Supplementary Material

Chapter 6: Secession, Civil War, and Reconstruction—Separation of Powers

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United States v. Klein, 80 U.S. 128 (1872)

During the Civil War, V. F. Wilson guaranteed the debts of some Confederate officers. He subsequently died, and his cotton crops were seized by the U.S. government as abandoned property of a disloyal person in accord with an 1863 federal statute. The crops were sold and the proceeds were deposited in the U.S. Treasury. John Klein was the administrator of Wilson's estate and filed suit in 1865 in the Court of Claims to recover the assets. Klein argued that Wilson had accepted a pardon for any disloyal acts from President Abraham Lincoln in 1864 and swore an oath of allegiance. Lincoln had issued a general proclamation offering a pardon that would restore all confiscated property (except slaves) in exchange for the oath. The court found in Klein's favor in 1869 and awarded the estate just over $125,000. In 1870, Congress included a proviso in an appropriations bill that declared that no pardon could henceforth be accepted in any federal court in a suit to recover property from the U.S. government (nor could it sustain an appeal) and that the acceptance of a pardon should be taken as evidence of disloyalty justifying any confiscation. The government appealed to the U.S. Supreme Court, arguing that the 1870 act rendered the decision of the Court of Claims incorrect as a matter of law.

The U.S. Supreme Court affirmed the lower court in a 7–2 decision. To determine whether Wilson's estate was entitled to the funds, the Court needed to decide whether the 1870 statute was valid and the effect of the pardon on the status of Wilson's property. All the justices agreed that Congress could not direct the courts how to decide these property cases and could not nullify the presidential pardon, but the dissenters thought the pardon did not affect the disposition of the property in this case. In doing so, the Court reaffirmed that Congress could not undermine the president's pardoning power.

Would the act still have been held invalid if Congress had not purported to direct how the courts were to resolve these types of cases? Could a pardon have affected property that had already been confiscated and sold? Could Congress have barred the Supreme Court from hearing any appeals from the Court of Claims? Could Congress have barred the Supreme Court from hearing any appeals by the claimant *from the Court of Claims? Could Congress declare that any pardoned individuals convicted of a new felony crime will receive an automatic life sentence?*

CHIEF JUSTICE CHASE delivered the opinion of the Court.

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We conclude . . . that the title to the proceeds of the property which came to the possession of the government by capture or abandonment . . . was in no case divested out of the original owner. It was for the government itself to determine whether these proceeds should be restored to the owner or not. The promise of the restoration of all rights of property decides that question affirmatively as to all persons who availed themselves of the proffered pardon. It was competent for the President to annex to his offer of pardon any conditions or qualifications he should see fit; but after those conditions and qualifications had been satisfied, the pardon and its connected promises took full effect. The restoration of the proceeds became the absolute right of the persons pardoned, on application within two years from the close of the

war. It was, in fact, promised for an equivalent. "Pardon and restoration of political rights" were "in return" for the oath and its fulfillment. To refuse it would be a breach of faith not less "cruel and astounding" than to abandon the freed people whom the Executive had promised to maintain in their freedom.

What, then, was the effect of the provision of the act of 1870 upon the right of the owner of the cotton in this case? He had done certain acts which this court has adjudged to be acts in aid of the rebellion; but he abandoned the cotton to the agent of the Treasury Department, by whom it has been sold and the proceeds paid into the Treasury of the United States; and he took, and has not violated, the amnesty oath under the President's proclamation. . . .

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Soon afterwards the provision in question was introduced as a proviso to the clause in the general appropriation bill, appropriating a sum of money for the payment of judgments of the Court of Claims, and became a part of the act, with perhaps little consideration in either House of Congress.

This proviso declares in substance that no pardon, acceptance, oath, or other act performed in pursuance, or as a condition of pardon, shall be admissible in evidence in support of any claim against the United States in the Court of Claims, or to establish the right of any claimant to bring suit in that court. . . .

The substance of this enactment is that an acceptance of a pardon, without disclaimer, shall be conclusive evidence of the acts pardoned, but shall be null and void as evidence of the rights conferred by it, both in the Court of Claims and in this court on appeal.

It was urged in argument that the right to sue the government in the Court of Claims is a matter of favor; but this seems not entirely accurate. It is as much the duty of the government as of individuals to fulfill its obligations. . . .

The Court of Claims is . . . constituted one of those inferior courts which Congress authorizes, and has jurisdiction of contracts between the government and the citizen, from which appeal regularly lies to this court.

