrator of a nursing home in Brattleboro, won a judgment of \$30,000 from a jury in an age discrimination case she had brought in Federal court. The nursing home appealed the verdict to the U.S. Court of Appeals, which has not issued its decision as of this writing. This case marks the first time that someone has brought a successful case under the Federal Age Discrimination in Employment Act in Federal court in Vermont. The case was brought under Federal law because when Pena was removed, the State law had not yet been enacted.

Sex Discrimination

In the first sex discrimination case to be decided in Federal court in Vermont, Mildred Parah of St. Albans lost her case against Heveg Industries (now known as Champlain Cable Corporation). In a lengthy decision, the court found that Heveg Industries had not discriminated against Parah in job opportunities or in its layoff and recall procedures. The court also dismissed Parah's claim that the company had retaliated against her for having brought discrimination charges against it.

Another sex discrimination case is pending against Champlain Cable Corporation. The State of Vermont brought suit in Superior Court in Chittenden County on behalf of six women who complained that they had been sexually harassed by a male supervisor. In a two-week trial, the women testified that the supervisor harassed and bothered them after they refused his advances. The case raises the important issues of what constitutes sexual harassment under Vermont law, and whether damages for emotional distress are allowed under the State Fair Employment Practices Act. To date, no decision has been issued in the case, which was tried in May 1982.

In 1981 the State police signed a consent decree with the U.S. Department of Justice agreeing to actively recruit females, until the percentage of qualified female applicants reaches 20 percent. The Department of Public Safety, operating under that consent decree, reports that during the 1981-82 application period, about 11 percent of initial applicants were female. However, after all the tests were administered, the new roster of 30 qualified applicants issued in January 1983 contained only 2 women, or 6.7 percent of qualified applicants. Brooke Pearson, Legal Counsel for the Department of Corrections, notes that two other qualified women withdrew their applications to accept employment with other law enforcement agencies shortly before the roster was announced. During the past year no new female State troopers were hired. The percentage of women troopers remains at two percent.

Race Discrimination

In last year's Civil Rights Developments report, the Advisory Committee reported that a race discrimination case, Harrison v. Vermont Department of Corrections, was pending before the Vermont Supreme Court. In an opinion last spring, the Vermont Supreme Court reversed the decision of the State Labor Board, which had found that a black corrections officer had been dismissed by the State Department of Corrections as a result of race discrimination. The Supreme Court found that the Labor Board had failed to determine whether "just cause" for the termination existed, and that it had exceeded its statutory authority. The court remanded the case to the Labor Board to reconsider in light of the court opinion. Before the Board could act upon the remanded case, it was settled by the parties.

V. Equal Access to Housing

An effort to improve Vermont's weak fair housing law has been undertaken by a coalition consisting of organizations representing women, the elderly, the handicapped, and the poor, as well as several government agencies. This group, brought together in 1982 by the Vermont Fair Housing Coalition, drafted a bill to prohibit discrimination in housing on the basis of sex, age, marital status, handicap, children, and source of income, none of which is covered by the existing law. The bill has been introduced in the 1983 legislative session. Some of the participating organizations include the State Housing Authority, the Vermont Coalition for the Handicapped, the State Office on Aging, the Governor's Commission on the Status of Women, Vermont Legal Aid, the City of Burlington, and the Montpelier Community Development Planning Council. This effort is the first serious attempt to improve the State fair housing law in many years.

The Fair Housing Coalition has also been exploring ways to provide for enforcement of the law, since Vermont does not have a functioning human rights commission, and the State Attorney General's Office has no jurisdiction over housing discrimination. John Durgin, coordinator of the coalition, stressed that strengthening the State law would open up the limited housing market to those being discriminated against. Vermont is currently not eligible for Federal fair housing enforcement funds because its law is not "substantially equivalent" to Federal guidelines. Under changes proposed by the coalition, Vermont would be eligible.

VI. Equal Educational Opportunity

Vermont has several programs designed to increase educational opportunities for females, refugee children, handicapped children, and children who come from homes where English is not spoken. The goal of all of these programs is to ensure that all children receive an equitable opportunity for an appropriate education.

