



Written by [Joe Wolverton, II, J.D.](#) on February 6, 2012

Paul Ryan Proposes Giving President Obama Line Item Veto Power

The Washington Post reports: “It’s not often that Congress voluntarily surrenders power, and even less common for both parties to agree to do so.”

The reporters at the *Post* must be unfamiliar with the passage by Congress of the National Defense Authorization Act (NDAA), the Patriot Act, the Authority for the Use of Military Force (AUMF), and a long roster of other laws where the legislative branch willingly relinquished its constitutional authority to the executive branch.

A more accurate statement would be that when both major political parties agree to enlarge the scope of presidential power at the expense of their own, the Constitution — and the people — are usually in trouble.



In its latest accession, Congress is once “inching forward” toward giving the President line-item veto authority. According to the report, “members of both parties endorse the idea that the current system of checks and balances isn’t working well enough at slashing spending.”

While our elected representatives’ lack of faith in the Constitution and the wisdom of those who drafted it is nothing new, it still merits the attention of the people who must stand as the final, insuperable obstacle to the complete obliteration of our Constitution.

Undeterred, however, by the separation of powers established by the Constitution, congressional leaders of both parties seemed determined to create an all-powerful executive. The story in the *Post* records that:

In November, the chairman and ranking member of the House Budget Committee — Reps. Paul Ryan (R-Wis.) [pictured above] and Chris Van Hollen (D-Md.) — teamed up to offer the Expedited Line-Item Veto and Rescissions Act of 2011, a measure giving the White House the ability to demand a separate up-or-down vote on spending items the president especially dislikes.

The bill cleared the budget panel and is scheduled to receive a House Rules Committee hearing Tuesday, and it could reach the floor as soon as next week.

Some observers rightly regard the line-item as an attempt by cowardly congressmen to “pass the buck,” while others see the scheme through another less convicting lens. Take this assessment given by one Democratic lawmaker: “Taxpayers deserve a system that is accountable, and this bipartisan legislation will provide another tool to ensure that we are good stewards of their money,” said Chris Van Hollen (D-Md.), the ranking member of the House Budget Committee.

The details of the plan reveal a novel and unconstitutional rearrangement of the relationship between



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legislature and executive as drawn up by the Framers of the Constitution.

Specifically, the President has 45 days after he signs an appropriations bill in order to point out to Congress provisions he wants excised from the larger legislation. After Congress receives word of the President's displeasure, both houses would fast-track an up or down vote on the recommendations without the chance to propose amendments.

Congressman Ryan's redistricting of the boundaries between the executive and legislative branches is very clear in the language of the legislation:

Within 45 days after the enactment of any bill or joint resolution providing any funding, the President may propose, in the manner provided in subsection (b), the rescission of all or part of any dollar amount of such funding.

If the President proposes that Congress rescind funding, the President shall transmit a special message to Congress containing the information specified in this subsection.

A disinterested analysis of this scheme reveals a blending of powers that may, as James Madison warned at the time of the ratification process in 1788, "destroy all symmetry and beauty of form, and ... expose some of the essential parts of this edifice [the Constitution] to the danger of being crushed by the disproportionate weight of other parts."

There is nothing beautiful or symmetrical about a lazy, unpopular Congress, the ersatz representatives of the states and the people, retreating from the battlefield of government reduction, leaving its arsenal in the hands of the executive branch marching unimpeded toward the palaces of absolutism.

One opponent of the Expedited Line-item and Rescissions Act recognizes the cowardice on display in this measure. Scott Lilly, a former House Appropriations Committee aide at the liberal Center for American Progress, is quoted in the *Washington Post* saying:

Because people can't do anything, there's a scramble to switch the process. This is all about Congress passing legislation through both houses and sending it to the president and then saying, "Oh, my goodness, I was wrong."

If this entire scenario sounds familiar, it is because Congress actually succeeded temporarily in giving the president line-item veto power while under the command of current GOP presidential hopeful, former Speaker of the House Newt Gingrich.

In an article reporting on a similar attempt to cede congressional power to the president then being contemplated by Senator Mitch McConnell (R-Ky.), *The New American's* Jack Kenny wrote:

A stalemate in negotiations between Speaker of the House Newt Gingrich and President Bill Clinton over spending issues and the raising of the debt ceiling led to brief partial shutdowns of the government in 1995 and '96.

When a Republican Congress passed and President Clinton signed the Line Item Veto Act of 1996, the idea was to give the President power to eliminate from appropriations bills wasteful spending that Congress couldn't or wouldn't cut. The bill thereby gave the President the power to amend and alter rather than veto bills, in effect letting him rewrite legislation. Nor did Congress have the chance to override his decision as it would with a vetoed bill.

As readers may remember, that attempt to pull off the tyrannical *pas de deux* was struck down by the



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Supreme Court in its landmark 6-3 ruling in the case of *Clinton v. City of New York*, 524 U.S. 417 (1998). In that decision the Supreme Court held:

Although the Constitution expressly authorizes the President to play a role in the process of enacting statutes, it is silent on the subject of the unilateral presidential action that either repeals or amends parts of duly enacted statutes.

Without an express enumeration of power, the departments of the federal government — legislative, judicial, or executive — may not act without violating the Constitution and setting their feet on the road to tyranny that Madison sagaciously signaled over 200 years ago.

Despite the Supreme Court's ruling in *Clinton*, subsequent Congresses and Presidents have continued bashing the walls of separation of powers with the line-item wrecking ball.

For example, President George W. Bush recommended that the Congress pass a law that would reinvest the White House with the line-item veto power. He announced his intent to push for this power during his State of the Union address in January 2006. The measure itself was sent to Capitol Hill on March 6 of that same year.

H.R. 4890, the Legislative Line-Item Veto Act, passed out of the House Budget Committee that summer and was eventually approved by the full House in June. A companion bill was passed by a Senate committee, but was defeated on the floor of the upper chamber, thus scuttling the scheme for the time being.

Then, in 2009, Congressman Ryan along with Senators Russ Feingold (D-Wis.) and John McCain (R-Ariz.) proposed a limited line-item veto package that would have given the president authority to cancel earmarks in spending bills by returning the amended measure to Congress for further consideration. Congress would then expedite a vote on the redacted bill, needing only a simple majority to pass the president's preferences.

What does the White House think of Congressman Ryan's proffer of power? The *Post* quotes an Obama administration spokeswoman as saying, "We demonstrated our strong support for expedited rescission when the president proposed the Reduce Unnecessary Spending Act of 2010."

Although Representative Ryan is considered by some to be a constitutionalist, his repeated attempts to hand the President this unconstitutional power belies that label. True constitutionalists readily recognize that the real underlying problem in runaway government spending is not the lack of presidential power over congressional appropriations. The problem is that Congress passes bills without reading them, the President promises vetoes then acquiesces when the bills land on his desk, and all three branches of the federal government conspire contemptuously to ignore constitutional restrictions on their power.

The *Washington Post* reports that three Democrats — Michael M. Honda of California, Betty McCollum of Minnesota, and Bill Pascrell Jr. of New Jersey — have cited the separation of powers as the basis of their opposition to the proposal.

"By privileging the Executive's spending priorities over the deliberations of the Congress, this bill directly threatens the Constitutional design of the distribution of powers," they wrote.



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