

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 4
Titles 21 to 25



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 1353

PENOBSCOT TRIBE

Sec.

- 4761. Membership.
- 4762. Adoption of person into tribe.
- 4763. Filing certificate of adoption; exclusion from certain offices.
- 4764. Oath of adopted person.
- 4765. Loss of membership by abandonment.
- 4766. Loss of membership does not affect membership of other members of family.
- 4767. Restoration to membership.
- 4768. Dividends and rentals with respect to nonresident members.
- 4769. Forfeited money used for family benefit.
- 4770. Removal of nonmembers from reservation.
- 4771. Destitute persons on reservation.
- 4772. Destitute members outside of reservation.
- 4773. Payments due under treaty or law.
- 4774. Schools.
- 4775. Lease of islands.
- 4776. Restrictions on sale of wood or timber.
- 4777. Conveyances.
- 4778. Lots not to be sold or leased.
- 4779. Surveys; tribal use of waters and timberlands.
- 4780. Assignments of unassigned lands.
- 4781. —Certificate of commissioner; form.
- 4782. Abandonment as forfeiture of lands.
- 4783. Death of landowner.
- 4784. Conveyances by release deed; lots on Old Town Island.
- 4785. Deposit of deeds with commissioner.
- 4786. Copies of deeds as evidence.
- 4787. Lease of island shores.
- 4788. Privileges for mills, booms and fisheries.
- 4789. Warrants for interest on 4 townships purchased; rents.
- 4790. Excise taxes.
- 4791. Census; annual meeting; notices; correction of lists; compensation of committee.
- 4792. Biennial elections.

§ 4761. Membership

Membership in the Penobscot tribe of Indians may, after March 22, 1901, be acquired only as follows:

1. **Birth.** By birth;

2. Adoption. By adoption into the tribe as determined by its tribal committee, in accordance with sections 4762 and 4763;

3. Marriage. By marriage to a male member of said tribe; membership by marriage can be acquired only by such persons as are in whole or to the extent of at least $\frac{1}{4}$ part of Indian blood, and it shall not include the previous issue of the person acquiring it. 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.

R.S.1954, c. 25, § 340.

§ 4762. Adoption of person into tribe

The tribal committee at any regularly held meeting may, by $\frac{3}{4}$ vote of its total membership, adopt into said tribe any person who is in whole or to the extent of at least $\frac{1}{4}$ part Indian blood, and who is the husband, wife or child of a member of said tribe, and who has his or her residence for at least one year next preceding such adoption upon any reservation of said tribe. The decision of said committee upon such residence and Indian descent and such adoption shall not be effective until the same has been ratified and approved in writing by the commissioner. 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 tribal committee, subject to approval by the commissioner.

R.S.1954, c. 25, § 341.

§ 4763. Filing certificate of adoption; exclusion from certain offices

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 commissioner. If ratified and approved by the commissioner, said adopted person shall thereafter be deemed 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. No person adopted into the tribe shall be eligible to hold the office of governor, lieutenant governor or representative of said tribe.

R.S.1954, c. 25, § 342.

§ 4764. Oath of adopted person

Every male person adopted as provided in section 4762 shall, within one month after such adoption, or if a minor within one month after becoming 21 years of age, make oath before the commissioner that he will demean himself as a discreet, industrious and good member of said tribe, and will faithfully fulfill the duties incumbent upon him as such member.

R.S.1954, c. 25, § 343.

§ 4765. Loss of membership by abandonment

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.

R.S.1954, c. 25, § 344.

§ 4766. Loss of membership does not affect membership of other members of family

When any member loses his membership under section 4765, or his right to share in dividends, rentals or other moneys under section 4768, no member of his family to whom said sections do not personally apply shall be deemed to have lost such membership or right.

R.S.1954, c. 25, § 345.

§ 4767. Restoration to membership

Any person a member of said tribe on March 22nd, 1901, as shown by the tribal census taken under the laws of the State, who shall have forfeited any rights of membership may regain said rights by petition, under oath, to the commissioner, alleging 30 days' continuous residence within the State. If at the end of 60 days said commissioner shall have refused or neglected to restore said person to membership, he shall have the right of appeal to the tribal committee which shall thereupon forthwith hear the facts and enter such judgment as to restoration to membership as is just and right. Such renewal of rights shall not entitle such person to any share of the dividends, rentals or moneys which previously thereto have come into the hands of the commissioner, nor have any other retrospective effect.

R.S.1954, c. 25, § 346.

