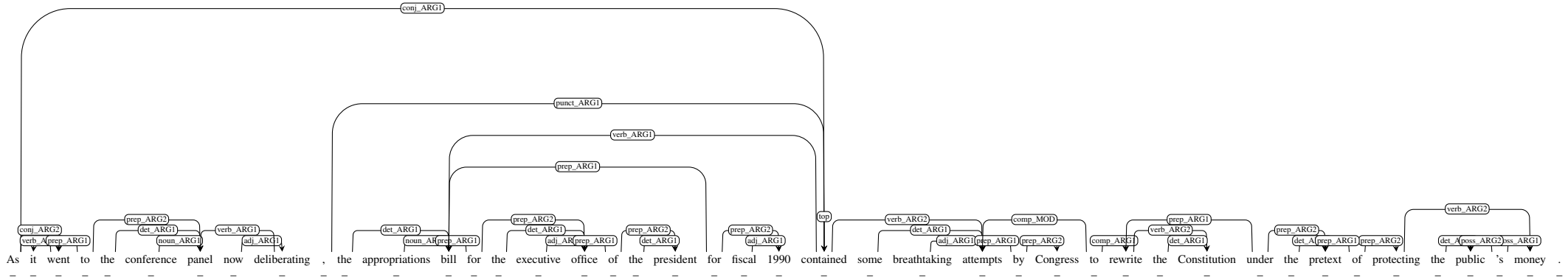
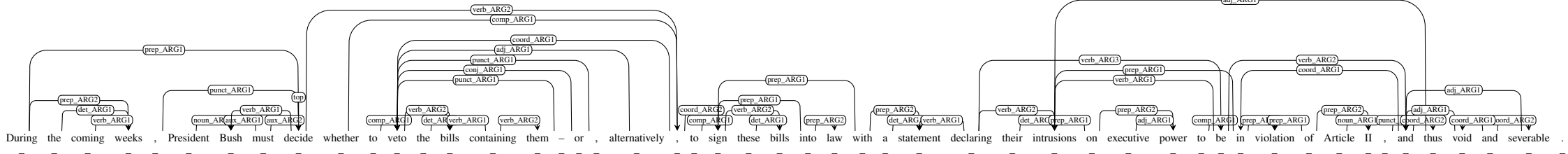


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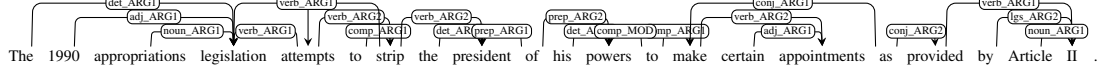




