Supreme Court of the United States

IMMIGRATION AND NATURALIZATION SERVICE, Appellant
v.
Jagdish Rai CHADHA et al.
UNITED STATES HOUSE OF REPRESENTATIVES, Petitioner
v.
IMMIGRATION AND NATURALIZATION SERVICE et al.
UNITED STATES SENATE, Petitioner
v.
IMMIGRATION AND NATURALIZATION SERVICE et al.

Nos. 80-1832, 80-2170 and 80-2171. | Argued Feb. 22, 1982. | Reargued Oct. 7, 1982. | Decided June 23, 1983.

Alien whose suspension of deportation had been vetoed by one House of Congress sought review of order of deportation. The Court of Appeals, Kennedy, Circuit Judge, 634 F.2d 408, held the section of Immigration and Nationality Act authorizing one-House veto unconstitutional, and certiorari was granted. The Supreme Court, Chief Justice Burger, held that section of Immigration and Nationality Act authorizing one House of Congress, by resolution, to invalidate decision of Executive Branch to allow a particular deportable alien to remain in the United States is unconstitutional, because action by House pursuant to that section is essentially legislative and thus subject to the constitutional requirements of passage by a majority of both Houses and presentation to the President.

Affirmed.

Justice Powell, concurred in the judgment and filed opinion.

Justice White dissented and filed an opinion.

Justice Rehnquist dissented and filed an opinion in which Justice White joined.

West Headnotes (20)

[1] **Federal Courts**
Appeal

Supreme Court had jurisdiction to entertain Immigration and Naturalization Service's appeal from judgment of Court of Appeals holding unconstitutional the section of Immigration and Nationality Act authorizing one House of Congress, by resolution, to invalidate decision of Executive Branch to allow a particular deportable alien to remain in the United States, because Court of Appeals is a "court of the United States" the proceeding below was a "civil action, suit or proceeding," the INS is an agency of the United States and was a party to the proceeding below, and the judgment below held an act of Congress unconstitutional. 28 U.S.C.A. § 1252.

3 Cases that cite this headnote

[2] **Federal Courts**
Appeal

When agency of United States is a party to a case in which an act of Congress it administers is held unconstitutional, it is an aggrieved party for purposes of taking an appeal under statute providing that any party may appeal to the Supreme Court from a judgment of any court of the United States holding an act of Congress unconstitutional in any civil action, suit or proceeding to which United States or any of its agencies is a party. 28 U.S.C.A. § 1252.

4 Cases that cite this headnote

[3] **Statutes**
Effect of Partial Invalidity

A statutory provision is presumed severable if what remains after severance is fully operative as law.

43 Cases that cite this headnote

[4] **Statutes**
Acts Relating to Particular Subjects in General

Section of Immigration and Nationality Act authorizing one House of Congress, by resolution, to invalidate decision of Executive Branch to allow a particular deportable alien to remain in the United States was severable from the remainder of the section of the Act governing suspension of deportation, because Act provided that if any particular provisions were held invalid, the remainder of Act would not be affected, and presumption of severability which arose therefrom was supported by legislative history and by fact that the remainder of section of Act governing suspension of deportation could survive as a fully operative and workable administrative mechanism without the one-house veto. Immigration and Nationality Act, §§ 244, 244(c)(2), 406, as amended, 8

U.S.C.A. §§ 1254, 1254(c)(2), 1101 note.

100 Cases that cite this headnote

[5] **Constitutional Law**
Separation of Powers

Alien whose deportation was suspended by the Immigration and Naturalization Service but who was subsequently ordered deported pursuant to House veto of Attorney General's decision to allow him to remain in the United States had standing to challenge constitutionality of section of Immigration and Nationality Act authorizing one House of Congress, by resolution, to invalidate decision of Executive Branch, to allow a particular deportable alien to remain in the United States, because he demonstrated injury in fact and a substantial likelihood that judicial relief requested would prevent or redress the claimed injury. Immigration and Nationality Act, § 244(c)(2), as amended, 8 U.S.C.A. § 1254(c)(2).

120 Cases that cite this headnote

[6] **Constitutional Law**
Necessity of Determination

Supreme Court would not decline to decide the constitutionality of section of Immigration and Nationality Act authorizing one House of Congress, by resolution, to invalidate decision of Executive Branch to allow a particular deportable alien to remain in the United States merely because alien who challenged the statute may have had other statutory relief available to him, since the other avenues of relief were, at most, speculative. Immigration and Nationality Act, §§ 201(b), 204, 244(c)(2), 245, as amended, 8 U.S.C.A. §§ 1151(b), 1154, 1254(c)(2), 1255.

27 Cases that cite this headnote

[7] **Constitutional Law**
Necessity of Determination

[13] **Constitutional Law**
Constitutionality of Statutory Provisions

Fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution.

31 Cases that cite this headnote

[14] **Constitutional Law**
Separation of Powers

When any branch of government acts, it is presumptively exercising the power the Constitution has delegated to it.

5 Cases that cite this headnote

[15] **Statutes**
Concurrence of Separate Houses or Branches of Legislature
Statutes
Presentation to Executive

Not every action taken by either House of Congress is subject to the bicameralism and presentment requirements of Article I. U.S.C.A. Const. Art. 1, § 1; Art. 1, § 7, cls. 2, 3; Art. 2, § 2, cl. 2.

