

Sec. 7—Bills and Resolutions

Cls. 1–3—Legislative Process

taken here . . . was essentially legislative,” the Court concluded, because “it had the purpose and effect of altering the legal rights, duties and relations of persons, including the Attorney General, Executive Branch officials and *Chadha*, all outside the legislative branch.”⁵²⁶

The other major component of the Court’s reasoning in *Chadha* stemmed from its reading of the Constitution as making only “explicit and unambiguous” exceptions to the bicameralism and presentment requirements. Thus the House alone was given power of impeachment, and the Senate alone was given power to convict upon impeachment, to advise and consent to executive appointments, and to advise and consent to treaties. Similarly, Congress may propose a constitutional amendment without the President’s approval, and each house is given autonomy over certain “internal matters,” *e.g.*, judging the qualifications of its members. By implication then, exercises of legislative power not falling within any of these “narrow, explicit, and separately justified” exceptions must conform to the prescribed procedures: “passage by a majority of both Houses and presentment to the President.”⁵²⁷

The breadth of the Court’s ruling in *Chadha* was evidenced in its 1986 decision in *Bowsher v. Synar*.⁵²⁸ Among that case’s rationales for holding the Deficit Control Act unconstitutional was that Congress had, in effect, retained control over executive action in a manner resembling a congressional veto. “[A]s *Chadha* makes clear, once Congress makes its choice in enacting legislation, its participation ends. Congress can thereafter control the execution of its enactment only indirectly—by passing new legislation.”⁵²⁹ Congress had offended this principle by retaining removal authority over the Comptroller General, charged with executing important aspects of the Budget Act.

Despite *Chadha*, Congress had continued to pass laws containing legislative vetoes, often in the context of appropriations.⁵³⁰ Other methods of post-enactment legislative control which do not appear to offend the Presentment Clause are also available. For instance,

⁵²⁶ 462 U.S. at 952 (citation omitted).

⁵²⁷ 462 U.S. at 955–56.

⁵²⁸ 478 U.S. 714 (1986). *See also* Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise, 501 U.S. 252 (1991).

⁵²⁹ *Bowsher v. Synar*, 478 U.S. 714, 733 (1986). This position was developed at greater length in the concurring opinion of Justice Stevens. *Id.* at 736.

⁵³⁰ *See, e.g.*, Department of Transportation and Related Agencies Appropriations Act 2001, Pub. L. 106–346, Appendix, Title I, 114 Stat. 1356A–2 (limit on program assessments for the Transportation Administrative Service Center “unless notice of such assessments and the basis therefore are presented to the House and Senate Committees on Appropriations and are approved by such Committees”).