

language would indicate, the 1867 Convention apparently intended that for a bill to become law it must be presented to the governor and, while the legislature is still in session, either signed or left unsigned for six days. One reason for this provision was to compel the legislature to pass laws throughout the session rather than saving all important legislation until the end.⁸

Until 1880, governors did not attempt to sign bills into law after the legislature had adjourned. At that time several bills were presented to and signed by the governor after adjournment.⁹ Thereafter it became a general practice. The validity of this action was first tested in the *Lankford* case and upheld by a split court. Since then post-adjournment action has been consistently held valid.¹⁰

An important question remains unresolved, however. Since Article II, Section 17 was not intended to permit post-adjournment action by the governor, no time limit is specifically stated within which he must sign a bill into law after adjournment. In the *Lankford* case, the majority of the court said by way of dictum that the governor had to sign the bill into law within six days after its presentment to effectively make the bill become law after the legislature had adjourned.¹¹ However, the recent *Richards Furniture* case specifically left this question open.¹²

This analysis reveals several flaws in

⁸ Debates of the Maryland Constitutional Convention of 1867, at 188 (P. Perleman comp. 1923).

⁹ *Lankford v. Somerset Co.*, 73 Md. 105, 127 (1890).

¹⁰ See *Richards Furniture Corp. v. Bd. of County Comm'rs*, 233 Md. 249, 260-62 (1963); and *Robey v. Broersma*, 181 Md. 325, 341 (1942).

¹¹ *Lankford v. Somerset Co.*, 73 Md. 114 (1890).

¹² *Richards Furniture Corp. v. Bd. of County Comm'rs*, 233 Md. 262 (1963).

Article II, Section 17. First, the new constitution should make clear that the governor can sign bills into law after the legislature has adjourned. Second, it is submitted that the constitution should fix some reasonable amount of time after adjournment within which the governor must either sign or veto a bill.

THE GOVERNOR'S "POCKET VETO"

Ostensibly Article II, Section 17 narrowly restricts the governor's power to prevent a bill from becoming law by declining to sign it, since if he does not sign it within six days from presentment it becomes law without his signature unless the legislature adjourns in the interim. However, in actual practice the governor can effectively prevent most bills from becoming law through calculated inaction and, more importantly, can foreclose or at least postpone possibly being overridden by the General Assembly.

"Presentment" has been defined by the courts not as the mere delivery of a bill to the governor, but rather as a formal act by virtue of which the great seal is affixed and the bill is ceremoniously handed over to the governor by either the secretary of the Senate or the chief clerk of the House.¹³ The Maryland Code provides that a bill after passage shall "as soon thereafter as practicable . . . be . . . presented to the governor for his approval."¹⁴ (Emphasis added.) "Practicable" has been construed to mean practicable for the proper consideration by the governor, rather than practicable for officials of the legislature.¹⁵

Under this view of presentment the governor has the more-or-less unchecked

¹³ See *Richards Furniture Corp. v. Bd. of County Comm'rs*, 233 Md. 261-62 (1963).

¹⁴ MD. CODE ANN. art. 31, § 45 (1957, repl. vol. (1967)).

¹⁵ *Robey v. Broersma*, 181 Md. 341 (1942).