Sex Equity Program

All public school districts in Vermont receive Federal funds and are thus required to be in compliance with Title IX of the Education Amendments of 1972, the Federal law prohibiting discrimination on the basis of sex in educational programs. The Sex Equity Project of the State Department of Education provides technical assistance to local school districts on compliance with Title IX.

In 1982, the Sex Equity Project presented five workshops for administrators of the State's 59 school districts. These workshops dealt with the school districts' obligations in the area of academic courses, athletic programs, and student rights. Moire Coleman, Sex Equity Consultant for the Vermont Department of Education, stresses that, in addition to sex equity issues, the Department of Education works with local school districts on issues of race and national origin discrimination. In 1982 the Sex Equity Project also produced a "Student Guide to Title IX" which advises students of their rights under Title IX and a curriculum guide for National Women's History Week for Vermont schools.

The Department of Education's Vocational Sex Equity Consultant, Elizabeth Ducolon, encouraged local schools to develop their own sex equity workshops and materials. Mini-grants were made available to local schools, and seven inservice workshops were held for vocational school staff. A Directory of Non-traditional Workers was developed, and 5,000 copies were distributed to provide a source of speakers for schools and organizations. Two research projects have been undertaken: "The Study of Non-traditional Students in Vocational Settings," and an inter-agency study on "Training Programs for Non-traditional Workers." A summer institute for industrial arts in conjunction with the University of Vermont was conducted, and industrial arts teachers worked on the development of strategies to encourage recruitment and support for females in non-traditional programs. Participating teachers received mini-grants to help implement these strategies.

Refugee Program

About 40 percent of the 300 Indo-Chinese refugees who have settled in Vermont in recent years (see the section on the Refugee Resettlement Program) are children who speak little, if any, English. Through the Transition Program for Refugee Children, a

federally financed program, money is made available to school systems where they are enrolled. However, school systems receive only \$117 per year for each refugee child who has lived in Vermont for less than three years. This money can be used for salaries and English-as-a-Second Language education materials.

According to Amy Johnston, Language and Cultural Affairs Consultant for the State Department of Education, many schools have only one or two refugee children and are unable to pay for tutors or teachers with the sums available under the Transition Program. School systems with larger concentrations of refugee children, such as Burlington and Springfield, are able to provide more services to the refugee children.

Programs for Handicapped Children

Both Federal and State laws mandate that school districts provide appropriate educational programs to handicapped children. To assist the local school system in providing educational services to children with handicaps, the Federal government allocated \$2.1 million to Vermont and the State legislature made available \$15 million in 1982. Funds for these programs also come from local school districts. Indeed, the local share has been increasing over the last few years as State and Federal funds have decreased. The number of children receiving such services for the 1982-83 academic year decreased to about 10,000 (9.5 percent of the school age population) from a high of 12,000 (11 percent of the school age population) for 1981-82. Judy Eklund, Coordinator of School District Services for Special Education for the Department of Education, explains the decrease by citing a change in State regulations concerning criteria for eligibility for special education. Under the old requirements the State reported children as handicapped without specifying the handicap. The new regulations require that children be reviewed and tested and that school districts must identify the specific handicapping condition.

Services for handicapped children vary from programs where children divide their time between their regular classroom and a "resource room" with a special education teacher, to programs for severely handicapped where the children actually live at the educational facility. Under the law, an individual education plan (IEP), devised by a team of experts in consultation with parents, is required for each child defined as handicapped. The vast majority of the children served by special education programs receive "mainstream services" (i.e., they are in regular classrooms most of the time). Of this group, 3,370 receive consulting services; 2,500 go to a resource room part of the week, and another 2,500 receive one-to-one speech and language services.

Only 350 children are in residential treatment centers such as the Austine School for the Deaf in Brattleboro or the Baird Children's Center in Burlington. About 1,500 moderately handicapped children are placed in Regional Special Classes which have a totally

modified curriculum. In addition to the programs for school age handicapped children, there is a program for about 550 pre-school children identified as handicapped.

