

Chapter 6

Development of Congressional Powers

★ Why It's Important

Influencing Congress Congressional staffs read hundreds of letters from constituents every day. These letters help give direction to decisions Congress makes in exercising its powers. In this chapter you will learn what those powers are and, in addition to writing letters, how you can affect those decisions.



Find out more about how Congress impacts your life by viewing the *Democracy in Action* Chapter 6 video lesson:

The Powers of Congress



GOVERNMENT

Online



Chapter Overview Visit the *United States Government: Democracy in Action* Web site at gov.glencoe.com and click on **Chapter 6—Overview** to preview chapter information.

Constitutional Powers

Reader's Guide

Key Terms

expressed powers, necessary and proper clause, implied powers, revenue bill, appropriations bill, interstate commerce, impeachment

Find Out

- Why are the money powers granted to Congress by the Founders so important?
- How has the commerce clause enabled Congress to apply a loose interpretation to the Constitution?

Understanding Concepts

Constitutional Interpretations On what types of issues did the Founders restrict congressional actions with the addition of the Bill of Rights?

COVER STORY

Force Approved

WASHINGTON, D.C., JANUARY 1991


The House and Senate averted a potential constitutional crisis over the war powers of the president and Congress today. The House and Senate each adopted resolutions authorizing President Bush to use military force against Iraq, while defeating alternative resolutions that called for a delay. Like previous presidents, Bush has refused to acknowledge Congress's ability to limit his actions as commander in chief. In recent weeks, however, he has lobbied to gain congressional support in his confrontation with Iraq.



Tank from Persian Gulf War


Can a president initiate military action without a declaration of war? The Constitution is silent or unclear on many questions concerning the powers of Congress and the president. Nearly half of the text of the Constitution is contained in Article I—an indication that the Framers intended for Congress to play the central role in governing the nation. The specific nature of that role has developed and changed over time.

Constitutional Provisions

 The Constitution describes the legislative powers of Congress in Article I, Section 8, Clauses 1-18.¹ These **expressed powers** of Congress are sometimes called the **enumerated powers**. The last clause (18) of Section 8 gives Congress power to do whatever is “necessary and proper” to carry out its other powers. This **necessary and proper clause** implies that Congress has powers beyond those expressed in the first 17 clauses. Because these **implied powers** have allowed Congress to expand its role to meet the needs of a growing nation, the “necessary and proper clause” has often been called the **elastic clause**.

Conflicting Interpretations Because of the far-reaching implications of the expanding power of Congress, the Supreme Court has often been the site of conflict over what is “necessary and proper” legislation. The first major conflict was between those who believed in a “strict construction,” or interpretation, of the Constitution and those who believed in a “loose construction.”

When Congress created the Second Bank of the United States in 1816, loose constructionists

 See the following footnoted materials in the Reference Handbook:

1. *The Constitution*, pages 774–799.

and strict constructionists engaged in debates. Strict constructionists, who believed that Congress did not have the power to charter such a bank, supported the state of Maryland when it placed a tax on the notes of the federal bank. James McCulloch, a teller at the Second Bank's branch in Baltimore, issued notes on which the tax had not been paid. Maryland filed suit against McCulloch. When Maryland won the suit in its own courts, the United States appealed. The Supreme Court reversed the decision, supporting the loose constructionists. Writing the majority opinion, Chief Justice John Marshall interpreted the necessary and proper clause:


“The result of the most careful and attentive consideration bestowed upon this clause is, that if it does not enlarge, it cannot be construed to restrain the powers of Congress or to impair the right of the legislature to exercise its best judgment in the selection of measures to carry into execution the constitutional powers of the government.”

—John Marshall

Powers Denied The powers of Congress, like those of the other branches of the national government, are limited. One important constitutional limit on congressional power is the Bill of Rights.

In addition, Article I, Section 9, denies certain powers to Congress. Congress may not suspend the **writ of habeas corpus**, a court order to release a person accused of a crime to court to determine whether he or she has been legally detained. Another important limitation denies Congress the authority to pass **bills of attainder**, laws that establish guilt and punish people without allowing them a trial. Congress is also prohibited from passing **ex post facto laws**, laws that make crimes of acts that were legal when they were committed. Article I, Section 9, also denies several other powers to Congress, among them the power to tax exports.

Legislative Powers

 Congress has both legislative and nonlegislative powers. Nonlegislative powers include the power to confirm or deny presidential appointments. Congress has expanded the domain of its legislative powers—the power to pass laws—as the nation has grown. The most significant expansion of congressional legislative power is in its control over the economy—taxing, spending, and regulating commerce.

The Taxing and Spending Power Sometimes called “the power of the purse,” the power to levy taxes and provide for the general welfare of the United States is among the most important powers of Congress. It allows Congress to influence national policy in many areas because no government agency can spend money without congressional authorization. Congress may use taxes for many purposes. For example, taxes on narcotics are meant to protect public health.

Article I, Section 7, says “All Bills for raising Revenue shall originate in the House of Representatives.” **Revenue bills**, laws for raising money, start in the House and then go to the Senate. This provision was adopted at the Constitutional Convention because the more populous states, such as Virginia and Pennsylvania, insisted on having a greater voice in tax policy than the smaller states. Because representation in the House was to be based on population, the Founders agreed that

Power of the Purse



Government Borrowing Pictured above are a modern United States savings bond and a banknote issued by the First Bank of the United States. **Why do you think the Founders specified that all revenue bills should originate in the House?**

The Powers of Congress

Selected Expressed Powers

MONEY POWERS

- Lay and collect taxes to provide for the defense and general welfare of the United States (Clause 1);
- Borrow money (Clause 2);
- Establish bankruptcy laws (Clause 4);
- Coin, print, and regulate money (Clause 5);
- Punish counterfeiters of American currency (Clause 6)

Selected Implied Powers

Lay and collect taxes

IMPLIES the power to support public schools, welfare programs, public housing, etc.

Borrow money

IMPLIES the power to maintain the Federal Reserve Board.

COMMERCE POWERS

- Regulate foreign and interstate commerce (Clause 3)

Regulate commerce

IMPLIES the power to prohibit discrimination in restaurants, hotels, and other public accommodations.

MILITARY AND FOREIGN POLICY POWERS

- Declare war (Clause 11);
- Raise, support, and regulate an army and navy (Clauses 12, 13, and 14);
- Provide, regulate, and call into service a Militia, known as the National Guard (Clauses 15 & 16);
- Punish acts committed on international waters and against the laws of nations (Clause 10)

Raise and support army

IMPLIES the right to draft people into the armed services.

OTHER LEGISLATIVE POWERS

- Establish laws of naturalization (Clause 4);
- Establish post offices and post roads (Clause 7);
- Grant copyrights and patents (Clause 8);
- Create lower federal courts (Clause 9);
- Govern Washington, D.C. (Clause 17);
- Provide for laws necessary and proper for carrying out all other listed powers (Clause 18)

Establish laws of naturalization

IMPLIES the power to limit the number of immigrants to the United States.

Critical Thinking The powers, structure, and procedures of Congress are defined in detail in the Constitution, whereas the duties of the president and the Supreme Court are not. *How has Congress used the commerce clause to prevent discrimination in restaurants, hotels, and other public accommodations?*

any revenue bills introduced in Congress would originate there.

The legislative process for **appropriations bills**—proposed laws to authorize spending money—is not spelled out in the Constitution. It has developed through usage. Article I, Section 9, merely requires that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” Spending requests generally come from the executive branch. Today, most are presented to Congress in the president’s annual budget proposal.