37 Cases that cite this headnote

[16] **Constitutional Law**
Nature and Scope in General

Whether actions taken by either House of Congress are, in law and fact, an exercise of legislative power depends not on their form but upon whether they contain matter which is properly to be regarded as legislative in its character and effect.

23 Cases that cite this headnote

[17] **Aliens, Immigration, and Citizenship**
Cancellation of Removal or Suspension of Deportation in General
Constitutional Law
Nature and Scope in General

When Attorney General performs his duties pursuant to section of Immigration and Nationality Act governing suspension of deportation, he does not exercise “legislative” power. Immigration and Nationality Act, § 244, as amended, 8 U.S.C.A. § 1254.

4 Cases that cite this headnote

[18] **Constitutional Law**
Encroachment on Executive
Constitutional Law
Judicial Encroachment on Executive Acts Taken Under Statutory Authority
Constitutional Law
Nature and Scope in General

Executive action under legislatively delegated authority that might resemble “legislative” action in some respect is not subject to the approval of both Houses of Congress and the President for the reason that the Constitution does not so require; that kind of executive action is always subject to check by the terms of the legislation that authorized it, and if that authority is exceeded, it is open to judicial review as well as the power of Congress to modify or revoke the authority entirely. U.S.C.A. Const. Art. 1, §§ 1, 7, cls. 2, 3.

48 Cases that cite this headnote

[19] **Statutes**
Constitutional Requirements and Restrictions
Statutes
Constitutional Requirements and Restrictions

Amendment and repeal of statutes, no less than enactment, must conform with Article I. U.S.C.A. Const. Art. 1, § 1 et seq.

6 Cases that cite this headnote

[20] **Aliens, Immigration, and Citizenship**
Validity
Statutes
Concurrence of Separate Houses or Branches of Legislature
Statutes
Presentation to Executive

Section of Immigration and Nationality Act authorizing one House of Congress, by resolution, to invalidate decision of Executive Branch to allow a particular deportable alien to remain in the United States is unconstitutional, because action by House pursuant to that section is essentially legislative and thus subject to the constitutional requirements of passage by a majority of both Houses and presentation to the President. Immigration and Nationality Act, § 244(c)(2), as amended, 8 U.S.C.A. § 1254(c)(2); U.S.C.A. Const. Art. 1, § 1; Art. 1, § 7, cls. 2, 3; Art. 2, § 2, cl. 2.

201 Cases that cite this headnote

919 **2767 *Syllabus*

Section 244(c)(2) of the Immigration and Nationality Act (Act) authorizes either House of Congress, by resolution, to invalidate the decision of the Executive Branch, pursuant to authority delegated by Congress to the Attorney General, to allow a particular deportable alien to remain in the United States. Appellee-respondent Chadha, an alien who had been lawfully admitted to the United States on a nonimmigrant student visa, remained in the United States after his visa had expired and was ordered by the Immigration and Naturalization Service (INS) to show cause why he should not be deported. He then applied for suspension of the deportation, and, after a hearing, an Immigration Judge, acting pursuant to § 244(a)(1) of the Act, which authorizes the Attorney General, in his discretion, to suspend deportation, ordered the suspension, and reported the suspension to Congress as required by § 244(c)(1). Thereafter, the House of Representatives passed a Resolution pursuant to § 244(c)(2) vetoing the suspension, and the Immigration Judge reopened the deportation proceedings. Chadha moved to terminate the proceedings on the ground that § 244(c)(2) is unconstitutional, but the judge held that he ****2768** had no authority to rule on its constitutionality and ordered Chadha deported pursuant to the House Resolution. Chadha's appeal to the Board of Immigration Appeals was dismissed, the Board also holding that it had no power to declare § 244(c)(2) unconstitutional. Chadha then filed a petition for review of the deportation order in the Court of Appeals, and the INS joined him in arguing that § 244(c)(2) is unconstitutional. The Court of Appeals held that § 244(c)(2) violates the constitutional doctrine of separation of powers, and accordingly directed the Attorney General to cease taking any steps to deport Chadha based upon the House Resolution.

***920** *Held:*

1. This Court has jurisdiction to entertain the INS's appeal in No. 80-1832 under 28 U.S.C. § 1252, which provides that "[a]ny party" may appeal to the Supreme Court from a judgment of "any court of the United States" holding an Act of Congress unconstitutional in "any civil action, suit or proceeding" to which the United States or any of its agencies is a party. A court of appeals is "a court of the United States" for purposes of § 1252, the proceeding below was a "civil action, suit or proceeding," the INS is an agency of the United States and was a party to the proceeding below, and the judgment below held an Act of Congress unconstitutional. Moreover, for purposes of deciding

whether the INS was "any party" within the grant of appellate jurisdiction in § 1252, the INS was sufficiently aggrieved by the Court of Appeals' decision prohibiting it from taking action it would otherwise take. An agency's status as an aggrieved party under § 1252 is not altered by the fact that the Executive may agree with the holding that the statute in question is unconstitutional. Pp. 2772 - 2774.

