

MAINE STATE LEGISLATURE

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Public Documents of Maine:

BEING THE

ANNUAL REPORTS

OF THE VARIOUS

Public Officers and Institutions

FOR THE YEAR

— 1887 —

VOLUME II.

AUGUSTA:

BURLEIGH & FLYNT, PRINTERS TO THE STATE.
1888.

REPORT OF THE AGENT

OF THE

Passamaquoddy Tribe of Indians,

FOR THE YEAR

—❧ 1886 ❧—

AUGUSTA :

SPRAGUE & SON, PRINTERS TO THE STATE.

1887.

STATE OF MAINE.

IN COUNCIL, December 30, 1886.

Read, accepted and the usual number ordered printed.

ORAMANDAL SMITH,

Secretary of State.

REPORT.

To the Honorable Governor and Council of Maine.

I hereby submit my Report as Agent for the Passamaquoddy Tribe of Indians, for the year ending November 30th, 1886.

The appropriations for the year, by a resolve of the Legislature of 1885, were as follows, viz :

For May dividends.....	\$ 500 00
November dividends.....	500 00
distressed poor.....	3,000 00
bounty on crops.....	300 00
ploughing.....	150 00
salaries of Governors.....	100 00
salaries or Lieut. Governors.....	40 00
wood.....	300 00
contingent.....	150 00
salary of Priest.....	200 00
dressing for land.....	150 00
agricultural purposes.....	600 00
educational “.....	600 00
salary of Agent.....	200 00
	<hr/>
	\$6,790 00

The expenditures were as follows :

For May dividends.....	\$ 416 80
November dividends.....	418 60
distressed poor.....	3,400 37
bounty on crops.....	177 55

For ploughing	\$147 25
salaries of Governors	100 00
salaries of Lieut. Governors	40 00
wood	239 00
salary of Priest	200 00
dressing for land.....	172 88
contingent	145 11
educational purposes.....	600 00
salary of Agent.....	200 00
agricultural purposes.....	516 00
repairs on church and school-house.....	58 47
	<hr/>
	\$6,832 03

RECEIPTS.

June 28, warrant on State Treasurer.....	\$3,500 00
May 1, " " "	1,000 00
July 19, " " "	1,000 00
October 16, " " "	1,290 00
Balance on repairs from 1885	42 03
	<hr/>
	\$6,832 03

The population of the tribe on the first of November was 530.

AGRICULTURAL.

The crop for the year is as follows, viz :

Potatoes	2015 bushels.
Oats.....	480 "
Beans	91 "
Turnips	100 "
Peas, carrots and onions.....	35 "
	<hr/>
	2721 "

REPAIRS.

I have expended the balance of \$42.03 left over from last year's appropriation on the school-house and house occupied by the teachers at Peter Dana's Point, and repaired the chimney of Pleasant Point school-house, which was rendered defective by the frost. From the contingent fund I expended \$50.00 in shingles for the church at Pleasant Point. The labor of shingling was done by the Indians.

During the year the Rev. Father O'Dowd, with his usual untiring industry, has collected a basket each week from every family at Pleasant Point, taken them to Bar Harbor and sold them, and with the proceeds, together with the whole amount of his salary from the State (\$100.00), has put new stained glass windows in the church at Pleasant Point, a noble example of zeal and self sacrifice.

The number of deaths during the year was 26, of which 15 were adults.

A case of erysipelas occurred last winter at Pleasant Point, by reason of which the patient's face became considerably swollen. His friends and neighbors, becoming alarmed at his appearance, not knowing the nature of the disease, called upon the local Governor and Council to investigate the case.

After a solemn and mature consultation they called in the aid of an Indian physician who claims to be a graduate of the medical college at Lewiston, and ordered him to examine the case and report, which he did. I give his report.

“PLEASANT POINT, February 15th, 1886.

