

# MAINE STATE LEGISLATURE

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February 7, 1977

Honorable Georgette Berube  
House of Representatives  
State House  
Augusta, Maine

Dear Representative Berube:

This responds to your request for an opinion of December 14, 1976. In that opinion request you raise certain questions regarding papers and recommendations of the Joint Executive-Legislative Committee on low priorities. The specific questions and answers are as follows:

1. "Can a Committee formed by legislative action withhold from others attending its open meetings, the documents it is discussing? More specifically, may it withhold drafts of its report or reports on subjects it has been assigned by the Legislature to study from reporters covering such a session, voting on whether to adopt or not adopt certain provisions of the report only on the basis of a numbered paragraph or the title of a section?"

We are not certain of the nature of the papers involved in your question #1. The right-to-know law generally requires that public records be made available to public inspection. The term "public records" is defined at 1 M.R.S.A. § 402-3. However, there are exceptions to the public records definition which may be relevant to this situation. Thus the right-to-know law exempts from the public records definition:

"Records, working papers and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative

agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the biennium in which the proposal or report is prepared;" Section 402-3-C.

If the papers in question were such a legislative document or draft document intended to be used to prepare House or Senate papers or reports for consideration by the Legislature, these papers would be exempt from the right-to-know law. The evidence available indicates that the papers in question may well have been such reports intended for House or Senate consideration.

2. Your second question was as follows:

"Does the submission by such a committee of its final report to other branches or bodies of government, i.e. the Governor or the Legislative Council, make such a document public? For example, some members of the Committee proposed to suppress the report for one day after its transmission to the Executive branch and the Legislative Council. Would this have been legal?"

As the documents in question may have been covered by certain exemptions to the right-to-know law, as discussed above, it would appear that the Committee would be within its rights in withholding release of the documents for one day after its transmission to the Executive and the Legislative Council. Such withholding is reasonable in this case where a document is being provided to another agency which is to act on the document in order to give that agency opportunity to respond.

I hope this information is helpful.

Sincerely,

DONALD G. ALEXANDER  
Deputy Attorney General

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