2. Section 244(c)(2) is severable from the remainder of § 244. Section 406 of the Act provides that if any particular provision of the Act is held invalid, the remainder of the Act shall not be affected. This gives rise to a presumption that Congress did not intend the validity of the Act as a whole, or any part thereof, to depend upon whether the veto clause of § 244(c)(2) was invalid. This presumption is supported by § 244's legislative history. Moreover, a provision is further presumed severable if what remains after severance is fully operative as a law. Here, § 244 can survive as a "fully operative" and workable administrative mechanism without the one-house veto. Pp. 2774 - 2776.

3. Chadha has standing to challenge the constitutionality of § 244(c)(2) since he has demonstrated "injury in fact and a substantial likelihood that the judicial relief requested will prevent or redress the claimed injury." *Duke Power Co. v. Carolina Environmental Study Group,* 438 U.S. 59, 79, 98 S.Ct. 2620, 2633, 57 L.Ed.2d 595. P. 2776.

4. The fact that Chadha may have other statutory relief available to him does not preclude him from challenging the constitutionality of § 244(c)(2), especially where the other avenues of relief are at most speculative. Pp. 2776 - 2777.

5. The Court of Appeals had jurisdiction under § 106(a) of the Act, which provides that a petition for review in a court of appeals "shall be the sole and exclusive procedure for the judicial review of all final orders of deportation ... made against aliens within the United States pursuant to administrative proceedings" under § 242(b) of the Act. Section 106(a) includes all matters on which the final deportation order is contingent, rather than only those determinations made at the deportation ***921** hearing. Here, Chadha's deportation stands or falls on the validity of the challenged veto, the final deportation order having been entered only to implement that veto. Pp. 2777 - 2778.

6. A case or controversy is presented by these cases. From the time of the House's formal intervention, there was concrete adverseness, and prior to such intervention, there was adequate Art. III adverseness even though the only parties were the INS and Chadha. The INS's agreement with Chadha's position does not ****2769** alter the fact that the INS would have deported him absent the Court of Appeals' judgment. Moreover, Congress is the proper party to defend the validity of a statute when a Government agency, as a defendant charged with enforcing the statute, agrees with plaintiffs that the statute is unconstitutional. P. 2778.

7. These cases do not present a nonjusticiable political question on the asserted ground that Chadha is merely challenging Congress' authority under the Naturalization and Necessary and Proper Clauses of the Constitution. The presence of constitutional issues with significant political overtones does not automatically invoke the political question doctrine. Resolution of litigation challenging the constitutional authority of one of the three branches cannot be evaded by the courts simply because the issues have political implications. Pp. 2778 - 2780.

8. The congressional veto provision in § 244(c)(2) is unconstitutional. Pp. 2780 - 2787.

(a) The prescription for legislative action in Art. I, § 1-requiring all legislative powers to be vested in a Congress consisting of a Senate and a House of Representatives-and § 7-requiring every bill passed by the House and Senate, before becoming law, to be presented to the President, and, if he disapproves, to be repassed by two-thirds of the Senate and House-represents the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered procedure. This procedure is an integral part of the constitutional design for the separation of powers. Pp. 2780 - 2784.

(b) Here, the action taken by the House pursuant to § 244(c)(2) was essentially legislative in purpose and effect and thus was subject to the procedural requirements of Art. I, § 7, for *legislative* action: passage by a majority of both Houses and presentation to the President. The one-House veto operated to overrule the Attorney General and mandate Chadha's deportation. The veto's legislative character is confirmed by the character of the congressional action it supplants; *i.e.,* absent the veto provision of § 244(c)(2), neither the House nor the Senate, or both acting together, could effectively require the Attorney General to deport an alien once the Attorney General, in the exercise of legislatively ***922** delegated authority, had determined that the alien should remain in the United States. Without the veto provision, this could have been achieved only by legislation requiring deportation. A veto by one House under § 244(c)(2) cannot be justified as an attempt at amending the standards set out in § 244(a)(1), or as a repeal of

§ 244 as applied to Chadha. The nature of the decision implemented by the one-House veto further manifests its legislative character. Congress must abide by its delegation of authority to the Attorney General until that delegation is legislatively altered or revoked. Finally, the veto's legislative character is confirmed by the fact that when the Framers intended to authorize either House of Congress to act alone and outside of its prescribed bicameral legislative role, they narrowly and precisely defined the procedure for such action in the Constitution. Pp. 2784 - 2787.

634 F.2d 408, affirmed.

Attorneys and Law Firms

Eugene Gressman reargued the cause for petitioner in No. 80-2170. With him on the briefs was *Stanley M. Brand.*

Michael Davidson reargued the cause for petitioner in No. 80-2171. With him on the briefs were *M. Elizabeth Culbreth* and *Charles Tiefer.*

Solicitor General Lee reargued the cause for the Immigration and Naturalization Service in all cases. With him on the briefs were *Assistant Attorney General Olson, Deputy Solicitor General Geller, Deputy Assistant Attorney General Simms, Edwin S. Kneedler, David A. Strauss,* and *Thomas O. Sargentich.*

Alan B. Morrison reargued the cause for Jagdish Rai Chadha in all cases. With him on the brief was *John Cary Sims.*†

† *Antonin Scalia, Richard B. Smith,* and *David Ryrie Brink* filed a brief for the American Bar Association as *amicus curiae* urging affirmance.