Sir, Gentlemen, I have made my responsible examination on Ambrose Dana, 10 A. M. I feel highly gratified and consider it Perfect uncontagious influence so that no dangerous disease every respect.

Signed.

JOSEPH MITCHELL, M. D.

I will enclose my bill. I am charging one dollar for examination without employing any remedies.”

The bill was paid, the man recovered and a feeling of security once more prevailed in the community.

EDUCATIONAL.

The school taught at Pleasant Point numbers 90 pupils. That at Peter Dana's Point, which is in session from August to November, numbers 25. They are still conducted by the Sisters of Mercy. For the first six months of the year Sisters Agnes and Berchmans were the teachers, but the former having been transferred to another field of action, Mother Clare, one of the pioneers in the good work, resumed her post, and all interested in the welfare of the Indians may feel assured that the education of the young is attended to in a satisfactory manner.

The Indians are visited every year by the Right Reverend Bishop Healy of Portland, who takes a great interest in their welfare, and whose counsel and admonitions cannot fail to be of lasting benefit to the tribe.

At the election of officers and representative of Pleasant Point held in September, Newall T. Lolah, Tomah Dana and Peter J. Gabrielle were elected as Governor, Lieutenant Governor and Representative, respectively.

The Indians have been renewing their request for police protection, and a lock-up building at Pleasant Point. They complain of the illegal sale of liquor in the village, and at the recent election I had ample reason to believe their complaints were well founded. I think that an appropriation of one hundred and fifty dollars would be sufficient to put up a suitable building for a lock-up, and pay for the services of a police force to prevent the sale and bringing of liquor in the village.

The fish and game laws have long been a cause of complaint on the part of the Indians, and recently some of the tribe have been prosecuted for violation of these laws, so that the question involved, should in some way be settled. I have not felt authorized to expend the funds entrusted to me,

in defending Indians who violate the State Game Laws, and yet there are, I think, strong arguments both in law and equity against the punishment of Indians for the violation of such laws.

In the treaty of 1725 between Massachusetts and the Indians, the right was expressly reserved to the latter "to hunt fowl, and fish as formerly." This right had always been enjoyed by them prior to the enactment of the fish and game laws, and no subsequent treaty contains any abrogation of this clause, nor have the Indians ever received any compensation for any loss of this right, so important to them, and thus guaranteed to them by the faith of Massachusetts pledged in a solemn treaty of peace.

The State of Maine, by the treaty of separation from Massachusetts, bound itself to faithfully regard all the treaty obligations of the latter State. A violation of those obligations is therefore a breach of faith on the part of Maine, not only to the Indians, but also to Massachusetts. Recognizing the fact that the growth of population and civilization may compel the State to now take from the Indians rights that could be easily yielded to them a century ago, there yet remains the fact that the loss of the right to hunt and fish is to-day as great a damage to the Indians as it would have been at any past time, and even more so, and what the State gains without compensating the Indians for their loss, is sheer robbery. It is the adoption by the State of Maine of the rule that might makes right.

The advocates of the game laws assert, as do the Fish Commissioners in their report this year, that those laws are worth \$5,000,000.00 a year to the State. Certainly a portion of that vast sum is gained by taking from the Indians their natural and ordinary means of subsistence on which their race has always depended, and the perpetual enjoyment of which was secured to them by treaty. In other words, the State is deriving a large revenue from laws which deprive the

Indians of rights upon which they largely depended for means of living, and to which they are entitled by treaty.

The obvious conclusion is that the State should make good to the Indians in money or other means of support, the loss it has caused them for its own profit by the fish and game laws. In this connection I am compelled by a sense of duty alike to the Indians and the State, to say that the treatment of the Passamaquoddy Indians by the State has not been just. They were given by treaty, in addition to the right to fish and hunt, also the right to the Indian Township in the county and to certain islands in the St. Croix River. The Indians' title to the islands was overthrown by the decision of the case of Granger vs. Avery, 64 Me. 292. As the State paid Mr. Granger some \$2,500.00 for six years' use of one island in suit, it can be seen that the loss to the Indians was not considered a slight one. The amount was decreed by an act of Legislature and charged to the Indian Fund, thereby compelling them to pay for six years' use of an island previously granted to them by the Commonwealth of Massachusetts.

