The House met according to adjournment and was called to order by the Speaker.

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The Speaker, Ladies and Gentlemen of the House.  First, I'd like to thank Representative Graham for her prayer this morning.  Today is the day for us to show our fellow Mainers that we do love and care for them.

I came here to represent the people of Maine, as I'm sure all of you did.  Most of you made the right decision on behalf of the people the first time on LD 145.  This veto hurts too many Mainers.  LD 145 was thoroughly and commendably vetted by the Judiciary Committee over a 15-month period.  Both bodies of this Legislature overwhelmingly supported this bill and did the will of the people of Maine.

LD 145 will not delay a foreclosure proceeding for one second.  It will speed it up.  The national mortgage companies have ignored and abused our Maine civil procedures which were designed to protect homeowners.  This bill will weed out the bad actors and allow all legitimate foreclosures to move more swiftly through the courts.  Please support the people who elected you by overriding this veto.  How can we vote for the bill and then walk away from the people?  Thank you, Mr. Speaker.

After reconsideration, the House proceeded to vote on the question, 'Shall this Bill become a law notwithstanding the objections of the Governor?'  A roll call was taken.

The SPEAKER: The pending question before the House is 'Shall this Bill become a law notwithstanding the objections of the Governor?'  All those in favor will vote yes, those opposed will vote no.


NAY - Ayotte, Beaulieu, Bennett, Black, Burns DC, Casavant, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, when it becomes clear that foreclosure is the only possible result, our system should move quickly rather than delay the inevitable. As members of the Legislature know, the vast majority of lenders in Maine - community banks, credit unions, and larger banks - play by the rules. Nevertheless, I understand why this bill was put forward. We have all seen the news coverage of the few who did not act fairly. Indeed, our Attorney General has recently come to settlement terms with some of them. If LD 145 sought to increase penalties for those who ignore our laws, then I could support it. As written, I cannot.

For these reasons, I am returning LD 145 unsigned and vetoed.  I strongly urge the Legislature to sustain it.

Sincerely,
S/Paul R. LePage
Governor

The accompanying item An Act To Clarify and Streamline Foreclosure Proceedings (H.P. 128) (L.D. 145) (S. "A" S-426 to C. "B" H-721)

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Beavers.

Representative BEAVERS: Thank you, Mr. Speaker.  Mr. Speaker, Ladies and Gentlemen of the House.  First, I'd like to thank Representative Graham for that ecclesiastical reminder in her prayer this morning.  Today is the day for us to show our fellow Mainers that we do love and care for them.

I came here to represent the people of Maine, as I'm sure all of you did. Most of you made the right decision on behalf of the people the first time on LD 145.  This veto hurts too many Mainers.  LD 145 was thoroughly and commendably vetted by the Judiciary Committee over a 15-month period.  Both bodies of this Legislature overwhelmingly supported this bill and did the will of the people of Maine.

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The SPEAKER: The pending question before the House is 'Shall this Bill become a law notwithstanding the objections of the Governor?'  All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 284V


NAY - Ayotte, Beaulieu, Bennett, Black, Burns DC, Casavant, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis,
The Following Communication: (H.C. 351)
2012 ME 49
OPINION OF THE JUSTICES
OF THE SUPREME JUDICIAL COURT
GIVEN UNDER THE PROVISION OF
ARTICLE VI, SECTION 3 OF THE MAINE CONSTITUTION
Docket No. OJ-12-2

QUESTIONS PROPPUNDED BY THE
MAINE HOUSE OF REPRESENTATIVES
IN A COMMUNICATION
DATED FEBRUARY 29, 2012
ANSWERED MARCH 29, 2012

STATE OF MAINE
In House 2/29/12

WHEREAS, it appears to the House of Representatives of the 125th Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on these questions; and

WHEREAS, there is a question within the House of Representatives as to what activities constitute engaging in trade or commerce within the meaning of the Constitution of Maine, Article V, Part Third, Section 3; now, therefore, be it

ORDERED, that, in accordance with the provisions of the Constitution of Maine, the House of Representatives respectfully requests the Justices of the Supreme Judicial Court to give the House of Representatives their opinion on the following questions of law:

Question 1. Does mere ownership of business interests or stock by the Treasurer of State constitute engaging in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader as such terms are used in the Constitution of Maine, Article V, Part Third, Section 3?

Question 2. If the answer to Question 1 is in the affirmative, would the Treasurer of State be engaged in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader if the Treasurer of State did not manage or involve himself in the day-to-day activities of such business interests or stock?

Question 3. If it is determined that the Treasurer of State has engaged in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader, does that finding affect or have an impact on the validity of the actions taken by the Treasurer of State in the performance of his official duties as used in the Constitution of Maine, Article V, Part Third, Section 3?