Briefs of *amici curiae* were filed by *Robert C. Eckhardt* for Certain Members of the United States House of Representatives; and by *Paul C. Rosenthal* for the Counsel on Administrative Law of the Federal Bar Association.

Opinion

***923** Chief Justice BURGER delivered the opinion of the Court.

We granted certiorari in Nos. 80-2170 and 80-2171, and postponed consideration of the question of jurisdiction in No. 80-1832. Each presents a challenge to the constitutionality of the provision in § 244(c)(2) of the Immigration and Nationality Act, ****2770** 8 U.S.C. § 1254(c)(2), authorizing one House of Congress, by resolution, to invalidate the decision of the Executive Branch, pursuant to authority delegated by Congress to the Attorney General of the United States, to allow a particular deportable alien to remain in the United States.

I

Chadha is an East Indian who was born in Kenya and holds a British passport. He was lawfully admitted to the United States in 1966 on a nonimmigrant student visa. His visa expired on June 30, 1972. On October 11, 1973, the District Director of the Immigration and Naturalization Service ordered Chadha to show cause why he should not be deported for having "remained in the United States for a longer time than permitted." App. 6. Pursuant to § 242(b) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1252(b), a deportation hearing was held before an immigration judge on January 11, 1974. Chadha conceded that he was deportable for overstaying his visa and the hearing was adjourned to enable him to file an application for suspension of deportation under § 244(a)(1) of the Act, 8 U.S.C. § 1254(a)(1). Section 244(a)(1) provides:

> "(a) As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien who applies to the Attorney General for suspension of deportation and-
> (1) is deportable under any law of the United States except the provisions specified in paragraph (2) of this

subsection; has been physically present in the United ***924** States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence."[1]

After Chadha submitted his application for suspension of deportation, the deportation hearing was resumed on February 7, 1974. On the basis of evidence adduced at the hearing, affidavits submitted with the application, and the results of a character investigation conducted by the INS, the immigration judge, on June 25, 1974, ordered that Chadha's deportation be suspended. The immigration judge found that Chadha met the requirements of § 244(a)(1): he had resided continuously in the United States for over seven years, was of good moral character, and would suffer "extreme hardship" if deported.

Pursuant to § 244(c)(1) of the Act, 8 U.S.C. § 1254(c)(1), the immigration judge suspended Chadha's deportation and a report of the suspension was transmitted to Congress. Section 244(c)(1) provides:

> "Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien. If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the ***925** facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session."

Once the Attorney General's recommendation for suspension of Chadha's deportation was conveyed to Congress, Congress ****2771** had the power under § 244(c)(2) of the Act, 8 U.S.C. § 1254(c)(2), to veto[2] the Attorney General's determination that Chadha should not be deported. Section 244(c)(2) provides:

> "(2) In the case of an alien specified in paragraph (1) of subsection (a) of this subsection-
>
> if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings."

***926** The June 25, 1974 order of the immigration judge suspending Chadha's deportation remained outstanding as a valid order for a year and a half. For reasons not disclosed by the record, Congress did not exercise the veto authority reserved to it under § 244(c)(2) until the first session of the 94th Congress. This was the final session in which Congress, pursuant to § 244(c)(2), could act to veto the Attorney General's determination that Chadha should not be deported. The session ended on December 19, 1975. 121 Cong.Rec. 42014, 42277 (1975). Absent Congressional action, Chadha's deportation proceedings would have been cancelled after this date and his status adjusted to that of a permanent resident alien. See 8 U.S.C. § 1254(d).

On December 12, 1975, Representative Eilberg, Chairman of the Judiciary Subcommittee on Immigration, Citizenship, and International Law, introduced a resolution opposing "the granting of permanent residence in the United States to [six] aliens", including Chadha. H.R.Res. 926, 94th Cong., 1st Sess.; 121 Cong.Rec. 40247 (1975). The resolution was referred to the House Committee on the Judiciary. On December 16, 1975, the resolution was discharged from further consideration by the House Committee on the Judiciary and submitted to the House of Representatives for a vote. 121 Cong.Rec. 40800. The resolution had not been printed and was not made available to other Members of the House prior to or at the time it was voted on. *Ibid.* So far as the record before us shows, the House consideration of the resolution was based on Representative Eilberg's statement from the floor that

> "[i]t was the feeling of the committee, after reviewing 340 cases, that the aliens contained in the resolution [Chadha and five others] did not meet these statutory requirements, particularly as it relates to hardship; and it is the opinion of the committee that their deportation should not be suspended." *Ibid.*

***927** The resolution was passed without debate or recorded vote.[3] Since the House action ****2772** was pursuant to § 244(c)(2), the resolution was not treated as an Article I legislative act; it was not ***928** submitted to the Senate or presented to the President for his action.

After the House veto of the Attorney General's decision to allow Chadha to remain in the United States, the immigration judge reopened the deportation proceedings to implement the House order deporting Chadha. Chadha moved to terminate the proceedings on the ground that § 244(c)(2) is unconstitutional. The immigration judge held that he had no authority to rule on the constitutional validity of § 244(c)(2). On November 8, 1976, Chadha was ordered deported pursuant to the House action.

