

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)

December 21, 1973

S. Glenn Starbird, Jr., Deputy Comm.

Indian Affairs

John Kendrick, Assistant

Attorney General

Removal of non-members from reservation

You ask whether 22 M.R.S.A. § 4770 authorizes removal of a non-member from the reservation "without any cause"? The answer is yes, provided the non-member is not a husband, wife or legally adopted child of a member. These 3 groups of persons related to a member are specifically exempt. The reason or what might be termed "cause" is stated in the statute, i.e., non-membership, and no further cause is required to be found by the Governor or the Commissioner.

You further ask whether 22 M.R.S.A. § 4770 authorizes removal of a person who is the child of a member and who has lived the greater part of his life on the reservation. The length of time any person has been on the reservation is not a relevant factor under this statute. In the example you cite the person is of 1/8 Indian blood, less than the 1/4 part required by 22 M.R.S.A. § 4701 to make him an Indian within the meaning of your statutes. Nevertheless, the person is a member of the Penobscot tribe by reason of birth, thus cannot be removed under § 4770.

In arriving at this result, we make two assumptions from the context of your memo: First, that the mother is a member of the tribe; and second, that the person described is her natural child. If these two assumptions are correct, the person described is a member by birth as contemplated by 22 M.R.S.A. § 4761 sub-§1, and thus cannot be removed from the reservation.

JK/mf