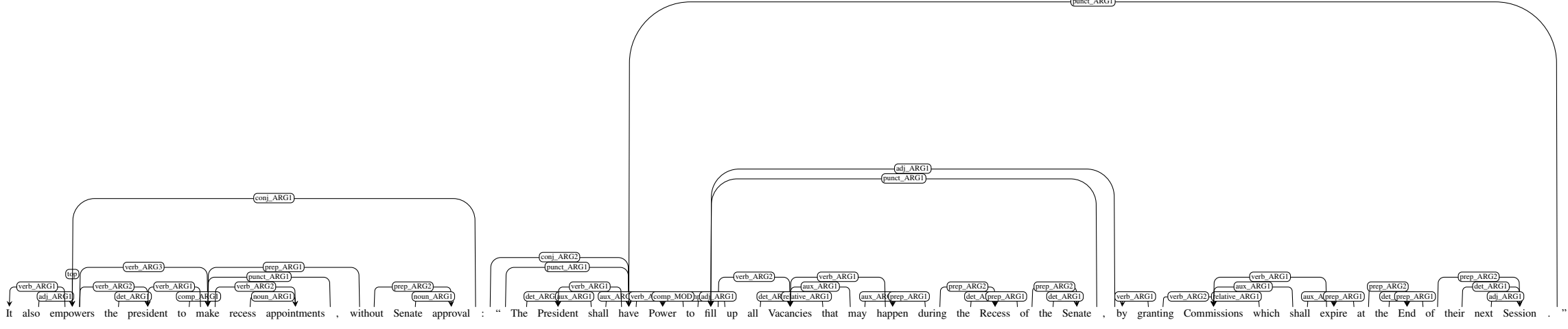
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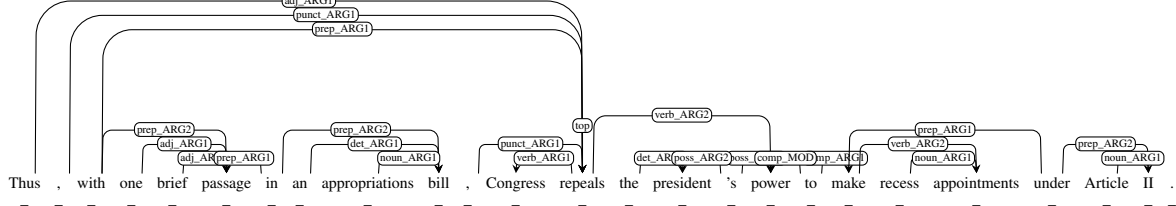
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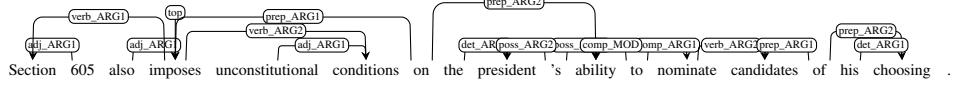
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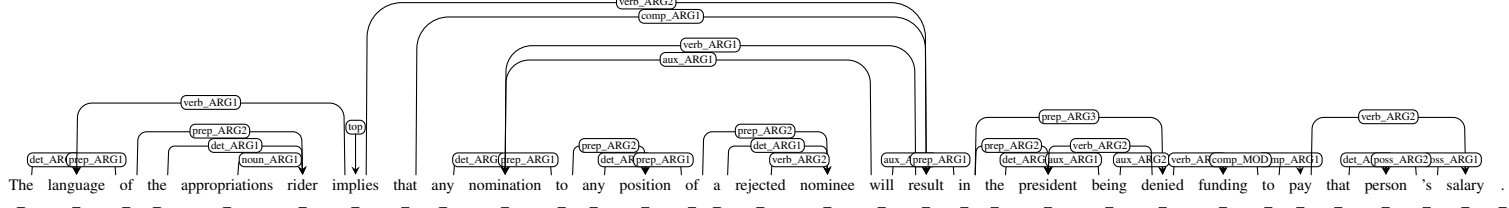
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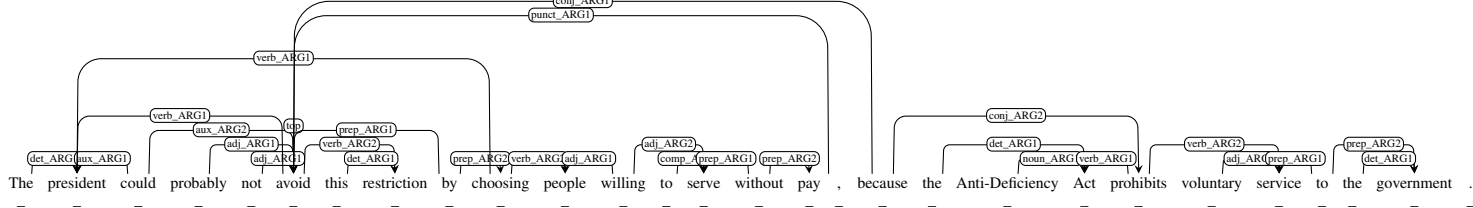
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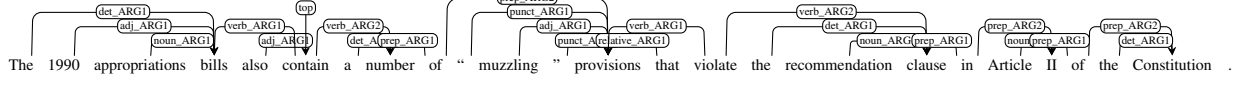
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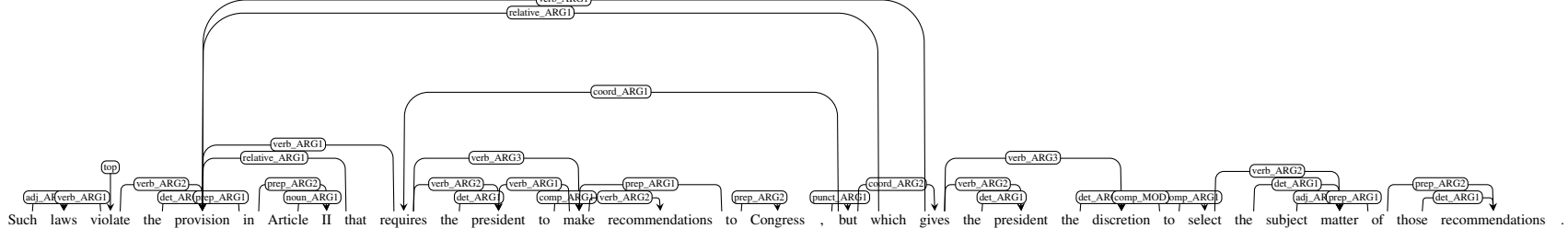
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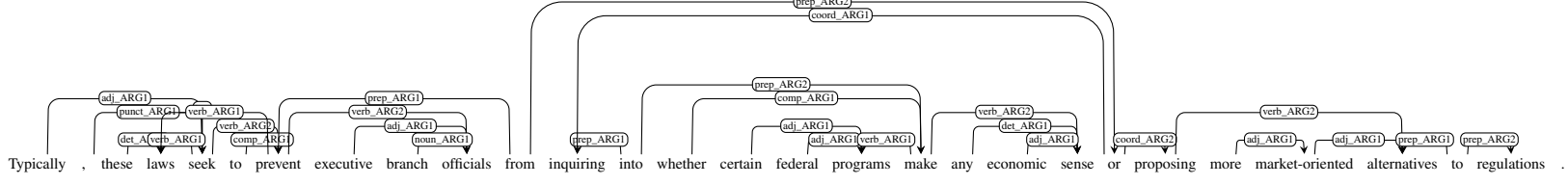
[20112024]



