

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

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REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

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MERRILL & WEBBER CO., AUBURN, MAINE

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seem to me that any part of this war loan should be expended for their erection or equipment.

Yours very truly,

GUY H. STURGIS,

*Attorney General.*

PENOBSCOT INDIANS—LOSS OF RIGHT TO DIVIDENDS, ETC., BY ESTABLISHING RESIDENCE OUTSIDE RESERVATION.

12th January, 1917.

*Honorable Governor and Executive Council, Augusta, Maine.*

GENTLEMEN: Replying to yours of January 11th, for opinion as to construction of Section 18, Chapter 14, Revised Statutes of 1916, and especially as to the word "reside" in the third line, I respectfully advise as follows:

The statement of facts given me as existing in the case of the individuals named on the attached sheet is to the effect that these members of the Penobscot Tribe of Indians have gone out from the tribal reservation and established homes either as heads of families or in case of females by marriage with persons not members of the tribe and that they return to the reservation for short periods during the year, having no intention of remaining upon the tribal reservation except temporarily and undoubtedly with an intention to return to the place of their abode.

In my opinion this Section 18, Chapter 14 clearly bars any member of this tribe from sharing in the dividends, rentals and other moneys to be divided among the tribe, who establishes a home or regular place of abode outside of the reservation and only visits the reservation for a short period having at the time of his visit no intention of permanently or definitely remaining on the reservation, but on the other hand, then intending to live for an indefinite period in the outside home rather than within the limits of the reservation.

The idea of "residence" is compounded on fact and intention. Residence means a permanent abode as distinguished from a temporary sojourn. Brief visits with no intention of permanently remaining upon the reservation do not constitute a residence. Conversely, of course, the establishing and main-

taing a home with an intention of living and maintaining oneself and family in that home for an indefinite period creates a residence and if that be without the tribal reservation, the member of the tribe so doing for a period of five successive years will lose his rights to dividends, rentals and other moneys to be divided among the tribe. It is not necessary that the same home and same place be maintained for a period of five successive years. The member may move from place to place,—have several homes or places of abode. He may make temporary visits for pleasure or business away from his home from time to time to any place that he may choose to go, including the tribal reservation.

The real test to apply to the temporary and brief visits to the reservation is, did they when they came on to the reservation on any or each of these visits then and there at that time intend to make their home there for an indefinite period, having then and there no intention of returning to the place from whence they came. There might be a case where one of the Indians gave up a home outside,—immediately moved on to the reservation with an intention of living there for an indefinite period, having no thought at that particular time of again establishing a home off the reservation. Continuing the same intent he could after a very brief period change his mind and decide anew and again to go out from the reservation and establish a home in some other place. In such a case as that, the five successive year period would be interrupted and the right to dividends, etc., would not be barred.

Each individual case should properly be carefully considered by itself as the question of intent is most important and again I must say that from the facts as presented to me, it is my opinion that the Indians named are not entitled to the dividends, etc., but careful examination of the individuals and persons familiar with the circumstances might modify my opinion.

Yours very truly,

GUY H. STURGIS,  
*Attorney General.*