The Indian Township, also, has been leased by authority of the State and is now stripped of timber so that it is of no income to them, and lots are being virtually sold to whites by an act of Legislature, for which the Indians have as yet received no compensation.

Finally, the State laid out a road across the Township and gave for the building of it, the land one mile wide, on both sides of the road. The Indians wanted no such road, and yet, by Legislative authority, their land, one-eighth of the entire Township, was taken from them for this road, which was of no benefit to them and which they were thus taxed to build.

The result of the numerous acts of the State is that the property granted by treaty to these Indians yields them no income, while the Penobscot Indians' property, not more valuable but more fairly protected, yields to them an income of \$4,000.00 per year.

This great State, with its increasing population and riches, its homes of wealth and refinement, its vast capital seeking investments in every Western State, cannot afford to be unjust to a few friendless and helpless Indians, nor would it have been so had the facts been generally known, but the records show the facts to be as I have stated.

As if to make the injustice more palpable, the State, which preserved to the Penobscots the income of their property, while it destroyed the income from that of the Passamaquoddies, nevertheless has continually appropriated a much larger sum to the support of the former than the latter.

The appropriation last year for the Penobscots was \$8,000, or about \$20 each for the 400 members of the tribe. The appropriation for the Passamaquoddies was \$6,790, or about \$13 each, to the 530 members. The Penobscots had, therefore, \$8,000 from the State and \$4,000 from their property, making \$12,000 in all, or \$30 to each of the 400 members of the tribe, while the Passamaquoddies had only the \$13 each granted by the State, all income from their property having been destroyed by authority of the State.

I submit these facts to your Honorable Body hoping that you will verify them from the State records, as can easily be done, and ask the Legislature to do something to right the wrongs which have so manifestly been done by the State's authority. The Passamaquoddies need even more aid than the Penobscots. They are justly entitled to no less. Had they been equally well treated in the years gone by their needs would be nearer equal. The enforcement of the fish and game laws has already increased their needs and must do so in the future, while the late disastrous fire at Eastport has nearly deprived them of another source of support, in carrying on the basket business, upon which they are now almost entirely dependent, and there is no just reason why the State should not grant to them the same per capita income which the Penobscots receive, and which would entitle the Passamaquoddies to an appropriation of \$15,000.00.

Every dollar of it is needed and the increase is only a small part of what the State should do to repair its past injustice to the tribe.

Respectfully submitted.

C. H. PORTER.

Agent Passamaquoddy Indians.

CALAIS, November 30, 1886.

Report of Special Committee of the
Executive Council appointed to examine
certain claims of the Passamaquoddy
Indians.

STATE OF MAINE.

COUNCIL CHAMBER, Dec. 29, 1886.

To His Excellency the Governor and the Honorable Council:

Your Committee, to whom was referred the communication and claim herein set forth, submit the following report:

COMMUNICATION.

“AUGUSTA, Dec. 31, 1885.

“*To the Governor and Council, regarding the affairs of the Passamaquoddy Indians:*

“They claim that the treaties with them have been broken in this, that their lands have been taken, and sold, and leased; that they are deprived of the privileges of hunting unrestricted, which was accorded them by Massachusetts and the laws of Maine.

“Copies of their deeds may be found in the Acts and Resolves, 1843; also, see treaties of 1792, '94, and '95.

“In the Laws of Massachusetts and Maine, at the separation, they were guaranteed the right to hunt and fish forever, or so long as they remained a nation. In proof of this, reference is made to Vol. 3, Historical Records of Maine.

“L. DERVIN.”