Over the years Congress has used its taxing and spending authority to expand its regulatory powers. For example, when Congress authorizes money for state or local governments, it frequently requires that local officials follow specific federal regulations as a condition of the grant. Moreover, by levying heavy taxes on products such as tobacco that it considers undesirable, Congress may discourage their use.

Congress also uses its money powers to regulate the economy. For example, cutting individual income taxes to stimulate the economy gives taxpayers more money to spend. Conversely, Congress may try to slow economic growth by increasing taxes, leaving taxpayers with smaller paychecks.

Other Money Powers In addition to levying taxes and authorizing that money be spent, Article I allows Congress to borrow to help pay for the cost of government. Congress does this in various ways. The most common method is by authorizing the sale of government securities—bonds or notes. When people buy savings bonds, Treasury bills, or Treasury notes, they are lending the government money. In return, the government promises to repay buyers with interest at the end of a specified period of time—3 months to 30 years, depending on the type of security.

Because it must borrow money to meet its operating expenses, the government has a **national debt**—the total amount of money the government owes at any given time. This debt, almost \$1 trillion in 1980 and about \$3.2 trillion in 1990, reached almost \$6 trillion in 2000. Although the Constitution does not restrict government borrowing, since 1917 Congress has attempted to set an annual limit on the national debt. In recent years, however, it has raised the ceiling time after time so that the government could borrow more money to pay its bills.

As part of Congress’s money powers, the Constitution gives the legislative branch the power to coin money and to regulate its value. All currency the federal government issues is legal tender, meaning that it must be accepted as payment. In addition,

THE LAW and You

Minimum Wage Laws

What pay should you expect when you look for a job? Generally, employers must pay a standard minimum wage set by federal law. However, many exceptions exist.

If you are a student working for a retail business, in an agricultural job, or for a school’s vocational education program, your employer is not required to pay minimum wage. In addition, employers can pay all workers under age 20 less than minimum wage for their first 90 days of employment. Other exceptions include workers who receive tips and seasonal employees. Meals your employer provides, or expenses your employer pays on your behalf, can also reduce your wage rate.

Finally, federal law allows states to pass laws

that can be more generous than the minimum wage. Your local employment services office can provide more information about wage laws in your state.



Earning a wage

Participating IN GOVERNMENT ACTIVITY

Conduct Research How does the minimum wage affect employment in your community? Gather information and report your findings in a letter to your local newspaper.

Congress has the power to punish counterfeiters—people who print postage stamps, paper money, or government securities illegally—and to establish a system of standard weights and measures.

The money powers of Congress also include the authority to make laws concerning **bankruptcy**—legal proceedings to administer the assets of a person or business that cannot pay its debts. Despite this authority, for more than a century Congress generally left bankruptcy matters to the states. In 1898 Congress passed the bankruptcy law that, with later amendments, remains in force today. Almost all bankruptcy cases are heard in federal courts.

The Commerce Power Article I, Section 8, Clause 3,¹ the so-called commerce clause of the Constitution, authorizes Congress to regulate foreign commerce and **interstate commerce**, or commerce among the states. In this clause the Founders provided what has become one of the most sweeping powers of government. The Supreme Court has promoted the expansion of this power by consistently ruling that the meaning of commerce—whether international or interstate—far exceeds the mere buying and selling of goods and services.



Landmark Cases

Gibbons v. Ogden The landmark decision on this subject came in *Gibbons v. Ogden* (1824). The state of New York had granted Robert Fulton and Robert Livingston the exclusive right to operate steamboats on New York waters. This monopoly granted Aaron Ogden a permit for steamboat travel across the Hudson River between New York and New Jersey. Thomas Gibbons, operating a competing line, had a coasting license from the federal



See the following footnoted materials in the *Reference Handbook*:
1. *The Constitution*, pages 774–799.

Expanding Interstate Commerce



Constitutional Interpretations The ruling in *Gibbons v. Ogden* opened up trade between New York and New Jersey. Within a short time dozens of steamboats ferried passengers and freight across the Hudson River. **How did this Supreme Court ruling affect states' control of economic activities?**

government. Ogden sued Gibbons, and the state of New York held that Gibbons could not sail in its waters. Gibbons appealed, claiming that Congress, not the state of New York, had the power to regulate commerce. The argument for state control was that commerce involved only products. The Court, however, ruled that all forms of business across state lines come under the commerce clause.

Over the years the Court has expanded its definition of commerce to give Congress even greater power. Any widespread activity that can possibly be considered interstate commerce is subject to federal control. The long list of such activities includes broadcasting, banking and finance, and air and water pollution.

Congress has used its power over interstate commerce to set policy in many other areas, too. For example, Congress requires that businesses engaged in interstate commerce pay their employees a minimum wage. Almost all businesses deal in some way with someone in another state. This power enables Congress to regulate working conditions across the nation.

Heart of Atlanta Motel v. United States

One of the most significant applications of the commerce clause has been in the area of civil rights. In 1964 Congress used its power to regulate interstate commerce to pass the landmark Civil Rights Act. This law prohibited discrimination in places of public accommodation such as restaurants, hotels, and motels. It also prohibited job discrimination.

A Georgia motel owner immediately attacked the law, claiming that the motel was a local business. It was therefore not part of interstate commerce, and the law should not apply. On appeal to the Supreme Court, the justices disagreed. In *Heart of Atlanta Motel v. United States* (1964),¹ the Court noted that public places of accommodation served interstate travelers and sold food that had crossed state lines.


“We, therefore, conclude that the action of Congress in the adoption of the Act as applied here to a motel which concededly serves interstate travelers is within the power granted it by the Commerce Clause of the Constitution, as interpreted by this Court for 140 years.”

—Justice Tom C. Clark, 1964 

This decision indicated that the Court was willing to allow Congress broad commerce powers, even in areas that were not economic. Since then the commerce power has even supported federal criminal laws aimed at racketeering and arson.

Foreign Policy Powers Congress has important powers in the areas of foreign policy and national defense. Chief among these are the power to approve treaties, to declare war, to create and maintain an army and navy, to make rules governing land and naval forces, and to regulate foreign commerce.

Congress shares foreign policy and national defense responsibilities with the president. Historically it generally has submitted to presidential leadership in this area. Although Congress has declared war only 5 times, the president, as commander in chief, has used military force in other nations on more than 200 occasions. Most significant of these were the Korean War (1950 to 1953) and the Vietnam War (1964 to 1973). Both conflicts were fought without declarations of war.

 See the following footnoted materials in the *Reference Handbook*:
1. *Heart of Atlanta Motel v. United States* case summary, page 759.

Establishing Federal Property




Public Policy *The Grand Canyon of the Yellowstone* by Thomas Moran This painting dramatized the magnificence of the West and inspired Congress to declare Yellowstone a national park in 1872. **Analyze and evaluate the consequences of this decision on the physical environment of the region. To what extent might privatization improve or complicate the operation of places such as Yellowstone?**

After the Vietnam War, Congress acted to reassert its foreign policy powers. Congress held that the Constitution never intended for the president to have the power to involve the nation in undeclared wars. Therefore, in 1973, over President Nixon's veto, Congress passed the War Powers Act. This law forbids the president to commit American forces to combat for more than 60 days without congressional notification within 48 hours. Every president since the act's passage has protested its constitutionality. During this period presidents used military force in Cambodia (1975), Iran (1980), Lebanon (1982), Grenada (1983), Libya (1986), the Persian Gulf (1987), Panama (1989), Iraq (1991–2004), Somalia (1993), Haiti (1994), the Balkans (1995), Yugoslavia (1999), and Afghanistan (2001–2004). Most of these were quick strikes with little warning. Nevertheless, in most cases the president notified Congress of the action.