Programs for Children Who Need English Language Assistance

For several years the U.S. Department of Education's Office of Bilingual Education and Minority Language Affairs has funded programs to provide bilingual education and other kinds of English language training to language minority children. There are three ongoing programs in Vermont: the Highgate-Sheldon French bilingual education program; two programs at the University of Vermont, Project Viable which trains teachers in bilingual education; and the Bilingual Education Service Center which provides technical assistance throughout New England.

A new project at St. Michael's College in Burlington is designed to train parents of limited-English-speaking children to work with the schools and to promote knowledge of bilingual education, and other appropriate language training and academic skills, for their children. Anne Woolfson, Program Director, points out that the trend is to consolidate resources and activities because of diminishing Federal funds in this area. Rather than bringing in experts to provide bilingual education in a school district as in the past, there is an effort to develop these capacities at the local level. Once local teachers and parents are trained, they will be available to provide training to language minority children even if Federal funding ends.

One development of concern to Vermont is the closing of the National Materials Development Center for Educational Materials in French, in September 1982. Formerly located in Manchester, New Hampshire, this center produced books, slide programs, and audio tapes, mostly in French, for students and teachers. The center was closed when its Federal funding ran out. However, the Department of Media Services at the University of New Hampshire has agreed to distribute the materials developed by the now-defunct center, and publish some manuscripts which were near completion, thus assuring that French educational materials will continue to be available to teachers in Vermont and elsewhere.

Discrimination Against Non-citizens

A Canadian couple residing in Waitsfield with their five adopted children defeated the school board's attempt to assess them \$8,000 for public school tuition. At a State Department of Education hearing on this matter, American Civil Liberties Union attorney Kim Cheney, representing the couple, argued that charging tuition was unconstitutional because the children should receive a free education regardless of their citizenship status. Then Acting State Commissioner of Education Lloyd Kelley, Jr. agreed and ruled that the children should be allowed to attend the Waitsfield schools.

without charge. The Vermont case was concluded before the United States Supreme Court issued its landmark decision ruling that the Texas law which allowed school districts to deny enrollment to children of illegal aliens violated the Constitution.

VII. Legislative Action Concerning Civil Rights

The State legislature enacted several measures to benefit Vermont's elderly, handicapped and female residents in 1982:

An "Independence Fund" was approved to help elderly and handicapped persons live at home, thus reducing the cost to the State of caring for them in nursing homes. The legislature appropriated \$325,000 for the fund which will help pay for respite care, adult day care, group housing arrangements and self-help programs. A separate fund was established by the Legislature (instead of appropriating the money to the State Human Services Agency) because the legislature wanted to maximize the possibility of private sector donations to this effort. A discussion of the implementation of the legislation is included in the next chapter.

The legislature also expanded coverage of the State's domestic violence law to include the elderly, and unmarried persons of the opposite sex cohabitating as spouses. After July 1, 1982, persons over 60 who are victims of physical abuse by family members, and unmarried couples living together who are abused by their partners, can obtain restraining orders from the court preventing further violence. The court can also order the abuser to vacate the residence of the victim. Previously, this law applied to only married or divorced people. Advocates for the elderly point out that this law will be most helpful to elderly home owners who have allowed relatives to move in with them and whose relatives abuse them.

Expansion of the law to cover unmarried couples has been a priority of women's organizations for the last two years. According to statistics provided by the Court Administrator's Office of the Vermont Supreme Court, during the first six months the law was in effect 23 elderly (and "other") and 133 persons living together applied to the courts for restraining orders under the newly expanded law. During that period 350 persons applied for protective orders from abusing spouses or former spouses. (The court Administrator's Office cautions that these figures are not final or official, but it appears that petitions for restraining orders in domestic violence situations have doubled in the last year.)

A bill to increase the marriage license fee to fund services for victims of domestic violence passed the legislature in 1982. Revenues from the increased fees will go into the State's general revenue fund. However, the legislature appropriated \$50,000 from the general fund for domestic violence programs. An additional \$15,000 from the budget of the Department of Social and Rehabilitative Services was also earmarked for domestic violence services. The Governor's Commission on the Status of Women has been authorized to disperse the State funds to programs providing shelter, protection or support to battered spouses and their children.

