

Sec. 7—Bills and Resolutions

Cls. 1–3—Legislative Process

Congress has established various “report and wait” provisions,⁵³¹ and it has also established requirements for consultative steps that must be taken by the executive in order to achieve expedited legislative consideration.⁵³² But the *Chadha* decision continues to deny Congress a direct method of reviewing and voiding Executive Branch actions and rules made under powers that Congress has delegated to the Executive Branch.

The Line Item Veto.—For more than a century, United States Presidents had sought the authority to strike out of appropriations bills particular items—to veto “line items” of money bills and sometimes legislative measures as well. Finally, in 1996, Congress approved and the President signed the Line Item Veto Act.⁵³³ The law empowered the President, within five days of signing a bill, to “cancel in whole” spending items and targeted, defined tax benefits. In acting on this authority, the President was to determine that the cancellation of each item would “(I) reduce the Federal budget deficit; (ii) not impair any essential Government functions; and (iii) not harm the national interest.”⁵³⁴ In *Clinton v. City of New York*,⁵³⁵ the Court held the act unconstitutional because it did not comply with the Presentment Clause.

Although Congress in passing the act considered itself to have been delegating power,⁵³⁶ and although the dissenting Justices would have upheld the act as a valid delegation,⁵³⁷ the Court instead analyzed the statute under the Presentment Clause. In the Court’s view, the two bills from which the President subsequently struck items became law the moment the President signed them. His cancellations thus amended and in part repealed the two federal laws. Under its most immediate precedent, the Court continued, statutory repeals must conform to the Presentment Clause’s “single, finely wrought and exhaustively considered, procedure” for enacting or repealing a law.⁵³⁸ In no respect did the procedures in the act comply

⁵³¹ See, e.g., Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, Pub. L. 112–74, Division I, §7015(b), 125 Stat. 1200–1201 (limiting transferring funds between appropriations accounts beyond a certain monetary level unless the Committees on Appropriations are notified 15 days in advance of such reprogramming of funds).

⁵³² See, e.g., Trade Act of 2002, Pub. L. 107–210, § 2105, 116 Stat. 1013–14 (trade agreement will receive expedited “fast track” consideration if the President complies with specified congressional notification deadlines).

⁵³³ Pub. L. 104–130, 110 Stat. 1200, codified in part at 2 U.S.C. §§ 691–92.

⁵³⁴ Id. at § 691(a)(A).

⁵³⁵ 524 U.S. 417 (1998).

⁵³⁶ E.g., H.R. CONF. REP. NO. 104–491, 104th Cong., 2d Sess. 15 (1996) (stating that the proposed law “delegates limited authority to the President”).

⁵³⁷ 524 U.S. at 453 (Justice Scalia concurring in part and dissenting in part); id. at 469 (Justice Breyer dissenting).

⁵³⁸ 524 U.S. at 438–39 (quoting *INS v. Chadha*, 462 U.S. 919, 951 (1983)).