Providing for the Nation's Growth The Constitution also grants Congress power over **naturalization**, the process by which immigrants to the United States may become citizens. In addition, Article IV, Section 3, authorizes Congress to admit new states and pass laws needed to govern any territories. Today, American territories such as Guam, the Virgin Islands, and Wake Island fall under this provision. Finally, both Article I and Article IV empower Congress to pass laws to govern federal property. The Founders envisioned such property as military bases and government buildings. Today, however, these provisions establish federal authority over national parks, historic sites, and public lands.

Other Legislative Powers Article I, Section 8,¹ gives Congress the power to grant copyrights and patents. A **copyright** is the exclusive right to publish and sell a literary, musical, or artistic work for a specified period of time. Under the present law, this period is the lifetime of the creator plus 50

 See the following footnoted materials in the *Reference Handbook*:
1. *The Constitution*, pages 774–799.



North Korean flag




Vietnam War hat

Presidents Truman, Kennedy, Johnson, and Nixon challenged congressional powers by expanding U.S. involvement in the Korean and Vietnam Wars without a congressional declaration of war.

years. A **patent** is the exclusive right of an inventor to manufacture, use, and sell his or her invention for a specific period, currently 17 years (after which a patent may be renewed).

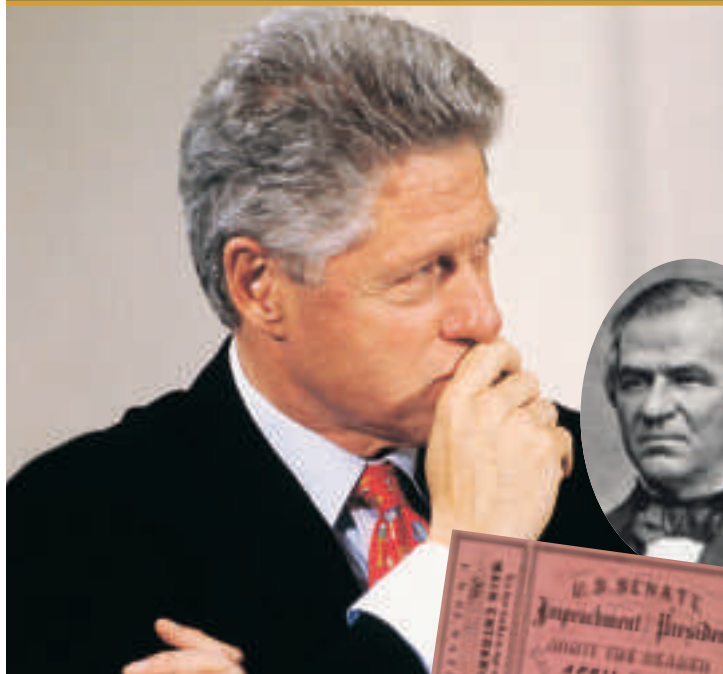
Article I, Section 8, also grants Congress the power to establish a post office and federal courts. Congress has also used its postal power to combat criminal activity; using the mail for any illegal act is a federal crime.

Non-legislative Powers

 In carrying out their legislative powers, both the House and the Senate perform the same basic tasks—considering, amending, and voting on bills. While most non-legislative functions of Congress require cooperation between the houses, each house usually plays a different role in exercising these powers.

The Power to Choose a President The Constitution requires a joint session of Congress to count the Electoral College votes. If no candidate for president has a majority of the electoral votes, the House chooses the president from the three candidates with the most electoral votes. Each state's House delegation has one vote. The Senate, by majority vote, chooses the vice president from the two candidates with the most

Impeached!




Acquitted President Clinton, like Andrew Johnson, was found not guilty of “high Crimes and Misdemeanors.” **What body conducts an impeachment trial of a president?**

Andrew Johnson and impeachment ticket

electoral votes. It is, therefore, possible that the vice president could be from a different party than the president. Only two times in American history has no presidential candidate captured a majority of the electoral votes. In 1800 the House elected Thomas Jefferson over Aaron Burr, and in 1824 it chose John Quincy Adams over Andrew Jackson.

The **Twentieth** and **Twenty-fifth Amendments**¹ give Congress the power to settle problems arising from the death of elected candidates and from presidential incapacity or resignation. The Twenty-fifth Amendment provides that when the office of vice president becomes vacant, the president appoints a replacement. Both houses of Congress must confirm the appointment. During the 1970s, two vice presidents gained office under this amendment.

 See the following footnoted materials in the *Reference Handbook*:
1. *The Constitution*, pages 774–799.

The Removal Power The Constitution grants Congress the power to remove any federal official from office. The House of Representatives has exclusive power over **impeachment**, a formal accusation of misconduct in office.

If a majority of the House votes to impeach a public official, the Senate conducts the trial. A two-thirds vote of those Senators present is required for conviction and removal. When the impeachment proceedings involve a president, the Chief Justice of the United States presides.

Since 1789 the Senate has tried several federal judges, a Supreme Court justice, a cabinet secretary, and two presidents on impeachment charges. Many of these cases ended in conviction. However, the Senate acquitted President Andrew Johnson by only one vote in 1868. President Richard Nixon would have been the second president impeached had he not resigned in 1974.

In 1998 the House Judiciary Committee recommended the impeachment of President Bill Clinton. By narrow margins, the House passed two articles of impeachment against the president—

for perjury in a grand jury testimony and for obstruction of justice.

The House delivered these two charges against the president to the Senate, and a trial began in January 1999. Article II, Section 4, of the Constitution says that a president (or other civil officer of the United States) “shall be removed from office upon impeachment for and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” During the Senate trial, Senators considered whether the charges against President Clinton, if proven, were serious enough to warrant removal from office. In February 1999 the Senate acquitted the president by failing to obtain the two-thirds majority necessary to convict on either charge.

The Confirmation Power The Senate has the power to approve presidential appointments of federal officials. Because most of these appointments involve the promotions of military officers,

Senate action is usually only a formality. Each year, however, the Senate looks more closely at several hundred nominations to cabinet and subcabinet positions, regulatory agencies, major diplomatic and military posts, and the federal judiciary. Nominees to the Supreme Court receive the most scrutiny. The Senate has rejected about 20 percent of Court nominations.

The Ratification Power Article II, Section 2, of the Constitution gives the Senate the exclusive power to ratify treaties between the United States and other nations. To ratify a treaty, two-thirds of the senators present must vote for it. This power is one of the key ways in which Congress helps shape foreign policy.

In 1980 many senators opposed the second Strategic Arms Limitation Talks (SALT II) Treaty between the United States and the Soviet Union. This opposition prevented a vote, and the treaty was not ratified. With a few exceptions Senate action on treaties has not been a major factor in American foreign policy. Nevertheless, in recent years presidents have often bypassed the treaty ratification process by negotiating executive agreements with other heads of state. These agreements do not require Senate approval.

The Amendment Power Congress shares with state legislatures the power to propose

amendments. Amendments may be proposed by a two-thirds vote of both houses or by a convention called by the legislatures of two-thirds of the states. Such a convention has never been called. This method, however, raises important constitutional questions. One significant question is whether a constitutional convention called to propose a certain amendment may then propose amendments on topics other than those contained in the states' original petitions. Some people fear that delegates might propose revisions of long-established constitutional provisions. Congress has considered, but not acted on, measures that would limit constitutional conventions to the issues proposed in state petitions to Congress. Congress also has the power to determine whether state conventions or state legislatures will ratify a proposed amendment.