Chadha appealed the deportation order to the Board of Immigration Appeals again contending that § 244(c)(2) is unconstitutional. The Board held that it had "no power to declare unconstitutional an act of Congress" and Chadha's appeal was dismissed. App. 55-56.

Pursuant to § 106(a) of the Act, 8 U.S.C. § 1105a(a), Chadha filed a petition for review of the deportation order in the United States Court of Appeals for the Ninth Circuit. The Immigration and Naturalization Service agreed with Chadha's position before the Court of Appeals and joined him in arguing that § 244(c)(2) is unconstitutional. In light of the importance of the question, the Court of Appeals invited both the Senate and the House of Representatives to file briefs *amici curiae.*

After full briefing and oral argument, the Court of Appeals held that the House was without constitutional authority to order Chadha's deportation; accordingly it directed the Attorney General "to cease and desist from taking any steps to deport this alien based upon the resolution enacted by the House of Representatives." *Chadha v. INS,* 634 F.2d 408, 436 (CA9 1980). The essence of its holding was that § 244(c)(2) violates the constitutional doctrine of separation of powers.

We granted certiorari in Nos. 80-2170 and 80-2171, and postponed consideration of our jurisdiction over the appeal in No. 80-1832, 454 U.S. 812, 102 S.Ct. 87, 70 L.Ed.2d 80 (1981), and we now affirm.

*929 II

Before we address the important question of the constitutionality of the one-House veto provision of § 244(c)(2), we first consider several challenges to the authority of this Court to resolve the issue raised.

**2773 A

Appellate Jurisdiction

[1] Both Houses of Congress[4] contend that we are without jurisdiction under 28 U.S.C. § 1252 to entertain the INS appeal in No. 80-1832. Section 1252 provides:

> "Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and any court of record of Puerto Rico, holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party."

Parker v. Levy, 417 U.S. 733, 742, n. 10, 94 S.Ct. 2547, 2555, n. 10, 41 L.Ed.2d 439 (1974), makes clear that a court of appeals is a "court of the United States" for purposes of § 1252. It is likewise clear that the proceeding below was a "civil action, suit or proceeding," that the INS is an agency of the United States and was a party to the proceeding below, and that that proceeding held an Act of Congress-namely, the one-House veto provision in § 244(c)(2)-unconstitutional. The express requisites for an appeal under § 1252, therefore, have been met.

***930** In motions to dismiss the INS appeal, the Congressional parties[5] direct attention, however, to our statement

> We recognize, on one hand, the duty of this court, from the performance of which it may not shrink, to give full effect to the provisions of the Constitution relating to the enactment of laws that are to operate wherever the authority and jurisdiction of the United States extend. On the other hand, we cannot be unmindful of the consequences that must result if this court should feel obliged, in fidelity to the Constitution, to declare that an enrolled bill, on which depend public and private interests of vast magnitude, and which has been ... deposited in the public archives, *as an act of Congress,* ... did not become law." *Id.,* at 669, 670, 12 S.Ct., at 496, 497 (emphasis in original).

H

The contentions on standing and justiciability have been fully examined and we are satisfied the parties are properly before us. The important issues have been fully briefed and ***944** twice argued, 454 U.S. 812, 102 S.Ct. 87, 70 L.Ed.2d 80, 81 (1982). The Court's duty in this case, as Chief Justice Marshall declared in *Cohens v. Virginia,* 6 Wheat. 264, 404, 5 L.Ed. 257 (1821), is clear:

> "Questions may occur which we would gladly avoid; but we cannot avoid them. All we can do is, to exercise our best judgment, and conscientiously to perform our duty."

III

A

[12] We turn now to the question whether action of one House of Congress under § 244(c)(2) violates strictures of the Constitution. We begin, of course, with the presumption that the challenged statute is valid. Its wisdom is not the concern of the courts; if a challenged action does not violate the Constitution, it must be sustained:

> "Once the meaning of an enactment is discerned and its constitutionality determined, the judicial process comes to an end. We do not sit as a committee of review, nor are we vested with the power of veto." *Tennessee Valley Authority v. Hill,* 437 U.S. 153, 194-195, 98 S.Ct. 2279, 2302, 57 L.Ed.2d 117 (1978).

****2781 [13]** By the same token, the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution. Convenience and efficiency are not the primary objectives-or the hallmarks-of democratic government and our inquiry is sharpened rather than blunted by the fact that Congressional veto provisions are appearing with increasing frequency in statutes which delegate authority to executive and independent agencies:

> "Since 1932, when the first veto provision was enacted into law, 295 congressional veto-type procedures have been inserted in 196 different statutes as follows: from 1932 to 1939, five statutes were affected; from 1940-49, nineteen statutes; between 1950-59, thirty-four statutes; and from 1960-69, forty-nine. From the year 1970 through 1975, at least one hundred sixty-three such provisions ***945** were included in eighty-nine laws." Abourezk, The Congressional Veto: A Contemporary Response to Executive Encroachment on Legislative Prerogatives, 52 Ind.L.Rev. 323, 324 (1977). See also Appendix 1 to Justice WHITE's dissent, *post,* at 2811.

