

# MAINE STATE LEGISLATURE

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April 5, 1957

yes

To Honorable Edmund S. Muskie, Governor of Maine  
Re: Penobscot Indians

We are returning herewith the petition of certain members of the Penobscot Tribe of Indians, which petition requests the Governor and Council to make available \$4000. from the annual interest of the Penobscot Indian Trust Fund for the purpose of legal counsel for research pertaining to the tribal rights of the Penobscots.

You inquire if either the Department of Health and Welfare or the Governor and Council have the legal authority to make such funds available for the above stated purpose.

We are of the opinion that the purpose for which the funds are requested is not a proper purpose for which to spend such funds from the Indian Trust Funds.

Section 334 of Chapter 25 of the Revised Statutes of 1954 sets forth the procedure under which moneys may be spent from the Indian Trust Funds:

"The department, subject to the approval of the governor and council, may expend for the benefit of either Indian tribe, any portion of the funds of that tribe; provided, however, that the expenditure will not decrease the principal of the fund to such an extent as to prevent compliance with any existing provisions of statute, and provided further, that the tribe whose funds are to be used shall consent to the expenditure at a meeting duly called for the purpose."

However, we draw your attention to the fact that general supervision over the Indian Tribes is vested in the Department of Health and Welfare and that questions relative to tribal rights come within its jurisdiction. It would, therefore, be the duty of the Attorney General to give opinions and advice to that department concerning such tribal rights.

Inasmuch as the duty upon the Attorney General is a statutory duty, we are of the opinion that the employment of private counsel for the purpose would not be proper.

Nothing herein stated would prevent the Indians from employing private counsel and paying such counsel from their own private funds.

James Glynn Frost  
Deputy Attorney General

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