

MAINE STATE LEGISLATURE

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FIFTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
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CHAP. 13.

for benefit of county law libraries.
1893, c. 271.
—also dues paid by attorneys.
R. S., c. 8, § 11.
See c. 115, § 2.
Record of fines and bills of costs.
R. S., c. 8, § 12.
See c. 137, § 1.

Annual schedule of securities taken on discharge of prisoners, to be rendered.
R. S., c. 8, § 13.

Also his own account, with county estimate.
R. S., c. 8, § 15.
See c. 9, §§ 69, 70.

Accountable to co. com'rs.
R. S., c. 8, § 16.
69 Me., 364.

Account for money paid by U. S. for use of jails.
R. S., c. 8, § 18.

county treasury for the violation of any of the provisions of chapter twenty-nine and of section one of chapter twenty-two, *provided, however*, that the sum so paid by the county treasurer shall not exceed five hundred dollars a year. He shall also pay to such treasurer all money received from persons admitted as attorneys in the supreme judicial court.

SEC. 11. He shall enter in a suitable book an account of all fines, forfeitures, and bills of costs accruing to the state, which are, from time to time, certified to him by the clerk of the judicial courts of the county, and he shall note in said book when any of said sums are paid.

SEC. 12. He shall, within three months before the first Wednesday of each January, lay before the county commissioners a schedule of all notes and securities taken by the sheriff of such county for fines and costs on the liberation of poor convicts from prison, and by him delivered to said treasurer.

SEC. 13. He shall, annually, prepare and deliver his account as treasurer to the close of every year, to the clerk of the county commissioners, to be by him enclosed with the estimates for county taxes made by said commissioners, and transmitted to the secretary of state.

SEC. 14. Every treasurer holding money or effects belonging to his county, shall, annually, and oftener if required, exhibit an account thereof to the county commissioners for adjustment.

SEC. 15. He shall receive, for the county, all money paid by the United States for the use and keeping of county jails, and account therefor according to law.

Note. County treasurers, duties of, as to standard weights and measures, c. 44, § 3; as to fines and costs in criminal cases, c. 137, §§ 11-14.

CHAPTER 13.

INDIAN TRIBES.

Agents, how appointed; tenure.
R. S., c. 9, § 1.

Vacancies filled by governor and council.
R. S., c. 9, § 2.

Agents to give bond, take care of their property.
R. S., c. 9, § 3.
See Const. of Me.
Art. ix. § 1.
—duties.
1891, c. 122.

Keep record of proceedings, and accounts of receipts and expenditures.
R. S., c. 9, § 4.

SEC. 1. Agents for the Penobscot and Passamaquoddy tribes of Indians shall be appointed by the governor, with the advice and consent of the council, and hold their office during the pleasure of the governor and council.

SEC. 2. Vacancies shall be filled by the governor with the advice and consent of the council, but there shall never be more than three agents for each tribe.

SEC. 3. Such agents shall give bond to the state, with sureties to the satisfaction of the governor and council, for the faithful discharge of their duties, and have the care and management of the property belonging to the tribes for their benefit; each of said agents shall at least once in six months visit each Indian reservation within his agency limits where Indians reside, and incorporate into his annual report the dates of such visits, and the condition in which he found the Indians on each reservation at each visit.

SEC. 4. The agents shall keep a true record of their proceedings, and correct accounts of all receipts and expenditures of every kind; and shall annually, and oftener if required, lay them before the governor and council for inspection and adjustment, who may settle and adjust them, and draw warrants on the treasury for such sums as are, from time to time, found necessary to carry into effect all treaties with said tribes.

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SEC. 5. Agents shall not exceed in their expenditure the appropriations for their tribes, without the written order of the governor, nor shall they be reimbursed for any excess.

Agents not to exceed appropriations.
R. S., c. 9, § 5.
See c. 2, § 22.
Agents' annual reports.
R. S., c. 9, § 6.

SEC. 6. The agents shall submit printed annual reports to the governor and council, on or before the fifteenth day of each December, with proper vouchers for the expenditure of moneys entrusted to them.

SEC. 7. Contracts relating to the sale or disposal of trees, timber or grass on said Indian lands, made with any Indian belonging to either of said tribes, unless examined and allowed by the agent of his tribe, are void.