OPINION OF THE JUSTICES

To the Honorable House of Representatives of the State of Maine:

[¶1] Pursuant to article VI, section 3 of the Maine Constitution, the House of Representatives asks us for an advisory opinion addressing questions related to the meaning of "engag[ing] in any business of trade or commerce, or as a broker, [or as an agent or factor for any merchant or trader]" in article V, part third, section 3 of the Maine Constitution.

[¶2] After inviting input from the House of Representatives and any interested person, we received the following simultaneously filed briefs: one brief from eight members of the House of Representatives (Representatives Emily Cain, Terry Hayes, Mark Dion, Charles Priest, Sharon Treat, John Martin, Jon Hinck, and Maeghan Maloney), one brief from the Maine Attorney General, and one brief from the Maine Heritage Policy Center. Although allowed, no responsive briefs were filed. The Attorney General and the Maine Heritage Policy Center argue that no solemn occasion has been presented with respect to any of the three questions. The eight House members urge us to conclude that a solemn occasion exists as to the first question presented and a solemn occasion does not exist as to the second question presented. The eight house members express no position with respect to the third question presented. [¶3] For the reasons described below, we conclude that no solemn occasion has been presented on the three propounded questions.

I. AUTHORITY OF THE JUSTICES

[¶4] When either house of the Legislature or the Governor requests an advisory opinion of the Justices, "we must first determine whether we have the constitutional authority to answer the questions." Opinion of the Justices, 709 A.2d 1183, 1185 (Me. 1997). "[O]pinions propounded pursuant to section 3, article VI of the Constitution of Maine are not binding decisions of the Supreme Judicial Court," but rather are opinions of the individual Justices. Opinion of the Justices, 673 A.2d 693, 695 (Me. 1996).

[¶5] We provide advisory opinions only "upon important questions of law, and upon solemn occasions." Me. Const. art. VI, § 3. A solemn occasion arises "when questions are of a serious and immediate nature, and the situation presents an unusual exigency." Opinion of the Justices, 2004 ME 54, ¶ 3, 850 A.2d 1145 (citation omitted). The determination that a solemn occasion exists "is of significant import, and we will not find such an occasion to exist except in those circumstances when the facts in support of the alleged solemn occasion are clear and compelling." Opinion of the Justices, 2002 ME 169, ¶ 8, 815 A.2d 791. "[W]e will not answer questions that are tentative, hypothetical and abstract." Id. ¶ 6 (quotation marks omitted).

[¶6] For a solemn occasion to exist, the question propounded must concern a matter of "live gravity" and "unusual exigency," which means that the body asking the question requires judicial guidance in the discharge of its obligations. Opinion of the Justices, 709 A.2d at 1185. Thus, we may answer a question if the body posing the question has serious doubts as to its own constitutional or statutory power and authority to take a necessary action. Id. In such circumstances, the matter must be "of instant, not past nor future, concern." Id. (quotation marks omitted).

A. The Questions

[¶7] The House has posed two questions regarding the constitutional restrictions placed on a Treasurer of State by the Maine Constitution:
The courts are tasked with interpreting the law and resolving disputes between public officials. In this case, the Supreme Judicial Court of Maine was asked to provide guidance on several questions related to the functions and duties of the Treasurer of State:

1. Does mere ownership of business interests or stock by the Treasurer of State constitute engaging in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader as such terms are used in the Constitution of Maine, Article V, Part Third, Section 3?

2. If the answer to Question 1 is in the affirmative, would the Treasurer of State be engaged in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader if the Treasurer of State did not manage or involve himself in the day-to-day activities of such business interests or stock?

3. In its third question, the House asks us to opine on the effects of the possible business-related conduct of a Treasurer on the validity of the official acts of the Treasurer while in office.

The Court concluded that, in the context of live gravity or unusual exigency, no solemn occasion has been presented to the Justices through the communication from the House of Representatives; the questions themselves are presented in the abstract and do not indicate the context in which they should be evaluated; and the record is silent with regard to the need for the discharge of any duties of the House of Representatives or the proposed commencement of any action by the Executive or Legislative Branch or any other governmental entities. Therefore, the Court did not provide an opinion on the questions presented.

By unanimous consent, all matters having been acted upon were ORDERED SENT FORTHWITH.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

Pursuant to Statute

**Commission on Governmental Ethics and Election Practices**

Representative BEAULIEU for the Commission on Governmental Ethics and Election Practices pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (EMERGENCY) (H.P. 1410) (L.D. 1906) be REFERRED to the Committee on VETERANS AND LEGAL AFFAIRS and printed pursuant to Joint Rule 218. Report was READ and ACCEPTED and the Resolve REFERRED to the Committee on VETERANS AND LEGAL AFFAIRS and ordered printed pursuant to Joint Rule 218. Sent for concurrence.