To date, all of the constitutional amendments added to the Constitution have started in Congress. The states have approved 27 proposed amendments and have failed to ratify only 6. Congress has required all amendments—except the Twenty-first Amendment (1933), which repealed the Eighteenth Amendment on Prohibition—to be ratified by state legislatures. Advocates of the Twenty-first Amendment believed they would have better support in conventions than state legislatures, because many state legislatures were dominated by “Drys,” supporters of Prohibition.

Section 1 Assessment

Checking for Understanding

- 1. Main Idea** In a chart like the one below, list two or more examples of powers the Constitution expresses, implies, and denies to Congress.

Expressed	Implied	Denied

- 2. Define** expressed powers, necessary and proper clause, implied powers, revenue bill, appropriations bill, interstate commerce, impeachment.
- 3. Identify** Twentieth Amendment, Twenty-fifth Amendment.
- 4.** State the foreign policy powers of Congress.
- 5.** Describe the process by which Congress may remove a member of the executive or judicial branch from office.

Critical Thinking

- 6. Drawing Conclusions** Do you think *Gibbons v. Ogden* provided a basis for the Supreme Court's position in *Heart of Atlanta Motel v. United States* that a hotel is a part of interstate commerce? Explain.

Concepts IN ACTION

Constitutional Interpretations Research legislation that Congress passed in a recent session. Identify any bills you believe were based on the power to regulate interstate commerce. Draw a political cartoon supporting or criticizing the legislation.



Supreme Court CASES TO DEBATE

but also a business engaged in interstate commerce. Is baseball subject to federal antitrust laws like other businesses? Do baseball players have the right to act as free agents and make their own contracts with the team that will pay the most? The case of Flood v. Kuhn dealt with these questions.

Flood v. Kuhn et al., 1972

With teams from New York to California, professional baseball is not only a sport



Curt Flood

Background of the Case

In twelve seasons with the St. Louis Cardinals (1958 to 1969) Curt Flood was a three-time All-Star, played in three World Series, and won seven Golden Glove awards. In 1969, without consulting him, St. Louis traded Flood to the Philadelphia Phillies. He complained to the baseball commissioner that he had earned the right to be treated as more than a piece of property. Flood asked that he be allowed to act as a free agent.

The commissioner refused, stating that baseball's reserve clause meant that each player was tied indefinitely to one club, unless that club wanted to trade the player. This rule saved the owners money because it reduced competition by preventing the players from selling their services to whichever club would pay them the most.

Flood sat out the 1970 season and took his case to the courts. Two lower courts ruled in favor

of the owners. Supported by the players' union, Flood appealed. In 1972 the case came to the Supreme Court. By then Curt Flood had left baseball and never played again.

The Constitutional Issue

Under its power to regulate interstate commerce, Congress passed the Sherman Antitrust Act in 1890 as a way to prevent the growth of business monopolies that prevented competition.

In 1922 in *Federal Baseball Club v. National League* the Court stated that baseball involved interstate commerce but was not the type of business that the antitrust laws were intended to cover. Some 30 years later in *Toolson v. New York Yankees* the Court refused to overrule its earlier decision. Furthermore, it stated that Congress had allowed baseball to develop exempt from antitrust laws rather than subject to them.

Debating the Case

Questions to Consider

1. Where did Congress get the authority to create antitrust laws?
2. What could be the consequences for baseball if the Court ruled in favor of Curt Flood of the St. Louis Cardinals?
3. Should the Supreme Court overrule its own precedents and declare baseball subject to antitrust laws, or should the Court leave the choice to Congress?

You Be the Judge

In fighting the reserve clause, Curt Flood challenged baseball's exemption from the antitrust laws passed by Congress. The reserve clause was clearly a violation of the antitrust laws because it restricted the players' ability to bargain with clubs for their services and thus helped the baseball owners control competition. To rule in Curt Flood's favor the Court would have to overturn its ruling in the earlier cases. How would you rule?

Investigations and Oversight

Reader's Guide

Key Terms

subpoena, perjury, contempt, immunity, legislative veto

Find Out

- In what ways are a witness's rights in a congressional investigation similar to and different from a witness's rights in a court?
- By what methods does Congress exercise its power of legislative oversight?

Understanding Concepts

Checks and Balances How does the power of Congress to oversee the carrying out of laws serve as a check on the executive branch?

COVER STORY

Cranston Targeted

WASHINGTON, D.C., FEBRUARY 1991


Senator Alan Cranston is the sole target of a long-delayed Senate Ethics Committee report just released. Four other senators escaped relatively unscathed. The committee found that the 76-year-old senator from California had engaged in "impermissible conduct." The findings followed a 14-month investigation into dealings between a savings and loan (S&L) executive, Charles Keating, and 5 members of the United States Senate. All 5 had helped Keating and accepted campaign contributions from him at the same time. Keating needed protection from the investigations of federal regulators during the S&L crisis.



A defunct S&L

Most congressional powers fall into two of four categories. They are either legislative or nonlegislative powers, and they are either expressed powers or implied powers. Over the years, however, Congress has developed additional powers inherent in governing but not mentioned in the Constitution. These powers are the power to investigate and the power of legislative oversight.

The Power to Investigate

 The Founders neither granted nor denied Congress the power to conduct investigations. Nevertheless, in 1792, after Native Americans soundly defeated the United States Army, Congress launched an investigation of the military. This power has played an important role in American politics ever since.

The Investigation Process A standing committee or a select committee may conduct investigations. Investigations may last for several days or go on for months. The committee's staff members may travel around the country collecting evidence and scheduling witnesses. Dozens of witnesses may be called to testify, sometimes under oath, at committee hearings.

Congressional investigations occur for many reasons. Most get little notice, but a few have become media events. In 1998 the Senate Finance Committee opened hearings into the collection methods of the Internal Revenue Service. Witnesses' televised testimony about the strong-arm tactics used by the agency led to a 97 to 0 Senate vote to reform the IRS. In the 1990s Congress investigated allegations against its own members.

In 1995 alone, 20 senators and representatives faced complaints that went to congressional ethics panels. While many of these complaints were politically motivated, several members were indicted, two Democratic members of the House were convicted of crimes,



◀ In 1973, the Senate created the Select Committee on Presidential Campaign Activities to investigate events surrounding the Watergate break-in. This investigation eventually led to calls for President Richard Nixon's impeachment and his resignation.

▼ In the early 1950s, Senator Joseph McCarthy's committee investigated claims that Communists had infiltrated educational institutions and high levels of government.



Checks and Balances
How does Congress's power to investigate strengthen the system of checks and balances?

and a Republican senator resigned to avoid being expelled. At the same time, a Senate committee probed into inquiries about President Clinton's Whitewater land investments and links to a failed savings and loan company in Arkansas when he was the state's governor.

Investigations may have a variety of consequences. In most circumstances they lead to new legislation to deal with a problem, changes in a government program, or removal of officials from office. Sometimes, however, they damage the reputations of innocent people.

Congressional Powers and Witness Rights

Although congressional investigations are not trials, Congress has several powers that help committees collect evidence. Like courts, congressional committees have the power to subpoena witnesses. A **subpoena** is a legal order that a person appear or produce requested documents. Congress makes great use of this power.