Contracts of Indians for timber and grass, void.
R. S., c. 9, § 7.
24 Me., 469.

SEC. 8. No lease of land, or contract for trees, timber or grass, made by the agent of either tribe, has effect for more than one year; nor shall an agent, in any one year, sell or dispose of trees or timber of said Indians, to an amount exceeding five hundred dollars, except as provided in sections twenty-three and thirty-six.

Agents' leases and contracts limited to one year and \$500.
R. S., c. 9, § 8

SEC. 9. Such agents may, in their own names and capacity, maintain actions for money due to any Indians, and for injuries done to them or their property; and all sums or damages so recovered shall be distributed to the Indians of the tribe, according to their usages, or be invested in useful articles.

Agents may sue in their own names.
R. S., c. 9, § 9.
21 Me., 536.
—See special laws of 1867, c. 325.

PENOBSCOT TRIBE.

SEC. 10. A tribal committee of the Penobscot tribe of Indians shall be chosen annually, in the month of November, to consist of twelve members of said tribe. No member of said committee shall be less than twenty-one years of age. Six members thereof shall be chosen by the old party so called, and six members thereof by the new party, so called, at separate meetings held as hereinafter provided.

Tribal committee shall be chosen annually.
1899, c. 20.
—six shall be chosen by each party.

SEC. 11. Meetings of each of said parties for the election of members of said committee shall be called by the agent of said tribe, who shall give notice thereof in the same manner as notice of the meeting for the election of governor of said tribe is required to be given; and at such meeting said agent or some person appointed in writing by him shall preside, who shall receive, sort, count and declare in open meeting the vote given in for members of said committee. The said agent shall issue certificates of election to the persons thus elected, who shall hold office as such members, until a new election is had, unless their term of office is sooner terminated by resignation or by ceasing to be members of said tribe. Whenever any vacancy occurs in said committee, the agent shall call a meeting of the party entitled to fill the same, and said party shall fill such vacancy.

Meetings for election of committee.
1895, c. 126, § 2.
—how called and held.

—agent shall issue certificates of election.

—vacancy, how filled.

SEC. 12. Said tribal committee at any regularly held meeting may, by three-fourths vote of its total membership, adopt into said tribe any person who is in whole or in part of Indian blood, and who has had his or her residence for at least one year next preceding such adoption upon any reservation of said tribe; and the decision of said committee upon such residence and Indian descent shall be conclusive. The adoption of a child by any member of the tribe under ordinary legal process shall not of itself constitute such child a member of said tribe; but the power of adoption into the tribe shall in all cases rest with the aforesaid tribal committee.

Committee may adopt person into tribe.
1895, c. 126, § 4.

SEC. 13. Whenever said tribal committee shall vote to adopt any person into said tribe, a certificate of such vote of adoption shall be signed by the person presiding at the meeting, and said certificate shall be filed with the agent of said tribe; and said adopted person shall thereafter be deemed

Certificate of adoption shall be filed with agent.
1895, c. 126, § 5.

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Persons adopted, required to make oath. 1985, c. 126, § 6.

Membership, how acquired.

—by birth.

—by adoption.

—by marriage. 1901, c. 290, § 1.

Evidence of marriage. 1901, c. 290, § 2.

Membership shall be deemed lost when tribe is abandoned. 1901, c. 290, § 4.

Any member residing for 5 years without limits of tribe shall not receive dividends. 1901, c. 290, § 5.

Loss of membership does not affect membership of other members of the family. 1901, c. 290, § 6.

How a person may be restored to membership. 1901, c. 290, § 7.

Money forfeited may be used for benefit of family. 1901, c. 290, § 8.

and accepted to be a member of said tribe for all intents and purposes, and shall be enrolled as such upon the list of its members.

SEC. 14. Every male person adopted as above provided, shall, within one month after such adoption, or if a minor within one month after becoming twenty-one years of age, make oath before the agent of said tribe that he will demean himself as a discreet, industrious and good member of said tribe, and will faithfully fulfil the duties incumbent upon him as such member.

