Volume II: Issue 5

The BEACON OF LIBERTY

A Structured Curriculum of Constitutional Study

Clause Discussed:
• Article I, Section 8, Clause 1

Concepts Discussed:
• To lay and collect Taxes, Duties, Imposts and Excises

Section 8 of **Article I** is the section of the Constitution which enumerates the primary powers of Congress. Since Citizens must abide by all laws enacted within Congress' delegated authority which reaches them, an in-depth study of this Section is in order to best understand the proper breadth of allowable government action.

It is easiest to learn about the Constitution by also studying legislation enacted within its boundaries. Unfortunately, government activity conforming to the majority of constitutional limitations does not include the entire period of time from 1789 unto the present. Looking back through American history, three fairly-distinct periods regarding the extent of government activity can be seen.

The initial period of *limited government* lasted from the beginning of government under the Constitution in 1789 until the Civil War era. The second period of *conversion* lasted from then until the era of the Great Depression and World War II. The last period of (ever-growing) *government omnipotence* has continued through to the present.

In the era of *limited government*, legislative enactments, judicial rulings and executive action, by and large, essentially reinforced the express wording of the Constitution (certainly at least relative to today[1]).

1. It is ironic that a number of early judicial decisions quoted today to support a limited meaning of a clause were only elaborated upon in the judicial opinion so extensively because the judge was actually doing all he could to allow *expanded* government action.

In essence, political conservatives today are often trying to return to that authority level which those who pushed for expanded government action decades and centuries ago attempted then to reach (i.e., today's conservatives are often only yesterday's liberals).

Because government action varies greatly depending upon the era viewed, it will ultimately prove beneficial to study government authority by the era.

Clauses 1-18 of Section 8 will therefore only be initially covered through to the Civil War period. By limiting the study of Section 8 to the first seventy years of government under the Constitution, one can develop an better understanding as to how the various clauses inter-relate together in a cohesive manner as envisioned by the framers of the Constitution.

Once all of the clauses of Section 8 have been covered under this first governmental period, study can then continue to the time of growing government omnipotence.

It is beyond the scope and capabilities of an eight-page monthly newsletter to cover all the clauses of Section 8 from 1789 through to the current era. As will be eventually shown, legislation (and executive action as well as judicial decisions) after the War between the States took a decided turn *away* from many constitutional mandates. Study of these actions then, is no longer actually a study of the Constitution, but a study of how the government circumvents it.

Since *The Beacon of Liberty* is a study of the Constitution, it will necessarily concentrate on that topic. Study of how the various activities of the federal government have expanded greatly beyond the bulk of the Constitution (through to the current era) will then be necessarily limited to a few of the major concerns affecting a great number of Americans so the reader can understand the mechanism of deception.

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This is not to say that after the balance of the Constitution and Amendments have been discussed, that discussion cannot resume on individual topics. Also, single issues detailing a specific power will hopefully be dealt with in book format (such as dealing with the power "to coin money" and the conversion of America's monetary system of silver and gold coin to paper; or a book on the right to arms; or infringement on the right to property, or…).

It should be pointed out that once one understands the principal mechanism of deception, one can understand how the government makes end-runs around the Constitution in many situations. Self-study into a particular topic of concern can then occur on an individual basis with a good deal of confidence.

Raising Revenue

Primary among the list of powers (responsibilities) of Congress is to provide adequate revenue out of which funds can be appropriated to carry out necessary government functions. In recognition of that primary duty and power, **Clause 1** of **Section 8** declares that:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;".

The power to raise revenue by the government is a critical power, here one finds it enumerated first among the powers expressly delegated to Congress. Without the power to raise funds coercively, government as we know it would be inoperative.[2]

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2. This does not completely rule out the government providing necessary services for Citizens or businesses. The common thread between any (essentially) non-coercive revenue-raising scenarios would be the tying of the cost of providing a service as much as possible to the service itself which was provided. User-fees (& duties and excises) would, by and large, replace broad-based taxes.

