

Claims in Atkins v. United States, 556 F. 2d 1028 (1977). The premises of the Atkins opinion have recently been sweepingly rejected by the Supreme Court of the United States in Immigration & Naturalization Service v. Chadha, supra, at 103 S.Ct. at 2787, n. 22 expressly rejecting the Atkins opinion by stressing the bicameralism and presentation requirements of the federal Constitution and concluding that there is no validity for the proposition that subjecting executive actions to legislative veto is equivalent to permitting one house of Congress to defeat proposed legislation. Thus one of the principal legal arguments underlying the 1978 Opinion has been eliminated.

Finally, the discussion of the validity under Maryland law of the legislative veto provision contained in the 1978 Opinion made no reference to any pertinent history of state constitutional provisions shedding light on the issue. It seems apparent to me that the provisions of Article II, Section 24 of the State Constitution relating to reorganization plans, dramatically illustrates that the prior construction of the Constitution of this State has proceeded on the premise that when it was desired to provide a so-called legislative veto it was necessary to provide for such legislative veto not by statute but by constitutional amendment.

The provisions of Article III, Section 5 of the Constitution relating to legislative reapportionment similarly deny to the General Assembly the power to make piecemeal modifications of the reapportionment plan authorized to be submitted to the Governor, i.e., the General Assembly's authority is limited by the Constitution to a power to supplant the gubernatorial plan by a plan of its own by law.

Considerations that have led the United States Supreme Court and the Courts and Attorneys General of other states to invalidate provisions for legislative or committee veto similar to those contained in the present bill are fully applicable to our constitutional scheme. Article III, Section 1 of our Constitution expressly provides "the Legislature shall consist of two distinct branches; a Senate and a House of Delegates." The provisions of Article VIII of the Declaration of Rights expressly declare "that the legislative, executive and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other." This provision has been construed to invalidate a statute which would have granted to the Governor the power to add to the classified service such offices and places of employment not included therein as he might think advisable upon the basis that this constituted an attempt to transfer to the Governor a power of repeal vested only in the General Assembly. Ahlgren v. Cromwell, 179 Md. 243 (1941). Those provisions in House Bill 1255 that would allow the General Assembly discretionary power on policy or legal grounds to set aside executive acts without legislation are similarly incompatible with the Constitution.