Undoubtedly the legislature has complete control over the organization and existence of that court and may confer or withhold the right of appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient.

But the language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great and controlling purpose is to deny to pardons granted by the President the effect which this court had adjudged them to have. The proviso declares that pardons shall not be considered by this court on appeal. We had already decided that it was our duty to consider them and give them effect, in cases like the present, as equivalent to proof of loyalty. It provides that whenever it shall appear that any judgment of the Court of Claims shall have been founded on such pardons, without other proof of loyalty, the Supreme Court shall have no further jurisdiction of the case and shall dismiss the same for want of jurisdiction. . . .

It is evident from this statement that the denial of jurisdiction to this court, as well as to the Court of Claims, is founded solely on the application of a rule of decision, in causes pending, prescribed by Congress. The court has jurisdiction of the cause to a given point; but when it ascertains that a certain state of things exists, its jurisdiction is to cease and it is required to dismiss the cause for want of jurisdiction.

It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power.

The court is required to ascertain the existence of certain facts and thereupon to declare that its jurisdiction on appeal has ceased, by dismissing the bill. What is this but to prescribe a rule for the

decision of a cause in a particular way? In the case before us, the Court of Claims has rendered judgment for the claimant and an appeal has been taken to this court. We are directed to dismiss the appeal, if we find that the judgment must be affirmed, because of a pardon granted to the intestate of the claimants. Can we do so without allowing one party to the controversy to decide it in its own favor? Can we do so without allowing that the legislature may prescribe rules of decision to the Judicial Department of the government in cases pending before it?

We think not. . . . In the case before us no new circumstances have been created by legislation. But the court is forbidden to give the effect to evidence which, in its own judgment, such evidence should have, and is directed to give it an effect precisely contrary.

We must think that Congress has inadvertently passed the limit which separates the legislative from the judicial power.

It is of vital importance that these powers be kept distinct. The Constitution provides that the judicial power of the United States shall be vested in one Supreme Court and such inferior courts as the Congress shall from time to time ordain and establish. The same instrument, in the last clause of the same article, provides that in all cases other than those of original jurisdiction, "the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make."

Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the court must deny to itself the jurisdiction thus conferred, because and only because its decision, in accordance with settled law, must be adverse to the government and favorable to the suitor? This question seems to us to answer itself.

The rule prescribed is also liable to just exception as impairing the effect of a pardon, and thus infringing the constitutional power of the Executive.

It is the intention of the Constitution that each of the great co-ordinate departments of the government—the Legislative, the Executive, and the Judicial—shall be, in its sphere, independent of the others. To the executive alone is entrusted the power of pardon; and it is granted without limit. Pardon includes amnesty. It blots out the offence pardoned and removes all its penal consequences. It may be granted on conditions. In these particular pardons, that no doubt might exist as to their character, restoration of property was expressly pledged, and the pardon was granted on condition that the person who availed himself of it should take and keep a prescribed oath.

Now it is clear that the legislature cannot change the effect of such a pardon any more than the executive can change a law. Yet this is attempted by the provision under consideration. . . .

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We repeat that it is impossible to believe that this provision was not inserted in the appropriation bill through inadvertence; and that we shall not best fulfill the deliberate will of the legislature by *denying* the motion to dismiss and *affirming* the judgment of the Court of Claims. . . .

JUSTICE MILLER, with whom JUSTICE BRADLEY joined, dissenting.

I cannot agree to the opinion of the court just delivered in an important matter; and I regret this the more because I do agree to the proposition that the proviso to the act of July 12th, 1870, is unconstitutional, so far as it attempts to prescribe to the judiciary the effect to be given to an act of pardon or amnesty by the President. This power of pardon is confided to the President by the Constitution, and whatever may be its extent or its limits, the legislative branch of the government cannot impair its force or effect in a judicial proceeding in a constitutional court. But I have not been able to bring my mind to concur in the proposition that, under the act concerning captured and abandoned property, there remains in the former owner, who had given aid and comfort to the rebellion, any interest whatever in the

property or its proceeds when it had been sold and paid into the treasury or had been converted to the use of the public under that act. I must construe this act, as all others should be construed, by seeking the intention of its framers, and the intention to restore the proceeds of such property to the loyal citizen, and to transfer it absolutely to the government in the case of those who had given active support to the rebellion, is to me too apparent to be disregarded. . . . Can it be inferred from anything found in the statute that Congress intended that this property should ever be restored to the disloyal? . . .