

THE CONSTITUTION
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ANALYSIS AND INTERPRETATION

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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.¹ 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.”² In *Clinton v. City of New York*,³ 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,⁴ and although the dissenting Justices would have upheld the act as a valid delegation,⁵ the Court instead analyzed the statute under the Presentment

¹ Pub. L. 104–130, 110 Stat. 1200, codified in part at 2 U.S.C. §§ 691–92.

² Id. at § 691(a)(A).

³ 524 U.S. 417(1998).

⁴ 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”).

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

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 His cancellations thus amended and in part repealed the two federal laws.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.⁶ In no respect did the procedures in the act comply with that clause, and in no way could they. The President was acting in a legislative capacity, altering a law in the manner prescribed, and legislation must, in the way Congress acted, be bicameral and be presented to the President after Congress acted. Nothing in the Constitution authorized the President to amend or repeal a statute unilaterally, and the Court could construe both constitutional silence and the historical practice over 200 years as "an express prohibition" of the President's action.⁷

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

⁷ 524 U.S. at 439.