

MAINE SUPREME JUDICIAL COURT

OJ-15-2

In the matter of

REQUEST FOR OPINION OF THE JUSTICES

**BRIEF OF INTERESTED PARTY
AMERICAN CIVIL LIBERTIES UNION OF MAINE
FOUNDATION**

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STATEMENT OF INTEREST

The American Civil Liberties Union of Maine Foundation (“ACLU of Maine”) is a nonprofit, nonpartisan organization dedicated to protecting the civil rights and civil liberties of the people of Maine and to extending those protections to individuals and groups who have traditionally been denied them. The ACLU of Maine has a long history of appearing before this Court, both as *amicus curiae* and as direct counsel. The ACLU of Maine believes that a predictable orderly legislative process, based on a sound interpretation of the Constitution, is key to ensuring equal justice under law.

The proper resolution of this case is a matter of direct concern to the ACLU of Maine. Pursuant to the Justices’ procedural order of July 20, 2015, the ACLU of Maine submits this brief as an interested party, in the hopes that it will assist the Justices in reaching a decision.

STATEMENT OF ISSUES

- 1) Whether the Questions propounded by Governor Paul R. LePage on July 17, 2015 present a “solemn occasion,” under the Maine Constitution, such that an advisory opinion of the Justices of the Maine Supreme Judicial Court is appropriate;
- 2) Whether the Maine Legislature, by its adjournment on June 30, 2015, prevented the return of bills that the Governor intended to veto.

SUMMARY OF ARGUMENT

In one sense, the questions proposed by the Governor do not present a “solemn occasion” because there is no “live gravity” to the questions. Nonetheless, the Justices ought to conclude that a “solemn occasion” does exist, at least for Questions One and Two, so as to avoid a constitutional crisis. Though the laws at issue here have not yet gone into effect, and the Legislature is not currently in session for more than three days, neither of these are speculative events.

The Justices ought to advise the Governor that the Legislature, by its adjournment on June 30, 2015, did not prevent the return of bills by the Governor. Only final adjournment of the legislative session prevents the return of bills and resolves. This interpretation of “adjournment” is consistent with the purpose of the constitutional provisions at issue and with the Governor’s and the Maine Legislature’s well-established historical practices. The purpose of the Legislature’s temporary adjournment on June 30, 2015 was to accommodate, rather than prevent, the return of vetoed bills by the Governor.

The answers to the Governor’s questions should be: 1) only final adjournment of the legislative session prevents the return of a bill; 2) no

action or inaction by the Legislature triggered the constitutional three-day period for the exercise of the Governor's veto; and 3) the 65 bills returned to the Legislature on July 16 were not properly before the Legislature for reconsideration because they had already become law.

ARGUMENT

I. Though There Is Arguably No “Live Gravity” To The Governor’s Questions, A Solemn Occasion Nonetheless Exists.

Under the Maine Constitution, the Justices may provide opinions on important questions of law “upon solemn occasions.” Me. Const. art. VI, § 3. The threshold question for the Justices is whether the questions propounded by the Governor present a “solemn occasion,” within the meaning of the Maine Constitution.

The touchstone for identifying a “solemn occasion” is whether there is “live gravity” to the question(s) at issue. *See Opinion of the Justices*, 355 A.2d 341, 389 (Me. 1976). The questions must be of “instant, not past nor future, concern.” *Opinion of the Justices*, 134 Me. 510, 191 A. 487, 488 (1936). A solemn occasion only exists where there is an “immediate necessity of performing an official act.” *Opinion of the Justices*, 260 A.2d 142, 146 (Me. 1969).