In Fiscal 1982, the Governor's Commission distributed \$30,000 in State funds to 11 service providers. The Commission reports that during the fiscal year (July 1, 1981, through June 30, 1982) 2,545 adults and children were served and that 823 of those stayed in safe houses or shelters for battered women. The average length of stay in a shelter was over two weeks. In the first half of Fiscal 1983, the Commission distributed grants totalling \$65,000 to 15 providers. In addition to the State funds distributed by the Governor's Commission, programs for victims of domestic violence also received funds from private organizations and the Federal government.

In 1981, the State legislature abolished special license plates for the handicapped, and instead, approved legislation allowing a special card to be placed in the windshield of cars driven by, or transporting, handicapped persons. The legislature in 1982 reinstated the special license plates after receiving requests from handicapped advocacy groups.

VIII. Rights, Recognition and Government Services

Abenakis Seek Federal Recognition

The Abenaki Indians of Vermont filed a petition for Federal recognition with the U.S. Bureau of Indian Affairs (BIA) in October. At present, the Abenakis have no formal acknowledgement of their status as a tribe from either the State or the Federal government. Historically, many Indian tribes, especially in the West, have been recognized by the Federal government by virtue of having signed treaties with the United States in the past. However, many eastern tribes never entered into such treaties, in large part because their lands had been taken over by white settlers long before the United States government came into existence in 1789. Despite the loss of their aboriginal lands and rights, many of these tribes continued to exist, albeit, with no official relationship with the government.

Until the 1970s, when the Passamaquoddy Tribe in Maine was successful in a law suit, there was no way for tribes without historical treaty relationship with the United States government to gain tribal acknowledgement and the resulting government benefits to which Indian tribes are entitled. The filing of this "Federal Acknowledgement Petition" by the Abenakis was the culmination of seven years of research and preparation. In order to qualify for Federal status, the petitioners must establish that they have been a tribe or community over time, and that their members meet the legal definition of Indians. This involves years of genealogical, demographic, anthropological and historical research. The Abenakis have undertaken much of the work themselves and also have utilized the services of outside experts, such as anthropologists, historians and lawyers.

The BIA is supposed to conduct a preliminary analysis of an acknowledgement petition within 60 days of its filing to determine if it is complete and in proper form. According to the BIA, this has not been done due to a shortage of staff and a backlog of work. Leonard Lampman, Chief of the Abenakis, was unable to find out when the tribe might receive a final answer to its request for recognition.

Other New England tribes which have been granted Federal recognition recently are the Passamaquoddys, Penobscots and Houlton Band of Maliseets, all from Maine (1980), and the Narragansetts from Rhode Island (1982). The Mashpee Wampanoags from Massachusetts have filed an acknowledgement petition similar to the Abenakis, and the Micmacs in Maine, a migratory tribe, are beginning the research needed for a Federal recognition petition.

In addition to being eligible for government services provided to Indian tribes, there are other advantages of recognition.

Recognized Indian tribes have a special trust relationship with the United States government, in which the government holds Indian land in trust for the benefit of the tribe. The tribe is entitled to a certain degree of self-government and possesses some of the powers of a sovereign State. Miles Jensen, Executive Director of the Abenaki Self-Help Center in Swanton, explains that at present the U.S. government recognizes the Abenakis as Indian individuals but, if Federal recognition is granted, it will relate to the Abenakis as one sovereign group to another. Most of Vermont's 1,500 Abenakis live in Franklin County in the Highgate and Swanton areas.

Indo-Chinese Refugees in Vermont

Since 1975 an estimated 650,000 refugees from Southeast Asia have entered the United States. According to figures provided by the New England Regional Office of the Federal Refugee Resettlement Program, about 25,000 Vietnamese, Laotian, and Cambodians refugees now reside in New England. Refugees have also come to New England from other countries including Poland, the Soviet Union, Ethiopia and Nicaragua.

The Refugee Act of 1980, enacted by Congress, provides that a Refugee Resettlement Program be established in each State. The Act provides funds to aid the refugees in their adjustment to life here. Vermont has the smallest Refugee Resettlement Program in the nation.

