

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

telephone because of the misleading title to the section, R.S. 1964, T. 34, §133, formerly, R.S. 1954, c. 27, §10.

“ §133. AIDING ESCAPE.

Whoever induces, aids or abets anyone committed to any state institution in escaping therefrom or from the custody of the Department of Mental Health and Corrections or the Department of Health and Welfare or who knowingly aids, harbors or conceals in any way anyone who has escaped therefrom, or who elopes with or marries a female committed to the custody of the said departments of any state institution without the consent of the department in custody of the person shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

[“It shall be the duty of any sheriff, deputy sheriff, constable, police officer or other person finding any fugitive from any of said institutions at large to apprehend them without a warrant and return said fugitive to the institution from which the escape was made or to any officer or agent of the department. Such officer shall be paid a reasonable compensation by the State for his services.”]

This section is the only provision relating to escapes from State institutions, other than the State Prison and the Reformatories, and includes the State hospitals, the Pineland Hospital and Training Center and the Juvenile Training Centers. It is our view that the State Police, Sheriffs' Departments, etc., in carrying out their duty to maintain law and order are to assist in the location of all of such escapees, whether patients from the State hospitals or children committed to the training centers, and that once located, the police shall apprehend and return such persons without a warrant, to the institutions from which they escape.

This office did not make a ruling as such for the District Court in Augusta; it is not our function to do so, however, the Judge of the District Court and I, expressed the opinion that the girls who escaped from the Stevens Training Center had not committed a criminal offense under the General Escape Statute, R.S. 1964, T. 17, §1405, formerly, R.S. 1954, c. 135, §28. This Statute is subject to interpretation and may be differently interpreted by a County Attorney faced with a similar situation who may wish to attempt prosecution.

In any event, we are of the opinion that it is a police function to assist in the location of escapees from the training centers as part of the maintenance of law and order, and that the Statute before cited which is clear and unambiguous, and not subject to interpretation makes mandatory the apprehension and return of escapees from the Juvenile Training Centers, without a warrant.

COURTLAND D. PERRY
Assistant Attorney General

May 24, 1965
Forestry

Austin H. Wilkins, Commissioner

Removal of sunken logs from Great Ponds and Streams

FACTS:

Several inquiries have been made concerning the right of an individual to remove

sunken logs from Great Ponds and streams.

QUESTION:

To whom do sunken logs in Great Ponds and streams belong?

ANSWER:

See opinion.

OPINION:

The law of lost goods is applicable to sunken logs. The law in Maine, as stated in *Lawrence v. Buck*, 62 Maine 275, is that lost goods, as against all persons but the original owner and those deriving title under him, belong to the first finder who does such acts as indicate an intention to take possession of them. The owner of the land upon which the lost goods are found does not have title to them.

The provisions of 33 M.R.S.A. 1051, also seem applicable. This statute provides that whoever finds lost goods of a value of \$3.00 or more shall, if the owner is unknown, within 7 days give notice thereof to the clerk of the town where the goods were found, and that if the value is \$10.00 or more, the finder must, in addition, publish notice thereof in a newspaper.

While the chapter heading of 38 M.R.S.A. 971 is entitled "Floating Timber", such a heading is not to be considered as affecting the meaning of the law itself. This section provides that whoever takes, without the consent of the owner, any log suitable to be sawed, *lying in* any river or pond, forfeits for every such log \$20.00, one-half for the State and one-half for the complainant. I have underscored the words "lying in", since a court could interpret them to refer to logs lying on the bottom of a pond or stream.

The conclusion then is that, subject to the statutory restrictions above mentioned, the person who salvages sunken logs would own them as against all but the original owner and those deriving title under him.

LEON V. WALKER, JR.
Assistant Attorney General

June 1, 1965
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

Sales Tax Credit for Price Adjustments on Purchases of Electrical Equipment

FACTS:

Because of the threat of or existence of anti-trust litigation, some Maine public utilities have received monies as a result of price adjustments made by certain of their suppliers.

The utilities have received payments aggregating approximately \$75,000 over a one-year period. The adjustments represent purchases during the period 1956 through 1960; in other words, purchases made from five to nine years ago. Requests have been