Under such a system, subsidies and transfer payments would be necessarily curtailed, if not eliminated. This would not, by itself, prevent essential government services from occurring, though creative answers may be sometimes necessary (which technology today may be better able to provide, which was not available to the framers of the Constitution).

Even under such a less-coercive system, during a time of war, it would likely be necessary to resort to broad-based taxes to raise the necessary funds to protect life and property against invasion or similar threats.

The Constitution itself envisions exactly such a scenario with duties, imposts and excises raising revenue in times of peace, with direct taxes also able to be laid (during time of war or pending war).

It may be difficult to initially understand a number of core principles which are included in Clause 1 due to its very structure.

The main principle of Article I, Section 8, Clause 1 is, of course, that Congress has the power *to raise revenue* by the laying and collecting of Taxes, Duties, Imposts and Excises.

Other principles are discussed in Clause 1, even if only to restrict that primary power to raise revenue. This can best be seen by temporarily *modifying* Clause 1 as follows:

> "The Congress shall have Power To lay and collect Taxes…to pay the Debts and provide for the common Defence and general Welfare of the United States."

Looking at the clause temporarily abbreviated in this fashion, it is apparent that the power of raising revenue could well be tied to that of providing proper government services.

The Power to lay and collect Taxes, Duties, Imposts and Excises would be seen in this instance as a *qualified* power — that Congress may not raise revenue for any purpose they see fit, but that it must be for a reason generally authorized within constitutional parameters.

Of course, such temporary modification to any clause must be removed immediately to see its *actual* structure. It is the structure of a clause which helps determine its actual meaning.

The main difference between the abbreviated modification and the actual Clause is the inclusion of a *comma* in the actual Clause after the word "Excises" and before the phrase "to pay the Debts…".

By postponing discussion of the last portion of Clause 1 (the requirement for *uniformity* for Duties, Imposts and Excises), one can concentrate on the following:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States."

In a casual observation (and even on a more detailed study), it could well appear that Clause 1 here gave to Congress three powers *other* than the power to raise revenue — being the separate powers to:

> (1) pay the debts of the United States,
>
> (2) provide for the common Defense of the United States, and
>
> (3) provide for the general Welfare of the United States.

The primary reason that it could appear that *four* separate powers are discussed in Clause 1 is the use of a punctuation mark after the word "Excises."

Had the comma been omitted after *Excises*, there would have been little or no question as to the proper meaning of the Clause. Without the extra comma, the first portions of the Clause would have been written:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises to pay the Debts and provide for the common Defence and general Welfare of the United States."

Quite clearly, this wording would have expressly limited the laying and collecting of Taxes, Duties, Imposts and Excises *only* to pay the debts of the United States incurred by providing for the common defense and general welfare of the United States.

The use of the comma *after* "Taxes, Duties, Imposts and Excises" could very well be a natural break (pause) after the list of the various types of revenue, to better show that the list was completed before discussing the purposes for which any of them could be laid.

Of Punctuation

If the purpose of the comma after the word *Excises* is to help separate the different powers of Congress listed in the clause from one another, then the result of this directly infers a substantial amount of power to Congress.

The specific ability for Congress to legislate in all cases which could be said merely to be for *the general Welfare of the United States* would be an extensive power were it specifically delegated with that intent.

If Congress could enact any law simply due to its singular qualification that it was for *the general Welfare of the United States*, many activities could be performed under that authority which could not be accomplished by any other clause under Section 8.

With such a power, it would be difficult to call Congress a branch of government with *delegated* power. It would appear that Congress, by this wording, would have wide *discretionary* powers — the enumeration of other powers would therefore actually be unnecessary.

If Congress could enact any law simply due to its singular qualification that it was for *the general Welfare of the United States*, Congress would be an entity of *discretionary*, not delegated, power.

As the difference between a government of *delegated* powers and one of *discretionary* powers is monumental, careful study of this wording and Clause 1 is necessary to properly understand which type of government operates in America.

The type of government for the United States of America appears to turn on a punctuation mark. This could not actually be so, of course, for history around the Revolution cannot be ignored nor turned on its head by a single comma. Neither, of course, can the balance of the Constitution be made irrelevant.

