

TEXT SUMMARY

Congress's implied powers come from the Constitution's **Necessary and Proper Clause**. This clause grants Congress all the powers "necessary and proper" for executing its expressed powers. The clause is also called the "Elastic Clause" because its use has greatly stretched Congress's powers. For example, although the Constitution says nothing about education, Congress **appropriates**, or assigns to a particular use, billions of dollars for education every year.

The battle over implied powers began in the 1790s. Liberal constructionists led by Alexander Hamilton wanted Congress to set up a national bank. To do so was not an expressed power; the liberal constructionists saw it as an implied power.

Strict constructionists led by Thomas Jefferson thought that the government should use only those powers *absolutely* necessary to carry out the expressed powers. However, the liberal constructionists won out.

In 1819, the Supreme Court heard the case *McCulloch v. Maryland*, which hinged on the constitutionality of Congress's power to set up a national bank. The Supreme Court ruled that the bank was constitutional, therefore supporting the idea of implied powers. Since that time, the **doctrine**, or fundamental policy, of implied powers has been applied continually.

THE BIG IDEA

The Necessary and Proper Clause led to massive expansion of Congress's power.

GRAPHIC SUMMARY: *The Implied Powers of Congress*

The expressed power	implies the power
to lay and collect taxes	<ul style="list-style-type: none"> to create tax laws and punish tax evaders to use tax revenues to fund welfare, public schools, health and housing programs to require States to meet certain conditions to qualify for federal funding
to borrow money	<ul style="list-style-type: none"> to establish the Federal Reserve System of banks
to establish naturalization law	<ul style="list-style-type: none"> to regulate and limit immigration
to raise armies and a navy	<ul style="list-style-type: none"> to draft Americans into the military
to regulate commerce	<ul style="list-style-type: none"> to establish a minimum wage to ban discrimination in workplaces and public facilities to pass laws protecting the disabled to regulate banking
to establish post offices	<ul style="list-style-type: none"> to prohibit mail fraud and obstruction of the mails to bar the shipping of certain items through the mails

The implied powers of Congress are those that are reasonably assumed based on the expressed powers in the Constitution.

REVIEW QUESTIONS

1. Why is the Necessary and Proper Clause often called the "Elastic Clause"?

2. **Chart Skills** From what power is the implied power to limit immigration drawn?