Here, there is no immediate present necessity of performing an official act. If the Governor is correct that he was prevented from returning bills to the Legislature by their adjournment, then he can return the bills the next time that the Legislature is in session for more than three days—likely, January 2016. And, if the Governor is incorrect, and the time for vetoing the bills in question has passed, then there is no mechanism in the Maine Constitution for winding back that clock. “No solemn occasion exists when the Justices are asked to give their opinions on the law which is already in effect.” *Opinion of the Justices*, 355 A.2d 341, 390 (Me. 1976); see *Opinion of the Justices*, 339 A.2d 483, 488-89 (Me. 1975); *Opinion of the Justices*, 437 A.2d 597, 611 (Me. 1981). If the Governor cannot take any immediate action based on the opinion of the Justices, the questions presented do not create a solemn occasion under established precedent.

However, the Justices might conclude that prudential concerns weigh in favor of removing any uncertainty from the laws in question, and dealing with this uncertainty all at once rather than case by case through private litigation. While questions regarding the status of these bills may not be immediate, it is not speculative to say that there are

significant questions. Questions One and Two each address particular foreseeable concerns of a very serious nature.

Nonetheless, the Justices should decline to find that a solemn occasion exists for Question Three. The Justices have, in the past, refrained from answering questions from one branch of the government inquiring about the power, duty, or authority of another branch. *See Opinion of the Justices*, 132 Me. 491, 497, 167 A. 176, 179 (1933). When one branch inquires into matters within the purview of another branch, normally only the second branch is in a position to take action based on the answer. *See Opinion of the Justices*, 460 A.2d 1341, 1349 (Me. 1982). Also, July 16, 2015, has passed, and there is no live gravity as to what may or may not have been in order before the Legislature on that date.

II. The Legislature's Adjournment On June 30, 2015 Did Not Prevent The Return Of Bills Because It Was Not A Final Adjournment Of The Legislative Session.

Because the Maine Legislature, by its adjournment on June 30, 2015, did not prevent the return of bills that the Governor may have intended to veto, the bills at issue in this matter have now become law.

The Maine Constitution gives the Governor ten days (Sundays excepted) in which to sign or veto bills presented to him for

consideration. *See* Me. Const. art. IV, pt. 3, § 2. If the Governor wishes to exercise his veto authority, he does so by returning the bill with his objections to the house in which the bill originated. *See id.* If the bill is neither signed into law nor returned to its house of origin within ten days, it becomes law just as if the Governor had signed it. *See id.*

But, the Constitution provides for an exception when the Legislature “by their adjournment prevent [the bill’s] return.” *See id.* In those situations, the Governor can return the bill within three days after the next meeting of the same Legislature that enacted the bill. *See id.* The Constitution does not provide this additional time for all adjournments, but only for adjournments that prevent a bill from being returned.

The word “adjournment” appears six times in the Maine Constitution. Sometimes “adjournment” refers to a temporary break within a legislative session, such as when the one house of the Legislature “adjourns for more than 2 days” with the permission of the other house. *See* Me. Const. art. IV, pt. 3, § 12. Other times, “adjournment” refers to the end of a legislative session, such as the “adjournment” that defines a “recess of the Legislature” for purposes of

determining the timing of People's Veto measures. *See Me Const. art. IV, pt. 3, §§ 17-20.*

In interpreting the Maine Constitution, the Supreme Judicial Court looks primarily to the language used, applying the plain language if the language is unambiguous. *See Voorhees v. Sagadahoc County*, 2006 ME 79, ¶ 6, 900 A.2d 733, 735. If the language is ambiguous, the Court determines its meaning by looking to the purpose and history surrounding the provision. *See id; Morris v. Goss*, 147 Me. 89, 83 A.2d 556, 566 (1951). The Governor's failure to return bills that he intended to veto to their house of origin within ten days of their enactment is possibly attributable to a latent ambiguity in the meaning of the word "adjournment."

A. The Purpose Of Providing Additional Time For the Return Of Vetoed Bills When The Legislative Session Adjourns.

The purpose of the word "adjournment" in the phrase "by their adjournment prevent its return" is to account for two features in the Maine legislative process. First, the Maine Legislature is a part-time legislature, as it has been since our establishment. The Legislature only meets for part of each year, and the salary for members of the Legislature is such that alternative sources of income are generally

required. The framers of the Maine Constitution needed to accommodate for the fact that members of the Legislature would, from time to time, leave the State House to tend to farms, stores, law practices, and other occupations.

