

MAINE STATE LEGISLATURE

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of E.B.*

November 21, 1975

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Educational & Cultural Services
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Legislative approval to confer academic degrees

SYLLABUS:

Thomas College must obtain legislative approval whenever the College wishes to secure degreegranting authority for new Baccalaureate or Master Degree Programs.

FACTS:

Thomas College is a private nonprofit college located in Waterville, Maine. The College was founded in 1894 as a propriety institution and was incorporated in 1958, as a nonprofit institution. Thomas College has been expressly authorized by an Act of the Legislature to grant the following degrees:

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|---|----|--|
| (1) Private and Special Laws, 1959, Chapter 117 | -- | 2-year Degrees of Associate in Arts and Associate in Secretarial Science |
| (2) Private and Special Laws, 1963, Chapter 72 | -- | 4-year Degrees of Bachelor of Science in Business Education and Bachelor of Science in Business Administration; and such honorary degrees as are usually conferred by like institutions of higher learning |
| (3) Private and Special Laws, 1969, Chapter 61 | -- | 2-year Degree of Associate in Science |
| (4) Private and Special Laws, 1974, Chapter 203 | -- | 4-year Degree of Bachelor of Science in Professional Studies |

QUESTION AND ANSWER:

Does subsection 4 of Title 20 M.R.S.A. § 2202 provide an exception for Thomas College so that Thomas College need not obtain legislative approval whenever the College wishes to secure degree granting authority for new Baccalaureate or Master Degree Programs? No.

REASONS:

20 M.R.S.A. § 2202(1) states in applicable part that:

"[no person, partnership, institution or corporation shall confer academic, educational, literary or professional degrees unless expressly authorized by an Act of the Legislature upon recommendation of the State Board of Education."

20 M.R.S.A. § 2202(2) states in applicable part that:

". . . the term 'junior college,' 'college' or 'university' [shall not be used] in connection with an institution . . . unless the institution is operating under a license or a certificate of temporary approval from the Department of Educational and Cultural Services or has been given the right to grant degrees in accordance with this section."

20 M.R.S.A. § 2202(3) deals with the granting of the aforementioned certificate of temporary approval.

20 M.R.S.A. § 2202(4) states as follows:

"Exception. This section shall not apply to institutions authorized by the Legislature to grant degrees. This section shall not apply to any person, school, board, association or corporation which was using any said term or terms in connection with any educational institution operated prior to January 1, 1957."

It is not clear whether the phrase "this section," as used in either sentence of subsection 4, refers to all of 20 M.R.S.A. § 2202 or rather to a particular subsection thereof. For example, when the phrase "this section" is used at the end of subsection 2 of 20 M.R.S.A. § 2202, the reference is to subsection 1. And see, e.g., P.L. 1967,

Chapter 33.^{1/}

When a statute is ambiguous, certain rules of statutory construction apply. The fundamental rule of statutory construction is to ascertain legislative intent. Depositors Trust Company of Augusta v. Johnson, 222 A.2d 49 (Me., 1966); Cloutier v. Anctil, 154 A.2d 175 (Me., 1959). In determining legislative intent the courts have often stated that subsequent action by the Legislature is a strong indication of what the Legislature had intended with regard to an earlier statute on the same subject. See Worley v. Franch, 85 P.2d 296 (Okla., 1938); California School Township v. Kellogg, 33 N.E.2d 363 (Appellate Court of Indiana, 1941); 73 Am. Jur.2d, Statutes, § 178. Furthermore, in enacting a statute the Legislature is assumed to have had in mind a previous statute dealing with a closely related subject. State v. Beck, 165 A.2d 433 (Me., 1960), appeal dismissed, 367 U.S. 903. In addition, "[i]t is a cardinal rule of statutory construction that courts must presume that legislators do not intend to enact useless legislation." Bergner v. State, 130 A.2d 293, 296 (Conn., 1957); 82 C.J.S., Statutes, § 316.

^{1/} 20 M.R.S.A. § 2203, as codified in R.S. 1954, C. 41, § 142, was amended by P.L. 1957, Chapter 141. Said amendment added a new third paragraph thereto as follows:

"No person, school, board, association or corporation shall use in any way the term 'junior college' or 'college' or 'university' in connection with an institution, or use any other name, title or descriptive matter tending to designate that it is an institution of higher learning with the power to grant educational, literary or academic degrees unless the institution has been given the right to grant degrees in accordance with the provisions of this section."

P.L. 1967, Chapter 33 amended the above paragraph by adding at the end of the paragraph a new sentence as follows:

"This section shall not apply to any person, school, board, association or corporation which was using any said term or terms in connection with any educational institution operated prior to January 1, 1957."

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In applying these principles of statutory construction to the instant question, it seems clear that Thomas College must obtain legislative approval whenever the College wishes to secure degree granting authority for new Baccalaureate or Master Degree Programs. Subsection 4 of 20 M.R.S.A. § 2202 was enacted by P.L. 1967, Chapter 393, and has not been amended since that time. In 1969 and again in 1974 the Legislature by Private and Special Act specifically authorized Thomas College to grant certain degrees. Had the Legislature intended subsection 4 of 20 M.R.S.A. § 2202 to exempt Thomas College from obtaining legislative approval when the College wished to confer new degrees, then the action of the Legislature in enacting Private and Special Laws, 1969, Chapter 61 and Private and Special Laws, 1974, Chapter 203 would have been superfluous. This is not to be presumed. Bergner v. State, supra. On the contrary, by enacting Private and Special Law 1969, Chapter 61 and Private and Special Law 1974, Chapter 203 (and assuming as we should that the Legislature had 20 M.R.S.A. § 2202 in mind, State v. Back, supra), the Legislature has given a strong indication that it did not intend 20 M.R.S.A. § 2202(4) to exempt Thomas College from obtaining legislative approval when the College wishes to confer new degrees.

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