The Act of Separation [Laws of Maine, Vols. 1-2 (Hallowell Ed.) pp. 16-17] provides as follows:

“Fifth. The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this Commonwealth of claims and

stipulations arising under the treaty at present existing between this said Commonwealth and said Indians ;” &c.

Said treaty referred to, so far as the Passamaquoddy Indians are concerned, your Committee understands to be the treaty of Sept. 29, 1794, approved Feb. 10, 1795. [See Acts and Resolves of Maine, 1843, p. 263.]

In the communication made, other treaties with Indians are referred to, and this has necessitated the examination of the other Indian treaties, so far as they can be found.

There is but little information about the early history of this tribe. Some writers have supposed them to have been originally a branch of the Penobscots, but they were evidently a distinct tribe, under name of “Syboyks,” when Maine was first visited by the white people. From that time for nearly a century, they are not mentioned by any writer or named in any treaty, so far as your Committee can ascertain. Egeresvet, whose name is affixed to the treaty made with Sir William Phipps at Pemaquid, in 1693, was a member of this tribe.

As to Gov. Dummer’s treaty of 1727, wherein the “privilege of fishing, hunting and fowling as formerly,” was reserved to the Indians ;

Or the treaty made at Deerfield, Mass , in 1735, wherein no mention was made about “fishing,” &c. ;

Or the treaty made at Falmouth, in 1749, with the Penobscots, Norridgewocks, St. Francois and other Indians (Gov. Dummer’s treaty having been broken), in which the Indians reserved as follows : “Leaving to the tribes of Indians within His Majesty’s Province aforesaid, and their natural descendants respectively, all their lands, liberties and properties now by them conveyed or sold to or possessed by any of the English subjects as aforesaid ; as also the privilege of fishing, hunting and fowling as formerly ;”

Or the treaty renewed at St. George Fort, in 1752, the Norridgewocks having broken the treaty of 1749.

If the Passamaquoddies were included in these treaties, or any of them, even though no mention is made of them by name, any rights and privileges so acquired are limited by the treaty of 1794, in which the Indians relinquish “all their right, title, interest, claim or demand on any land or lands lying and being within the said Commonwealth of Massachusetts ; and also engaging to be peaceable and quiet inhabitants of said Commonwealth, without molesting

any other of the settlers of the Commonwealth aforesaid in any way or means whatever;" in consideration of certain lands and rights assigned, set off and granted to them, as set forth in said treaty. [R. 1843, page 264.] No mention is made in said treaty of the privilege of fishing, hunting, &c., except as follows:

"Also assign to said Indians the privilege of fishing on both branches of the river Schoodic, without hindrance or molestation, and the privilege of passing the said river over the different carrying places thereon."

The treaties of June 29, 1818, and of Aug. 17, 1820, being a renewal of that of 1818, were with the Penobscot Indians alone, and in these treaties no reservation for hunting, fishing and fowling was made.

From the above statement of facts, your Committee conclude that the Passamaquoddy Indians possess no rights of hunting and fowling, except as is granted to all by the general laws or statutes of the State, and they are equally holden with all good citizens of the State and strangers to obey and support those laws.

As to fishing, said Indians are equally bound to obey the general laws and statutes, unless they possess the right of fishing in certain waters, as granted in said treaty, which the State has no authority to regulate, by virtue of its power and authority as guardian over said tribe.

These Indians are wards of the State, so treated and recognized. In other words, the State is the guardian of the Indian tribes within its limits. If this is the case, then it is the duty of the State to take care of, manage and control the property of these tribes in a prudent and economical manner and for their benefit. To this end it would be the State's duty—if it found their property being depreciated in value or wasting away—to sell the same and invest the proceeds in such way and manner that the Indians should derive the benefit therefrom. In accordance with this idea of the State's duty, your Committee presume that the

"Resolve providing for the sale of timber and grass on Indian township," approved March 30, 1853, was passed, (Resolves 1853, ch. 51) under which resolve there was received by the treasurer of State, \$22,500, the interest on which amount at six per cent. is appropriated annually for the benefit of the Passamaquoddy Indians. Under this and subsequent resolves, the State now holds a fund of

\$24,451.84, the income of which is applied annually for the benefit of said Indians.

