

# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY

ATTORNEY GENERAL



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, MAINE 04333

September 7, 1984

Honorable Joseph E. Brennan  
Governor State of Maine  
State House  
Augusta, Maine 04333

Dear Governor Brennan:

You have requested an opinion concerning the meaning and application of Article IV, Part 3, Section 2 of the Maine Constitution, with respect to the time within which the Governor must act to disapprove legislation presented to him. The facts underlying your inquiry are understood to be as follows: at its second regular session, the 111th Legislature, enacted Legislative Document No. 992 "An Act to Establish a Right of Action for Wrongful Imprisonment," and presented it to you for approval pursuant to Art. IV, Pt. 3, § 2 of the Constitution. The Legislature then adjourned before the ten-day period for your consideration of the bills under that section elapsed. Consequently, the following constitutional provision was applicable:

If the bill or resolution shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect, as if he signed it unless the Legislature by their adjournment prevent its return, in which case it shall have the same force and effect, unless returned

within three days after the next meeting of the same Legislature which enacted the bill or resolution; if there is no such next meeting of the Legislature which enacted the bill or resolution, the bill or resolution shall not be a law.

Me.Const., Art. IV, Pt.3, § 2 (emphasis added).

Thereafter, the 111th Legislature was convened in Special Session on the evening of Tuesday, September 4, 1984. At the close of business on that day, the Legislature adjourned until the following day, Wednesday, September 5, when it reconvened. At the close of business on September 5, the Legislature adjourned until Friday, September 7, when it was next convened for the conduct of Legislative business. During the afternoon of September 7, L.D. 992 was returned to the House of Representatives, its House of origin, together with your objections to that bill. The question presented is whether your return of L.D. 992 occurred "within three days after the next meeting of the same Legislature which enacted the bill."

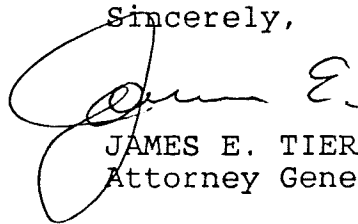
This office is aware of no legal authority directly addressing the computation of time with respect to the three-day provision of Me. Const., Art. IV, Pt. 3, § 2. However, the justices of the Maine Supreme Judicial Court and this office have previously rendered several opinions with respect to computation of other time periods specified in the Constitution concerning the effective date of legislation. Significantly, each of these opinions construes a section of the Constitution providing that a certain status or effect occurs within a stated time period "after" the occurrence of a stated event. First, the justices of the Supreme Court concluded that the constitutional provision that "no act ... shall take effect until ninety days after the recess of the Legislature passing it ..." involved a computation of time in which calendar days are used, the first of which is the day following the recess of the Legislature. Opinion of the Justices, 116 Me. 557, 587 (1917). Likewise, this office has rendered the opinion that calendar days rather than legislative days govern the computation of the time period within which the Governor may veto legislation, and that days in which the Legislature is in temporary recess (as opposed to adjournment sine die) do not affect this computation. Op.Atty.Gen., 79-170. Finally, in an opinion concerning the ten-day period normally available for a gubernatorial veto, this office concluded that the day the bill is presented to the Governor is excluded. Op.Atty.Gen. 79-96. A copy of these opinions is

attached. As indicated by the authorities cited in these two opinions, both principles are consistently applied in computing statutory and constitutional time periods.

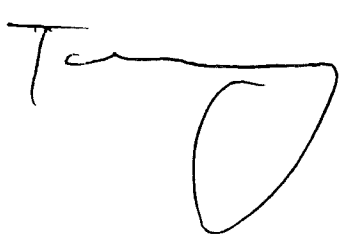
In applying these principles to the facts presented, the convention of the Legislature on Tuesday, September 4, would constitute the "next meeting of the same Legislature," and the "three days after" that meeting include the full 72 hours beginning 12:01 a.m, Wednesday, September 5, and concluding at midnight, Friday, September 7. Consequently, the return of L.D. 992 with your objections to the House of origin during the afternoon of September 7 is effective to constitute your veto of that bill pursuant to Art.IV, Pt.3, § 2 of the Constitution. Unless overridden by two thirds vote of each house, it is the opinion of this office that L.D. 992 will not become law.

If I may be of further assistance, please contact me further.

Sincerely,



JAMES E. TIERNEY  
Attorney General



cc: John L. Martin, Speaker of the House