§ 4768. Dividends and rentals with respect to nonresident members

If any member of the tribe shall reside outside the tribal reservation, but within the State, he shall report to the commissioner at least once in each year in order to be entitled to his share of dividends, rentals or other money apportioned to members of the tribe. During such time as he shall reside without the State he shall not be entitled to any part of the dividends, rentals or other money apportioned to members of the tribe.

R.S.1954, c. 25, § 347.

§ 4769. Forfeited money used for family benefit

If any member of said tribe shall desert his family or fail to provide properly for said family's support, the commissioner 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 commissioner.

R.S.1954, c. 25, § 348.

§ 4770. Removal of nonmembers from reservation

Any person residing or commorant upon the tribal reservation of the Penobscot tribe of Indians, not being a member nor the husband, wife or legally adopted child of a member of said tribe, may be required to remove therefrom by a written notice given to him in hand under the signature of the governor or, in his absence, the lieutenant governor, and the commissioner. A copy of such notice attested by said commissioner, with a return of service thereon by any officer qualified to serve criminal precepts, or an affidavit of service by any other person, shall be filed with said commissioner and be sufficient evidence of such service. If the person so notified shall not remove from said reservation within 2 days after service of said notice upon him, the commissioner or any member of the tribe may make complaint to the proper officer of the District Court for Southern Penobscot, who shall cause a certified copy of said complaint with a notice of the time and place of hearing thereon to be given in hand to said person or left at his place of last and usual abode at least 2 days before the time fixed for said hearing, or may cause said person to be at once apprehended and brought before said court. After due hearing, the judge with the recommendation of the tribal

governor and council may order the respondent to remove within a specified time beyond the tribal reservation limits. If the respondent fails to obey said order, or if within one year after the service of said notice he shall again become resident or comorant upon any reservation of said tribe without the consent of said commissioner and said governor or lieutenant governor, said judge may cause such person to be apprehended and brought before said court and may punish him by fine of not more than \$20 or by imprisonment for not more than 30 days, or by both. The costs of all such court proceedings under this section may be included in the order or sentence of said judge. If the respondent fails to pay the same, he may be committed to jail for not more than 30 days additional to any imprisonment otherwise imposed upon him. In such case, or if the judge does not include said costs in his order or sentence, such costs shall be paid by said commissioner from the tribal fund. Costs shall be taxed as in ordinary proceedings upon complaint.

R.S.1954, c. 25, § 349; 1957, c. 184; 1963, c. 402, § 38.

§ 4771. Destitute persons on reservation

For all relief to any person not a member of the Penobscot tribe of Indians, nor having a pauper settlement in this State, found destitute and in distress upon any tribal reservation of said tribe, which has been furnished by the commissioner or by the overseers of the poor of the town within whose territorial limits such person is so found, the State shall reimburse said commissioner or said town to such extent as the department adjudges to have been necessarily expended therefor. The reasonable expenses and services of said overseers relative to said pauper shall be included in the amount to be so reimbursed.

R.S.1954, c. 25, § 350.

§ 4772. Destitute members outside of reservation

When any member of said tribe is found destitute and in distress beyond the tribal reservation and is relieved by the town in this State where he is so found, the overseers of the poor of said town may send to the commissioner a statement specifying the nature, dates and amounts of the supplies furnished, which shall be transmitted to the department with such additional statements of fact as said commissioner may think proper. The State shall reimburse said town for the relief so furnished to such extent as the department adjudges to have been necessarily expend-

ed. Any member of said tribe found destitute and in distress beyond the tribal reservation may be removed by the commissioner from any place in which he may be residing, or be found, to said tribal reservation, whenever in the judgment of the commissioner such removal should be made.

R.S.1954, c. 25, § 351.

§ 4773. Payments due under treaty or law

The commissioner shall provide, furnish, pay and deliver to the Penobscot tribe, on account of the State, such articles, goods, provisions and moneys as from time to time become due under any treaty or law.

R.S.1954, c. 25, § 352.