Second, the framers of the Constitution needed to account for the physical nature of the return of bills. Even in our electronic age, a bill is a physical document bearing the signatures of the President of the Senate and the Speaker of the House of Representatives. In order for the Governor to exercise his veto authority, this physical object must be returned to the Legislature.

Since the veto process requires that a bill be physically returned to the Legislature, but the Legislature is not always in session, the framers of the Maine Constitution made a particular exception, the purpose of which is to avoid requiring the Governor to engage in an impossibility—returning a bill at a time when he cannot do so.

But, the purpose of this provision is limited, and the text of the Constitution illuminates this limitation. The Constitution specifically excepts Sundays from the days on which the Governor could return a bill to the Legislature. *See Me. Const. art. IV, pt. 3, § 2.* Embedded in

this exception is an acknowledgement that it would be impossible to return a bill to its house of origin on a Sunday. However, Saturdays and holidays are not excepted from the days on which the Governor could return a bill. The Legislature does not commonly meet on Saturdays or holidays, yet the framers of the Maine Constitution did not exclude those days—only Sundays.

This is the central distinction at the heart of the present dispute. Only days on which would be impossible for the bills to be returned to the Legislature (such as Sundays, or days after final adjournment of the session) are counted as days when the Governor does not have to return bills that he wishes to veto to their house of origin. Days on which the Legislature is temporarily absent from Augusta (such as Saturdays, holidays, or days during the legislative session) are still counted towards the ten days that the Governor has in which to exercise his veto authority.

If the purpose of this provision was, instead, to allow the Governor to hold on to bills he wished to veto any time that the Legislature was even temporarily adjourned, the mechanics of calculating the time for vetoes would be complicated to the point of impossibility. The

Legislature adjourns at the end of each legislative day and at the end of each legislative week (typically on Thursday). If the purpose of the provision at issue was to stop the clock for returning vetoes for each of these adjournments, and to restart the clock only when the Legislature was back in session for three continuous days (without adjournment of any kind), then the clock for returning vetoes would almost never restart. Far from enshrining an orderly process, such an interpretation would confound the creation of legislation.

B. Maine Governors Have Historically Not Been Prevented From Returning Vetoed Bills To The Legislature During Temporary Adjournments.

Temporary breaks within a legislative session do not prevent the Governor from returning vetoed bills to the Legislature. “Upon this point a page of history is worth a volume of logic.” *New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921). Governors (including the current Governor) have returned bills to the Legislature while the Legislature was in session but temporarily adjourned, which provides strong evidence that temporary adjournments do not prevent the Governor from returning bills.

For example, on May 16, 2012, the 125th Maine Legislature enacted the following bills:

- LD 1469 (125th Legis. 2012): “An Act To Permit Video Gaming For Money Conducted by Nonprofit Organizations”
- LD 807 (125th Legis. 2012): “An Act To Repeal The Bonding Authority Of The Maine Governmental Facilities Authority”
- LD 225 (125th Legis. 2012): “An Act To Authorize A General Fund Bond Issue In The Amount of \$50,000,000 To Fund Research And Development”

On May 17, 2012, the Legislature adjourned “Till The Call of The President and the Speaker”. *See* Joint Order, Senate Paper 689 (125th Maine Legislature, May 17, 2012). On May 25, 2012, the Governor vetoed these bills and returned them to their house of origin (while the Legislature was adjourned). The Legislature returned to Augusta on May 31, 2012, and held veto override votes on these bills. All the vetoes were sustained.

