

MAINE STATE LEGISLATURE

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February 6, 1975

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Indian Affairs

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Attorney General

Title to Nicasow Island-Medway

Your summary of information shows that Nicasow was one of the original Islands in the Penobscot River, reserved for the Penobscot Indians under the Treaties of 1818 and 1820. It is located in the Town of Medway, formerly A Range 6. Resolves, 1928, ch. 48, authorized the Penobscot Tribe to sell it to the purchasers of the south half of A Range 6. It was mentioned by Thoreau in 1846 as the last of the Indian Islands, when he stopped at Medway on his trip to Katahdin, and was evidently still an Indian Island in that year.

Mention of the Island next appears in Council Order 169, of October 27, 1915, which authorized the Land Agent to convey the Island to Charles W. Mullen of Bangor. On Page 33 of the Report of the Forest Commissioner for 1915-16, it is recorded that the Island was sold under the direction of the Governor and Council.

Whether this Council Order was sufficient to legally convey the State's right, title and interest in the Island to Mullen, in the absence of an Act of the Legislature authorizing the conveyance, is dubious. It was sufficient, however, to pass color of title to him, and since the title has been uncontested for more than 40 years, it may not now be contested, and is vested in his heirs and assigns. (14 M.R.S.A. § 815). This applies equally to the assignees of Mullen.

1. Northern Finance Corporation, to whom he conveyed on December 6, 1915, by warranty deed that part of Nicasow Island that may be flowed or flooded by consequence of the execution of a dam across the Penobscot River between Mattawamkeag and Woodville, and

2. Penobscot Power Co, to whom on October 30, 1922, Mullen conveyed an easement over a 20-foot strip across the Island, 10 feet on each side of the power line.

The question regarding Northern Finance's land is (1) whether any land was flowed or flooded by erection of a dam, and (2) if so, just what the land consists of, and where it is located.

The location of Penobscot Power's easement should be easily located.

The last question you present is the present status of the interest of the McLaughlin Brothers in Nicatow Island.

On June 10, 1924, Charles Mullen conveyed, by release deed, all of Nicatow Island, with the exception of the interests conveyed to Northern Power and Penobscot Power. His wife Helen did not release her dower interest, but Charles died in 1924, and by will left all the rest, residue and remainder of his estate to his wife, and in 1931 she executed a release deed to Bertha B. McNeil by which she released her dower interest. Bertha McNeil then conveyed, by release deed dated July 9, 1932, to P.E. McLaughlin and R.H. McLaughlin, "the whole of Nicatow Island except the easement and deed granted as described" above.

These various transactions are recorded as described in your memorandum, which further states that the McLaughlins are still alive and own this land.

In my opinion their title is valid.

LW/mf