SEC. 15. Membership in the Penobscot tribe of Indians may, after March twenty-two, nineteen hundred and one, be acquired only as follows:

I. By birth.

II. By adoption into the tribe as determined by its tribal committee, in accordance with the provisions of sections twelve and thirteen.

III. By marriage to a male member of said tribe; but membership by marriage can be acquired only by such persons as are in whole or in part of Indian blood, and it shall not include the previous issue of the person acquiring it.

SEC. 16. A certificate of marriage signed by the person solemnizing the same, or an attested copy of the record thereof, shall be sufficient evidence of such marriage.

SEC. 17. If any member of said tribe shall abandon it and join another tribe of Indians, he shall be deemed to have lost his membership in the Penobscot tribe, and shall not be entitled to any share of dividends, rentals or other money thereafter apportioned among the members of said tribe, nor to any other subsequent rights of membership.

SEC. 18. If any member of said tribe shall, after March twenty-two, nineteen hundred and one, reside for a period of five successive years without the limits of the tribal reservation, he shall not be entitled to receive any share accruing after the expiration of said period of the dividends, rentals or other moneys to be divided among said tribe; but any such shares accruing within said period, shall be paid to him or his legal representatives if applied for within one year after the expiration of said five years, unless the same have been used by the agent under the provisions of section twenty-one. All such shares not so used or applied for within said time shall be added to the general distributive fund of said tribe for apportionment by the agent.

SEC. 19. When any member loses his membership under section seventeen, or his right to share in dividends, rentals or other moneys under section eighteen, no member of his family to whom the provisions of said sections do not personally apply shall be deemed to have lost such membership or right.

SEC. 20. Any person a member of said tribe on March twenty-two, nineteen hundred and one, as shown by the tribal census taken under the laws of the state, who shall forfeit any rights of membership, may regain said rights by residing for one continuous year upon the tribal reservation; but such renewal of rights shall not entitle such person to any share in the dividends, rentals or moneys which previously thereto have come into the hands of the agent, nor have any other retrospective effect.

SEC. 21. If any member of said tribe shall desert his family, or fail to provide properly for said family's support, the agent may in his discretion use for the benefit of such family any part or all of said member's dividends or share of rentals or any money assigned to him from state funds or coming to him in any way by apportionment or distribution through the hands of said agent.

SEC. 22. The agent for the Penobscot tribe shall provide, furnish, pay and deliver to said tribe, on account of the state, such articles, goods, provisions and moneys, as from time to time become due under any treaty or law. (a)

SEC. 23. The islands belonging to said tribe, may be leased by their agents, for the benefit of such tribe, for a term not exceeding twelve years, if such lease, and the terms and conditions thereof are assented to by the governor and lieutenant governor of the tribe, and approved by the governor of the state; if such lease is on credit, it shall be at the risk of the agent, and accounted for as money; and the avails thereof shall be placed by him in the state treasury, subject to the order of the governor and council according to law.

SEC. 24. The agent of the Penobscot tribe shall record the return of the Indian commissioners appointed by the governor and council under chapter one hundred and thirty-seven of the public laws of eighteen hundred and eighty-three, as made to him, as well as the certificates when issued by him upon such return, in suitable duplicate books having proper indexes, one of which shall be kept by said agent and his successors for reference, and the other shall be deposited in the registry of deeds of Penobscot county to be kept like other records.

SEC. 25. Any Indian holding lands under a certificate issued as aforesaid, or by virtue of any assignment under the laws for the apportionment of the lands of said Penobscot tribe, may sell and convey the same to any member of the same tribe with the approval of the agent; *provided*, that no Indian shall purchase lands upon the reservation of said tribe beyond his fair proportion of such reservation.

SEC. 26. No such Indian shall sell or lease his lot except as provided by law; and if he carries off the growth faster than is necessary for cultivation, except by permission of the agent, or commits strip or waste, he shall be dealt with as a trespasser.