§ 4774. Schools

All moneys appropriated for schools for the Penobscot tribe of Indians shall be expended under the supervision of the commissioner, subject to the approval of the department. Said commissioner and the superintendent of the Old Town schools shall jointly employ the teachers and fix their salaries, limited by such appropriation. Said teachers shall meet all minimum qualifications as required for certification in the public schools of the State. The schools upon Island Number 1, commonly called Indian Old Town Island, shall be under the care and supervision of the superintendent of schools of the City of Old Town; and those within the territorial limits of any other town under the care and supervision of the superintending school committee of such town. Said superintendent or school committee shall visit such schools at least 3 times during each school term, regulate the grades and courses of study, assist the teachers and scholars by counsel, and make reports to the Commissioner of Health and Welfare and to the Commissioner of Education once each year, noting therein such facts and information as may seem of importance in the interest of education among said tribe or as may be required by the said department. The superintendent of schools of Old Town shall have such authority over the schools on Indian Island as superintendents in any town may have, except as limited by this section. Said superintendent shall be paid from the state appropriation for school superintendents a sum not exceeding \$100 per year for his services. The children of Indian Island may have the option of attending the Old Town schools whenever their parents may express a desire for them to so attend and the superintendent of schools shall transfer them to the building appropriate

and suitable for their grades. The said children of said island shall be subject to all compulsory attendance laws as provided in Title 20, chapter 105, except that the superintendent of the Old Town schools and the commissioner shall jointly have full authority to enforce the full provisions of said attendance laws, and for purposes of such enforcement the attendance officer for the City of Old Town shall act as attendance officer for Indian Island. All laws relating to the public schools shall be applicable to the schools on Indian Island, and the superintendent of the Old Town schools and the commissioner shall be jointly responsible for the enforcement of said laws. Whenever it shall be shown that any of the children of the Penobscot tribe of Indians shall have completed the course of study for elementary schools as prescribed or shall have passed the examination prepared by the Commissioner of Education for entrance into high school, such children shall be granted entrance to any high school in this State, to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in Title 20, section 1291, except that such tuition for such pupils shall be paid by the department from Indian funds. Said tuition shall be based on the average cost per pupil for the year preceding that for which the tuition is paid and the tuition rates shall be determined by the formula prescribed in Title 20, section 1292 for secondary schools. Tuition likewise for the children of the Penobscot tribe of Indians who attend the elementary schools of any city or town in this State shall be paid to said city or town by the department in similar manner and based on the average cost per pupil in the year preceding that for which tuition is paid and the tuition rates shall be determined by the formula prescribed in Title 20, section 1292 for secondary schools.

R.S.1954, c. 25, § 353; 1959, c. 342, § 2.

§ 4775. Lease of islands

The islands belonging to said tribe may be leased by the commissioner for the benefit of such tribe for a term not exceeding 12 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 department. If such lease is on credit, it shall be at the risk of the commissioner, and accounted for as money. The avails thereof shall be placed by him in the State Treasury, subject to the order of the department according to law.

R.S.1954, c. 25, § 354.

§ 4776. Restrictions on sale of wood or timber

No member of the Penobscot tribe of Indians shall be permitted to sell any standing wood or timber growing on any islands or lands in the Penobscot river within the limits of the Indian reservation except to members of the tribe for firewood only; nor shall any member of said tribe lease any portion of his lands or islands within the limits of said reservation for the purpose of permitting any standing wood or timber to be cut and removed therefrom, except with the consent and approval of the commissioner.

R.S.1954, c. 25, § 355.

§ 4777. Conveyances

Any Indian holding lands under a certificate issued under authority of chapter 137 of the public laws of 1883, 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 commissioner. No Indian shall purchase lands upon the reservation of said tribe beyond his fair proportion of such reservation.

R.S.1954, c. 25, § 356.

§ 4778. Lots not to be sold or leased

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

R.S.1954, c. 25, § 357.

§ 4779. Surveys; tribal use of waters and timberlands

Surveys of the islands in Penobscot river from Old Town Falls to Mattawamkeag Point and field notes thereof, as made under chapter 158 of the public laws of 1835 and chapter 396 of the public laws of 1839, 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. The water privileges belonging to said islands, valuable for mills, booms, fisheries, tracts of wood and timberland and other lots indicated on said plans as reserved for public use, except the public farm which is subject to allotment by chapter 22 of the private and special laws of 1878, are not sub-

ject to assignment or distribution to members of said tribe, but shall remain for the benefit of the whole tribe.

R.S.1954, c. 25, § 358.

§ 4780. Assignments of unassigned lands

The commissioner, on application of any Indian thereof, male or female, 21 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.

R.S.1954, c. 25, § 359.

§ 4781. —Certificate of commissioner; form

The assignments mentioned in section 4780 shall be accompanied by a certificate from the commissioner to be recorded as in section 4784, in form substantially as follows:

“Know all men by these presents, that I,, Commissioner of Health and Welfare, 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 Commissioner of Health and Welfare, this day of, nineteen hundred and”

R.S.1954, c. 25, § 360.

