

Chapter 11: Powers of Congress

Section 2

Lecture Notes



AMERICAN  
**GOVERNMENT**

PEARSON

## ► Objectives

1. Identify the key sources of the foreign relations powers of Congress.
2. Describe the power-sharing arrangement between Congress and the President on the issues of war and national defense.
3. List other key domestic powers exercised by Congress.

# ▶ Key Terms

- **copyright:** the exclusive right of an author to reproduce, publish, and sell his or her creative work
- **patent:** a grant of the sole right to manufacture, use, or sell any new and useful process or machine for up to 20 years
- **territory:** a part of the United States that is not a state and has its own system of government
- **eminent domain:** the government's inherent power to take private property for public use
- **naturalization:** the process by which citizens of one country become citizens of another country

## ► Introduction

- How do the expressed powers reflect the Framers' commitment to creating a strong but limited National Government?
  - The Constitution grants Congress a wide range of powers, none of which are absolute.
  - In particular, the federal government has great authority over foreign affairs.
  - Congress also has significant authority over certain domestic matters.

# ▶ Foreign Policy

- The President is the main authority in foreign affairs.
- Congress does have some key powers involving foreign policy.
  - Congress passes laws that deal with issues of **national security**, such as immigration and antiterrorism.
  - Congress can regulate **foreign commerce, control federal spending** (which can include foreign aid), and has the power to **declare war**.

# ▶ War Powers

- Checkpoint: What war powers does Congress have?
  - Congress has the sole power to raise and support an army and navy.
  - Congress makes rules for governing the nation's military and can organize, arm, and call out the National Guard.
  - Only Congress can declare war.
  - Congress can issue letters of marque and reprisal.

# ▶ War Powers Resolution

- Many Presidents have used their authority as commander-in-chief to send U.S. armed forces into combat without congressional approval.
- The War Powers Resolution of 1973 tries to limit the President to deploying troops only in war, with congressional approval, or in response to an attack.
  - The constitutionality of this resolution has not been decided.

# ► Expressed Powers

- Of all the many powers the Framers could have granted to Congress, why did they choose the powers listed on the following slides?
- In the *Federalist Papers*, James Madison answered this question by grouping the enumerated powers into five categories.
  - Only Clause 9, bestowing the power to create courts inferior to the Supreme Court was not included.
  - Which of the powers listed on the following slides do you think is most important?



# ► Expressed Powers, cont.

<b>Security against foreign danger:</b>	<b>Regulation of the intercourse with foreign nations:</b>
<b>Clause 1:</b> levy taxes, duties, and excises	<b>Clause 1:</b> regulate foreign commerce
<b>Clause 2:</b> borrow money	<b>Clause 10:</b> define and punish crimes committed on the high seas and offenses against the law of nations
<b>Clause 11:</b> declare war	
<b>Clause 12, 13, 14:</b> raise, regulate, and provide for armies and navies	
<b>Clause 15 and 16:</b> organize, arm, discipline, and call forth the militia to execute federal laws, suppress uprisings, and repel invasions	

# ► Expressed Powers, cont.

## Maintenance of harmony and proper intercourse with the States:

**Clause 3:** regulate commerce among the several States and the Indian tribes

**Clause 4:** establish a uniform rule of naturalization and uniform laws of bankruptcy

**Clause 5:** coin money, regulate the value of domestic and foreign coin, fix the standard of weights and measures

**Clause 6:** provide for the punishment of counterfeiting

**Clause 7:** establish post offices and and post roads

# ► Expressed Powers, cont.

<b>Miscellaneous objects of general utility:</b>	<b>Provisions for giving due efficacy to all these powers:</b>
<b>Clause 8:</b> establish patent and copyright laws	<b>Clause 18:</b> The Necessary and Proper Clause
<b>Clause 17:</b> legislate for the seat of the federal capital and other federal territories	

# ▶ Copyrights and Patents

- Congress issues copyrights and patents to protect the right of people to profit from their creations.
  - These rights encourage the development of arts and sciences.
  - **Copyrights** deal with a wide range of creative works—from books to music to films—and last 70 years.
  - **Patents** deal with inventions and processes and last 20 years.

# ▶ Copyright Law and You

- The Internet makes sharing information easier than ever, but laws regulate what information can or cannot be shared freely.
- Copyright protection may be inconvenient for those who want music or other content for free, but it is important to protect the rights of writers and artists.
  - What determines fair use?

## ► Fair Use

- Determining an infringement of copyright depends upon whether the test of “fair use” is met. The factors considered are:
  - The **purpose and character** of the use
  - The **nature** of the copyrighted work
  - The **amount and substantiality** of the portion used
  - The **effect of the use** on the value of the copyrighted work

## ▶ Fair Use, cont.

- In addition, the Supreme Court has held that the courts should focus on the extent that the new work is transformative – that is, does it alter the work with new expression, meaning or message?
- The more transformative the new work, the less will be the significance of the other factors

# ► The Postal Powers

- Congress has the power to establish a national postal service.
  - Congress can decide what can or cannot be mailed.
  - State and local governments cannot interfere with the mail in any way. It is a federal crime to obstruct the mail or use the mail to commit a criminal act.





# ► The Modern Post Office

- Benjamin Franklin became the first Postmaster General in 1775.
- Today the Post Office has some 37,000 offices, nearly 700,000 employees and handles more than 200 billion pieces of mail each year.



# ▶ Federal Lands

- Congress can acquire and manage federal lands and property.
  - These powers apply to the **District of Columbia**, to **federal territories**, and to the many **federal holdings** such as military installations, prisons, and parks.
  - Congress can **gain new property** by treaty, purchase, conquest, admitting new states, discovering unclaimed land, or by exercising eminent domain.

## ▶ Eminent Domain

- Checkpoint: What restrictions does the Constitution place on the exercise of eminent domain?
  - The federal government can seize private property as long as the property is put to public use and the original owners are given fair notice and are fairly compensated for the loss of their property.

## ▶ Other Powers

- Congress sets the rules governing how foreign citizens may become naturalized American citizens.
- Congress sets the national standard (in English and metric units) for weights and measures.
- Congress has several judicial powers.
  - Congress created the federal courts.
  - Congress defines federal crimes and sets the punishments for them.

## ► Review

- Now that you have learned how the expressed powers reflect the Framers' commitment to creating a strong but limited National Government, go back and answer the Chapter Essential Question.
  - What should be the limits on the powers of Congress?