On June 27, 2013, the 126th Maine Legislature enacted the following bills:

- LD 415 (126th Legis. 2013): “An Act To Require A Warrant To Obtain The Location Information Of A Cell Phone Or Other Electronic Device”

- LD 890 (126th Legis. 2013): “An Act To Buy American-made Products”
- LD 1103 (126th Legis. 2013): “An Act To Encourage Development In The Logging Industry”
- LD 1129 (126th Legis. 2013): “An Act To Promote Innovation In Public Schools”

At the end of that legislative day, the Legislature adjourned until July 9, 2013. *See* Joint Order, Senate Paper 616 (126th Legis., June 27, 2013). While the Legislature was adjourned, the Governor vetoed each of those bills and returned them to their houses of origin. On July 9, 2013, the Legislature sustained the Governor’s vetoes of LD 890, LD 1103, and LD 1129; the Legislature overrode the Governor’s veto of LD 415, which was subsequently chaptered as P.L. 2013, ch. 409, and codified as 16 M.R.S. § 641 *et seq.*

These examples demonstrate that returning vetoed bills to the Legislature is possible when the Legislature is temporarily adjourned (whether that adjournment is until a specific date, or “till the call of the President and the Speaker”). In contrast, when the Legislature finally adjourns for the session, the Governor is prevented from returning bills, and votes on whether to sustain or override the Governor’s veto are only held when the Legislature is back in session for more than three days.

For example, on June 19, 1981, the 110th Maine Legislature passed LD 1594 (110th Legis. 1981): “An Act To Clarify The Status Of Certain Real Estate Titles In The State.” Later that legislative day, the Legislature adjourned for the session, and the legislative record reflects that “the First Regular Session of the 110th Legislature Adjourned. Sine Die.”—the session, not the simply the legislature.¹ As a result, the Governor was prevented from vetoing LD 1594 and returning it with his objections. *See Opinion of the Justices*, 437 A.2d 597, 604-05 (Me. 1981). Adjournments of the legislative session—either the First or the Second—prevent the return of bills, but not day-to-day adjournments of the Legislature.

The experiences of other states with the same constitutional provisions is also illuminating. Courts in those states have consistently held that an adjournment that is merely a temporary break in the legislative session is not an adjournment that prevents a bill from being returned. Rather, only an adjournment that refers to the end of a legislative session, or an “adjournment sine die,” can prevent the return

¹ 2 Legis. Rec., S-1686 (110th Legis. 1981) (available at <http://legislature.maine.gov/legis/lawlib/lldl/legisrecord110.htm>) (last visited July 22, 2015).

of a bill until the next meeting of the same Legislature that enacted the bill. See, e.g., *State ex rel, Gilmore v. Brown*, 451 N.E. 2d 235 (Ohio 1983); *Redmond v. Ray*, 268 N.W. 2d 849 (Iowa 1978); *Hawaiian Airlines v. Pub. Util. Comm'n*, 43 Haw. 216 (1959); *State v. Holm*, 215 N.W. 200 (Minn. 1927); *Johnson City v. Tenn. E. Elec. Co.*, 182 S.W. 587 (Tenn. 1916); *State v. Joseph*, 57 So. 942 (Ala. 1911); *State ex rel. State Pharm. Ass'n v. Michel*, 27 So. 565 (La. 1900); *Hequembourg v. City of Dunkirk*, 2 N.Y.S. 447 (1888); *Miller v. Huford*, 9 N.W. 477 (Neb. 1881); *Corwin v. Comptroller Gen.*, 6 S.C. 390 (1875); *Harpending v. Haight*, 39 Cal. 189 (1870); *In re Opinion of the Justices*, 45 N.H. 607 (1864).

C. Temporary Adjournments At The End Of Legislative Sessions Are Designed To Accommodate, Rather Than Prevent, The Return Of Vetoed Bills By The Governor.

Before the Legislature adjourns for the session, notice is sent to the Governor, informing him that the Legislature has completed its work; this signals to the Governor that he will not be able to return bills to the Legislature. Such notice was sent on July 9, 2013, at the end of the First Regular Session of the 126th Legislature;² on June 29, 2011,

² Legis. Record, S-1525 (126th Legis. 2013) (available at <http://legislature.maine.gov/legis/lawlib/lldl/legisrecord126.htm>) (last visited July 22, 2015).

at the end of the First Regular Session of the 125th Legislature;³ on June 12, 2009, at the end of the First Regular Session of the 124th Legislature;⁴ on March 27, 1897, at the end of the First Regular Session of the 68th Legislature;⁵ and, as far as the ACLU of Maine is able to determine, at the end of every other session of the Maine Legislature. No such notice was sent to the Governor on June 30, 2015, but notice of adjournment of the legislative session was sent to the Governor on July 16, 2015.

