STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For the Years
1967 through 1972

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

follows: An uninsured motor vehicle operator was involved in an accident causing property damage apparently exceeding $100. The Secretary of State, has, in accordance with Me. Rev. Stat. Ann., Tit. 29, § 783(2)A (1964), ordered the operator to file a certificate of insurance as proof of future financial responsibility or suffer the loss of his license and/or registration privileges. The operator contends that he should not be required to file until he has had a hearing before the Secretary of State, presented his argument as to why he should not file, and received an adverse ruling.

QUESTION:

The question presented for opinion is whether the Secretary of State may validly invoke the penalties of the Maine Motor Vehicle Financial Responsibility Law against an uninsured motor vehicle operator who has been involved in an accident causing property damage apparently exceeding $100 and who has failed to furnish a certificate of insurance as proof of future financial responsibility, *prior to* any administrative determination, by way of hearing, of such operator's liability to comply with the filing requirements.

ANSWER:

The pertinent statute, Me. Rev. Stat. Ann., Tit. 29, § 783(2)A, reads as follows:

"Upon receipt by him of the report of an accident, which has resulted in death, bodily injury or *property damage to an apparent extent of $100 or more, the Secretary of State shall, 30 days following the date of request for compliance with the 2 following requirements, suspend the license or the right to obtain a license, or revoke the right to operate of any person operating, and the registration certificates and registration plates of any person owning a motor vehicle,* trailer or semi-trailer *in any manner involved in such accident, or the right to register the same unless such operator or owner or both:*

" * * * .

" (2) *Shall immediately give and thereafter maintain proof of financial responsibility for 3 consecutive years next following the date of filing the proof as provided under section 787, subsection 2.* The Secretary of State may waive the requirement of filing proof after 3 years from the date of the original filing thereof." (Emphasis supplied.)

Under the cited statute, the Secretary of State must invoke the penalties of the statute against the operator in this case unless: (1) The certificate of insurance is filed within 30 days from the date such filing is requested; or (2) within such 30-day period, the operator demonstrates to the Secretary's satisfaction that he (the operator) falls within one of the filing exemptions established by Me. Rev. Stat. Ann., Tit. 29, § 783 (3) (1964). To prolong the invocation of the statutory penalties beyond the 30-day grace period in order to await the outcome of a hearing would violate the mandatory language in the statute.

Though the statutory language disposes of the question presented, two additional points will be made in this opinion. First, the invocation of the statutory penalties against this operator does not, in my view, represent a violation of due process. The Secretary deprives the operator of a privilege – not a "property right" in the traditional sense of the phrase. The use of the State's highways is a use which may be regulated in the interest of the motoring public by lawful exercise of the State's police power. Second, it is submitted as a policy consideration that should the operator in this case,

having filed in order to avoid the statutory penalties, then be relieved from filing as the result of a hearing *after* the expiration of the 30-day period and cancel his insurance, his out-of-pocket expense for insurance premiums would be negligible. The protection afforded to the motoring public by imposing the filing requirement during the period when the operator's liability for filing is in doubt far outweighs the minimal financial burden on the operator.

ROBERT G. FULLER, JR.
Assistant Attorney General

July 21, 1967
Agriculture

Paul J. Eastman, Deputy Commissioner

Interpretation of Section 2104, Title 7 of the Revised Statutes.

FACTS:

The law provides that a grower of certain crops or grain seeds may make application to the Commissioner of Agriculture for the inspection and certification of said crops or seeds. The growers enter into a contractual agreement to pay into the State Treasury a fee for the inspections and certification. (7 M.R.S.A. § 2101-2103)

7 M.R.S.A. § 2104 provides as follows:

"No person who is in arrears as to payment for past services of the department under sections 2101 to 2103 shall be entitled to further services until payment of all such arrears shall have been made."

In essence you have asked the following question:

QUESTION:

Are delinquent debts owed the state which have been written off by the Governor and Council still considered to be owed the state and may the Department of Agriculture collect such debts under the terms of 7 M.R.S.A. § 2104 quoted above?

ANSWER:

See opinion.

OPINION:

The legislature has provided that under certain conditions the state or one of its agencies or departments may charge off certain debts.

5 M.R.S.A. § 1504 Charging off accounts due state

"The State Controller shall charge off the books of account of the State or any department, institution or agency thereof, such accounts receivable, including all taxes for the assessment or collection of which the state is responsible, and all impounded bank accounts, as shall be certified to him as impractical of realization by or for said State, department, institution or agency. Such certification shall be by the Attorney General, the Commissioner of Finance and Administration and the Treasurer of State, subject to the approval of the Governor and Council. In