SEC. 27. The surveys of the islands in Penobscot river from Oldtown Falls to Mattawamkeag Point and field notes thereof, as made under chapter one hundred and fifty-eight of the public laws of eighteen hundred and thirty-five and chapter three hundred and ninety-six of the public laws of eighteen hundred and thirty-nine, plans of which were returned to the land office and to the Indian agent, shall be deemed authentic in all matters to which they relate; and the water privileges belonging to said islands, valuable for mills, booms, fisheries, tracts of wood and timber land, and other lots indicated on said plans as reserved for public use, (except the public farm which is subject to allotment by chapter twenty-two, of the private and special laws of eighteen hundred and seventy-eight,) are not subject to assignment or distribution to members of said tribe, but shall remain for the benefit of the whole tribe.

SEC. 28. The agent of said tribe, on application of any Indian thereof, male or female, twenty-one years of age or more, to whom his proportion of the tribe's lands has never been assigned, or has never come by inheritance, or who does not already hold by assignment, purchase or otherwise his fair share of said lands, may cause a lot suitable for cultivation to be surveyed to such applicant from the unassigned lands of the tribe, if any, and may assign the same to him and designate the same upon the plan aforesaid. All lots so designated shall be limited by said plan and occupied accordingly, and any lot, when so assigned, shall be the property of the person to whom it is assigned, during the pleasure of the legislature.

(a) See Resolves 1867, c. 96.

What payments agents shall make to Penobscots.
R. S., c. 9, § 10.

Islands of Penobscot may be leased, with assent of the state and of the tribe.
—if on credit, at agents' risk.
R. S., c. 9, § 11.

Returns and land certificates of Indian commissioners, how and where to be recorded.
R. S., c. 9, § 12.

Any Indian holding land under certificate, may convey same to another Indian of same tribe.
R. S., c. 9, § 13.

Lots not to be sold or leased.
R. S., c. 9, § 14.
69 Me., 477.
See Resolve, 1867, c. 153;
1873, c. 6.

Surveys and plans of islands deemed authentic.
R. S., c. 9, § 15.

—water privileges, and wood and timber lands reserved for public use of tribe.

Assignments of unassigned lands, to whom made.
R. S., c. 9, § 16.

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Assignments to be accompanied by certificate of agent.

—form of certificate. R. S., c. 9, § 17.

Abandonment of tribe forfeits lands. R. S., c. 9, § 18.

Death of owner and description of lots to be recorded by agents. R. S., c. 9, § 19.

Conveyances to be by release deed. —how and where to be recorded. —until recorded, inoperative. —foregoing, how applied to Oldtown Island, etc. R. S., c. 9, § 20.

When deeds made and deposited with agent may be delivered after death of grantor. R. S., c. 9, § 21.

Copies of deeds are evidence. R. S., c. 9, § 22.

Lease of island shores. R. S., c. 9, § 23. See special laws of 1873, c. 267; 1885, c. 517.

—term of.

—notice of.

—rents of shores, how appropriated.

Agents may lease privileges for mills, booms and fisheries. R. S., c. 9, § 24.

SEC. 29. Such assignments shall be accompanied by a certificate from the agent to be recorded as in section thirty-two, in form substantially as follows:

“Know all men by these presents, that I, ———, agent of the Penobscot tribe of Indians, have caused to be surveyed and set off to ———, a portion of the lands belonging to said tribe on the islands in Penobscot river, as contemplated by acts of the legislature, bounded and described as follows, viz. :—

* * * * *

To have and to hold to him, his heirs and assigns, as contemplated by said acts, during the will of the legislature.

In witness whereof I have hereunto set my hand and seal as agent of the Penobscot tribe of Indians, this ——— day of ———, nineteen hundred and ———.”

SEC. 30. Any member of said tribe who abandons it and joins any other tribe, forfeits all lands assigned to him, and the same may be assigned anew, as provided in section twenty-eight.

SEC. 31. Said agent shall enter upon his record a memorandum of the death of any Indian owning lands, the date thereof, a description of the lots owned by the deceased, and the names of those persons, so far as ascertainable, who are entitled to such lands by inheritance.

SEC. 32. Conveyances made by virtue of section twenty-five shall be by release deed, executed and acknowledged, and the approval of the agent shall be written thereon; said deed and approval shall be recorded by the agent without fee, in a suitable book kept by him; also by the register of deeds of Penobscot county in a like book kept in the registry of deeds in said county, upon payment of twenty-five cents for each deed so recorded. And until recorded as herein provided, no deed made as aforesaid shall pass any title. This chapter applies to house-lots on the point of Oldtown Island, as well as to lands allotted for agricultural purposes.

