

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



81-78

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

September 30, 1981

John F. Marsh,
Chief Warden
Department of Inland Fisheries
and Wildlife
State House Station No. 41
Augusta, Maine 04333

Dear Chief Warden Marsh:

I am writing in response to your recent inquiry as to the authority of the wardens of the Department of Inland Fisheries and Wildlife to retrieve the bodies of drowned persons, as well as the authority of the Sheriff's Departments of the State to perform similar services. For the reasons which follow, it is my opinion that the wardens and the sheriffs exercise concurrent authority in this area.

As set forth in an opinion of the Attorney General rendered in 1943, the sheriffs of the State, as common law officers, have traditionally been responsible for the dragging of the waters of the State for the bodies of drowned persons. 1943-44 Op. Me. Atty. Gen. 87. Since the Maine Legislature has enacted no statutes altering this particular responsibility, the respective sheriffs of the State would continue to exercise it today. In 1967, however, the Legislature added a provision to the statute governing the duties and powers of the wardens of the Department of Inland Fisheries and Wildlife. That amendment provided:

"In addition to their specified duties and powers, the wardens are vested with the same powers and duties throughout the several counties of the State as sheriffs have in their respective counties."

John F. Marsh, Chief Warden
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Laws of Maine of 1967, c. 404, § 8. This provision has since been recodified at 12 M.R.S.A. § 7053(3), and therefore remains in force. It is therefore clear that the wardens of the Department of Inland Fisheries and Wildlife enjoy the same common law duties and powers as the sheriffs of the State, including the responsibility for dragging for drowned persons.

I hope this answers your question. Please feel free to reinquire if further clarification is necessary.

Sincerely,



CABANNE HOWARD

Senior Assistant Attorney General

CH/d

bc: Ms. Annee Tara
Steve Diamond ✓