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Article 1, Section 9, Clause 7

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

APPROPRIATIONS

The restriction on drawing money from the Treasury “was intended as a restriction upon the disbursing authority of the Executive department,” and “means simply that no money can be paid out of the Treasury unless it has been appropriated by an act of Congress.”²⁰⁰⁴ Congress may recognize and pay a claim of an equitable, moral, or honorary nature. When it directs a specific sum to be paid to a certain person, neither the Secretary of the Treasury nor any court has discretion to determine whether the person is entitled to receive it.²⁰⁰⁵ In making appropriations to pay claims arising out of the Civil War, Congress could, the Court held, provide that certain persons, i.e., those who had participated in the rebellion, should not be paid out of the funds made available by the general appropriation, but that such persons should seek relief from Congress.²⁰⁰⁶

The Court has also recognized that Congress has wide discretion with regard to the extent to which it may prescribe details of expenditures for which it appropriates funds, and has approved the frequent practice of making “lump sum” appropriations, i.e., general appropriations of large amounts to be allotted and expended as directed by designated government agencies. As an example, the Court cited the act of June 17, 1902,²⁰⁰⁷ “where all moneys received from the sale and disposal of public lands in a large number of states and territories [were] set aside as a special fund to be expended for the reclamation of arid and semi-arid lands within those states and territories,” and “[t]he expenditures [were] to be made under the direction of the Secretary of the Interior upon such projects as he determined to be practicable and advisable.” The Court declared: “The constitutionality of this delegation of authority has never been seriously questioned.”²⁰⁰⁸

PAYMENT OF CLAIMS

No officer of the Federal Government is authorized to pay a debt due from the United States, whether reduced to judgment or not, without an appropriation for that purpose.²⁰⁰⁹ Nor may a government employee, by erroneous advice to a claimant, bind the United States through equitable estoppel principles to pay a claim for which an appropriation has not been made.²⁰¹⁰

After the Civil War, a number of controversies arose out of attempts by Congress to restrict the payment of the claims of persons who had aided the Rebellion but had thereafter received a pardon from the President. The Supreme Court held that Congress could not prescribe the evidentiary effect of a pardon in a proceeding in the Court of Claims for property confiscated during the Civil War,²⁰¹¹ but that where the confiscated property had been sold and the proceeds paid into the Treasury, a pardon did not of its own force authorize the restoration of such proceeds.²⁰¹² It was within the competence of Congress to declare that the amount due to persons thus pardoned should not be paid out of the Treasury and that no general appropriation should extend to their claims.²⁰¹³



TROL in American Govt: Constitutional or Border Crisis?

Footnotes

2004

Cincinnati Soap Co. v. United States, [301 U.S. 308](#), 321 (1937); Knot v. United States, [95 U.S. 149](#), 154 (1877).

2005

United States v. Price, [116 U.S. 43](#) (1885); United States v. Realty Co., [163 U.S.427](#), 439 (1896); Allen v. Smith, [173 U.S. 389](#), 393 (1899).

2006

Hart v. United States, [118 U.S. 62](#), 67 (1886).

2007

[32 Stat. 388](#) (1902).

2008

Cincinnati Soap Co. v. United States, [301 U.S. 308](#), 322 (1937).

2009

Reeside v. Walker, [52 U.S. \(11 How.\) 272](#) (1851).

2010

OPM v. Richmond, [496 U.S. 414](#) (1990).

2011

United States v. Klein, [80 U.S. \(13 Wall.\) 128](#) (1872).

2012

Knot v. United States, [95 U.S. 149](#), 154 (1877); Austin v. United States, [155 U.S. 417](#), 427 (1894).

2013

Hart v. United States, [118 U.S. 62](#), 67 (1886).

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