Also like courts, congressional committees can require witnesses to testify under oath. Witnesses who do not tell the truth can be criminally prosecuted for **perjury**, or lying under oath. In addition,

committees may punish those who refuse to testify or otherwise will not cooperate by holding them in **contempt**, or willful obstruction, of Congress. Persons found in contempt of Congress may be arrested and jailed. While the Constitution does not grant Congress this power, court decisions have generally upheld it.

Until recent years, witnesses called to testify in person before a congressional committee had few rights. In 1948, for example, the chairperson of a House committee told one hapless witness: "The rights you have are the rights given you by this committee. We will determine what rights you have and what rights you do not have before the committee."

Today this situation has changed, and witnesses have important rights when appearing before a congressional committee. In *Watkins v. United States* (1957),¹ the Supreme Court ruled that Congress must respect witnesses' constitutional rights just as a court does. The Court stated:

📖 See the following footnoted materials in the Reference Handbook:
1. *Watkins v. United States* case summary, page 767.

“Witnesses cannot be compelled to give evidence against themselves. They cannot be subjected to unreasonable search and seizure. Nor can the 1st Amendment freedoms of speech, press, religion, or political belief and association be abridged.”

—Chief Justice Earl Warren, 1957

One way that congressional committees have sidestepped this requirement is by granting immunity to witnesses. **Immunity** is freedom from prosecution for witnesses whose testimony ties them to illegal acts. Of course, the Fifth Amendment states that people cannot be forced to testify against themselves. Witnesses who are granted immunity, however, can be required to testify about illegal activities in which they are involved. Those who refuse may be held in contempt and jailed.

A 1987 case illustrates the principle of immunity. A Senate committee investigated charges against officials in the Reagan administration. They were charged with selling arms to Iran and using the money to finance a guerrilla war in Nicaragua. The committee granted immunity to Colonel Oliver North, an employee of the president’s National Security Council, and compelled him to testify. North implicated the president’s national security adviser and others. North was tried and convicted. His sentence was later thrown out and his conviction was overturned on appeal, because evidence used against him was uncovered as a result of his protected congressional testimony.

Legislative Oversight

Many, if not most, congressional investigations are related to another power that Congress has developed. The power of **legislative oversight** involves a continuing review of how effectively the executive branch carries out the laws Congress passes. Under its commerce power and the necessary and proper clause Congress has created a huge bureaucracy. In exercising its oversight power, congressional committees keep watch over these agencies of the executive branch.

The Practice of Legislative Oversight

Legislative oversight is a good example of the constitutional principle of checks and balances. Congress

makes the laws. The job of the executive branch is to carry them out. In doing so, the executive branch has the power to decide what legislation means and how it should be put into effect. Through its power of legislative oversight, Congress can check on how the executive branch is administering the law.

Congress has defined its oversight functions in several laws. The Legislative Reorganization Act of 1946 calls for Congress to exercise “continuous watchfulness” over executive agencies. In the Legislative Reorganization Act of 1970, Congress states, “Each standing committee shall review and study, on a continuing basis, the application, administration, and execution” of laws in areas of its responsibility.

Senate Committee Investigations



Government Under Scrutiny Senate Governmental Affairs Committee chairman Fred Thompson (second from right) meets with committee members in 1997 to investigate fund-raising practices by the Democratic National Committee. The committee hearings focused on how American politics and policies may have been inappropriately influenced. **What investigative powers are assigned to Congress in the Constitution?**

Limits on Legislative Oversight In practice, however, lawmakers exercise the power of legislative oversight in an inconsistent way. Vice President Hubert Humphrey once said that Congress “sometimes gets in the habit of ‘pass it and forget it’ lawmaking.” Very few congressional committees review the actions of the executive branch on a regular basis especially if the president and the majority of Congress are the same party. Instead, legislative oversight usually occurs in bits and pieces as congressional staffs and committees go about their business.

There are several reasons that legislative oversight is not carried out consistently. First, lawmakers do not have enough staff, time, or money to keep track of everything going on in the executive branch. It simply is not possible for Congress to effectively monitor the routine activities of the many executive agencies.

Second, lawmakers know there are not many votes to be gained from most oversight activities. Voters and the news media seldom are interested in oversight activities unless an investigation turns up a scandal or an unusual problem. As one lawmaker

aptly put it, “Where there is publicity to be gained, there is oversight to be had.”

Third, the language of some laws is so vague that it is very difficult to judge exactly what they mean. Without clear objectives, lawmakers have little basis for judging whether or not the executive branch is carrying out the law’s intent.

Finally, committees sometimes come to favor the federal agencies they are supposed to oversee. Lawmakers and the officials who work for a federal agency often become well acquainted, spending long hours working together. In such cases there exists a danger that a committee may not engage in careful, critical oversight of an agency.

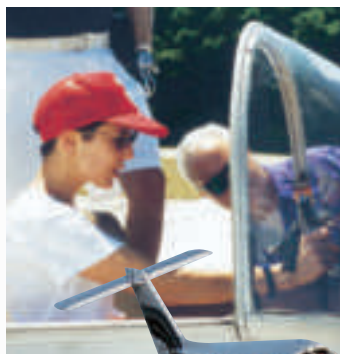
Congressional Limits on Executive Activities

Congress exercises its oversight power in several ways. One way is for Congress to require executive agencies to submit reports to Congress on their activities. The 1946 Employment Act, for example, requires the president to send Congress an annual report on the nation’s economy. During a recent term of Congress, federal agencies submitted more than 1,000 such reports to Capitol Hill.

We the People

Making a Difference

Robin Deykes



Aircraft

Although Robin Deykes loved to fly, she was nearly grounded in 1995 when the Federal Aviation Administration (FAA) proposed a new set of rules. The rules stated that all pilots flying in the United States must speak and understand spoken English. Robin, who is deaf, said, “They might as well have said NO DEAF PILOTS ALLOWED.” Prior to the new rules, deaf people could become pilots in the United States if they used airports that did not require radio contact.

When Robin found out about the FAA’s change in rules, she tracked down John Lynch at the FAA who had been involved in developing them. She told him that

the new rules would prevent her and other deaf and hearing impaired pilots from flying. “The proposed rules were really the result of a misunderstanding. I thought that most deaf people could speak and read lips,” Lynch said. “Robin made me realize that was not always the case.” Lynch said the ruling was not intended to keep deaf people from flying.

Robin’s efforts helped convince the FAA to change its rules. The rules now state that pilots who are deaf or hearing impaired can continue to fly into airports where no radio contact is required. They also state that if future technology enables deaf and hearing impaired people to communicate by radio, they will also be permitted to fly into radio-controlled airports.

A second oversight technique is for lawmakers to ask one of the congressional support agencies, such as the **General Accounting Office (GAO)**, to study an executive agency's work. The GAO monitors the finances of federal agencies to make sure public money has been spent appropriately and legally.

The power of Congress to appropriate money provides another means of oversight. Each year Congress reviews the budgets of all agencies in the executive branch. This review allows Congress to shape public policy by expanding, reducing, or eliminating certain programs.

For years Congress used the **legislative veto**, in which Congress wrote provisions into some laws that allowed it to review and cancel actions of the executive agencies that carried out those laws. This gave Congress authority over subordinates of the president. In 1983 the Supreme Court ruled in *Immigration and Naturalization Service v. Chadha* that the veto was unconstitutional because it violated the principle of separation of powers.

