

137. Act of October 30, 1984, (Pub. L. 98–608, § 1(4), 98 Stat. 3173, 25 U.S.C. § 2206)

Section 207 of the Indian Land Consolidation Act, as amended in 1984, effects an unconstitutional taking of property without compensation by restricting a property owner's right to pass on property to his heirs. The amended section, like an earlier version held unconstitutional in *Hodel v. Irving* (1987), provides that certain small interests in Indian land will escheat to the tribe upon death of the owner. None of the changes made in 1984 cures the constitutional defect.

*Babbitt v. Youpee*, 519 U.S. 234 (1997).

Justices concurring: Ginsburg, O'Connor, Scalia, Kennedy, Souter, Thomas, Breyer, Rehnquist, C.J.

Justices dissenting: Stevens

138. Act of January 15, 1985, (Pub. L. 99–240, § 5(d)(2)(C), 99 Stat. 1842, 42 U.S.C. § 2021e(d)(2)(C))

"Take-title" incentives contained in the Low-Level Radioactive Waste Policy Amendments Act of 1985, designed to encourage states to cooperate in the federal regulatory scheme, offend principles of federalism embodied in the Tenth Amendment. These incentives, which require that non-participating states take title to waste or become liable for generators' damages, cross the line distinguishing encouragement from coercion. Congress may not simply commandeer the legislative and regulatory processes of the states, nor may it force a transfer from generators to state governments. A required choice between two unconstitutionally coercive regulatory techniques is also impermissible.

*New York v. United States*, 505 U.S. 144 (1992).

Justices concurring: O'Connor, Scalia, Kennedy, Souter, Thomas, Rehnquist, C.J.

Justices dissenting: White, Blackmun, Stevens

139. Act of December 12, 1985 (Pub. L. 99–177, § 251), 99 Stat. 1063, 2 U.S.C. § 901)

That portion of the Balanced Budget and Emergency Deficit Control Act that authorizes the Comptroller General to determine the amount of spending reductions that must be accomplished each year to reach congressional targets and that authorizes him to report a figure to the President that the President must implement violates the constitutional separation of powers because the Comptroller General is subject to congressional control (removal) and cannot be given a role in the execution of the laws.

*Bowsher v. Synar*, 478 U.S. 714 (1986).

Justices concurring: Burger, C.J., Brennan, Powell, Rehnquist, O'Connor

Justices concurring specially: Stevens, Marshall

Justices dissenting: White, Blackmun