

Peter Teachout Weighed In:

“Based on his research, his opinion is that "It was not intended to prevent the legislature from adopting detailed rules governing the judicial process...Nor was it intended to prevent the legislature from adopting measures dealing with potential “conflicts of interest” by attorneys or judges...The separation of powers clause in the Vermont constitution does not prevent the legislature from adopting an ethics code that would apply to state employees in all three branches of government....The one implicit constitutional limitation in the separation of powers clause in the Vermont constitution (as reflected in the history that led to its adoption) is that laws adopted by the legislature cannot interfere with the actual exercise of judicial power by the judicial branch." The history that led to its adoption involves the Legislature exercising judicial powers by 1) removing certain cases from the jurisdiction of the courts and deciding such cases, and 2) acting as a kind of court of appeal for those who had lost in court and reversing those decisions by the adoption of special legislation bills.”