SEC. 33. Deeds made by any Indian of the Penobscot tribe as provided in the preceding section, may be deposited with said agent to be delivered by him to the granteë named therein, after the death of the grantor, if the fact that such deed is so deposited to be so delivered, appears by the deed itself; and when delivered by said agent, it shall pass all the title of the grantor in the premises at the time of his death.

SEC. 34. Copies of deeds or certificates recorded as provided in this chapter, duly attested by the register of deeds or by the agent of said tribe, shall be evidence in all actions or controversies relating to title to lands between members of said tribe.

SEC. 35. The shores of the islands in the Penobscot river belonging to said tribe shall be leased for booming or hitching logs, under the orders of the governor and council. Such leases shall not run longer than five years. Notices of the time and place of leasing shall be given by publishing the same in one of the daily papers of Bangor for thirty days, and shall specify the shores to be leased and the limits of each lot. All sums received from rent of said shores shall be paid to the treasurer of state, to be held in trust, and paid to said tribe on warrant of the governor and council as provided in section one, chapter two hundred and sixty-seven, of the special laws of eighteen hundred and seventy-three.

SEC. 36. The agent may, with the approval of the governor and council, lease any reserved privileges for mills, booms and fisheries, for a term sufficiently long to induce persons to take leases of them; and all rents

shall be paid into the treasury, to be expended for the benefit of the tribe, under the direction of the governor and council.

SEC. 37. The governor and council may draw warrants on the treasury for any sum not exceeding the interest on the price of the four townships purchased by the state of the Penobscot tribe in June, eighteen hundred and thirty-three, and of any other money paid into the treasury; and for the full amount of rents paid in as aforesaid; and when the whole amount of such sums, in the opinion of the governor and council, is more than is necessary for said tribe, the excess may be invested for their benefit.

SEC. 38. An accurate census of the Penobscot tribe shall be taken early each January by one or more of the superintending school committee of the town of Oldtown, upon the best information which they can obtain, as hereinafter provided, stating, as nearly as may be, the name, sex and age of each Indian as it existed on the first day of such January, each family by itself. On or before the tenth day of January, annually, the original, certified under oath, shall be delivered to the agent, and a copy thereof to the governor of said tribe for their use. On the first Wednesday of January, annually, said committee shall hold a meeting with said tribe on Oldtown Island, for receiving information from such of the tribe as may attend, as to the membership of the tribe, the identity of persons and the correctness of names; due notice in writing of the time and place of which meeting shall be given by said committee. The tribal committee shall meet the said superintending school committee at the time and place so appointed. At said meeting any member of said school committee shall preside, and fifteen of said tribal committee shall constitute a quorum thereof; and on said first Wednesday of January annually the names of all persons entitled to membership under section fifteen shall be reported by the tribal committee to the person authorized by law to take the census of said tribe, and shall thereupon be placed on the census roll.

Corrections of the list, by reason of births, deaths or omissions, may, as they come to the knowledge of the committee, be certified to the agent, and he shall correct his list accordingly. This list, so corrected, shall, with his account, be returned to the governor and council. A reasonable compensation shall be paid to the committee by the agent and charged in his account, and allowed and paid to him out of the state treasury.

SEC. 39. On the first Tuesday of November, eighteen hundred and eighty-four and biennially thereafter, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe, and a representative to the legislature of this state. The agent of said tribe shall give notice of the time and place, seven days before said day of election by posting notices thereof, one at his office and one in some conspicuous place on Oldtown Island. Said agent shall receive, sort and count the votes given in at said election, in presence of the members of the tribe, and shall give to those elected, certificates thereof.

PASSAMAQUODDY INDIANS.

SEC. 40. The agent of the Passamaquoddy tribe may sell to the best advantage, at public or private sale, to a citizen of the state, the timber and grass from township numbered two on the St. Croix river, usually called the Indian township, to the amount of one thousand dollars annually; expressly retaining in the written contract of sale a lien on the timber and grass cut, until the amount due for stumpage thereon is paid. Every surveyor appointed by such agent to scale or survey the lumber so sold,

Governor to draw warrants for interest on four townships purchased; also for rents. R. S., c. 9, § 25.

