

## 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

**Brendan G. Carr**

A red circular graphic with a gradient, appearing as a semi-circle or a partial circle, located to the right of the author's name.

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