In addition, both the Senate and the House announced their intention to return to Augusta on or about July 16, 2015 in order to consider any bills that the Governor might veto.⁶ Far from preventing

³ Legis. Record, S-1493 (125th Legis. 2011) (available at <http://legislature.maine.gov/legis/lawlib/lldl/legisrecord125.htm>) (last visited July 22, 2015).

⁴ Legis. Record, S-1158 (124th Legis. 2009) (available at <http://legislature.maine.gov/legis/lawlib/lldl/legisrecord124.htm>) (last visited July 22, 2015).

⁵ Legis. Record, S-453, (68th Legis. 1897) (available at <http://legislature.maine.gov/legis/lawlib/lldl/legisrecord68.htm>) (last visited July 23, 2015).

⁶ Legis. Record. H-**** (127th Legis., June 23-24, 2015) (attached as Exhibit 1).

the Governor from returning vetoed bills, the Legislature arranged its schedule in order to accommodate the return of vetoed bills.⁷

The Justices might be inclined to ask what would be the harm in allowing a do-over on the bills at issue in this case. The Governor, presumably, made an honest mistake about the meaning of the word “adjourn,” and perhaps the Justices feel some obligation to step in to prevent an absurd result.

But, the legislative process depends on predictability. The 186 members of the Legislature, and the hundreds of people and groups who participate as advocates in the legislative process, organize their careers and their lives based on established practices and principles in the Constitution. If the Governor’s view on the timing of vetoes is correct, it would not only undermine the legality of bills considered by this Legislature, but it would also undermine the consistent, reliable, and predictable process through which the Maine Legislature does its work.

⁷ On July 9, 2015, the Clerk of the House and the Secretary of the Senate sent notice to the Governor’s office that they would come in on Saturday, July 11, 2015,

In addition, the Justices are here called upon to offer only their opinion. Because there is no case or controversy, and the Justices are not sitting as the Law Court, the Justices are not in a position to grant equitable relief to prevent any of these bills from taking effect. If the Justices agree that the Governor misinterpreted the meaning of “adjourn” in Article IV, the posture of this matter does not give the Justices a present opportunity to reset the veto clock or to otherwise undermine the legitimacy of the laws at issue.

In an memorandum prepared for public distribution by Governor LePage’s chief legal counsel, the Governor’s action was characterized as “the way legal issues are raised and, ultimately, addressed: someone begins by challenging the status quo.”⁸ Not every test case succeeds. Sometimes, as here, the status quo is actually the best way of doing things, because it is consistent with the law itself and because it accommodates the greatest number of diverse needs.

III. The Answers To The Questions Propounded By The Governor Are “Final Adjournment;” “No;” and “No.”

⁸ Memorandum: Governor’s Veto Power and Adjournment, Cynthia L. Montgomery, 2 (July 10, 2015).

Should the Justices conclude that a solemn occasion is presented by some or all of the Governor's questions regarding the time for exercising his veto authority, they should answer the Governor's questions in the following way:

QUESTION ONE: What form of adjournment prevents the return of a bill to the Legislature as contemplated by the use of the word, adjournment, in Art. IV, pt. 3, §2 of the Maine Constitution?

ANSWER: Adjournment of the legislative session, sometimes termed adjournment without day or adjournment sine die, prevents the return of bills to the Legislature. For all other adjournments, the Governor has ten days (Sundays excepted) in which to return vetoed bills to the Legislature, and his failure to do so will result in the bill becoming law.

