

Sec. 7—Bills and Resolutions

Cls. 1–3—Legislative Process

ever, may mean he has to accept provisions he would not sign standing alone, while doing the latter may have other adverse consequences. Numerous Presidents from Grant on have unsuccessfully sought by constitutional amendment a “line-item veto” by which individual items in an appropriations bill or a substantive bill could be extracted and vetoed. More recently, beginning in the Franklin D. Roosevelt Administration, it was debated whether Congress could by statute authorize a form of the line-item veto.⁵⁰¹ When Congress did so in 1996, however, the law was invalidated by the Supreme Court as a violation of the Presentment Clause.⁵⁰²

A review of the only two Supreme Court decisions construing the veto power shows that the interpretation of the provisions has not been entirely consistent. In *The Pocket Veto Case*,⁵⁰³ the Court held that the return of a bill to the Senate, where it originated, had been prevented when Congress adjourned its first session *sine die* (“without day” or without a specified date to reconvene) fewer than ten days after presenting the bill to the President. The word “adjournment” was seen to have been used in the Constitution not in the sense of final adjournments but to refer to any occasion on which a house of Congress is not in session. “We think that under the constitutional provision the determinative question in reference to an ‘adjournment’ is not whether it is a final adjournment of 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.”⁵⁰⁴ Because neither house was in session to receive the bill, the President was prevented from returning it. It had been argued to the Court that the return may be validly accomplished to a proper agent of the house of origin for consideration when that body convenes. After first noting that Congress had never authorized an agent to receive bills during adjournment, the Court opined that “delivery of the bill to such officer or agent, even if authorized by Congress itself, would not comply with the constitutional mandate.”⁵⁰⁵

⁵⁰¹ See *Line Item Veto: Hearing Before the Senate Committee on Rules and Administration*, 99th Cong., 1st sess. (1985), esp. 10–20 (Congressional Research Service memoranda detailing the issues). In a strained interpretation, some have argued that the President already possesses line-item veto power, as evidenced by related efforts under clause 3 (the ORV clause, discussed below) to prevent Congress from subverting the veto power. No President, however, has endeavored to test this theory. See *Pork Barrels and Principles: The Politics of the Presidential Veto* (National Legal Center for the Public Interest, 1988) (essays).

⁵⁰² See *The Line Item Veto*, *infra*.

⁵⁰³ 279 U.S. 655 (1929).

⁵⁰⁴ 279 U.S. at 680.

⁵⁰⁵ 279 U.S. at 684.