Independent Counsel In 1978 Congress passed the Ethics in Government Act in an attempt to ensure that allegations of wrongdoing by high government officials would receive fair investigation. In certain cases, Congress could demand the appointment of a special prosecutor called the independent counsel. The law generated 20 investigations and led to President Clinton's impeachment. Support for the law eroded, however, as many people complained

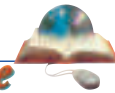
TIME

For the Record

Special Delivery Sometimes, extreme measures are taken to deliver a congressional bill to the president for his signature. A White House aide took a commercial flight from Washington, D.C., to the nation of Brunei to give President Clinton a resolution that needed to be signed no later than November 15, 2000. The funding bill allowed government operations to continue until Congress reconvened.

that the independent counsel process led to long, expensive investigations that failed to separate politics from law. In 1999 Congress let the law expire and gave the Attorney General sole power to conduct ethics investigations of top officials.

GOVERNMENT
Online

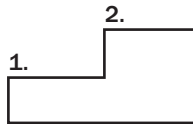


Student Web Activity Visit the *United States Government: Democracy in Action* Web site at gov.glencoe.com and click on **Chapter 6-Student Web Activities** for an activity about Congress.

Section 2 Assessment

Checking for Understanding

- Main Idea** Using a graphic organizer like the one shown, identify the steps Congress can take if a witness at a congressional investigation cites Fifth Amendment protection and refuses to testify.
- Define** subpoena, perjury, contempt, immunity, legislative veto.
- Identify** *Watkins v. United States*, GAO.
- Identify three congressional investigations that focused on the executive branch.



Critical Thinking

- Synthesizing Information** How does the use of a subpoena assist legislators in the committee hearing process?

*C*oncepts
IN ACTION

Checks and Balances Suppose you are a reporter assigned to cover a recent congressional investigation. Prepare a news broadcast to present to the class in which you analyze the purpose of the investigation and its findings. You might want to include interviews as well.

Congress and the President

Reader's Guide

Key Terms

national budget, impoundment

Find Out

- How have the characteristics of the American system led to competition and conflict between Congress and the president?
- Why has power shifted back and forth between the president and Congress over the years?

Understanding Concepts

Checks and Balances Why do some people state that deadlock and inaction are built-in features of American government?

COVER STORY

Shutdown Conflict

WASHINGTON, D.C., JANUARY 1996

President Clinton and Congress are searching feverishly for a compromise to end the budget impasse that has brought the partial shutdown of the federal government. Meanwhile, the shutdown is beginning to affect government services. “This is ridiculous,” says Dottie Knight, a furloughed employee of the Centers for Disease Control in Atlanta. Knight is working from home without pay, buying stamps to continue mailing CDC materials to the public. In Kansas, the state has suspended unemployment checks because federal funds have stopped.



Government closed until further notice

The Founders probably did not envision a shutdown of the federal government when they established the principle of separation of powers. Nevertheless, they did create a system of checks and balances that can result in a government stalemate. Many of the president's most important executive responsibilities—such as making treaties, appointing federal officials and judges, and paying the expenses of the executive branch—require congressional cooperation. When the Congress refuses to cooperate, the president may be frustrated.

On the other hand, all bills Congress passes require the president's signature before they become law. Overriding a presidential veto requires a two-thirds majority in each house of Congress, which usually is difficult to obtain. Consequently, a veto or even the threat of one is an important legislative power the president exercises. In addition, modern presidents are expected to develop a legislative program and secure its adoption by Congress.

Cooperation and Conflict

The level of cooperation between Congress and the president has varied throughout history. Usually, the best relations exist between the two branches when the president makes few demands on Congress. Less active presidents—such as Dwight D. Eisenhower during the 1950s—who do not take an aggressive role in shaping legislation may get along well with Congress. Those who propose major new programs will almost surely come into conflict with the legislative branch. Recent presidents have frequently found it hard to work with Congress for several reasons.

Constituents and Conflict A large national electorate chooses presidents who promote policies they feel are in the best interests of the entire nation. Individual states and congressional districts, however, elect members of

Congress. Because they represent much narrower interests, members of Congress often have ideas very different from the president about what constitutes desirable public policy.

Checks and Balances

The system of checks and balances gives Congress and the president the power to counteract each other. For example, the president may threaten a veto, arguing that a particular bill spends too much money and would spur inflation harmful to the nation. Some members of Congress may cooperate in attempting to amend the bill or override a veto because their states or districts would benefit from the bill.

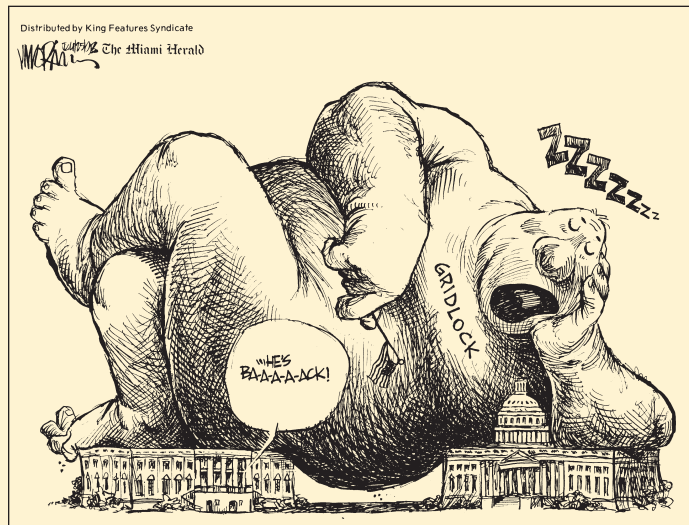
Political historian James MacGregor Burns contends that the system is “designed for deadlock and inaction.” He argues that these checks and balances result in the “President versus Congress.”

Party Politics Partisan political differences can affect the relationship between the president and Congress. This is especially evident when the different parties control the White House and Congress. In recent decades the president’s party rarely has controlled both houses of Congress, so conflict between the branches has increased. The legislative process slowed considerably in 1995 when President Clinton, a Democrat, faced Republican majorities in Congress. When President Clinton won reelection in 1996 and the Republicans again won both houses, one observer anticipated more of what the press had begun to call “gridlock.”

“The question in the next two years, will be whether that lack of mandate for either side will foster cooperation to get things done or positioning to do battle in the next election.”

—Curtis B. Gans

Gridlock Haunts the Capital



President and Congress Clash Gridlock occurs when the president and Congress cannot agree on legislation. **According to the cartoon, is gridlock a problem that is quickly or easily resolved? Explain.**

Organization as a Cause of Conflict The organization of Congress provides many weapons to those who want to resist a legislative proposal of the president. Rules of procedure, such as the Senate’s unlimited debate rule, can be used to block action on legislation. Even when congressional leaders support the president, they may struggle to push presidential initiatives through Congress.

Because the basic shape of legislation is set in committees and subcommittees, the committee system also may be a weapon against the president. Committee chairpersons are powerful members of Congress, and they use their positions to influence bills. Conflicts in government occur when a president wants a major proposal approved and a committee tries to delay, revise, or defeat it.

Differing Political Timetables Conflicts may also occur because the president and Congress have different political timetables. Presidents have a little more than three years to develop, present, and move their programs through Congress before they have to busy themselves running for reelection. At best, they have only eight years to accomplish their agenda.

