AMERICAN CONSTITUTIONALISM
VOLUME I: STRUCTURES OF GOVERNMENT
Howard Gillman • Mark A. Graber • Keith E. Whittington

Supplementary Material

Chapter 10: The Reagan Era – Separation of Powers

Lincoln v. Vigil, 508 U.S. 182 (1993)

For several years, the Indian Health Service, an agency within the Department of Health and Human Services, administered the Indian Children's Program for handicapped Native American children in the southwestern states. The Service received an annual lump-sum appropriation from Congress to fund all of its activities, but Congress had never specifically authorized or mandated the Indian Children's Program. In 1985, the Service ended that program and reallocated the resources to a similar, national program. When the regional program was discontinued, some of its beneficiaries sought an injunction in federal district court blocking the direct funding of local clinical services in Albuquerque and surrounding areas. The district court held that the agency decision was subject to judicial review under the Administrative Procedure Act (APA) and ordered that the program be reinstated. The Court of Appeals affirmed that decision, but the U.S. Supreme Court unanimously reversed.

Of interest is the Court's examination of whether such agency decisions are subject to judicial review under the APA. The APA authorizes judicial review of decisions by executive-branch agencies, but the Court has concluded that some decisions are specifically tasked to the discretion of agencies and not subject to judicial scrutiny. In this case, the Court extended that deference to the spending decisions of agencies of lump-sum appropriations.

What justifies judicial deference to agencies on spending decisions? Why are decisions on how to spend funds particularly discretionary? Under what circumstances can the courts review and reverse spending decisions? What is the understanding of the relationship between the legislature, the executive, and the judiciary implicit in the decision?

JUSTICE SOUTER delivered the opinion of the Court.

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Over the years, we have read [the APA] to preclude judicial review of certain categories of administrative decisions that courts traditionally have regarded as "committed to agency discretion." . . . In *Heckler v. Chaney* (1985) itself, we held an agency's decision not to institute enforcement proceedings to be presumptively unreviewable . . . .

The allocation of funds from a lump-sum appropriation is another administrative decision traditionally regarded as committed to agency discretion. After all, the very point of a lump-sum appropriation is to give an agency the capacity to adapt to changing circumstances and meet its statutory responsibilities in what it sees as the most effective or desirable way. . . .

Like the decision against instituting enforcement proceedings, then, an agency's allocation of funds from a lump-sum appropriation requires "a complicated balancing of a number of factors which are peculiarly within its expertise": whether its "resources are best spent" on one program or another; whether it "is likely to succeed" in fulfilling its statutory mandate; whether a particular program "best fits the agency's overall policies"; and, "indeed, whether the agency has enough resources" to fund a program "at all." *Heckler* . . . . Of course, an agency is not free simply to disregard statutory responsibilities: Congress may always circumscribe agency discretion to allocate resources by putting restrictions in the operative statutes. . . . And, of course, we hardly need to note that an agency's decision to ignore

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congressional expectations may expose it to grave political consequences. But as long as the agency allocates funds from a lump-sum appropriation to meet permissible statutory objectives, [the APA] gives the courts no leave to intrude. . . .

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The judgment of the Court of Appeals is *reversed* . . . .

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