

Sec. 2—Powers, Duties of the President**Cl. 1—Commander-In-Chiefship**

sumed to have been rightfully done and justly suffered, and no satisfaction for it can be required. Neither does the pardon affect any rights which have vested in others directly by the execution of the judgment for the offence, or which have been acquired by others whilst that judgment was in force. If, for example, by the judgment a sale of the offender's property has been had, the purchaser will hold the property notwithstanding the subsequent pardon. And if the proceeds of the sale have been paid to a party to whom the law has assigned them, they cannot be subsequently reached and recovered by the offender. The rights of the parties have become vested, and are as complete as if they were acquired in any other legal way. So, also, if the proceeds have been paid into the treasury, the right to them has so far become vested in the United States that they can only be secured to the former owner of the property through an act of Congress. Moneys once in the treasury can only be withdrawn by an appropriation by law."²⁷⁴

Congress and Amnesty

Congress cannot limit the effects of a presidential amnesty. Thus the act of July 12, 1870, making proof of loyalty necessary to recover property abandoned and sold by the government during the Civil War, notwithstanding any executive proclamation, pardon, amnesty, or other act of condonation or oblivion, was pronounced void. Chief Justice Chase wrote for the majority: "[T]he 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. The Court is required to receive special pardons as evidence of guilt and to treat them as null and void. It is required to disregard pardons granted by proclamation on condition, though the condition has been fulfilled, and to deny them their legal effect. This certainly impairs the executive authority and directs the Court to be instrumental to that end."²⁷⁵ On the other hand, Congress itself, under the Necessary and Proper Clause, may enact amnesty laws remitting penalties incurred under the national statutes.²⁷⁶

Clause 2. He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the su-

²⁷⁴ *Knote v. United States*, 95 U.S. 149, 153–54 (1877).

²⁷⁵ *United States v. Klein*, 80 U.S. (13 Wall.) 128, 143, 148 (1872).

²⁷⁶ *The Laura*, 114 U.S. 411 (1885).