

THE LEGAL DEBATE ABOUT THE FEDERAL COVID-19 STIMULUS PACKAGE

PRE-LAW SOCIETY AT VCU

The United States Constitution gives Congress the authority to provide funding for the general welfare. Congress has the power to respond to public health emergencies but delegates much of this emergency power to the executive branch. The President receives administrative and monetary distribution directions from Congress during times of crisis, which includes the Covid-19 pandemic. The Constitution requires Congress to pass an appropriation, or law, in order to use money for emergencies.

"THERE IS AN ONGOING DEBATE ABOUT WHETHER OR NOT STIMULUS CHECKS SHOULD BE PASSED, BUT THE LEGAL DEBATE DISCUSSES WHO HAS THE AUTHORITY TO PASS THE STIMULUS PACKAGES."

The Constitution gives Congress the power to control federal spending, but historically Congress has granted the executive branch authority to spend federal funds during times of war or national emergency.



President Trump signed four executive orders to provide economic relief to Americans when he was unable to come to an agreement with Congress on a relief bill. The executive branch was controlling federal spending even though this is a power given to the legislative branch by the Constitution.

"THE EXECUTIVE BRANCH SPENDING FUNDS WITH CONGRESS' APPROVAL IS TYPICALLY FINE DURING WARS OR NATIONAL EMERGENCIES, BUT TAKING ACTION WITHOUT CONGRESS' APPROVAL STIRRED UP SOME LEGAL DEBATE ABOUT WHETHER THE PRESIDENT HAD THE AUTHORITY TO PASS THESE EXECUTIVE ORDERS."

If this debate was taken to court, it would have been interesting to see how it played out. One could argue that the President did have this authority because in the past, Congress has given leeway to the President in times of emergency to spend federal funds. A global pandemic is an occurrence the Framers most likely did not have in mind when writing the Constitution, so looking at the law for a specific answer to this question is arguably not the way to proceed.

On the other hand, the executive branch is not given the power to spend federal funds in the Constitution, Congress is, so the President needs approval before spending money. Additionally, any time the executive did use federal spending power granted to them by Congress in times of war or emergencies in United States history, a bill was passed by Congress first - which did not occur in this instance.

Three stimulus packages have been passed by Congress and the President in response to the pandemic. With Congress' approval, the President spending federal funds will not likely be questioned. But, it is debated upon whether the President has the power to do so without Congress' approval.

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