

VETOES

so because, in its words, “[i]f the General Assembly can, by the simple expedient of directing that certain State revenue be placed in special accounts in the treasury, secure the right to appropriate it without reference to the requirements of the Budget Amendment, then the General Assembly has the power to nullify the amendment.” 147 Md. at 646–47.

However, while striking down the law at issue, the Court, over the strong objections of then Attorney General Robinson, distinguished and approved an act that would have “divert[ed] to certain local uses money ... part of which would no doubt have eventually reached the treasury.” 147 Md. at 647. The money referred to by the Court was derived from fines for motor vehicle offenses committed in a particular county. The statute directed certain State officials to credit those funds to the county, which was to use them to support the county police force.

It is not easy to discern the rationale underlying this passage (which, although dicta, was state unequivocally in response to a position that had been briefed fully, and which has not subsequently been called into question by the Court). Under the broadest of readings, the General Assembly would be empowered to direct the disposition, without regard to the appropriations process, of all State revenues prior to their deposit in the State Treasury, except where the Constitution itself expressly requires that a State official remit funds to the Treasury. This view would accord with that of Attorney General Armstrong.

However, the same Court of Appeals described the Budget Amendment as “providing an intelligent and definite method of estimating and appropriating the income of the State,” so as to remedy the prior situation in which “appropriations were more or less uncorrelated and deficits in the State Treasury were not unusual.” 147 Md. at 644. As we discussed above, the Court of Appeals has since repeatedly reaffirmed the central role of the Budget Amendment in our constitutional scheme. Given the enormous growth in both State resources, State programs, and State expenditures since 1925, we cannot accept that the Court would today authorize a system of State resource allocation completely outside of, and necessarily destructive of, the Budget amendment. See 68 Opinions of the Attorney General at 91–92.⁴

Accordingly, we read O’Conor more narrowly, as we think that the Court of Appeals would in 1990 and beyond. This narrow reading does not ignore O’Conor’s endorsement of legislative power to categorize certain funds as local even though they might be held by a State official, but it does preserve the basic structure and intent of the Budget Amendment. That is, we read O’Conor to suggest the following: The General Assembly may determine by statute that a category of funds derived from the residents of a political subdivision or from events occurring within a subdivision are not to enter the ordinary flow of State revenues but instead are to be remitted directly to that subdivision for its general purposes or for some specific purpose identified in the statute.

⁴ Indeed, it is not clear that even the O’Conor Court would reach the same result about general tax revenues, which were not at issue in the case.