The Scope of Congressional Power

There are 3 sets of Constitutional powers held by congress.
Expressed Powers

Powers granted to Congress explicitly in the Constitution.
Powers are granted by reasonable deduction from the expressed powers.
Powers are granted through the Constitution’s creation of a National Government for the United States.

Expressed Powers
Implied Powers
Inherent Powers
Expressed Powers to Implied Powers

Expressed Powers of Congress

- The power to coin money and regulate its value
- The taxing power
- The commerce and war power
- The power to raise armies and a navy
- The commerce power
Expressed Powers to Implied Powers

Expressed Powers of Congress

- The power to coin money and regulate its value
- The taxing power
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- The power to raise armies and a navy
- The commerce power

IMPLIES the power to establish the Federal Reserve System

IMPLIES the power to make tax evasion a crime and provide for its punishment

IMPLIES the power to establish federal-aid-to-education programs

IMPLIES the power to draft men into the armed forces

IMPLIES the power to fix minimum wages and maximum work hours
STRICT CONSTRUCTION
VERSUS
LIBERAL CONSTRUCTION

DIVIDED
Alexander Hamilton vs. Thomas Jefferson
Strict Construction

- led by Thomas Jefferson
- argued that Congress should only be able to exercise its expressed powers
- and those implied powers absolutely necessary to carry out those expressed powers.
LIBERAL CONSTRUCTION

- led by Alexander Hamilton
- favored a liberal interpretation of the Constitution
- a broad interpretation of the powers given to Congress.
Expanding Congressional Powers: Strict vs. Liberal Constructionists

The debate between strict constructionists and liberal constructionists has been going on since the Constitution was written.

Liberal constructionists argue that workers’ wages and discrimination in public accommodations are part of the nation’s interstate commerce. Thus it is within the realm of congressional powers to regulate both, based on Congress’s commerce powers.

Main Issues:
- Among other things, the Fair Labor Standards Act of 1938 sets a federal minimum wage for the first time.
- Among other things, the Civil Rights Act of 1964 prohibits discrimination in public accommodations.

Strict constructionists argue that setting a minimum wage or prohibiting discrimination in public accommodations cannot be defined as “interstate commerce” and thus is not proper use for Congress’s commerce powers.