Presidential Vetoes

President	All Bills Vetoes	Regular Vetoes	Pocket Vetoes	Vetoes Overridden
Washington	2	2	0	0
J. Adams	0	0	0	0
Jefferson	0	0	0	0
Madison	7	5	2	0
Monroe	1	1	0	0
J.Q. Adams	0	0	0	0
Jackson	12	5	7	0
Van Buren	1	0	1	0
W.H. Harrison	0	0	0	0
Tyler	10	6	4	1
Polk	3	2	1	0
Taylor	0	0	0	0
Fillmore	0	0	0	0
Pierce	9	9	0	5
Buchanan	7	4	3	0
Lincoln	7	2	5	0
A. Johnson	29	21	8	15
Grant	93	45	48	4
Hayes	13	12	1	1
Garfield	0	0	0	0
Arthur	12	4	8	1
Cleveland (1st term)	414	304	110	2
B. Harrison	44	19	25	1
Cleveland (2d term)	170	42	128	5
McKinley	42	6	36	0
T. Roosevelt	82	42	40	1
Taft	39	30	9	1
Wilson	44	33	11	6
Harding	6	5	1	0
Coolidge	50	20	30	4
Hoover	37	21	16	3
F. Roosevelt	635	372	263	9
Truman	250	180	70	12
Eisenhower	181	73	108	2
Kennedy	21	12	9	0
L. Johnson	30	16	14	0
Nixon	43	26	17	7
Ford	66	48	18	12
Carter	31	13	18	2
Reagan	78	39	39	9
G.H.W. Bush	46	29	17	1
Clinton	37	36	1	2
G.W. Bush*	0	0	0	0
Total	2,552	1,484	1,068	106

Source: thomas.loc.gov.

* As of November 2004.

Critical Thinking Early presidents often vetoed legislation they thought was unconstitutional. *What concerns cause modern-day presidents to veto legislation?*


Senators and representatives are not limited to two terms in office as is the president. Most can look forward to being reelected for many terms. Consequently, members of Congress have political timetables quite different from the president. Representatives, who serve only two-year terms, are always running for reelection. Senators, whose terms are six years, can be more patient in handling controversial legislative proposals. Thus, lawmakers in both houses may not be eager to act on legislation that does not directly benefit their states or districts.

President Lyndon Johnson, who had served as Senate majority leader, complained about the conflict of interests:

“You’ve got to give it all you can that first year. . . . You’ve got just one year when they treat you right, and before they start worrying about themselves. The third year, you lose votes. . . . The fourth year’s all politics. You can’t put anything through when half the Congress is thinking how to beat you.”

—Lyndon Johnson

The Struggle for Power

 For most of the first 150 years of the Republic, Congress dominated policy making. At times, however, strong presidents such as Andrew Jackson, Abraham Lincoln, and Franklin D. Roosevelt challenged congressional supremacy. They increased presidential powers as they dealt with changing social, political, and economic conditions.

The system of checks and balances makes it likely that the president and Congress will always compete for power. Which branch will dominate in any specific period depends on many factors, including the political issues of the time and the leaders in Congress and the executive branch. Strong presidential leadership during the Depression of the 1930s and the Cold War caused a steady growth in the powers of the presidency at the expense of Congress. During the mid-1970s, however, the trend toward presidential dominance began to stimulate a reaction from Congress. Congressional efforts to reassert lost authority and to gain new influence in public policy led

Congress to restrict the president's war-making and budgetary powers and to exercise the legislative veto more often.

Curbing the President's Emergency Powers

In times of crisis, Congress has delegated additional powers to the president. Presidents have declared martial law, seized property, controlled transportation and communication, and sent armed forces overseas. President Franklin D. Roosevelt gained vast authority during the Great Depression and World War II. In 1933 Congress empowered the president to close the nation's banks. Legislation during World War II gave Roosevelt even broader control over the nation's economy, including industries, wages and prices, and the rationing of consumer goods. Later presidents continued the emergency powers initially granted to Roosevelt, and technically the United States remained in a state of emergency. In 1971, for example, President Nixon froze wages and prices to combat economic problems stemming from the Vietnam War.

In 1976 Congress passed the National Emergencies Act that ended the 35-year state of emergency as of September 30, 1978. Since that date presidents no longer possess automatic emergency

powers. Presidents must notify Congress when they intend to declare a national emergency. A state of emergency now cannot last more than one year unless the president repeats the process. In addition, Congress can end a state of emergency at any time by passing legislation.

The Budget Impoundment and Control Act

Over the years presidents have assumed more responsibility for planning the **national budget**, the yearly financial plan for the national government. Because of this, by the early 1970s Congress had slipped into the role of merely reacting to budget proposals.

In 1974 Congress passed the Congressional Budget and Impoundment Control Act in an effort to increase its role in planning the budget. The act established a permanent budget committee for each house and created a **Congressional Budget Office (CBO)** to provide financial experts to help Congress. In addition, the act limited the president's ability to impound funds. **Impoundment** is the president's refusal to spend money Congress has voted to fund a program. The law requires that appropriated funds be spent unless the president requests and both houses of Congress agree that the monies not be spent.

Crisis and Power

Additional Powers During World War II, President Franklin D. Roosevelt employed emergency powers to gain more control over the wartime economy. Americans used government-issued books of ration coupons to purchase certain items, such as shoes, gasoline, tires, sugar, and meat. **Why did Roosevelt need to ration consumer goods during the war?**

Ration coupons



Use of the Legislative Veto Between 1932 and 1983—when it was declared unconstitutional—more than 200 laws have contained some form of legislative veto. The veto was not widely used, however, until Congress reasserted its authority in the 1970s. Many members of Congress argued that the device was an effective check on the executive branch.

Presidents have called the legislative veto a challenge to their authority. President Carter complained that its use was “excessive.” Others argued that it violated separation of powers. Since the Supreme Court ruling, Congress has searched for a constitutional alternative to the legislative veto.

Line-Item Veto The Constitution provides for a presidential veto of entire bills. Most governors, however, can veto parts of bills, letting the rest become law. Many presidents have asked Congress for a **line-item veto**, enabling them to veto only certain lines or items in a bill.

Sentiment for giving the president such veto power was strong in the mid-1990s. Congress knew, however, that a true line-item veto would require a constitutional amendment. House and Senate Republicans passed a complex version of a line-item veto bill in 1996, calling it an enhanced rescission bill. Signed into law by President Clinton, the bill authorized the president to veto spending

items and certain limited tax breaks. In the Line Item Veto Act, Congress attempted to retain some control over such legislation by a provision that it could pass a freestanding bill to reinstate the vetoed spending by a two-thirds vote of both chambers. This act went into effect in 1997.

In the summer of 1997, President Clinton became the first president to exercise the line-item veto. Even after it was passed, however, critics remained vocal about the new law. Supporters believed it would curb excessive spending, but critics said it allowed Congress to shift the responsibility of making spending cuts to the president.

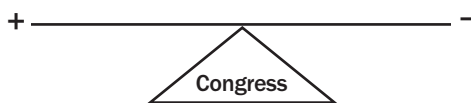
Almost immediately some members of Congress challenged the law in federal court. The Supreme Court threw out this challenge but later ruled on the constitutional merits of the legislation. In 1998, upholding separate challenges by the City of New York and potato growers from Idaho, the Court said that the Line Item Veto Act was unconstitutional.

Justice John Paul Stevens wrote for the majority that the act circumvented the legislative procedures which were clearly spelled out in Article I of the Constitution. “If there is to be a new procedure in which the President will play a different role . . . such change must come not by legislation but through the amendment procedures set forth in Article V of the Constitution,” Stevens concluded.

Section 3 Assessment

Checking for Understanding

1. Main Idea Using a graphic organizer like the one below, identify three ways in which Congress has gained and lost power.