QUESTION TWO: Did any action or inaction by the Legislature trigger the constitutional three-day procedure for the exercise of the Governor's veto?

ANSWER: No. The only action that triggers the constitutional three-day procedure is adjournment of the legislative session, which

took place on July 16, 2015 for the First Regular Session of the 127th Maine Legislature.

QUESTION THREE: Are the 65 bills the Governor returned to the Legislature on July 16 properly before that body for reconsideration?

ANSWER: No. The 65 bills returned to the Legislature by the Governor on July 16, 2015 are now law, because the ten-day period in which the Governor may constitutionally exercise his veto authority had passed.

CONCLUSION

For the reasons set forth above, the Justices of the Maine Supreme Judicial Court ought to advise the Governor of the State of Maine that the Maine Legislature, by its adjournment on June 30, 2015, did not prevent the return of bills to the Legislature, and any bills not signed but not vetoed by the Governor within ten days of enactment are now law.

Dated: July 24, 2015



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EXHIBIT 1

LEGISLATIVE RECORD - HOUSE, June 24, 2015

After Midnight

ORDERS

On motion of Representative McCABE of Skowhegan, the following Joint Order: (H.P. 991)

Ordered, the Senate concurring, that in accordance with emergency authority granted under the Maine Revised Statutes Annotated, Title 3, Section 2, the First Regular Session of the 127th Legislature shall be extended for five legislative days.

READ.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker. Men and Women of House, we've done some good work, some bipartisan work in the last few days. There are some remaining items still with the other body so extending these days is appropriate so that we make sure that we can act on that work beyond July, I mean beyond June 30th. And, at this time, I hope that when we take this vote, folks will support this and will be prepared so that when we do come back July 16th, we can take up any remaining items as well as when we come back on the 30th. So, thank you very much.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, our conversations have sort of focused around trying to sort of finish up tonight before 11:59 p.m., so that we could leave one legislative day to focus on the 30th to come back and vote on the budget. And to the extent that now it's 12:10 p.m., I, quite frankly, would like to have an opportunity to speak to my caucus in regards to at least my understanding is, under the Constitution, we are allowed to extend two times, five legislative days, to complete the work of the Legislature. This would be the second time to do that. We have agreed to extend one time. Tonight is the expiration of that. Because we are at 12:10 p.m., the first five days, and to the extent that we are asking to extend that a second five days, I would like the opportunity to speak to my caucus to make sure that they are in agreement with that before we vote on this motion, because I don't want to make that decision on my own. And, so I would ask that this motion be Tabled until later in today's session. Thank you.

The same Representative moved that the Joint Order be **TABLED** until later in today's session pending **PASSAGE**.

The SPEAKER: The House will be in order. The Representative from Newport, Representative Fredette, has moved that this item be Tabled. The Tabling motion is out of order because the Representative made an argument prior to presenting the Tabling motion.

Subsequently, the Chair **RULED** that the motion was **OUT OF ORDER**.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker. Men and Women of the House, I spent some time in the Clerk's Office reviewing some of the bills that we are sort of...that remain out there. There are a number of bills, as I mentioned before, that sit on the table in the other body. There is also a number of bills that have yet to become law or be signed or move forward without the Chief Executive's signature, and I just sort of continue to think of the number of bills, a lot of them good bipartisan bills, things that we debated on both sides of the aisle, things like the

Lyme disease bill, some things around broadband. I believe in the possession of this body is still a gaming bill that seemed important to folks on both sides of the aisle. So I just want to make sure that when we go forward tonight, we think about all the things that we have still pending and that we take the appropriate action so that we can deal with those in an appropriate manner.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker, and I agree with the good Representative from Skowhegan. If we could recess for 10 minutes, just to allow our caucus to caucus this particular issue, then I think that we would probably have some sort of resolution to this.

On motion of Representative GIDEON of Freeport, **TABLED** until later in today's session pending **PASSAGE**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Ordered, the Senate concurring, that in accordance with emergency authority granted under the Maine Revised Statutes Annotated, Title 3, Section 2, the First Regular Session of the 127th Legislature shall be extended for five legislative days.