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**ORDERS**


JOINT RESOLUTION RECOGNIZING MAY AS NATIONAL FOSTER CARE MONTH

WHEREAS, the foster care system in the United States provides for on average nearly 424,000 children each day who are unable to live safely with their biological parents, and in Maine, as of March 2012, there were 1,521 children from birth to 21 years of age in foster care; and

WHEREAS, foster parents are the most important caregivers for children who cannot safely remain with their biological parents and provide physical care, emotional support and education advocacy and families with foster parents are the most prevalent form of families providing permanent homes for children leaving foster care, through adoption or permanency guardianship; and

WHEREAS, most children who are removed from the care of their parents live with nonrelated foster parents; however, the number of children placed in relative foster care is growing and, in March 2012, one in 3 of all Maine children living in foster care were living in the homes of relatives; and

WHEREAS, children in foster care who are placed with relatives, compared to children placed with nonrelatives, have more stable placements, have more positive perceptions of their placements, are more likely to be placed with their siblings and demonstrate fewer behavioral problems; and

WHEREAS, as of March 2012, there are 1,252 licensed homes in Maine providing reunification support, foster care, kinship care and preadoptive care; over 800 children entered the Maine foster care system during 2011; and 446 Maine children are waiting to be adopted or placed in permanency guardianship; and

WHEREAS, in fiscal year 2009, almost 57,000 children nationwide were adopted out of foster care, but the number of children "aging out" of foster care without finding a permanent family increased to nearly 29,500; and

WHEREAS, children aging out of foster care need and deserve a support system as they work to secure affordable housing, obtain health insurance, pursue higher education and acquire adequate employment; and

WHEREAS, nationally, close to 30,000 youth leave foster care annually with no permanent family, but in Maine only 127 youth left foster care in 2011 with no identified permanent family; and

WHEREAS, youth in foster care are much more likely to face educational instability, with 65% of former foster children experiencing at least 7 school changes while in foster care and an increased emphasis on prevention and reunification services would reduce the number of children in foster care; and

WHEREAS, federal legislation over the past 3 decades, including the Adoption Assistance and Child Welfare Act of 1980, the Adoption and Safe Families Act of 1997 and the Fostering Connections to Success and Increasing Adoptions Act of 2008, provided new investments and services to improve the outcomes for children in foster care; and

WHEREAS, state and local governments and child-serving agencies have also invested in child welfare services improvements in order to provide stable, permanent homes for children; and

WHEREAS, more work and investments are needed to provide the necessary services to these children, since foster children, like all children, deserve no less than a safe, loving and permanent home; and

WHEREAS, in 2011, 266 Maine children were adopted by relatives or foster parents and 61 children were placed in permanency guardianship; over 800 children entered the homes in Maine providing reunification support, foster care, kinship care and preadoptive care; over 800 children entered the Maine foster care system during 2011; and 446 Maine children are waiting to be adopted or placed in permanency guardianship, for a total of 327 children who found permanent homes; and

WHEREAS, it is important to provide an opportunity to acknowledge the accomplishments of the child welfare workforce, foster parents, advocacy community and mentors and the positive effects they have on children's lives; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize May 2012 as National Foster Care Month, and to acknowledge that we support the goals and ideals of National Foster Care Month; and be it further

RESOLVED: That We honor the tireless efforts of those who work to improve outcomes for children in the child welfare system, we acknowledge the exceptional alumni of the foster care system who serve as advocates and role models for youth who remain in care and we recognize the significant improvements to federal, state and local child welfare policy; and be it further

RESOLVED: That we reaffirm the need to work with existing federal programs to support vulnerable families, invest in prevention and reunification services, promote adoption in cases where reunification is not in a child's best interest, adequately serve those children brought into the foster care system and
facilitate the successful transition into adulthood for children who age out of the foster care system.

READ and ADOPTED.
Sent for concurrence.

_________________________________

SPECIAL SENTIMENT CALENDAR
In accordance with House Rule 519 and Joint Rule 213, the following item:

Recognizing:
Frank Johnson, of Augusta, on the occasion of his retirement as Executive Director of the Employee Health and Benefits division of the Department of Administrative and Financial Services. Mr. Johnson has worked for the State for 45 years, beginning as a Clerical Aide in the Department of Education. He continued his career in the Department of Transportation then in the Department of Labor where, in 1981, he started working in the Office Personnel/Employee Relations as Assistant to the Commissioner. In 1986, Mr. Johnson became Director of the Bureau of Employee Health. In 1996, he became Acting Executive Director of Health Insurance and later that year Executive Director of Employee Health and Benefits. We send Mr. Johnson our appreciation for his many years of dedicated service to the State and we congratulate him on his retirement; (HLS 1117)

Presented by Representative TUTTLE of Sanford.
Cosponsored by Senator KATZ of Kennebec, Representative MALONEY of Augusta, Representative BLODGETT of Augusta, Representative FOSTER of Augusta.