- 2. Define** national budget, impoundment.
- 3. Identify** Congressional Budget Office.
- Why do the different constituencies of the president and Congress cause conflict between the executive and legislative branches?
- How does the political party system contribute to conflict between the president and Congress?

Critical Thinking

6. Synthesizing Information One analyst described the constitutional system between Congress and the president as “an invitation to struggle.” Is this description accurate? Explain.

Concepts IN ACTION

Checks and Balances One struggle for power that exists between the president and Congress is the president’s right to send armed forces overseas. When has the president committed military forces overseas without a declaration of war? Create a time line indicating the year and the reason for these military involvements.

Skills Technology

Multimedia Presentations

Your government teacher has assigned a presentation about Congress. You want to develop a presentation that really holds your classmates' attention.

Learning the Skill

Most presentations are more dynamic if they include diagrams, photographs, videos, or sound recordings. Equipment you may have at home, plus classroom or library resources, can help you develop interesting multimedia presentations. The equipment can range from simple cassette players, to overhead projectors, to VCRs, to computers, and beyond.

A multimedia presentation involves using several types of media. To discuss Congress's powers, for example, you might show diagrams of congressional powers and play recordings of speeches made in Congress.

Multimedia, as it relates to computer technology, is the combination of text, video, audio, and animation in an interactive computer program. In order to create multimedia presentations on a computer, though, you need to have certain tools. These may include traditional computer graphic tools and draw programs, animation programs, and authoring systems that tie everything together. Your computer manual will tell you which tools your computer can support.

Practicing the Skill

Plan and create a multimedia presentation on a topic found in the chapter, such as the non-legislative powers. List three or four major ideas you would like to cover. Then think about how multimedia resources could enhance your presentation. Use your school or local library to do a



preliminary survey of materials that may be available and list them. Use the following questions as a guide when planning your presentation:

1. Which forms of media do I want to include? Video? Sound? Animation? Photographs? Graphics?
2. Which kinds of media equipment are available at my school or local library?
3. What types of media can I create to enhance my presentation?
4. Which of these media forms does my computer support?

Application Activity

Choose a president from the twentieth century and create a multimedia presentation about his conflict and cooperation with Congress. Use as many multimedia materials as possible, including photographs, drawings, charts, graphs, posters, music recordings, or videotapes. Share your multimedia presentation with the class.

Assessment and Activities

GOVERNMENT

Online



Self-Check Quiz Visit the *United States Government: Democracy in Action* Web site at gov.glencoe.com and click on **Chapter 6–Self-Check Quizzes** to prepare for the chapter test.

Reviewing Key Terms

Match each of the descriptions below with the term it describes. Not every term will have a description.

- appropriations bill
- impoundment
- immunity
- implied powers
- legislative veto
- subpoena

Chapter Summary

Selected Powers of Congress

Legislative Powers

- **Taxing and Spending Power**—Congress has great control over national policy, as no agency can spend money without congressional approval
- **Commerce Power**—Congress regulates foreign commerce and trade between the states

Nonlegislative Powers

- **Ratification Power**—Congress accepts or rejects treaties negotiated between the president and a foreign country
- **Power to Choose Presidents**—The House selects the president if no candidate wins a majority of votes in the Electoral College
- **Removal Power**—Both houses of Congress play a role in the removal of a president from office due to misconduct

Investigative Powers

- Constitution does not specifically state this power, but the legislature's role as a people's body made this power necessary
- Congress investigates the operation of government agencies and the actions of individual government personnel

1. Powers not specified in the Constitution
2. Grants money to carry out programs
3. Compels a witness to appear
4. Refusing to spend funds
5. Freedom from prosecution

Recalling Facts

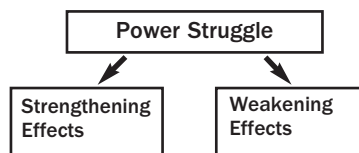
1. How are expressed powers and implied powers related?
2. Why has the power to regulate interstate commerce become such an important power of Congress?
3. List five nonlegislative powers of Congress.
4. What are three methods that Congress uses to oversee the executive branch?
5. Identify three powers that Congress and the president share.
6. What are the main causes of conflict between the president and Congress?
7. On what grounds did the Supreme Court declare the legislative veto unconstitutional?

Understanding Concepts

1. **Constitutional Interpretations** Explain how the Constitution's commerce clause has helped African Americans obtain equal rights.
2. **Checks and Balances** What arguments might be made to support a legislative veto power for Congress?

Critical Thinking

1. **Making Generalizations** On what basis might the writers of the Constitution have decided which powers should go only to Congress and which powers Congress should share with the president?
2. **Understanding Cause and Effect** In a graphic organizer like the one below, indicate how the power struggle between the president and Congress strengthens or weakens the government.



Chapter 6

Analyzing Primary Sources

In 1964, Congress granted President Johnson the power to send troops into Vietnam without an official declaration of war and without notification to Congress. Congress later enacted a law requiring the president to notify and consult with Congress any time soldiers are to be stationed in conflicts overseas. This law is known as the War Powers Act. Read the excerpt and answer the questions that follow.

“SEC. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situation where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.”

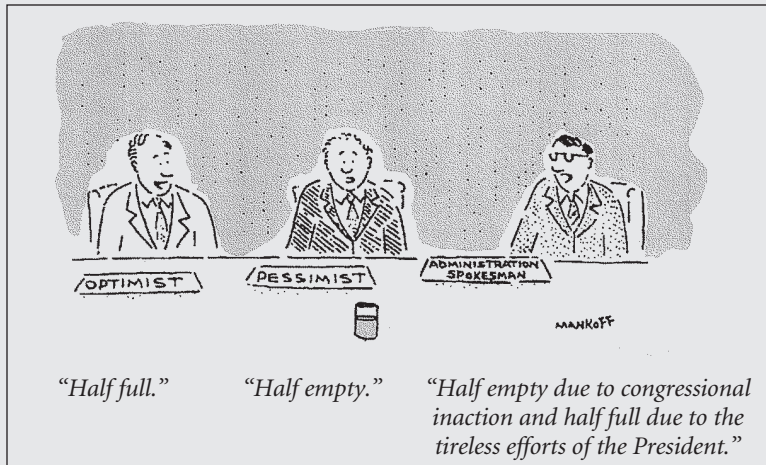
1. How is the 1973 War Powers Act a check on presidential power?
2. What are the benefits or drawbacks of requiring the president to notify Congress before sending troops into conflict?

Applying Technology Skills

Creating a Multimedia Presentation Study the list of topics below dealing with Congress. Choose one of the topics and create a presentation using at least three types of media to teach the topic to your class.

- The national debt and Congress’s attempts to limit it
- The War Powers Act and the relationship between Congress and the president
- The power of Congress to propose amendments
- A congressional investigation
- Congressional term limits

Interpreting Political Cartoons Activity



1. What is happening in this cartoon?
2. Which side does the administration spokesperson support? Explain.
3. Is the administration spokesperson an objective judge? What biases might he have?

Participating in Local Government

Because members of Congress represent the interests of individual states and congressional districts, their ideas are often different from the president’s, which promote policies that represent the interests of the entire nation. Find out about an important issue in your state that has been reflected in a bill debated in Congress. Find out how your senators and representatives stand on the issue and how they voted on the bill.

Did you agree or disagree with the senator’s or representative’s position on the bill? Write an opinion paper supporting or criticizing your lawmaker’s position.

