

APGoPo Unit 5

CONGRESS RESPONDS TO THE IMPERIAL PRESIDENCY

BACKGROUND

- The Vietnam War, Watergate, and the resignation of Nixon was a reassertion of congressional authority in mid-1970s

WAR POWERS ACT OF 1973	<ul style="list-style-type: none"> President can send troops overseas to an area where hostilities are imminent without a congressional war declaration only under these circumstances: <ul style="list-style-type: none"> Must notify Congress within 48 hours Must withdraw the troops after 60 days (can be extended another 30 days if the safety of the troops requires it) Must consult w/Congress if troops are to engage in combat Congress can pass a resolution, not subject to presidential veto, to have the troops withdrawn Criticisms <ul style="list-style-type: none"> Unconstitutional – an abridgement of the President’s authority as Commander in Chief Ties the hands of the President – too inflexible Makes it easy on the enemy – just wait 60-90 days Presidents have claimed the act to be unconstitutional, some have disregarded it, but there has been no lawsuit to determine its constitutionality. A “political hot potato”
EMERGENCY POWERS	<ul style="list-style-type: none"> Passage of National Emergencies Act of 1976 <ul style="list-style-type: none"> President must inform Congress in advance of powers to be used in emergencies State of emergency automatically ends after 6 months President can declare another 6 months of emergency, subject to congressional review
IMPOUNDMENT	<ul style="list-style-type: none"> Budget and Impoundment Control Act of 1974 <ul style="list-style-type: none"> If President impounds funds temporarily (deferral), either house can override If President impounds funds permanently (rescission), that act is automatically voided unless both houses of Congress approve within 45 days Establishment of Congressional Budget Office (CBO) as a check on OMB Congress given three additional months to consider the President’s proposed budget
CONFIRMATION OF PRESIDENTIAL APPOINTEES	<ul style="list-style-type: none"> Senatorial courtesy a long-established practice: if President makes an appointment within a state, he will consult with the two senators of that state Much closer scrutiny given by Senate to appointments “Rule of fitness” seems to no longer be sufficient; now a nominee’s policy preferences are fair game for much more senatorial scrutiny than before Long confirmation delays (through use of the “hold”) of <u>years</u> with some of Clinton’s judicial nominees due to the belief that the nominees were too liberal/out of the judicial mainstream. Democrats in Senate returned the favor in the Bush Administration by delaying confirmations.
LEGISLATIVE VETO	<ul style="list-style-type: none"> In the past: Congress passed a law, the relevant executive agency issued regulations to enforce the law, Congress could then analyze those regulations and veto them if it so desired. The legislative veto was a way of forcing the bureaucracy to conform to congressional intent. In the case of <i>INS v. Chada</i> (1983), however, the Supreme Court declared the legislative veto to be an unconstitutional violation of separation of powers.
FOREIGN AFFAIRS	<ul style="list-style-type: none"> Use of appropriations power to influence foreign policy in the 1970s and 1980s: Congress cut off aid to South Vietnam, Angola, and the Contras. Congress tried to force Bush 43 into a deadline for withdrawing troops from Iraq by using funding as a lever. Extensive debate over U.S. involvement in the Gulf War. Although Bush did not use the War Powers Act, he did go to Congress to get its approval for U.S. action. Congress gave strong support to Bush’s war on terrorism. Extensive debate over US involvement in war against Iraq in 2003. Although Bush did not use the War Powers Act, he did go to Congress to get its approval for U.S. action. Increasing criticism over war in Iraq. Criticism of Patriot Act and secret domestic surveillance programs of NSA without going through Foreign Intelligence Surveillance Act court for prior approval.