

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

2381 (2); and that if a new note is executed between a borrower and an industrial bank at the end of a 3-year period, the new note is a separate obligation and is not a "renewal" in a legal sense.

My answer to Question No. 2 needs very little clarification. The word "extension" or "to extend" can be used interchangeably with "renewal" or "to renew". *Appon v. Belle Isle Corp.*, 46 A. 2d 749, 29 Del. C.H. 122. If a note is "extended" beyond the original 3-year period, it is in violation of 9 M.R.S.A. § 2381 (2).

JEROME S. MATUS
Assistant Attorney General

June 23, 1967
Parks and Recreation

Charles P. Bradford,
Supervisor of Historic Sites

Ownership of the Wreck of the Angel Gabriel.

FACTS:

An amateur diver has been researching in the New York City library the wreck of the Angel Gabriel of Pemaquid of the early settlement.

Should he locate it, he would donate the artifacts, if they are his, to either the State of Maine or the Pemaquid restoration.

QUESTION:

Should the amateur diver or anyone else locate the wreck, to whom does the wreck and its contents belong?

ANSWER:

The State of Maine.

OPINION:

The wreck and contents of Angel Gabriel would be derelict. A vessel is derelict in the maritime sense of the word when it is abandoned without hope of recovery or without intention of returning to save it. *Merrill v. Fisher*, 91 N.E. 132 at 133, 204 Mass. 600. For other definitions of the term derelict, see *12 Words and Phrases*, p. 308 to 310. A derelict is subject to salvage and either a vessel or its cargo may be derelict. It has been laid down in general terms that to constitute a derelict in the maritime law in respect of salvage, it is necessary, and according to some cases, sufficient, that the thing is found deserted or abandoned on the seas whether it arose from accident or necessity or voluntary dereliction. *78 C.J.S., Salvage, §:30, p. 501.*

We assume, for purposes of this opinion, that the Angel Gabriel is lying within three miles of the coastline of the State of Maine. This being so, the wrecked vessel would be lying within the territorial waters of the State of Maine. The Submerged Land Act of 1953 provides in part that:

"The seaward boundary of each original coastal State is approved and

confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary. Any State admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries.” 43 U.S.C.A. § 1312.

The Submerged Land Act has established the State’s title to land within the three-mile limit and alleviates the ruling in *United States v. California* where the Court said:

“ . . . We cannot say that the 13 original colonies acquired ownership to the three mile belt or the soil under it, even if it did acquire elements of sovereignty of the English crown by their revolution against it.” *United States v. California*, 332 U.S. 19 at p. 31, 67 S. Ct. 1658 (1947).

As the State of Maine is a common law state, if there is no statutory provision relating to the ownership of derelict property within territorial waters, the common law prevails. We have found no applicable statutory reference. Therefore, we look to the common law of England and have ascertained that:

“ . . . A wrecked vessel and its cargo, lying at the bottom of the sea, is a ‘derelict’ which, if not claimed by the owner, at the end of a year, becomes a droit of the Crown in its office of Admiralty. H.M.S. *Thetic* (1835) 3 Hagg. 228, 166 Eng. Repr. 390, 391. See also the *Tubantia* (1924) P. 78, 91; *The King v. Two Casks of Tallow* (1837) 3 Hagg. Adm. 292, 166 Eng. Repr. 414; and *The Aquila* (1798) 1 C. Rob. 37, 165 Eng. Repr. 87, 91.” *State v. Massachusetts Company*, 95 S. 2d 902 at 905 (1957).

In *State v. Massachusetts Company*, supra, the State of Florida by and through its Attorney General brought suit against a joint venture and salvage company to enjoin the salvage company from salvaging the abandoned wreck of the old battleship *Massachusetts* which had been scuttled and sunk in 1922 in the Gulf of Mexico approximately 1.2 miles off the entrance to Pensacola Bay. The Supreme Court of Florida held that the wreck belonged to the State of Florida in its sovereign capacity. Relying on the reasoning set forth in *State v. Massachusetts Company*, supra, we are of the opinion that the *Angel Gabriel* and its cargo belong to the State of Maine in its sovereign capacity.

JEROME S. MATUS
Assistant Attorney General

July 12, 1967
Department of State

Joseph T. Edgar, Secretary of State

An Opinion on Chapter 9, Title 29, “Financial Responsibility and Insurance”

FACTS:

You have requested this office to issue an opinion interpreting certain provisions of Me. Rev. Stat. Ann., Tit. 29, ch. 9 (1964), commonly called the Maine Motor Vehicle Financial Responsibility Law.

As you have given them to us, the facts upon which the need for opinion arises are as