

## Chapter 6—Development of Congressional Powers

### I. Constitutional powers

#### A. Constitutional Provisions

1. Article I, Section 8 Clauses 1-18—Expressed Powers (Enumerated powers)
2. Clause 18—Necessary & Proper Clause (Elastic Clause)—implies that Congress has powers beyond those listed in the 1<sup>st</sup> 17 clauses.
  - a. Strict Construction v. Loose Construction—Ex: Creation of 2<sup>nd</sup> Bank of the United States (1816)
3. Denied Powers of Congress:
  - a. Congress may not suspend the writ of habeas corpus—a court order to release a person accused of a crime to determine whether he/she has been illegally detained.
  - b. Congress may not pass bills of attainder—laws that establish guilt & punish people without allowing them a trial.
  - c. Congress may not pass ex post facto laws—laws that make crimes of acts that were legal when they were committed
  - d. Congress may not tax exports.

#### B. Legislative Powers

##### 1. The Power to Tax & Spend:

- a. Allows Congress to influence national policy because no government agency can spend money without congressional authorization
- b. Revenue Bills—laws for raising money—start in the House & then go to the Senate
- c. Appropriation Bills—proposed laws to authorize spending—are requests from the executive branch
- d. Uses it to expand its powers to regulate spending:
  1. Congress often requires that local officials follow federal regulations as a condition of receiving federal money.
  2. Congress can also levy taxes to encourage or discourage use of a product. Ex: Heavy tax on cigarettes or tax breaks to farmers who use corn to make ethanol
- e. to regulate the economy.
  1. Cutting individual income tax—may encourage more spending

##### 2. Other Money Powers

- a. Congress can borrow money:
  1. by selling bonds—Most common way
- b. Congress has the power to coin money & regulate its value
- c. Congress can make laws on bankruptcy

##### 3. The Commerce Power (Article I, Section 8, Clause 3)

- a. It authorizes Congress to regulate foreign trade & interstate trade

# Guided Activity Constitutional Powers Answers

**Keen J. Babbage**

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