

## The Commonwealth of Massachusetts

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MEMORANDUM OF THE SECRETARY OF THE COMMONWEALTH PURSUANT TO GENERAL LAWS, CHAPTER 3, SECTION 7, WITH RESPECT TO PETITION OF RUSSEL L. BARSH AND CHARLES F. FLAHERTY, JR., FOR LEGISLATION TO PROVIDE FOR THE ENCOURAGEMENT AND PRESERVATION OF AMERICAN INDIAN SCHOLARS AT HARVARD UNIVERSITY.

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February 21, 1973.

*To the Honorable Senate and House of Representatives:*

The above-named petition was transmitted to me by the Clerk of the House of Representatives on January 22, 1973, with a request for a memorandum.

President and Fellows of Harvard College, the name of the corporation as it exists today was founded by an Act of the General Court of the Colony of Massachusetts Bay on October 28, 1636. On November 20, 1637, by an Act of the same body the board of overseers was created, and on March 13, 1638 by an Act of the same body the name of the college was established as Harvard College. On September 27, 1642 by an Act of the same body the board of overseers was reorganized and was made the sole governing body of the college with quasi corporate powers. On May 31, 1650 the first charter was granted to the corporation and the name of the corporation was changed to President and Fellows of Harvard College. On October 8, 1692 by an Act of the same body a new charter was granted to the corporation. Under the provisions of Chapter 10 of the Acts of 1692-1693 of the General Court of the Colony of Massachusetts Bay, the President and Fellows of Harvard College were authorized to confer academic degrees. Under the provisions of Section 1 of Chapter 5 of the Constitution of the Commonwealth of Massachusetts all of the powers, authorities, rights, liberties, privileges, immunities and franchises which the President and Fellows of

Harvard College then had or were entitled to have, hold, use, exercise and enjoy were ratified and confirmed. There have been numerous Acts of the Legislature since the adoption of the Massachusetts Constitution affecting the corporation, the latest of which is Chapter 349 of the Acts of 1967 relating to the election of overseers of Harvard College.

The bill before your honorable bodies is an Act for the encouragement and preservation of American Indian Scholars at Harvard University, and discharge of said University's obligations to the Commonwealth in that behalf.

*Please note* that according to the records in this office the *true name of the corporation is: President and Fellows of Harvard College not: Harvard University* as the name appears in the petition.

Special legislation is required to effect the desired result.

Whether or not this should be allowed is a matter of policy within your exclusive jurisdiction, and this office expresses no opinion on the merits of the bill. No fee is required to be paid by a corporation of this type under the provisions of Chapter 3, Section 7.

Respectfully submitted,

JOHN F. X. DAVOREN.  
*Secretary of the Commonwealth.*

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By Mr. Flaherty of Cambridge, petition of Russel L. Barsh and Charles F. Flaherty, Jr., for legislation to provide for the encouragement and preservation of American Indian Scholars at Harvard University. Education.

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### The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT FOR THE ENCOURAGEMENT AND PRESERVATION OF AMERICAN INDIAN SCHOLARS AT HARVARD UNIVERSITY, AND DISCHARGE OF SAID UNIVERSITY'S OBLIGATIONS TO THE COMMONWEALTH IN THAT BEHALF.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Court has determined that, in the  
2 year one thousand six hundred and fifty-three the President and  
3 Fellows of Harvard College received from the Commissioners of  
4 the United Colonies of New England the sum of four hundred  
5 pounds Sterling, for the construction of a college for Indian  
6 scholars at Harvard, at the instance of the said President and  
7 Fellows; that said college for Indian scholars, then known as the  
8 Indian College, was built and maintained by the President and  
9 Fellows of Harvard College until the year one thousand six hun-  
10 dred and ninety-three, in which year said President and Fellows  
11 sought and obtained leave of the Commissioners of the United  
12 Colonies of New England to take down the Indian College and  
13 employ the proceeds of its liquidation to build a new college;  
14 that the Commissioners of the United Colonies of New England  
15 conditioned said leave upon the provision thereafter by the Presi-  
16 dent and Fellows of Harvard College to any Indian scholars at  
17 Harvard of their studies rent-free; that the Indian College was  
18 employed for the housing of non-Indian scholars and that no  
19 Indian at Harvard then or thereafter has enjoyed his studies rent-  
20 free while at Harvard; that pursuant to Pt.2 c.5 §1 Art.2 of the  
21 Declaration of Rights all grants made to the President and



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17 Harvard of their studies rent-free; that the Indian College was  
18 employed for the housing of non-Indian scholars and that no  
19 Indian at Harvard then or thereafter has enjoyed his studies rent-  
20 free while at Harvard; that pursuant to Pt.2 c.5 §1 Art.2 of the  
21 Declaration of Rights all grants made to the President and

22 Fellows of Harvard College shall be administered according to the  
23 true intent of the grantors; and that pursuant to Pt.2 c.5 §1  
24 Art.3 of the Declaration of Rights this General Court is  
25 empowered to alter the government of Harvard University, in the  
26 best interests and advancement of the University and of letters, in  
27 such manner as the Assembly of the Colony of the Massachusetts  
28 Bay might have done, and that grantors here, the Commissioners  
29 of the United Colonies of New England, were a representative  
30 body composed of delegates of each of the Assemblies of New  
31 England including that of Massachusetts Bay.

1 SECTION 2. The President and Fellows of Harvard  
2 University shall appoint a Chancellor of Indian Studies, and in  
3 addition thereto shall establish, endow and maintain at their own  
4 charge, not fewer than twenty-five Indian Fellowships distributed  
5 among the various Colleges and graduate schools of said  
6 University and administered by said Chancellor of Indian Studies,  
7 which Fellowships shall be available only to American Indians  
8 admitted to Harvard University. Said Fellowships shall in amount  
9 be equal to the current charge for tuition, room and board in the  
10 facilities of said University as computed and adjusted each  
11 semester, and shall be identified and described in all printed  
12 announcements regarding financial aid distributed by said  
13 University. Provided, that nothing herein shall be construed to  
14 require that any Indian Fellow during his tenure reside at any of  
15 the residential facilities owned and operated by said University.