

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date December 12, 1975

To Staff Members

Dept. Attorney General

From Martin L. Wilk, Deputy *MLW*

Dept. Attorney General

Subject Résumé of Opinions from September 25 to December 4, 1975

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1. September 25, 1975

Jail time credits provided for under 15 M.R.S.A. § 1701-A are not applicable to a 30 to 60-day term of confinement ordered by the Court incident to the imposition of sentence pursuant to 34 M.R.S.A. § 1631, sub-§ 4.

2. September 30, 1975

Although the legislature has authorized law enforcement officers to make custodial arrests for traffic infractions, the effecting of a custodial arrest for a traffic infraction may be unconstitutional. An officer who has stopped an individual for the commission of a traffic infraction may issue the person a copy of the Uniform Traffic Ticket and Complaint but should not make a custodial arrest.

3. October 10, 1975

The Maine Compulsory School Attendance Statute is enforceable against Amish parents who refuse to send their elementary age children [children age 14 or below who have not completed the 8th grade] to public school.

4. October 14, 1975

The Supplemental Appropriation Act of 1975 does not require that the existing priority social services be maintained; rather, it permits beginning new priority social services, and ending funding of old priority social services.

5. October 16, 1975

As a general rule, State officers and employees are not personally liable for damages resulting from their official acts, so long as they are acting in good faith, legally, and within the scope of their authority. If, however, such officer or employee is adjudged personally liable for damages, reimbursement by the State would be within the discretion of the Legislature. State funds should not be used to purchase liability or indemnification insurance for state officers and employees unless such expenditure is legislatively approved.

6. November 7, 1975

A person who gives testimony as an expert in a particular field before the Legislature, at the request of a legislator, but not pursuant to his employment, is not engaged in lobbying as defined in 3 M.R.S.A. § 311, sub-§ 8, and is not required to register as a lobbyist under § 313, sub-§1.

7. November 13, 1975

13-A M.R.S.A. § 1302, II 1, last sentence, which provides for reinstatement of a domestic corporation which has been suspended for failure to file an annual return for the year 1975, upon its filing said report and paying the penalty for that year and for each year it has failed to file, may not be applied retrospectively to any failures to file which occurred prior to its effective date of December 31, 1974.

8. November 21, 1975

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

9. November 24, 1975

The Department of Mental Health and Corrections has no authority to educate, at the Stevens School, any children who have not been committed by the Juvenile Court to that institution. (From the City of Hallowell)

10. December 4, 1975

It is not permissible for the State to draw checks against the general fund cash account in amounts exceeding the total debit balance in such account at any given time. The question arises because the State maintains common bank accounts for all funds including general and special revenue accounts. Thus, if the cash receipts of the General Fund are exceeded by that funds cash disbursements over a particular period of time, the State's records would show a credit balance in the General Fund cash account even though the check written upon the common account would clear because of sufficient cash in the several special revenue accounts to make up the balance. Even though the special revenue accounts may provide sufficient funds to cover checks being written against the General Fund, special or dedicated revenue accounts usually may not be utilized for general fund purposes but are, in each case, limited by the specific statutory provisions which set forth their respective purposes.