[20112026]



[20112027]



[20112028]

Probably the most egregious example is a proviso in the appropriations bill for the executive office that prevents the president's Office of Management and Budget from subjecting agricultural marketing orders to any cost-benefit scrutiny.

[20112029]

There is something inherently suspect about Congress's prohibiting the executive from even studying whether public funds are being wasted in some favored program or other.

[20112031]

This provision amounts to a legislative veto over the president's execution of the law, since a one-house resolution could be said to be "duly adopted" even though it would require neither bicameral action in Congress nor presentation to the president for his signature or veto.

[20112032]

The Supreme Court's decision in *INS v. Chadha* held that legislative vetoes are unconstitutional.

[20112033]

President Bush should veto appropriations acts that contain these kinds of unconstitutional conditions on the president's ability to discharge his duties and exercise his prerogatives.

[20112034]

If President Bush fails to do so in his first year, he will invite Congress, for the remainder of his presidency, to rewrite Article II of the Constitution to suit its purposes.

[20112036]

President Reagan learned that lesson.

[20112037]

By 1987, then-Speaker Jim Wright was discussing arms control in Moscow with Mikhail Gorbachev and then attempting to direct the president, through an appropriations rider, to treat the Soviets as though the Senate had ratified SALT II.

[20112038]

If a veto is unworkable because it would leave part of the executive branch unfunded, the president could sign the appropriations bills into law and assert a power of excision, declaring the rider restricting his Article II powers to be unconstitutional and severable.

[20112039]

The Constitution does not expressly give the president such power.

[20112040]

However, the president does have a duty not to violate the Constitution.

[20112041]

The question is whether his only means of defense is the veto.

[20112042]

Excision of appropriations riders that trespass on the president's duties and prerogative under Article II would be different from the line-item veto.

[20112043]

As discussed in the context of controlling federal spending , the line-item veto is characterized as a way for the president to excise perfectly constitutional provisions in a spending bill that are objectionable merely because they conflict with his policy objectives .

[20112044]

The excision of unconstitutional conditions in an appropriations bill would be a power of far more limited applicability .

[20112046]

There is no downside if the president asserts a right of excision over unconstitutional conditions in the fiscal 1990 appropriations bills .

[20112047]

If Congress does nothing , President Bush will have won .

[20112048]

If Congress takes the dispute to the Supreme Court ( assuming it can establish standing to sue ) , President Bush might win .

[20112049]

In that case , he might receive an opinion from the court that is a vindication of the president 's right to perform the duties and exercise the prerogatives the framers thought should be entrusted to the executive .

[20112050]

If President Bash loses at the court , it might be disappointing , as Morrison v. Olson was for the Reagan administration .

[20112051]

But the presidency would be no worse off than it is now .

[20112052]

Moreover , the electorate would have received a valuable civics lesson in how the separation of powers works in practice .

[20112053]

As it stands now , Congress presumes after the Reagan administration that the White House will take unconstitutional provisions in appropriations bills lying down .

[20112054]

President Bush should set things straight .

[20112055]

If he does not , he will help realize Madison 's fear in The Federalist No. 48 of a legislature " everywhere extending the sphere of its activity and drawing all powers into its impetuous vortex . "

[20112056]

Mr. Sidak served as an attorney in the Reagan administration .