Refugees enter after a sponsor, usually a church group or organization, is found for them. The sponsor meets the refugee family or individual, secures housing and pays the first month's rent, furnishes the apartment and provides clothing. The sponsor also works closely with the refugees for their first three months in Vermont, helping them enroll in school or find jobs, and secure medical services.

After the first three months, the Refugee Resettlement Program assumes most of the responsibility for providing assistance to the refugees. Under the program, all adult refugees participate in intensive English language training where they get individual tutoring for two hours a day for three months, and employment counseling. Judith May, Vermont State Coordinator for the Refugee Resettlement Program, states that there is only a 7 percent unemployment rate for refugees in Vermont.

Of the approximately 300 Indo-Chinese refugees now in Vermont about 150 are Laotian, 120 are Vietnamese and another 30 are Cambodians. However, the number of Cambodians is increasing as the refugee camps in Thailand are closing and the Cambodians there are faced with either returning to Cambodia or going elsewhere. In 1982, a new effort began in Vermont to assist 40 unaccompanied teenage Cambodians who are either orphans or who were separated from their families and who may settle in Vermont. According to Judith

May, adolescents have an especially difficult time. Many must work while they attend high school. In addition they must adjust to a very different environment, a new language and the loss of their families.

Independence Fund

As reported above, the legislature enacted, and Governor Snelling signed, a bill creating a fund which, according to its statement of purpose, is to provide Vermont's elderly and handicapped "greater opportunity to live independently or with their families, thereby retaining their dignity as independent human beings and relieving the State and its institutions from additional dependent clients in an effort to reduce the State's Medicaid liabilities and requirements."

The act became effective on July 1, 1982, and the Governor named the members of the Independence Fund Board which is responsible for: soliciting proposals for grants to fund projects that carry out the purposes of the Act; and evaluating such proposals and submitting its recommendation for funding to the Secretary of Human Services, who awards the grants. Those appointed to the five-member Board are: Elliott Haynes, Chairman, Shrewsbury; Patrick Boylan, Bellows Falls; Thomas Chesbrough, East Barnet, all of whom represent business and industry; Deborah Lisi, Plainfield, representing handicapped persons; and Esther Urie, Williston, representing elderly persons.

According to the Independence Fund Board's January 1983 report to the Governor and Legislature, "Barely four months elapsed between the announcement of the availability of funds...early in August and the actual delivery of some services in early December..." During that period, the Board solicited, reviewed and recommended grant proposals, and the Secretary of Human Services awarded grants to applicants, some of whom immediately began providing services.

Seventy-seven ideas for projects seeking more than \$1.7 million were submitted to the Board, and 17 project proposals were awarded grants totaling \$320,680. The Legislature had appropriated \$325,000 for the Independence Fund for the year beginning July 1, 1982. In its six-month report, the Board stressed that the fund was able to provide only 20 percent of the funding requested and recommended that \$1,000,000 be appropriated for the second year of the fund.

About 25 percent of the money awarded (5 of the 17 grants) was for "respite care," short term or intermittent relief for those caring for handicapped or elderly persons, or for assistance to someone living alone. Respite care provides someone to stay with the dependent elderly or handicapped family member a half-day a week or when the family goes on vacation. It could also provide short-term help to someone living alone who recently left the hospital.

Two grants were for "homemaker services" or "attendant care." Four of the 17 grants were for "coordinated services delivery," pulling together all available services in a community to make the client or family aware of the available services and to ensure that services are provided to allow clients to remain independent. Other grants were for "home repair services," adapting homes to the needs of wheelchair users or the blind, or to make minor repairs; and "emergency response services," attaching a special communication device to the telephones of eligible individuals.

Because of the short period that the Independence Fund has been in existence, the Board in its six-month report said that it is premature to evaluate the effectiveness of the program and services provided. However, interest is high in this "experiment" to see if handicapped and elderly people can be better served by living at home, rather than in an institution, and still receive needed services at an affordable cost.

