

"within three days before the adjournment"; that is, within the specific time period described in the exception clause. See 95 Vt. at 205.¹

In the course of its opinion the Court noted that "[t]he effect of an adjournment of both houses when there are bills awaiting executive approval is to cut off the opportunity for [legislative] reconsideration...." 95 Vt. at 199-200. The Court also expressed a general concern that "numerous bills, some of them important, containing many sections and intricate provisions are passed in the closing days, often in the closing hours of the session...." *Id.* at 202. These statements suggest that the adjournment clause should be given an expansive reading so that all bills presented after adjournment would fail if not signed by the Governor.

However, other statements in the opinion suggest otherwise. For example, when the Court framed the issue respecting the bill that was signed after the five day period, it underscored the limited time frame of the exception to the five day rule. *Id.* at 193 ("a bill which has been presented to the Governor within three days *before* final adjournment") (emphasis in original). The Court went on to describe the exception clause as "a concession in favor of the executive, and not as a limitation of his power of approval." *Id.* at 199.

Finally, the *Hartness* Court commented on a practical aspect of Section 11. The Court observed that, "[t]he Constitution has provided for defeating an act of Assembly when the Governor disagrees with the two houses of the Legislature; but where they all agree, it contains no provision for defeating their united will." *Id.* at 202. In our context there may be some disagreement between the legislative and executive branches about the wisdom of H. 267, but the "united will" was to enact a law. The House of Representatives and the Senate passed the bill and the Governor messaged his intent that it should "become law without his signature."

In the final analysis the *Hartness* Court did not have to decide whether the adjournment clause applied to bills presented to the Governor after adjournment and so did not provide definitive guidance on the issue. The case is more instructive in its discussion of the constitutional history. As the Court explained, Section 11 of Chapter II of our present constitution had its origins in a constitutional amendment first proposed in 1793. See 95 Vt. at 195-96. That proposal would have added a Senate to the General Assembly and provided for the automatic enactment of bills presented to the Governor and not returned within four days.

¹ The bill in question, S. 30 of the 1921 session, was presented to the Governor on March 30, 1921. 95 Vt. at 204. The final adjournment that year was March 31. *Id.* at 192. Thus, the Legislature adjourned within three days after the bill was presented to the Governor. The Governor did not sign the bill until April 6, which was "more than five days after presentation (the intervening Sunday excepted)" 95 Vt. at 204.