

MAINE STATE LEGISLATURE

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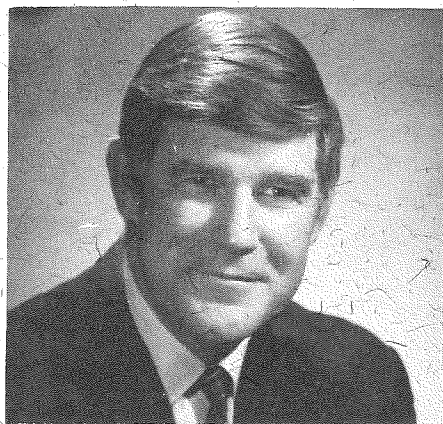
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OCTOBER 1972

ALERT

CRIMINAL DIVISION

FROM THE OFFICE OF
THE ATTORNEY GENERAL
OF THE STATE OF MAINE.



CASE SUMMARY INDEX

October 1970 - September 1972

MESSAGE FROM THE ATTORNEY GENERAL

JAMES S. ERWIN

It is hard to believe that this October issue of ALERT celebrates the beginning of the third year of publication of what we hope you consider to be an important addition to criminal justice information and education in Maine.

In this issue, you will find an index of all cases, state and federal, that have been published in ALERT for the last two years. Also, you will find a listing of all books acquired by our library in the Law Enforcement Education Section. We have not indexed the subject articles written for the past ALERTS, since all of the articles will eventually be incorporated in the Law Enforcement Officer's Manual, which is fast reaching completion.

We look forward to your comments on the usefulness of the information presented in this issue.

JAMES S. ERWIN
Attorney General

The following index is divided into two sections—**Important Recent Decisions** and **Maine Court Decisions**. Each section will index the case summaries that have appeared in the corresponding column of the ALERT Bulletin over the past two years.

In both sections, the index is broken down into several general categories such as, **Admissions and Confessions**, **Fair Trial**, **Pretrial Identification**, etc. Each individual entry under these general categories consists of three lines containing the following information:

1. A brief phrase or sentence describing the nature or holding of the case. (Often this brief description will refer to the general category heading).
2. The title and citation of the case along with an abbreviated designation of the jurisdiction from which the case came and the year in which it was decided.
3. The month and page of the issue of ALERT in which the case summary begins.

In using this index, it should be noted that the category headings appearing in the index will not always correspond to the headings used in the ALERT Bulletins. For example, in the ALERT, the case summary heading might be **Miranda**. In the index, however, the case would come under **Admissions and Confessions**. To avoid confusion, it is suggested that the title of the case, rather than the case

heading, be your guide in locating the cases.

The reasons for these differences in headings are that the case summaries were prepared by several different Assistant Attorneys General and at the time of preparation, this index was not contemplated. No attempt, therefore, was made to gear the case summary headings to any pattern. We hope this will not be a great inconvenience and in the future, we will attempt to stick to the index categories we have established here, adding new categories only when necessary.

Two further features of the index are worthy of mention. First, with a few exceptions, there is only one entry in the index for each case. Therefore, even though a case might have several holdings fitting into several different categories, only the most important holding will be entered in the index. This has been done to save space and also because this index has been designed not as an all comprehensive reference service, but as an aid to quick recall of recent decisions. Secondly, the entries within each general category are listed in the order in which they appeared in the ALERT Bulletins with those appearing in the most recent ALERTs listed first. Therefore, they may not be in strict chronological order as to the time the decision was rendered.

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Failure to inform jury of defendant's right not to take the stand.
State v. Girard, 283 A.2d 462 (Me. 1971)
January 1972, p. 4

Self-defense.
State v. Millett, 273 A.2d 504 (Me. 1971)
April 1971, p. 6

Lesser Included Offenses

Death caused by Violation of Statute not included in Reckless Homicide charge.
State v. Leeman, 291 A.2d 709 (Me. 1972)
September 1972, p. 5

Pre-Trial Identification

Harmless error.
State v. LeBlanc, 290 A.2d 193 (Me. 1972)
July 1972, p. 6

Difference in size of defendant's photo not fatal.
State v. Levesque, 281 A.2d 570 (Me. 1971)
November 1971, p. 6

Validity depends on "totality of circumstances".
Trask v. State, 247 A.2d 114 (Me. 1968)
October 1970, p. 3

Right to Counsel

Where possible imprisonment of over six months or at least \$500.00 fine.
Newell v. State, 177 A.2d 731 (Me. 1971)
August 1971, p. 6

Search and Seizure; Arrest

Arrest—probable cause for after arrival at crime scene.
State v. Mimmovich, 284 A.2d 282 (Me. 1971)
February 1972, p. 6

Reference in warrant to attached affidavit.
State v. Hollander, 289 A.2d 419 (Me. 1972)
July 1972, p. 6

Probable cause.
State v. Fletcher, 288 A.2d 92 (Me. 1972)
June 1972, p. 6

Insufficient affidavit.
State v. Benoski, 281 A.2d 128 (Me. 1971)
December 1971, p. 8

Plain view.
State v. Mosher, 270 A.2d 451 (Me. 1970)
December 1970, p. 6

Facts justifying taking custody of auto.
State v. Poulin, 268 A.2d 475 (Me. 1970)
November 1970, p. 6

Witnesses

Expert witness.
State v. Carvelle, 290 A.2d 190 (Me. 1972)
July 1972, p. 6

Hostile witness.
State v. Fournier, 267 A.2d 638 (Me. 1970)
February 1971, p. 8

As we have mentioned in earlier ALERT Bulletins, the Law Enforcement Education Section has been purchasing books and developing a library of law enforcement materials over the past two years. The following is a list of the books which we now have in the library. We will continue to purchase books and will publish a list of new acquisitions periodically.

All criminal justice personnel are reminded that these books are available for your use. You are encouraged to stop in, write, or call and we will make any book or books available to you upon request. Our phone number is 289-2146.

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Comments directed toward the improvement of this bulletin are welcome. Please contact the Law Enforcement Education Section, Criminal Division, Department of the Attorney General, State House, Augusta, Maine.

ALERT

The matter contained in this bulletin is intended for the use and information of all those involved in the criminal justice system. Nothing contained herein is to be construed as an official opinion or expression of policy by the Attorney General or any other law enforcement official of the State of Maine unless expressly so indicated.

Any change in personnel or change in address of present personnel should be reported to this office immediately.

James S. Erwin	Attorney General
Richard S. Cohen	Deputy Attorney General In Charge of Law Enforcement
Chadbourne H. Smith	Chief, Criminal Division
John N. Ferdico	Director, Law Enforcement Education Section

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