(H.P. 991)

Which was **TABLED** by Representative GIDEON of Freeport pending **PASSAGE**.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Fredette.

Representative **FREDETTE**: Thank you, Mr. Speaker. Mr. Speaker and Ladies and Gentlemen of the House, my understanding is, according to the Maine Constitution, this chamber is permitted to extend five legislative days, two separate times, under the Maine Constitution. We have already done that once. So, therefore, in terms of my read of the Maine Constitution, we are now at, under this Supplement No. 22, the opportunity for this body to vote on the extension of five additional days, under the Maine Constitution, to complete our work. I think it was our hope and our anticipation in the extension of the first five additional days that we would be able to complete our work, including the work that we would anticipate on June 30th in regards to the budget. Obviously, recognizing the hour, at 12:45 p.m., on the fifth day of the first extension of the five additional days, under the first vote of extending the legislative session five additional days, we've expended those days. I have requested and graciously thank the body for the opportunity to speak to my caucus in regards to the question before the body today on Supplement No. 22, in regards to the question of extending the second and final five days as permitted under the Maine Constitution, to complete the work of this session of the Legislature. Our caucus is focused on the work that we need to do in terms of completing the work on our budget and other items that may or may not be related to vetoes related to the Chief Executive and anticipation on maybe coming back on a second day beyond June 30th which may or may not be July 16th, which is also a day which is in conflict with a tour which I understand that is currently scheduled by a farming organization that would include members of this body. And so that would be a conflict. So, Mr. Speaker, I believe I speak on behalf of my caucus in terms of the fact that we are in support of extending the second and final five legislative days as permitted under the Maine Constitution, but, quite frankly, are frustrated by the slow pace of the work between the bodies, and believe that we should be able to complete that work in an expeditious way so that it doesn't take five additional days to complete that work. We would

anticipate, my anticipation is that we would be able to anticipate that we would be able to come back on the 30th of June, complete some work on that day and come back on a second day, which may or may not be July the 16th, and complete some additional work that is required by this body on behalf of the people of the State of Maine, and then be able to complete that work in a timely fashion so that we don't have to use those complete five additional days. We have done, we have done our due diligence. We are here. It is 1 o'clock in the morning. So let's complete our work, let's do it in a timely fashion. There is no need to continue to be here five additional days. That's the message from my caucus, Mr. Speaker. Let's do this in a timely fashion, let's do it in a responsible way, let's do it in a reasonable way, and let's get the work done. We are committed to doing the work on behalf of the people of the State of Maine. Let's extend the five days, but let's get the work done in a timely fashion. Thank you, Mr. Speaker.

The Chair ordered a division on **PASSAGE**.

Representative McCABE of Skowhegan **REQUESTED** a roll call on **PASSAGE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Passage. All those in favor will vote yes, those opposed will vote no.

Pursuant to 3 M.R.S.A., Section 2, this Joint Order required the affirmative vote of two-thirds of those present for **PASSAGE**.

ROLL CALL NO. 395

YEA - Alley, Austin, Babbidge, Bates, Battle, Beavers, Beck, Beebe-Center, Bickford, Black, Blume, Brooks, Bryant, Burstein, Campbell J, Campbell R, Chace, Chapman, Chipman, Cooper, Corey, Crafts, Daughtry, Davitt, DeChant, Devin, Dion, Doore, Dunphy M, Edgcomb, Espling, Evangelos, Farnsworth, Fecteau, Fowle, Fredette, Frey, Gattine, Gideon, Gilbert, Ginzler, Golden, Goode, Grant, Hamann, Hanley, Harlow, Hawke, Head, Herbig, Hickman, Hilliard, Hobart, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kruger, Kumiega, Lajoie, Longstaff, Luchini, Lyford, Maker, Martin J, Martin R, Mastraccio, McCabe, McClellan, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Noon, Nutting, Parry, Peterson, Picchiotti, Pickett, Pierce J, Pierce T, Pouliot, Powers, Prescott, Reed, Rotundo, Russell, Rykerson, Sanderson, Saucier, Schneck, Shaw, Sherman, Short, Stanley, Stearns, Stetkis, Stuckey, Sukeforth, Tepler, Theriault, Tipping-Spitz, Tucker, Tuell, Turner, Vachon, Verow, Ward, Warren, Welsh, White, Winsor, Wood, Mr. Speaker.

