

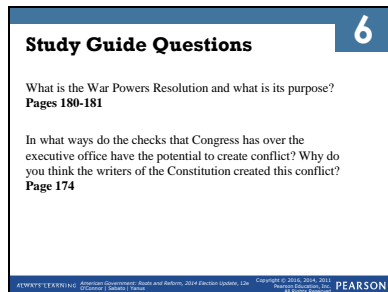
# Chapter 9: Congress Powers of Congress

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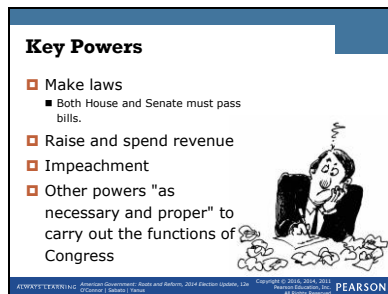


As you will learn in this chapter, Congress has both changed and stayed the same. In terms of its formal structure and procedures, it has varied little over the years. But in terms of its interpersonal dynamics and policy issues, it has changed significantly.

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Slide 3



The Constitution specifically gives Congress its most important powers: the authority to make laws and raise and spend revenue. But the two houses must agree: No bill, or proposed law, can become law without the consent of both the House of Representatives and the Senate.

The Constitution further gives Congress the authority to "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers." In the past, this "necessary and proper" clause has been interpreted by the Supreme Court to mean that Congress can use this

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power, along with its other powers, to increase the scope of its authority, often at the expense of the states and not always in ways the Framers may have intended.

The House has the power of impeachment to charge the president, the vice president, or other "civil officers" with "Treason, Bribery, or other High Crimes and Misdemeanors." However, only the Senate can conduct impeachment trials, and two thirds of the Senate must agree before a federal official can be removed from office.

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TABLE 6.1 What are the powers of Congress?
<b>TABLE 6.1 WHAT ARE THE POWERS OF CONGRESS?</b>
<b>The powers of Congress, found in Article I, section 8, of the Constitution, include the powers to:</b>
Lay and collect taxes and duties
Regulate trade
Regulate commerce with foreign nations and among the states
Establish rules for naturalization and process of becoming a citizen and bankruptcy
Coin money, set its value, and fix the standard of weights and measures
Punish counterfeiting
Establish a post office and post roads
Issue patents and copyrights
Define and punish piracy, felonies on the high seas, and crimes against the law of nations
Create courts inferior to (below) the U.S. Supreme Court
Declare war
Raise and support an army and navy and make rules for their governance
Provide for a militia, reserving to the states the right to appoint militia officers and to train militia under congressional rules
Exercise legislative powers over the seat of government (the District of Columbia) and over places purchased by the federal government (banks, arsenals, observatories, and "other needful buildings")
Make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the government of the United States

This table includes the powers of Congress, as spelled out in Article I, section 8.

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**TABLE 6.3 What is a Typical Day like for a Member of Congress?**

**TABLE 6.3 WHAT IS A TYPICAL DAY LIKE FOR A MEMBER OF CONGRESS?**

6:00 a.m.	Arrive at office.
7:00 a.m.	Give a ride to the U.S. Capitol to constituents.
8:00 a.m.	Get breakfast with the House Shopping Caucus.
9:00 a.m.	Meet with Speaker of the House and other members of Congress.
10:00 a.m.	Attend House Armed Services Committee hearing.
11:00 a.m.	Prepare for afternoon press conference, return phone calls, and sign constituent mail.
12:00 p.m.	Meet with constituents who want the member to join a caucus that may benefit the district.
1:00 p.m.	Read one of nine newspapers to keep track of current events.
2:00 p.m.	Attend Homeland Security Subcommittee hearing.
3:00 p.m.	Attend floor vote.
3:30 p.m.	Meet with group of high school students on front steps of Capitol.
4:15 p.m.	Return to office to sign more constituent mail and to meet with the American Heart Association.
5:00 p.m.	Attend Sustainable Energy and Environment Caucus meeting.
7:00 p.m.	Eat dinner with fellow members.
8:00 p.m.	Return to office to sign more constituent mail and read more newspapers.
11:00 p.m.	Leave office to go home.

**SOURCE:** Adapted from Bill Clark, "A Day in the Life," Evening Edition October 1, 2008, www.washingtonpost.com/archive/local/2008/10/01/.

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Here's what a day in the life of a congressional representative looks like.

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Shadow Senators Paul Strauss (rear) and Michael Brown (left) and Delegate Eleanor Holmes Norton (center), all Democrats, represent Washington, D.C., in the Senate and the House, respectively. When Democrats held the House, Norton was allowed to cast votes in committee, a privilege she lost in 2011 when Republicans gained control of the House. D.C.'s two shadow senators have no voting rights or legal standing.

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The Constitution makes clear Congress's authority to make laws. In fact, Congress has the authority to make "all Laws which shall be necessary and proper for carrying into Execution" its powers.

Today, Congress not only makes laws that deal with major policy issues, it also spends a great deal of time drafting, debating, and disposing of the nation's budget. It also has a key oversight role; through the War Powers Act, congressional review, approval of nominations, and impeachment, Congress can "check" the power of the other two branches.

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**The Oversight Function**

- The War Powers Resolution
- Congressional Review
- Confirmation of Presidential Appointees
- Impeachment

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Congress conducts hearings, which are often televised, to question agency officials to determine if laws are being enforced and interpreted as intended by Congress. This is called an oversight function. Other oversight functions include approving the executive branch's nominations for Cabinet offices, federal judgeships, and other key roles. Perhaps most visibly, Congress can exercise its oversight function through its power to impeach federal officials.

