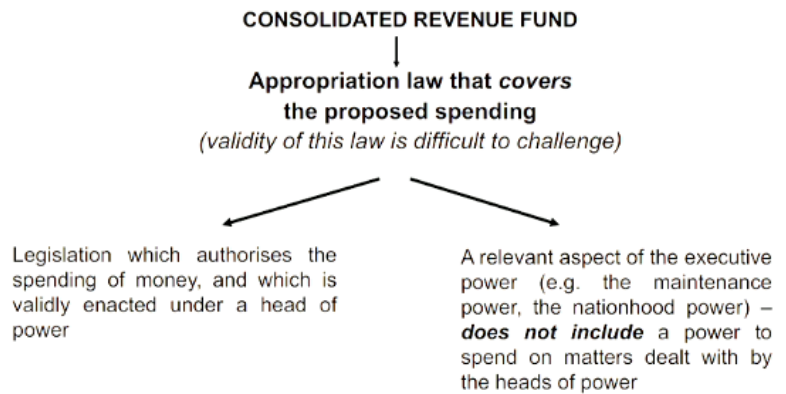


Spending Power

- **S 81:** All revenues raised/received by Executive... shall form on Consolidated Revenue Fund, to be appropriated *for the purposes of the Cth* in the manner and subject to charges & liabilities imposed by this Constitution.
- **S 83:** No money shall be drawn from the Treasury... except under appropriation made by law.



Step 1: Is expenditure covered by Appropriation Act?

- The Executive's desired expenditure on [cause] must fall under an Appropriation Act. (**s 83**)
⇒ **Appropriation:** Earmarking & separating money from the **s 81 Consolidated Revenue Fund**.
- "For the purposes of the Cth" (**s 81**) are not words of limitation – extends to purposes which may be lawfully determined by Parliament, or by due exercise of the prerogative. (**AAP**)
- **Non-justiciable:** Unlikely that appropriations are challengeable. (*Hayne & Kiefel JJ, Pape in obiter*)

Step 2: Power to Spend

- Neither **s 81** or **83** expressly authorize the Cth to spend the appropriated money. [P] may challenge [LAW/SPENDING] on basis it has not been made with regard to a valid Cth HoP. (French CJ, **Pape**)

When does Cth Executive have power to spend?

1. Where authorized under a valid HoP by the legislature. (**Williams No 1; Williams No 2**)
2. If authorized by under the Executive's nationhood power under **s 61 (Pape)**

Statutory Authorization of Spending

Though [Authorization Act] covers [SPENDING], it must nevertheless be authorized through statute (**Williams No 1**), under a valid HoP. (**Williams No 2**)

Legislation Authorizing Spending? (**Williams No 1**)

- Cannot use Executive power to spend money on *anything/in same way as every other legal persons*
 - Cannot use Executive power to spend money on *anything authorized by HoP* (without statute)
- Basis**
- *Hayne J:* Would render S 96 redundant (requires Cth funding to pass through states & state consent)
 - *Crennan J:* Senate does not review AAs, but would review legislation authorizing spending.

Williams No 1: Cth agreement to fund chaplaincy programs in schools.