

confined to the matter of salaries traditionally within the peculiar province of the legislative branch, not impinging upon presidential functions or veto rights, and having no effect upon persons other than those whose salaries are at issue—does not fall within the class of acts that Congress must perform through the affirmative concurrence of both Houses, but rather is properly exercisable by a single House. We reach this decision by virtue of the simple fact that the single House, in voting by a majority to block the otherwise automatic effectiveness of the President's recommendations, is not doing anything for which the Constitution requires the concurrence of both Houses. The single House is certainly not making new law. Plaintiffs seem to think that the House, when it casts its 'veto,' is attempting to make law, which act they define as one that 'repeals, modifies, or amends the law.' However, even accepting that definition for the sake of argument, plaintiffs' view is erroneous, for the one-House veto does not alter the existing law in any fashion, but only preserves the legal status quo. Plaintiff's error is traceable back to the faulty assumption that the President's recommendations themselves are automatically the law, which the single House's action of veto then changes. But, at the most, the Act accords the President's recommendations only the potentiality of becoming law—if neither House objects within 30 days of their announcement—and does not give them the force and effect of law ab initio.

It is important to note that the one-House veto is not, in the context of the present case, a device employed or available for the circumvention of the Constitution's scheme for the enactment of statutes. Further, it neither expands nor contracts the powers of either House of Congress severally. When a single House negatives the President's recommendations, as the Senate did by S. Res. 293, precisely the same result is reached as if one House voted down a proposal for new legislation: there is no change in the law."

Atkins, supra, 556 F.2d at 1062 and 1063 (emphasis supplied). See also, Cooper & Cooper, The Legislative Veto and the Constitution, 30 Geo. Wash. L. Rev. 417, 477 (1962).23 Contra, Watson, Congress Steps Out: A Look At Congressional Control of the Executive, 63 Calif. L. Rev. 983 (1975).