

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

November 13, 1969  
Forestry

Austin H. Wilkins, Commissioner

Fill in great pond

**SYLLABUS:**

A littoral proprietor on a great pond who would deposit fill in such pond below ordinary low-water mark must first obtain the permit described in 12 M.R.S.A. § 514(3) (c) (Supp. 1968).

**FACTS:**

A littoral proprietor on a great pond placed fill therein during November, 1968. No facts are recited to indicate whether such fill extends below ordinary low-water mark.

**QUESTION:**

Must the proprietor obtain the permit described in 12 M.R.S.A. § 514(3) (c) (Supp. 1968)?

**ANSWER:**

Yes, if such fill extends below ordinary low-water mark.

**REASON:**

The boundary between private and public property on the shore of a great pond is ordinary low-water mark. *Wood v. Kelley*, 30 Me. 47 (1849), *Stevens v. King*, 76 Me. 197 (1884); cf. *McFadden v. Haynes Ice Co.*, 86 Me. 319 (1894). Accordingly, if the fill extends below ordinary low-water mark, it extends onto public property and permission for such encroachment must be obtained in the form of the permit to which reference has been heretofore made.

ROBERT G. FULLER, JR.  
Assistant Attorney General

November 13, 1969  
Liquor Commission

Keith Ingraham, Chairman

**SYLLABUS:**

A refund must be granted to the wholesalers for the excise tax imposed on malt beverages sold by wholesalers to United States military bases under 28 M.R.S.A. § 452.

**FACTS:**

The Liquor Commission taxes the sale of malt liquor by all wholesalers to all