State Equal Rights Amendment

When it seemed likely that the Federal Equal Rights Amendment would not be ratified by the requisite 38 states by June 30, 1982, the Governor's Commission on the Status of Women, chaired by Betty Jones of Eden Mills, decided to study the feasibility of adding an equal rights amendment to the Vermont State Constitution. At its September meeting the Governor's Commission made a State Equal Rights Amendment a legislative priority for 1983. Ellen Maloney, a Commission member and probate judge from Bennington, drafted a proposed amendment and the Commission approved the language at its October meeting.

Upon receipt of the Commission's ERA report, Governor Snelling announced his support for such an amendment to the State Constitution. By year's end, 25 of Vermont's 30 State senators had agreed to co-sponsor the amendment in the 1983 legislative session. The Governor's Commission believes the amendment will receive preliminary legislative approval in 1983.

The procedure for amending the State Constitution is more complex than for the enactment of legislation. Proposed amendments must be passed by two-thirds of the Senate, and a majority of the House of Representatives must concur. The next separately elected legislature must then approve the amendment by a simple majority. After that, the amendment would go to a referendum of the electorate where it would have to be passed by a majority of the voters. A referendum on the Equal Rights Amendment could take place in 1986.

Governor's Commission on the Status of Women

The Governor's Commission on the Status of Women was established in 1964 by then Governor Philip H. Hoff, and endorsed by subsequent governors. There are sixteen commissioners appointed by the

Governor and a full-time staff of two. Through the years, the Commission has been active in studying issues of concern to women in Vermont. In 1982, in addition to working on the State Equal Rights Amendment and to awarding the State funds for domestic violence programs, the Commission conducted a survey of the State's attorneys on whether the marital exception to the rape statute should be eliminated. The survey found a favorable response to revising the present law, which bars the State from bringing criminal charges against a man who rapes his wife, even when they are living apart. The Commission therefore voted to support an amendment to the statute eliminating the marital exception.

In June the Governor's Commission sponsored a workshop to increase women's access to non-traditional jobs and apprenticeship programs. This workshop led to a research project to collect data on women in non-traditional job programs in Vermont. A report will be issued in 1983.

In the fall of 1982, the Commission formed a statewide Economic Issues Task Force, chaired by Barbara Snelling, to examine ways to improve the economic status of women. The Task Force is looking at employment benefits, such as pensions, health insurance, and flexitime; the comparable worth system of determining job compensation; and the access of women to education and training programs. The Task Force will hold six hearings around the State and make recommendations for action.

IX. Elections, 1982

Women, blacks and Hispanics made measurable gains in representation in U.S. Congress. The 98th Congress will have more women and minorities than any before it. Women increased from 16 to 21, blacks from 18 to 21 and Hispanics from 7 to 11. Across the nation, women increased their representation in State legislatures from 12 to 14 percent.

However, no such increase occurred in Vermont's November 1982 elections where the number of women elected to the legislature actually dropped from 1980. Sixty-eight women ran in 51 races for the State legislature. Of these 34 won, 30 in the House and 4 in the Senate. The percentage of women elected to the 150-member house dropped to 20 percent from 24 percent in 1980 (when 36 women were elected); it remained at 13 percent for the 30-member Senate. Madeline Kunin, the female gubernatorial candidate, lost in her attempt to unseat incumbent Richard Snelling. No other women in the major parties were in contention for statewide office. For only the third time in history, a black person was elected to the Vermont State legislature. Francis Brooks, a teacher from Montpelier, won a surprise victory over a five-term incumbent.

After the elections, when the leadership of the State legislature was decided upon, two women, Madeline Hardwood and Mary Skinner, were among the twelve persons chosen to head Senate committees, and Marie Condon and Gretchen Morse were selected to chair two of the 15 committees of the House of Representatives. Judith Stepheny was elected minority leader in the House.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, age, handicap, religion, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105 (c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters which the Advisory Committee has studied; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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This report was researched and written by Mary Lee Walsh, with clerical support from Sylvia Cooper. The project was undertaken under the supervision of Jacob Schlitt, director, New England Regional Office.

U.S. COMMISSION ON CIVIL RIGHTS

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