The first of the three possibly-separate powers listed above ("to pay the debts of the United States") would, even without express mention, be an *implied* power of Congress if there ever were any such powers.

Certainly the power *to raise revenue* would not be given if there was no ability to disburse funds from that generated revenue. The purpose of money fails its primary function as a store of value (for future need) if it could never be spent.

The listing of the power "to pay the Debts" in Clause 1, however, eliminates the need for mere implication. The inclusion of the provision "to pay the Debts…of the United States" makes perfect sense within the clause giving authority for the raising of revenue.

The power to raise revenue and the power disburse from that revenue are linked together inexorably, wherever they happen to be discussed.

That the possibly-separate powers to "provide for the common Defence…of the United States" and "to provide for the general Welfare of the United States" should be included within the clause discussing the raising of revenue would make little sense if these general welfare and defense powers were, in fact, powers separate from the raising of such revenue.

It would be odd indeed that such important and all-inclusive powers would not be discussed by themselves in their *own* clauses (the power of Congress to defend the United States is specifically detailed in one manner or another in no less than *seven* such clauses of Article I, Section 8 — in Clauses 10-16).

Only if the wording *to provide for the common defense and general welfare* gives a general overview of the purposes for which money to be raised may be spent does it make full sense to include these words in Clause 1 (or, when listed in *any* clause, the general purposes for which government can act). Only this understanding equates with the balance of the Constitution and American history.

To Pay the Debts

The very structure of Clause 1 helps to reinforce that the words "to pay the Debts and provide for the common Defence and general Welfare of the United States" simply relate to the power "to lay and collect Taxes, Duties, Imposts, and Excises".

The word "*to*" in the clause is a *preposition*, and is often used before a noun or adjective. A preposition modifies or otherwise limits nouns, adjectives or verbs. A preposition does not link together separate thoughts, but is used between various thoughts to *qualify* or *relate* one to the other.

When the word "to" is used before a verb (as in "to pay"), it acts as a *function word* to relate the *infinitive*[3] case of a verb to another part of the sentence.

In either case, "to" will relate that which *follows* to that which *precedes*, irregardless of the use of a *comma* (which gives but *pause* to the sentence).

The wording in Clause 1 "to pay" clearly relates back to another portion of the sentence; it implicitly asks "who pays" or "for what reason does one pay", depending upon the specific wording used.

The question is, do the words which follow relate back to *Congress* directly, or back *to limit the power of Congress being discussed* (which is the power to lay and collect Taxes, Duties, Imposts and Excises)?

If the power relates back to Congress (directly), then it could simply be a power of Congress, separate from other powers listed (or possibly only a general description for specified powers which would then follow).

If the phrase "to pay" relates back to Congress directly, then this could also imply that Congress does not have any express restrictions on the laying and collecting of Taxes, Duties, Imposts and Excises.[4]

Relating to a government of delegated powers, of course, it would make sense to limit the ability to raise revenue within the justifiable ends of government.

In a government of discretionary powers, it would make sense that broad powers be open-ended and that powers for raising revenue be left unrestricted.

Any number of people would like the pertinent portion of Clause 1 to read:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, ***and*** to pay the Debts and provide for the common Defence and general Welfare of the United States."

Use of the conjunction *and* would necessarily relate the phrase "to pay" back to the Congress, rather than to merely qualify the laying and collecting of Taxes, Duties, Imposts and Excises.