Whether or not the State has had legal authority for so doing, is not for your Committee to decide, but certainly it is better for these Indians that the State has managed their affairs in this way, and your Committee are of opinion that, as heretofore, no objection has been raised to this mode of procedure on the part of the State, and these Indians have annually received the income from the money received from sale of timber and grass and the leasing of lands, without any protest or objections, they are in equity, and good morals estopped from making any complaint.

The Passamaquoddy Indians are very desirous of having possession of the strip of land adjoining their land at Pleasant Point as expressed to your Committee by many members of the tribe. The boundary line of the Indian Reservation is very indefinite and disputes have arisen as to its location. The original deeds mention as landmarks to start from "A stake and a dwelling-house." The stake is not there and the location of the dwelling-house has long since disappeared. Your Committee cannot better show the condition and feeling of that portion of the tribe occupying Pleasant Point, than by quoting from a letter to one of the Committee, written by Rev. John O'Dowd, the priest in attendance among these Indians, an earnest man, who is giving his life and best energies for their good and improvement. He writes—

"The shortest way to end the dispute about the Indian boundary, it seems to me, would be to purchase for our Indians all of Pleasant Point, from the "carrying place" at West Quoddy, the whole of the peninsula. If the gentlemen appointed as Committee on Indian Affairs knew what an advantage and encouragement it would be, in the line of raising cattle and crops, to our Indians, they would, I think, recommend to the "House" the purchase of this tract of land. Our Indians are getting more cramped year by year. Basket ash is very difficult to procure, and expensive. A single butt costs over a dollar, and sometimes as much as two dollars. From an ordinary-sized butt, when it is beaten, a smart Indian can make six baskets in two days; for these he gets forty cents each, \$2.40, after having expended perhaps \$1.50 for the butt. Impossible for them to make a living at basket making under these circumstances. The price of gulls' breasts, for ornamenting ladies' hats, has been greatly reduced; besides, the Dominion Government has forbidden our

Indians to shoot gulls on Grand Manan Island or its vicinity. It was from that locality our Indians brought most of their gulls' breasts. Those are their best sources of profit, and failing these they would be obliged to turn their attention to raising cattle and crops, if they had sufficient land. A great deal of the land on the peninsula of Pleasant Point, which is lying waste, would suit for tillage; besides, our Indians would be healthier and happier with better farms to cultivate." The letter ends with a hope that the Legislature will make an appropriation for this purchase.

Considering all the foregoing facts, your Committee recommend that the following resolve, or one similar, be passed at the coming session of the Legislature.

Respectfully submitted,

JOSEPH A. LOCKE,
AUGUSTUS R. BIXBY,
LAMBERT SANDS.

Resolved, That the Governor, with advice of the Council, be and he is hereby authorized to appoint two commissioners, who are hereby empowered, in behalf of the State, to purchase of the Passamaquoddy tribe of Indians such of their lands within this State as they may be disposed to sell; also any right of fishing they may have under treaty made by the Commonwealth of Massachusetts with said tribe, Sept. 29, 1794, approved Feb. 10, 1795; also to purchase for the State, for the use of said tribe, such land between the "carrying place" at West Quoddy and the Indian Reservation on Pleasant Point as they deem proper, the same to be paid for from other lands purchased of said Indians, or from the fund belonging to said tribe, purchases to be made at such prices, and times and modes of payment as may be agreed upon: *Provided*, said prices, and times and modes of payment be approved by the Governor and Council.

STATE OF MAINE.

IN COUNCIL, }
December 29, 1886. }

Read, accepted, and three hundred copies ordered printed.

ORAMANDAL SMITH,

Secretary of State.