Justice WHITE undertakes to make a case for the proposition that the one-House veto is a useful "political invention," *post,* at 2795, and we need not challenge that assertion. We can even concede this utilitarian argument although the long range political wisdom of this "invention" is arguable. It has been vigorously debated and it is instructive to compare the views of the protagonists. See, e.g., Javits & Klein, Congressional Oversight and the Legislative Veto: A Constitutional Analysis, 52 N.Y.U.L.Rev. 455 (1977), and Martin, The Legislative Veto and the Responsible Exercise of Congressional Power, 68 Va.L.Rev. 253 (1982). But policy arguments supporting even

useful “political inventions” are subject to the demands of the Constitution which defines powers and, with respect to this subject, sets out just how those powers are to be exercised.

Explicit and unambiguous provisions of the Constitution prescribe and define the respective functions of the Congress and of the Executive in the legislative process. Since the precise terms of those familiar provisions are critical to the resolution of this case, we set them out verbatim. Art. I provides:

> “All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate *and* a House of Representatives.” Art. I, § 1. (Emphasis added).

> “Every Bill which shall have passed the House of Representatives *and* the Senate, *shall,* before it becomes a Law, be presented to the President of the United States; ...” Art. I, § 7, cl. 2. (Emphasis added).

> “*Every* Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) ***946** *shall be* presented to the President of the United States; and before the Same shall take Effect, *shall be* approved by him, or being disapproved by him, *shall be* repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.” Art. I, § 7, cl. 3. (Emphasis added).

These provisions of Art. I are integral parts of the constitutional design for the separation of powers. We have recently noted that “[t]he principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the documents that they drafted in Philadelphia in the summer of 1787.” *Buckley v. Valeo, supra,* 424 U.S., at 124, 96 S.Ct., at 684. Just as we relied on the textual provision of Art. II, § 2, cl. 2, to vindicate the principle of separation of powers in *Buckley,* we find that the purposes underlying the Presentment Clauses, Art. I, § 7, cls. 2, 3, and the bicameral requirement of Art. I, § 1 and § 7, cl. 2, guide our resolution of the important question presented in this case. The very structure of the ****2782** articles delegating and separating powers under Arts. I, II, and III exemplify the concept of separation of powers and we now turn to Art. I.

B

The Presentment Clauses

The records of the Constitutional Convention reveal that the requirement that all legislation be presented to the President before becoming law was uniformly accepted by the Framers.[14] Presentment to the President and the Presidential ***947** veto were considered so imperative that the draftsmen took special pains to assure that these requirements could not be circumvented. During the final debate on Art. I, § 7, cl. 2, James Madison expressed concern that it might easily be evaded by the simple expedient of calling a proposed law a “resolution” or “vote” rather than a “bill.” 2 M. Farrand, The Records of the Federal Convention of 1787 301-302. As a consequence, Art. I, § 7, cl. 3, *ante,* at 2781, was added. *Id.,* at 304-305.

The decision to provide the President with a limited and qualified power to nullify proposed legislation by veto was based on the profound conviction of the Framers that the powers conferred on Congress were the powers to be most carefully circumscribed. It is beyond doubt that lawmaking was a power to be shared by both Houses and the President. In The Federalist No. 73 (H. Lodge ed. 1888), Hamilton focused on the President’s role in making laws:

> “If even no propensity had ever discovered itself in the legislative body to invade the rights of the Executive, the rules of just reasoning and theoretic propriety would of themselves teach us that the one ought not to be left to the mercy of the other, but ought to possess a constitutional and effectual power of self-defense.” *Id.,* at 457-458.

See also The Federalist No. 51. In his Commentaries on the Constitution, Joseph Story makes the same point. 1 J. Story, Commentaries on the Constitution of the United States 614-615 (1858).

The President’s role in the lawmaking process also reflects the Framers’ careful efforts to check whatever propensity a particular Congress might have to enact oppressive, improvident, ***948** or ill-considered measures. The President’s veto role in the legislative process was described later during public debate on ratification:

> “It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good which may happen to influence a majority of that body.... The primary inducement to conferring the power in question upon the Executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws through haste, inadvertence, or design.” The Federalist No. 73, *supra,* at 458 (A. Hamilton).

See also *The Pocket Veto Case,* 279 U.S. 655, 678, 49 S.Ct. 463, 466, 73 L.Ed. 894 (1929); *Myers v. United States,* 272 U.S. 52, 123, 47 S.Ct. 21, 27, 71 L.Ed. 160 (1926). The Court also has observed that the Presentment Clauses serve the important purpose of assuring that a “national” perspective is grafted on the legislative process:

> ****2783** “The President is a representative of the people just as the members of the Senate and of the House are, and it may be, at some times, on some subjects, that the President elected by all the people is rather more representative of them all than are the members of either body of the Legislature whose constituencies are local and not countrywide....” *Myers v. United States, supra,* 272 U.S., at 123, 47 S.Ct., at 27.

