

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

MERRILL & WEBBER CO., AUBURN, MAINE

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by the use of ditto marks. The ditto marks must, however, be added by the voter himself.

Yours very truly,

GUY H. STURGIS,

Attorney General.

ERECTION AND EQUIPPING OF ARMORIES IN CITIES FROM FUNDS RAISED BY WAR LOAN.

10th July, 1917.

Hon. Carl E. Milliken, Governor of Maine, Augusta, Maine.

DEAR SIR: In reply to your inquiry as to the legality of using part of the war loan, so-called, for defraying the expense of erecting and equipping armories at Bangor and Lewiston as authorized by Resolves of the Legislature of 1917, I will say:

The loan authorized by the legislature for the purpose of suppressing insurrection, etc., will create a debt against the State in excess of the general Constitutional limitation of the State debt and is permissible only by virtue of the exception appearing in Section 14 of Article IX of the Constitution of Maine permitting the creation of debt or debts by the State without limit as to amount "to suppress insurrection, repel invasion or for purposes of war." This exception must be strictly construed and any debt created thereunder must be contracted and the proceeds of any loan negotiated therefor must be expended and applied only for such purposes as are expressly or impliedly within the terms of this Constitutional provision.

It cannot be questioned that this "war loan" was authorized to "suppress insurrection, repel invasion or for purposes of war" which might exist in the war between the United States and the Imperial German Government which was at the time of the passage of this act imminent and is now being waged. And if the construction of these armories can be deemed necessary for the purposes of this war undoubtedly the expenditure of part of this war loan therefor is entirely within your power.

If, however, the armories are not needed for this war, but are to be constructed simply for general use of state troops, in peace times as well as war. in the same manner and to the same extent that other armories already erected are now used, it does not

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-