**Expressed or Enumerated and Implied Powers: An Exercise in Logic**

**Enumerated Powers: The Constitution grants specific powers to the government,**

**particularly to the Congress, which are known as enumerated powers.**

**Implied Powers: The Constitution suggests, rather than specifies, some powers,**

**particularly in considering what might be “necessary and proper” to implement them.**

**Article I, Section 8 of the US Constitution** specifically outlines the powers granted to Congress. These powers are called “expressed powers” because they are specifically stated in the Constitution. There are also many significant things Congress does that are not specifically outlined in the Constitution. Congress takes these actions because time and the courts have agreed that Congress also has “implied powers,” powers that are related to the expressed powers but not specifically listed. Implied powers are logically deduced from express powers.

**List of Implied Powers:**

Illegalize mail fraud – institute a draft – regulate the sale of certain things (drugs or gasoline) - establish a minimum wage – punish tax evaders - regulate/control immigration – ban discrimination in public and work places – control what can be mailed (alcohol, weapons) - conduct oversight hearings of executive (Presidential) actions - establish the Federal Reserve System (an independent agency that controls the money supply)

**Expressed Powers**

**A.** Regulate a Post Office (Article I, Section 8 [7]): Illegalize mail fraud & control what can be mailed (alcohol, weapons)

**B.** Regulate commerce (business) (Article I, Section 8 [3]): regulate the sale of certain things (drugs or gasoline), establish a minimum wage, ban discrimination in public and work places

**C.** Raise an Army and Navy (Article I, Section 8 [12-14]): institute a draft, ban discrimination in public and work places

**D.** Lay taxes (Article I, Section 8 [1]): punish tax evaders

**E.** Borrow money (Article I, Section 8 [2]): establish the Federal Reserve System

**F.** Establish naturalization laws (Article I, Section 8 [4]): regulate/control immigration

**G.** Appropriate funds and pass laws (Article I, Section 8 [1, 18]): establish the Federal Reserve System, conduct oversight hearings of executive (Presidential) actions

Article II of the Constitution covers the Presidency. This article as well presents expressly worded language about the job and responsibilities of the Presidency. What, on the other hand, is implied from these expressed Presidential powers? The following powers are some of the expressed and implied powers granted to Congress.

1. Draft striking miners into the army
2. Intern Japanese Americans in wartime
3. Claim executive privilege during Watergate hearings
4. Order troops to the Korean Peninsula without a declaration of war
5. Order warrantless wiretapping of Americans during the War on Terror
6. Fire a reckless but popular general in the middle of a war
7. Prepare and present a budget for Congress
8. Use military forces along the border with Mexico to interdict drug traffickers

9. Order the desegregation of armed services

10. Order striking air traffic controllers back to work

11. Fire the attorney general

12. Claim total control over the carrying out of laws (unitary theory), like No Child Left Behind

13. Order a nuclear strike on a nearby island that houses enemy nuclear missiles

**Expressed Powers**

1. The executive power shall be vested in a President of the United States of America: Claim executive privilege during Watergate hearings, Order striking air traffic controllers back to work, Fire the attorney general
2. The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States: Fire a reckless but popular general in the middle of a war, Order troops to the Korean Peninsula without a declaration of war, Use military forces along the border with Mexico to interdict drug traffickers, Order the desegregation of armed services, Draft striking miners into the army, Order a nuclear strike on a nearby island that houses enemy nuclear missiles
3. He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment: Claim executive privilege during Watergate hearings
4. He shall take care that the laws be faithfully executed: Claim total control over the carrying out of laws (unitary theory), like No Child Left Behind
5. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient: Prepare and present a budget for Congress
6. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--''I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.’’: Intern Japanese Americans in wartime, Order warrantless wiretapping of Americans during the War on Terror

**G. As well: Inherent powers** \* Powers said to be inherent to the idea of government

\* Include power to control national borders, acquire new territories, defend the state from revolution and rebellion, protect the right of sovereignty: Order troops to the Korean Peninsula without a declaration of war, Use military forces along the border with Mexico to interdict drug traffickers, Order a nuclear strike on a nearby island that houses enemy nuclear missiles