Working under committee chairman Sam Ervin (D-North Carolina), the Select Committee on Presidential Campaign Activities gathered evidence that would lead to the indictment of forty administration officials and the conviction of several of Nixon's aides for obstruction of justice and other crimes. Its revelations prompted the impeachment process against Richard Nixon, which featured the introduction of articles of impeachment against the President in the House of Representatives, which led to Nixon's resignation on August 9, 1974.

### *Slide 9*

**War Powers Resolution**

- ❑ Passed over President Nixon's veto
- ❑ Requires Congressional approval to commit troops
- ❑ Limits power of president as commander in chief




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Fed up with the way President Lyndon B. Johnson handled the Vietnam War, Congress in 1973 passed the War Powers Resolution. When Nixon vetoed the act, Congress overrode the veto and the resolution was passed anyway. The resolution allows the president to send troops into action only with the approval of Congress or if the United States or its territories are attacked. The resolution also requires the president to notify Congress within 48 hours of committing troops to foreign soil. Perhaps most importantly, the president must withdraw any troops within 60 days if Congress fails to declare war.

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**Congressional Review  
Confirmation of Presidential  
Appointees**

- Congressional review allows Congress to overrule regulations for federal agencies.
- Senate confirms Supreme Court, federal district court, and Cabinet nominations.



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The Congressional Review Act of 1996 allows Congress to nullify agency regulations and actions by the Washington, D.C., City Council. Under this authority, Congress has 60 days following an administrative regulatory action to pass a joint resolution of legislative disapproval, which must also be signed by the president. Congressional review has been used very infrequently since its passage, though there was a distinct uptick in 2011, when House Republicans questioned a record 11 regulations in the first nine months of the new Congress.

The president nominates judges to the Supreme Court, but Congress has the power to reject nominees. Before announcing their nominees, presidents often ask senators for approval to limit controversy. If a president is nominating a federal district court judge, he may extend senatorial courtesy, asking a senator of the state to present an opinion about the choice. Through the "blue slip" process, senators can make known their approval or disapproval of a nominee, or they may choose not to comment at all.

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**Impeachment**

- Power to remove official from office
- House votes to impeach
- Senate conducts trial



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Ultimately, Congress' most direct form of oversight is its power to impeach. The Constitution is fairly vague on both the impeachment process and the offenses for which the president or federal judges can be impeached. The Constitution merely suggests that these federal officials can be impeached for treason, bribery, or other "high crimes and misdemeanors." Historians generally have agreed that the Framers meant this to include significant abuses of power. The House votes to impeach officials, but it is the Senate that conducts the trials. Over the years, the House has voted to impeach only 17 federal officials. Of those, seven were convicted and removed from office, and three resigned before the process was completed.

Only four resolutions against presidents have resulted in further action: John Tyler was charged with misconduct and corruption in 1843, but the House later rejected those charges. Andrew Johnson was charged with serious misconduct in 1868, but the Senate acquitted him by one vote. Richard M. Nixon was charged with obstruction of justice and abuse of power in 1974, and resigned before the full House voted on the matter. Bill Clinton was charged with perjury and obstruction of justice in 1998 and was acquitted by the Senate.

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**6.4 Which of these is among Congress's oversight authority?**

- a. Impeachment
- b. Congressional review
- c. Senate confirmations
- d. All of the above

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Let's answer a brief question to see what you have learned about Congress's oversight authority.

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**6.4 Which of these is among Congress's oversight authority?**

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- b. Congressional review
- c. Senate confirmations
- d. All of the above**

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As you have just learned in the preceding section, Congress has the power to impeach officials for serious offenses, to confirm executive appointments, and to review agency activities.

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**Congress and the Executive**

- ❑ Tenure of Office Act
- ❑ Weakened the power of the executive
- ❑ Fluctuations in power
- ❑ Strong executive versus strong legislative



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The balance of power between Congress and the executive has fluctuated over time. Following the death of Abraham Lincoln, Congress tried to take over some of the authority Lincoln had as president. Congress passed the Tenure of Office Act, which prohibited Johnson from getting rid of any of the Cabinet members from the previous administration. Johnson responded by firing Lincoln's secretary of war. The House voted to impeach Johnson, but the measure failed in the Senate by one vote. Even so, the attempt weakened Johnson, and Congress again became the center of



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power and authority in the federal government.

That development didn't last forever. Beginning in the early 1900s, a series of strong presidents, including Theodore Roosevelt, Franklin Roosevelt, and Lyndon Johnson, shifted more power and influence back into the hands of the president.

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**Congress v. Executive Office**

- Through the War Powers Resolution, congressional review, approval of nominations and impeachment, Congress can check the power of the executive and judicial branches.



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Conflict is not only possible between the branches of government, but probable. Through the War Powers Resolution, congressional review, approval of nominations and impeachment, Congress can check the power of the executive and judicial branches. From George Washington to Donald Trump, Congress has impeded and infuriated the office of president. Undoubtedly, history will repeat itself!

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**Congress and the Judiciary**

- Judicial review
  - Supreme Court can determine if legislation is constitutional.
- Jurisdiction of federal courts



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The Constitution provides for numerous forms of checks and balances. One of these is judicial review, in which the Supreme Court reviews the laws passed by Congress to ensure their constitutionality. Lately the Court has, on average, struck down two laws per term.

Congress, however, has its own checks. It is Congress, after all, that sets the jurisdiction of the federal courts, and determines the number of federal judges on each court as well as the boundaries of judicial districts and circuits. And Congress lets the courts know when it is unhappy with their

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activity. During recent Congresses, for example, several members, unhappy with Supreme Court actions on abortion and gay rights, pushed for a bill prohibiting federal courts from hearing challenges on these issues.

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