On OBJECTION of Representative CAIN of Orono, was REMOVED from the Special Sentiment Calendar.

READ
On motion of the same Representative, TABLED pending PASSAGE and later today assigned.

_________________________________

REPORTS OF COMMITTEE
Divided Reports
Majority Report of the Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY reporting Ought to Pass as Amended by Committee Amendment "A" (S-502) on Bill "An Act To Rescue Children Who Are Being Sexually Abused and To Make Improvements to the Sex Offender Registry and the Investigation of Computer Crimes" (S.P. 591) (L.D. 1731)

Signed:
Senators:

MASON of Androscoggin
GERZOFSKY of Cumberland
WHITTEMORE of Somerset

Representatives:
PLUMMER of Windham
BLODGETT of Augusta
CLARKE of Bath
HANLEY of Gardiner
HASKELL of Portland
LAJOIE of Lewiston
MORISSETTE of Winslow
SANDERSON of Chelsea

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "B" (S-503) on same Bill.

Signed:
Representatives:
BURNS of Whiting
LONG of Sherman

Came from the Senate with the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-502).

READ.
On motion of Representative PLUMMER of Windham, the Majority Ought to Pass as Amended Report was ACCEPTED.
The Bill was READ ONCE. Committee Amendment "A" (S-502) was READ by the Clerk and ADOPTED.

Under suspension of the rules the Bill was given its SECOND READING WITHOUT REFERENCE to the Committee on Bills in the Second Reading.

Under further suspension of the rules the Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-502) in concurrence.

_________________________________

Majority Report of the Committee on TAXATION reporting Ought to Pass as Amended by Committee Amendment "A" (H-860) on Bill "An Act To Create the Maine Board of Tax Appeals" (EMERGENCY) (H.P. 1291) (L.D. 1750)

Signed:
Senators:

COURTNEY of York
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:
KNIGHT of Livermore Falls
BENNETT of Kennebunk
BICKFORD of Auburn
HARMON of Palermo
PILO of Saco
WATERHOUSE of Bridgton
WEAVER of York

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "B" (H-861) on same Bill.

Signed:
Representatives:
BERRY of Bowdoinham
BRYANT of Windham
FLEMINGS of Bar Harbor

READ.
On motion of Representative KNIGHT of Livermore Falls, the Majority Ought to Pass as Amended Report was ACCEPTED.
The Bill was READ ONCE. Committee Amendment "A" (H-860) was READ by the Clerk and ADOPTED.

Under suspension of the rules the Bill was given its SECOND READING WITHOUT REFERENCE to the Committee on Bills in the Second Reading.

Under further suspension of the rules the Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-860) and sent for concurrence.

_________________________________
ENACTORS

Emergency Measure
An Act To Prohibit the Sexual Solicitation of a Child by any Means
(S.P. 572) (L.D. 1673)
(C. "A" S-504)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 0 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Emergency Measure
An Act To Protect Firearm Ownership during Times of Emergency
(H.P. 1377) (L.D. 1859)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Emergency Mandate
An Act To Authorize the Registration of Farmland
(S.P. 548) (L.D. 1649)
(C. "A" S-500)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 136 voted in favor of the same and 1 against, and accordingly the Bill was PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Acts
An Act Regarding the Collection of Fees for Prepaid Wireless Service
(H.P. 1326) (L.D. 1799)
(C. "A" H-846)

An Act To Implement Recommendations To Provide Additional Flexibility for Funding Infrastructure Improvements for Water Utilities
(H.P. 1342) (L.D. 1820)
(C. "A" H-852)

An Act To Define Cost Responsibility for Deaf and Hard-of-hearing Students Receiving Services from the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf
(S.P. 637) (L.D. 1839)
(C. "A" S-497)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed, PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

Resolves
Resolve, To Amend the Pilot Project for Independent Practice Dental Hygienists To Process Radiographs in Underserved Areas of the State
(S.P. 669) (L.D. 1891)
(C. "A" S-489)

Resolve, Authorizing the Lease of the Guy P. Gannett House in Augusta to a Nonprofit Organization for Use as a Museum
(S.P. 674) (L.D. 1898)
(C. "A" S-499)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed, FINALLY PASSED, signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell, who wishes to address the House on the record.

Representative HARVELL: Had I been here for the Reconsideration motion of LD 145, I would have voted yea.

By unanimous consent, all matters having been acted upon were ORDERED SENT FORTHWITH.

On motion of Representative CURTIS of Madiso, the House adjourned at 10:53 a.m., until 3:00 p.m., Tuesday, April 3, 2012.