

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 1st 17 clauses.
 - a. Strict Construction v. Loose Construction—Ex: Creation of 2nd 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

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Table of Contents Guided Activity Constitutional Powers Answers

1. Understanding the eBook Guided Activity Constitutional Powers Answers
 - The Rise of Digital Reading Guided Activity Constitutional Powers Answers
 - Advantages of eBooks Over Traditional Books
2. Identifying Guided Activity Constitutional Powers Answers
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Guided Activity Constitutional Powers Answers
 - User-Friendly Interface
4. Exploring eBook Recommendations from Guided Activity Constitutional Powers Answers
 - Personalized Recommendations
 - Guided Activity Constitutional Powers Answers User Reviews and Ratings
 - Guided Activity Constitutional Powers Answers and Bestseller Lists

5. Accessing Guided Activity Constitutional Powers Answers Free and Paid eBooks
 - Guided Activity Constitutional Powers Answers Public Domain eBooks
 - Guided Activity Constitutional Powers Answers eBook Subscription Services
 - Guided Activity Constitutional Powers Answers Budget-Friendly Options
6. Navigating Guided Activity Constitutional Powers Answers eBook Formats
 - ePub, PDF, MOBI, and More
 - Guided Activity Constitutional Powers Answers Compatibility with Devices
 - Guided Activity Constitutional Powers Answers Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Guided Activity Constitutional Powers Answers
 - Highlighting and Note-Taking Guided Activity Constitutional Powers Answers
 - Interactive Elements Guided Activity Constitutional Powers Answers
8. Staying Engaged with Guided Activity Constitutional Powers Answers
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Guided Activity Constitutional Powers Answers
9. Balancing eBooks and Physical Books Guided Activity Constitutional Powers Answers
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Guided Activity Constitutional Powers Answers
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Guided Activity Constitutional Powers Answers
 - Setting Reading Goals Guided Activity Constitutional Powers Answers
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Guided Activity Constitutional Powers Answers
 - Fact-Checking eBook Content of Guided Activity Constitutional Powers Answers
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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