NAY - Buckland, Dillingham, Dunphy L, Farrin, Foley, Gerrish, Greenwood, Grohman, Hanington, Higgins, Kinney M, Lockman, Long, O'Connor, Sawicki, Seavey, Sirocki, Skolfield, Timberlake, Wadsworth, Wallace.

ABSENT - Chenette, Duchesne, Gillway, Guerin, Herrick, Kinney J, Malaby, Marean, Sanborn, Timmons.

Yes, 120; No, 21; Absent, 10; Excused, 0.

120 having voted in the affirmative and 21 voted in the negative, with 10 being absent, and accordingly the Joint Order was **PASSED**. Sent for concurrence.

This is to certify that this is a true and accurate copy of the House Legislative Record dated June 23, 2015.



Robert B. Hunt
Clerk of the House
July 13, 2015

EXHIBIT 2

Hunt, Rob

From: Priest, Heather
Sent: Thursday, July 09, 2015 2:38 PM
To: Hunt, Rob; Libby, Lance
Subject: RE: Saturday

Same goes for me, too. I can be reached at 458-5980.

*Heather Priest
Secretary, Maine State Senate
3 State House Station
Augusta, Maine 04333-0003
207 287-1540*

From: Hunt, Rob
Sent: Thursday, July 09, 2015 2:30 PM
To: Libby, Lance
Cc: Hicks, Ana; Priest, Heather
Subject: Saturday

Hi Lance,

I was writing to let you know that if you need me to come in on Saturday to pick up bills that may be vetoed, I am more than willing to do so. Please call me at 207-756-5476. I will be in Belgrade about 20-25 minutes away.

I do have to go to a memorial service for my grandmother that day, but I will have my phone with me and will be available afterwards.

Let me know if you have any questions.

All the Best,

Rob Hunt
Clerk of the House
Maine House of Representatives
2 State House Station
Augusta, ME 04333
(207) 287-1400

Hunt, Rob

From: Libby, Lance <Lance.Libby@maine.gov>
Sent: Thursday, July 09, 2015 2:44 PM
To: Hunt, Rob
Subject: RE: Saturday

Thank you for the email, Rob.

Lance Libby
Legislative Policy Coordinator/Policy Advisor
Office of Governor Paul R. LePage
207-287-3533 – Office
207-592-0041 – Mobile
Lance.Libby@Maine.Gov

From: Hunt, Rob [<mailto:rob.hunt@legislature.maine.gov>]
Sent: Thursday, July 09, 2015 2:30 PM
To: Libby, Lance
Cc: Hicks, Ana; Priest, Heather
Subject: Saturday

Hi Lance,

I was writing to let you know that if you need me to come in on Saturday to pick up bills that may be vetoed, I am more than willing to do so. Please call me at 207-756-5476. I will be in Belgrade about 20-25 minutes away.

I do have to go to a memorial service for my grandmother that day, but I will have my phone with me and will be available afterwards.

Let me know if you have any questions.

All the Best,

Rob Hunt
Clerk of the House
Maine House of Representatives
2 State House Station
Augusta, ME 04333
(207) 287-1400

CERTIFICATE OF SERVICE

I, Zachary L. Heiden, hereby certify that two paper copies, and one electronic .pdf version, of this Brief of Interested Party ACLU of Maine were delivered to the Clerk of the Maine Supreme Judicial Court on July 24, 2015

Dated: July 24, 2015



Zachary L. Heiden
counsel for interested party
American Civil Liberties Union
of Maine Foundation