C

Bicameralism

The bicameral requirement of Art. I, §§ 1, 7 was of scarcely less concern to the Framers than was the Presidential veto and indeed the two concepts are interdependent. By providing that no law could take effect without the concurrence of the prescribed majority of the Members of both Houses, the Framers reemphasized their belief, already remarked ***949** upon in connection with the Presentment Clauses, that legislation should not be enacted unless it has been carefully and fully considered by the Nation’s elected officials. In the Constitutional Convention debates on the need for a bicameral legislature, James Wilson, later to become a Justice of this Court, commented:

> “Despotism comes on mankind in different shapes. Sometimes in an Executive, sometimes in a military, one. Is there danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself, into distinct and independent branches. In a single house there is no check, but the inadequate one, of the virtue & good sense of those who compose it.” 1 M. Farrand, *supra,* at 254.

Hamilton argued that a Congress comprised of a single House was antithetical to the very purposes of the Constitution. Were the Nation to adopt a Constitution providing for only one legislative organ, he warned:

> “we shall finally accumulate, in a single body, all the most important prerogatives of sovereignty, and thus entail upon our posterity one of the most execrable forms of government that human infatuation ever contrived. Thus we should create in reality that very tyranny which the adversaries of the new Constitution either are, or affect to be, solicitous to avert.” The Federalist No. 22, *supra,* at 135.

This view was rooted in a general skepticism regarding the fallibility of human nature later commented on by Joseph Story:

> “Public bodies, like private persons, are occasionally under the dominion of strong passions and excitements; impatient, irritable, and impetuous.... If [a legislature] ***950** feels no check but its own will, it rarely has the firmness to insist upon holding a question long enough under its own view, to see and mark it in all its bearings and relations to society.” 1 J. Story, *supra,* at 383-384.

These observations are consistent with what many of the Framers expressed, none more cogently than Hamilton in pointing up the need to divide and disperse power in order to protect liberty:

> “In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit.” The Federalist No. 51, *supra,* at 324.

See also The Federalist No. 62.

However familiar, it is useful to recall that apart from their fear that special interests could be favored at the expense of public needs, the Framers were also concerned, although not of one mind, over the apprehensions of the smaller states. Those ****2784** states feared a commonality of interest among the larger states would work to their disadvantage; representatives of the larger states, on the other hand, were skeptical of a legislature that could pass laws favoring a minority of the people. See 1 M. Farrand, *supra,* 176-177, 484-491. It need hardly be repeated here that the Great Compromise, under which one House was viewed as representing the people and the other the states, allayed the fears of both the large and small states.[15]

***951** We see therefore that the Framers were acutely conscious that the bicameral requirement and the Presentment Clauses would serve essential constitutional functions. The President's participation in the legislative process was to protect the Executive Branch from Congress and to protect the whole people from improvident laws. The division of the Congress into two distinctive bodies assures that the legislative power would be exercised only after opportunity for full study and debate in separate settings. The President's unilateral veto power, in turn, was limited by the power of two thirds of both Houses of Congress to overrule a veto thereby precluding final arbitrary action of one person. See 1 M. Farrand, *supra,* at 99-104. It emerges clearly that the prescription for legislative action in Art. I, §§ 1, 7 represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

IV

The Constitution sought to divide the delegated powers of the new federal government into three defined categories, legislative, executive and judicial, to assure, as nearly as possible, that each Branch of government would confine itself to its assigned responsibility. The hydraulic pressure inherent within each of the separate Branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted.

[14] Although not "hermetically" sealed from one another, *Buckley v. Valeo, supra,* 424 U.S., at 121, 96 S.Ct., at 683, the powers delegated to the three Branches are functionally identifiable. When any Branch acts, it is presumptively exercising the power the Constitution has delegated to it. See *Hampton & Co. v. United States,* 276 U.S. 394, 406, 48 S.Ct. 348, 351, 72 L.Ed. 624 (1928). When the Executive acts, it presumptively acts in an executive or administrative capacity as defined in Art. II. And when, as here, ***952** one House of Congress purports to act, it is presumptively acting within its assigned sphere.

[15] [16] Beginning with this presumption, we must nevertheless establish that the challenged action under § 244(c)(2) is of the kind to which the procedural requirements of Art. I, § 7 apply. Not every action taken by either House is subject to the bicameralism and presentment requirements of Art. I. See *post,* at 2786. Whether actions taken by either House are, in law and fact, an exercise of legislative power depends not on their form but upon "whether they contain matter which is properly to be regarded as legislative in its character and effect." S.Rep. No. 1335, 54th Cong., 2d Sess., 8 (1897).

Examination of the action taken here by one House pursuant to § 244(c)(2) reveals that it was essentially legislative in purpose and effect. In purporting to exercise power defined in Art. I, § 8, cl. 4 to "establish an uniform Rule of Naturalization," the House took action that had the purpose and effect of altering the legal rights, duties and relations of persons, including the Attorney General, Executive Branch officials and Chadha, all outside the legislative branch. Section 244(c)(2) purports to authorize one House of Congress to require the Attorney General to deport an individual alien whose deportation otherwise would ****2785** be cancelled under § 244. The one-House veto operated in this case to overrule the Attorney General and mandate Chadha's deportation; absent the House action, Chadha would remain in the United States. Congress has *acted* and its action has altered Chadha's status.