Census of Penobscot Indians.

—how, by whom and when taken. R. S., c. 9, § 26.

—annual meeting with school committee of Oldtown.

—notice thereof.

—tribal committee shall meet school committee. 1895, c. 126, § 3.

—persons entitled to membership shall be reported to person appointed to take census. 1901, c. 290, § 3.

—lists may be corrected.

—return to be made to governor, etc. —compensation of committee.

Time for biennial election of tribe. R. S., c. 9, § 27. 1895, c. 153.

Agent of Passamaquoddy tribe may sell timber on township number two. R. S., c. 9, § 28.

—surveyor to be sworn.

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No sale or permit to a foreigner.
13 Me., 385.

—penalty.
R. S., c. 9, § 25.

Lands in Indian township, may be leased or sold.
1887, c. 84.

\$1,000 to be paid yearly to tribe.
\$700, how and when to be paid.
\$300, how distributed to the poor.
R. S., c. 9, § 30.

Warrants, how drawn.
R. S., c. 9, § 31.
Resolve.
1867, c. 96.

Penalty for selling or giving liquor to Indians.
R. S., c. 9, § 32.

Bounties on produce.
R. S., c. 9, § 33.

Wheat.

Rye, etc.

Potatoes, etc.

Proof to be made to agent.
R. S., c. 9, § 34.

Agent to settle account in January, annually.
R. S., c. 9, § 35.

before entering on his duties, shall be sworn to the faithful performance of his trust, and shall file a certificate of his oath with the agent.

SEC. 41. No citizen or subject of a foreign government shall purchase, cut or carry off trees, timber or grass, from the township reserved for the benefit of the Passamaquoddy tribe; and if their agent gives to such citizen or subject a permit for such unlawful purpose, he forfeits not exceeding five hundred, nor less than one hundred dollars, to be recovered by action of debt, half to the state and half to the prosecutor.

SEC. 42. The governor and council may, at the expense of the state, and for the benefit of the Passamaquoddy tribe, lease or sell the whole or any part of the Indian township, on such terms as they deem just, and all sums received from such leases or sales shall be credited to the funds of said tribe. (a)

SEC. 43. Out of the interest accruing upon the funds belonging to said tribe, the agent shall, in person, pay to said Indians one thousand dollars annually, as follows: four hundred dollars in May, and three hundred dollars in November, in an equal proportion to each member of the tribe; and he shall personally distribute three hundred dollars to the distressed poor of the tribe, in sums not exceeding fifty dollars in one month, in such portions to each of them, as his circumstances demand.

GENERAL PROVISIONS.

SEC. 44. The governor and council may draw warrants on the treasurer for such sums as are payable to the Indians, for the salary of the agent, and for the bounties on agricultural products as hereinafter provided.

SEC. 45. Whoever sells or gives to an Indian intoxicating liquors, forfeits not less than five, nor more than twenty dollars, half to the state, and half to the complainant.

SEC. 46. Bounties shall be paid to every Indian of either of said tribes for produce raised by him either on his own land, or on land belonging to the tribe, as follows:

I. For every bushel of wheat, twenty cents.

II. For every bushel of rye, oats, barley, buckwheat, peas or beans, ten cents.

III. For every bushel of potatoes, turnips, parsnips, beets or carrots, five cents.

SEC. 47. Before any bounty is paid to such Indian, he shall prove to the satisfaction of the agent the number of bushels of each article before named, raised by him on such land.

SEC. 48. Agents shall keep an account of money so paid out, and present it duly certified to the governor and council in January annually, for examination and allowance.

(a) By c. 84 of the private and special laws of 1899, the governor and council were authorized to lease or sell the whole or any part of the Indian reservation in the town of Perry.

Note. By c. 493 of the private and special laws of 1885, the governor was authorized to appoint special constables in each of the Indian tribes of the state.

By c. 49 of the private and special laws of 1893, provision was made for the election of a policeman by the Penobscot tribe, and c. 493 above mentioned was superseded as to that tribe.

By c. 56 of the resolves of 1887, provision was made for an agricultural superintendent for the Passamaquoddy tribe.