§ 4782. Abandonment as forfeiture of lands

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 4780.

R.S.1954, c. 25, § 361.

§ 4783. Death of landowner

The commissioner 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.

R.S.1954, c. 25, § 362.

§ 4784. Conveyances by release deed; lots on Old Town Island

Conveyances made by virtue of section 4777 shall be by release deed, executed and acknowledged, and the approval of the commissioner shall be written thereon. Said deed and approval shall be recorded by the register of deeds of Penobscot County in a book kept in the registry of deeds in said county, upon payment of 25¢ for each deed so recorded; and until recorded, no deed shall pass any title. This chapter and chapters 1351 and 1355 shall apply to house lots on the point of Old Town Island, as well as to land allotted for agricultural purposes.

R.S.1954, c. 25, § 363; 1955. c. 58.

§ 4785. Deposit of deeds with commissioner

Deeds made by any Indian of the Penobscot tribe as provided in section 4784 may be deposited with said commissioner to be delivered by him to the grantee 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. When delivered by said commissioner, it shall pass all the title of the grantor in the premises at the time of his death.

R.S.1954, c. 25, § 364.

§ 4786. Copies of deeds as evidence

Copies of deeds or certificates recorded as provided in this chapter and chapters 1351 and 1355 duly attested by the register of deeds or by the commissioner, shall be evidence in all actions or controversies relating to title to lands between members of said tribe.

R.S.1954, c. 25, § 365.

§ 4787. Lease of island shores

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 department. Such leases shall not run longer than 5 years. All sums received from rent of said shores shall be paid to the State, to be held in trust, and paid to said tribe as provided in section 1 of chapter 267 of the special laws of 1873.

R.S.1954, c. 25, § 366.

§ 4788. Privileges for mills, booms and fisheries

The commissioner may lease any reserved privileges for mills, booms and fisheries for a term sufficiently long to induce persons to take leases of them. All rents shall be paid into the State Treasury, to be expended for the benefit of the tribe, under the direction of the department.

R.S.1954, c. 25, § 367.

§ 4789. Warrants for interest on 4 townships purchased; rents

The Governor and Council may draw warrants on the State Treasury for any sum not exceeding the interest on the price of the 4 townships purchased by the State of the Penobscot tribe in June, 1833, and of any other money paid into the treasury, and for the full amount of rents paid in as aforesaid. When the whole amount of such sums, in the opinion of the department, is more than is necessary for said tribe, the excess may be invested for their benefit.

R.S.1954, c. 25, § 368.

§ 4790. Excise taxes

All excise taxes on motor vehicles owned by members of the Penobscot tribe of Indians who live on the reservation shall be paid to the tribal clerk who shall hold and disburse the proceeds for the benefit of the tribe in accordance with the vote of the tribal committee. The tribal clerk shall give a corporate surety bond for the faithful discharge of his duty to the tribal committee in the sum and with such sureties as they approve.

1963, c. 341, § 2.

§ 4791. Census; annual meeting; notices; correction of lists; compensation of committee

An accurate census of the Penobscot tribe shall be taken early each January by the tribal committee upon the best information which they can obtain, 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 10th day of January, annually, the original, certified under oath, shall be delivered to the commissioner, and a copy thereof to the governor of said tribe for their use. On the first Wednesday of January, annually, the said committee shall hold a meeting with said tribe on Old Town Indian 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. At said meeting 5 of said tribal committee shall constitute a quorum thereof.

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 commissioner and he shall correct his list accordingly.

R.S.1954, c. 25, § 369; 1957, c. 164, § 3.

§ 4792. Biennial elections

Biennially on the even-numbered years, on the first Tuesday of September, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe, and a representative at the Legislature of this State, and a tribal committee to consist of 12 members of said tribe, each of whom must be at least 21 years of age. The governor shall preside over all meetings of the committee and be a member ex-officio. In the absence of the governor, the lieutenant governor shall preside. Only certified members of the tribe who are 21 years of age or older shall be eligible to vote. The commissioner shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at his office and one in some conspicuous place on Old Town Island. Said commissioner 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. All persons so elected shall hold office for 2 years or until their successors are elected. Whenever any vacancy occurs the commissioner shall call a meeting of the tribe to fill such vacancy.

On the first Tuesday of August biennially on the even-numbered years, the Penobscot Indians shall hold a caucus for the purpose of nominating candidates to be elected as provided in this section.

R.S.1954, c. 25, § 370; 1957, c. 161; c. 164, § 4; 1963, c. 222, § 1.