

MAINE STATE LEGISLATURE

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Legislature Limits on Leg. Th. of Section
Legislative Day
3 M.R.S.A. § 2

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AUGUSTA, MAINE 04333

July 25, 1977

Honorable Louis Jalbert
House of Representatives
State House
Augusta, Maine

Dear Representative Jalbert:

This responds to your request for advice on the amount of time which the Legislature may spend considering gubernatorial veto messages.

The meeting of the Legislature for today is for the purposes of considering gubernatorial vetoes. This meeting is held pursuant to the limits on legislative sessions established by 3 M.R.S.A. § 2 and specifically the last sentence of the second paragraph of that section which permits the Legislature to extend its adjournment date for "one additional legislative day" for the purpose of considering gubernatorial vetoes. Specifically, you have raised the question as to whether the term "legislative day" should be construed to extend for either 24 hours or an indefinite time from the time the Legislature meets, or whether the legislative day terminates at midnight.

There is a general principle of law that where a statute uses the term "day" without further modification indicating a different meaning as to time, the term "day" means a period from midnight to midnight. J.B.H. v. State, 228 S.E.2d 189 (Ga., 1976); Dinkler v. Jenkins, 163 S.E.2d 443 (Ga., 1968); Walinski v. Mayor and Council of City of Gloucester, 95 A.2d 625 (N.J., 1953).

A legislative day has been construed to be those calendar days on which Houses of the Legislature meet, see opinion to the Honorable James E. Tierney of December 27, 1976. See also, Haindel v. Henry, 313 So.2d 577, 579 (La., 1975). Beyond this

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point we have not been able to find the meaning of legislative days to be construed other than the midnight-to-midnight period during which Houses of the Legislature meet. However, we would note that our research of legislative precedence in Maine and elsewhere has necessarily been limited by the necessity of providing this opinion on relatively short notice.

Thus, we construe the authorization in 3 M.R.S.A. § 2 relating to consideration of vetoes to permit a meeting of the Legislature for one day terminating at midnight.

We must note, however, that while there may be some risk in extending a one-day session beyond midnight, Legislatures have traditionally been accorded some flexibility in determining the moment at which midnight is reached; thus Mason's Manual of Legislative Procedure (1970 ed.) notes:

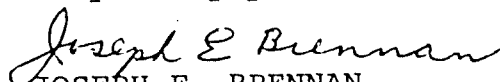
"It is a matter of common knowledge that legislatures almost universally do continue their sessions beyond the time fixed for their adjournment, and for the sake of regularity and form often stop the clock before the hour has arrived for adjournment so that in form the adjournment actually takes place at the proper moment of time. A legislative body has the power and right to determine for itself when the moment of time has arrived for adjournment, and it has the power to make its journals conform to what it determines to be that moment of time." Mason's Manual of Legislative Procedure, § 782, ¶ 4.

cf. Earnest v. Sargent, 150 P. 1018 (N.M., 1915).

We are also enclosing for your consideration an opinion of July 15, 1977, to the Secretary of the Senate indicating that it may be possible, pursuant to 3 M.R.S.A. § 2, to provide an additional day or days to conduct legislative business. If these days were authorized by 2/3 vote, it would be possible to consider gubernatorial vetoes and any other legislative business within such authorized days.

I hope this information is helpful.

Very truly yours,


JOSEPH E. BRENNAN
Attorney General

JEB/ec

Enclosure

cc: Legislative Leadership