January 5. 2023

Testing Search Tool File FIVE

Published Opinion

Following up our conversation, I have not had time to make a complete or  
satisfactory investigation o f the important and interesting question presented by  
you, but we agree that the Bill to which you referred will become a law today  
"unless the Congress by their Adjournment prevent its Return," as provided in the  
Constitution.  
The question then is whether a three-day recess by the Senate, with the House  
continuing in session, constitutes an adjournment by the Congress. Manifestly  
such a recess for three days constitutes a temporary adjournment by the Senate,  
but I doubt if an adjournment of the Congress thereby results.  
The*Pocket Veto Case* clearly states that "the determinative question in refer-­  
ence to an 'adjournment' is not whether it is a final adjournment o f Congress or an  
interim adjournment, such as an adjournment of the first session, but whether it is  
one that 'prevents' the President from returning the bill to the House in which it  
originated within the time allowed," 279 U.S. 655, 680  (1929), but it must be  
observed that there was in that case an actual adjournment of both Houses, and  
therefore o f the Congress, which is not the situation before us now.