[17] [18] [19] The legislative character of the one-House veto in this case is confirmed by the character of the Congressional action it supplants. Neither the House of Representatives nor the Senate contends that, absent the veto provision in § 244(c)(2), either of them, or both of them acting together, could effectively require the Attorney General to deport an alien once the Attorney General, in the exercise of legislatively ***953** delegated authority,[16] had determined the alien should remain in the United States. Without the challenged provision in § 244(c)(2), this could have been achieved, if at all, only ***954** by legislation requiring deportation.[17] Similarly, a veto by one House of Congress under § 244(c)(2) cannot be justified as an attempt at amending the standards set out in § 244(a)(1), or as a

repeal of § 244 as applied to Chadha. Amendment and repeal of statutes, no less than enactment, must conform with Art. I.[18]

****2786 [20]** The nature of the decision implemented by the one-House veto in this case further manifests its legislative character. After long experience with the clumsy, time consuming private bill procedure, Congress made a deliberate choice to delegate to the Executive Branch, and specifically to the Attorney General, the authority to allow deportable aliens to remain in this country in certain specified circumstances. It is not disputed that this choice to delegate authority is precisely the kind of decision that can be implemented only in accordance with the procedures set out in Art. I. Disagreement with the Attorney General's decision on Chadha's deportation-that is, Congress' decision to deport Chadha-no less than Congress' original choice to delegate to the Attorney General the authority to make that decision, involves determinations of policy that Congress can implement in only one way; bicameral passage followed by presentment to the ***955** President. Congress must abide by its delegation of authority until that delegation is legislatively altered or revoked.[19]

Finally, we see that when the Framers intended to authorize either House of Congress to act alone and outside of its prescribed bicameral legislative role, they narrowly and precisely defined the procedure for such action. There are but four provisions in the Constitution,[20] explicit and unambiguous, by which one House may act alone with the unreviewable force of law, not subject to the President's veto:

(a) The House of Representatives alone was given the power to initiate impeachments. Art. I, § 2, cl. 6;

(b) The Senate alone was given the power to conduct trials following impeachment on charges initiated by the House and to convict following trial. Art. I, § 3, cl. 5;

(c) The Senate alone was given final unreviewable power to approve or to disapprove presidential appointments. Art. II, § 2, cl. 2;

(d) The Senate alone was given unreviewable power to ratify treaties negotiated by the President. Art. II, § 2, cl. 2.

Clearly, when the Draftsmen sought to confer special powers on one House, independent of the other House, or of the President, they did so in explicit, unambiguous terms.[21] ***956** These carefully defined exceptions ****2787** from presentment and bicameralism underscore the difference between the legislative functions of Congress and other unilateral but important and binding one-House acts provided for in the Constitution. These exceptions are narrow, explicit, and separately justified; none of them authorize the action challenged here. On the contrary, they provide further support for the conclusion that Congressional authority is not to be implied and for the conclusion that the veto provided for in § 244(c)(2) is not authorized by the constitutional design of the powers of the Legislative Branch.

Since it is clear that the action by the House under § 244(c)(2) was not within any of the express constitutional exceptions authorizing one House to act alone, and equally ***957** clear that it was an exercise of legislative power, that action was subject to the standards prescribed in Article I.[22] The bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those ***958** checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded. To accomplish what has been attempted by one House of Congress in this case requires action in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President.[23]

****2788** The veto authorized by § 244(c)(2) doubtless has been in many respects a convenient shortcut; the "sharing" with the Executive by Congress of its authority over aliens in this manner is, on its face, an appealing compromise. In purely practical terms, it is obviously easier for action to be taken by one House without submission to the President; but it is crystal ***959** clear from the records of the Convention, contemporaneous writings and debates, that the Framers ranked other values higher than efficiency. The records of the Convention and debates in the States preceding ratification underscore the common desire to define and limit the exercise of the newly created federal powers affecting the states and the people. There is unmistakable expression of a determination that legislation by the national Congress be a step-by-step, deliberate and deliberative process.

The choices we discern as having been made in the Constitutional Convention impose burdens on governmental processes that often seem clumsy, inefficient, even unworkable, but those hard choices were consciously made by

men who had lived under a form of government that permitted arbitrary governmental acts to go unchecked. There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit Constitutional standards may be avoided, either by the Congress or by the President. See *Youngstown Sheet & Tube Co. v. Sawyer,* 343 U.S. 579, 72 S.Ct. 863, 96 L.Ed. 1153 (1952). With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

V

We hold that the Congressional veto provision in § 244(c)(2) is severable from the Act and that it is unconstitutional. Accordingly, the judgment of the Court of Appeals is

Affirmed.

Justice POWELL, concurring in the judgment.

The Court's decision, based on the Presentment Clauses, Art. I, § 7, cls. 2 and 3, apparently will invalidate every use of the legislative veto. The breadth of this holding gives one pause. Congress has included the veto in literally hundreds ***960** of statutes, dating back to the 1930s. Congress clearly views this procedure as essential to controlling the delegation of power to administrative agencies.[1] One reasonably may disagree with Congress' assessment ****2789** of the veto's utility,[2] but the respect due its judgment as a coordinate branch of Government cautions that our holding should be no more extensive than necessary to decide this case. In my view, the case may be decided on a narrower ground. When Congress finds that a particular person does not satisfy the statutory criteria for permanent residence in this country it has assumed a judicial function in violation of the principle of separation of powers. Accordingly, I concur only in the judgment.

I

A

The Framers perceived that "[t]he accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny." The