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United States Senate
 COMMITTEE ON APPROPRIATIONS
 WASHINGTON, DC 20510-8025

October 3, 1991

The Honorable Joe Biden
 Chairman
 Committee on the Judiciary
 Suite 224, Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Joe:

I would appreciate your submitting the following two questions to Justice Clarence Thomas on my behalf:

1. Do you believe that a Presidential line-item veto is constitutional? Please elaborate as much as possible.
2. If you believe that a line item veto is constitutional, please Cite the authority under which you conclude that it is.

If at all possible, I would like to have a response by Monday, October 7, 1991.

Sincerely,



Robert C. Byrd

RCB:chw

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON D.C. 20001

CLARENCE THOMAS
UNITED STATES CIRCUIT JUDGE

October 7, 1991

The Honorable Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510-6275

Dear Chairman Biden:

You have asked that I respond to the questions of Senator Byrd concerning my views, if any, as to the constitutionality of a line-item veto. As I understand them, the questions assume a set of circumstances where the Congress has not acted to give the President a line-item veto.

I have not examined the question whether as a matter of constitutional law the President has inherent line-item veto authority. I will say, however, that I know of no historical examples of the exercise of such authority by a President. Let me reemphasize, however, that I have not had occasion to examine the issue.

Sincerely yours,

Clarence Thomas
Clarence Thomas gsk