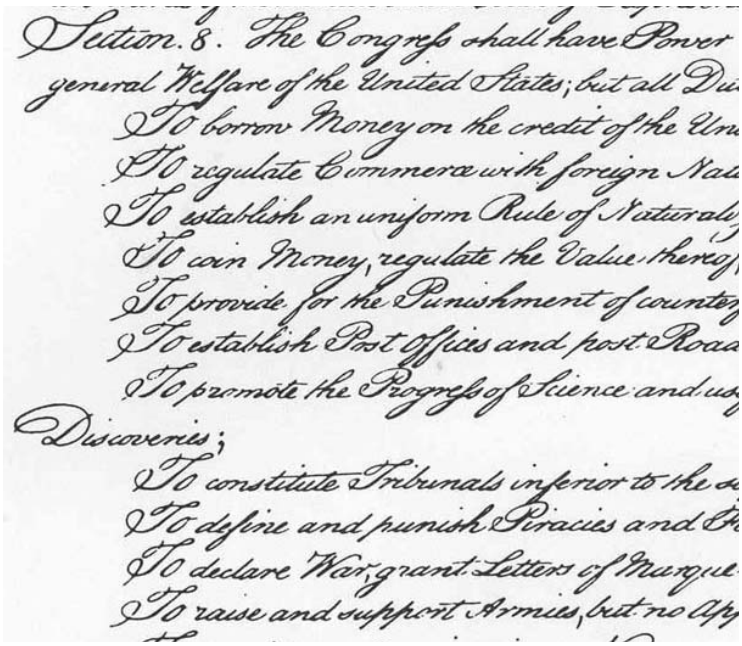
Had "*and*" been listed before the words "to pay", there would have been little question regarding the abilities of Congress.

With use of a conjunction, Congress would be able to tax and Congress would be able to separately provide for the general welfare of the United States (at least figuratively).

Unfortunately, since a comma *was* used in the clause as ratified and since the conjunction " and" *was not*, the meaning of Clause 1 is not entirely clear without looking further into the matter (though one should have a good idea which concept fits within the balance of the Constitution and history).

Since a comma *was* used in the Clause 1 and the conjunction "and" *was not*, the meaning of Clause 1 is not entirely clear without looking further into the matter.

Looking at all of the clauses of Section 8, one notices that each clause after Clause 1 begins with the preposition "To…", following by a verb.


Section. 8. The Congress shall have Power
general Welfare of the United States; but all Du
To borrow Money on the credit of the Un
To regulate Commerce with foreign Nat
To establish an uniform Rule of Naturali
To coin Money, regulate the Value thereo
To provide for the Punishment of counter
To establish Post Offices and post Roads
To promote the Progress of Science and us
Discoveries;
To constitute Tribunals inferior to the
To define and punish Piracies and
To declare War, grant Letters of Marque
To raise and support Armies, but no Ap

3. In the *infinitive* case of a verb, an *infinite* number of nouns or pronouns could be referenced since there is no determination as to *who* pays by looking at only the infinitive case of the verb (only "to pay"). Conversely, if the person is named (as in "*John* pays") or somehow limited in scope (as in "*he* pays"), then there are only a *finite* number of possibilities for reference (those named "John" or those to whom the pronoun "he" could relate in the sentence).

4. Even without express restrictions on the laying and collecting of Taxes, Duties, Imposts and Excises, a government of *delegated* powers would not have power to raise such revenue for any other purpose than to meet its authorized functions.

This means that Clauses 2-18 are continued with the wording from Clause 1, that "The Congress shall have Power…". The various clauses separately enumerate the powers of Congress.

Just because multiple powers happen to be listed within any particular clause (which are not actually numbered in the Constitution, though they are referred to as numbered clauses in Article V), one cannot jump to the conclusion that Congress has power over every topic listed. Also, just because items listed are separated by a comma in their listing does not necessarily relate these powers back to Congress.

For example, by **Article I, Section 8, Clause 15** of the Constitution, Congress has the Power:

> "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions."

It may appear to many people again that Clause 15 lists *four* separate powers of Congress. These would be ("The Congress shall have Power…):"

> (1) "To provide for calling forth the Militia"; (and shall have the power)
>
> (2) "to execute the Laws of the Union"; (and shall have the power to)
>
> (3) "suppress Insurrections"; and (shall have the power to)
>
> (4) "repel Invasions."

This clause (too) actually only lists a *single* power of Congress while also giving (three) separate reasons for which that power may be used.

Article II, Section 1, Clause 1 of the Constitution specifically vests with the President the "*executive* Power" (i.e., the power to *execute* the Laws), stating:

> "The executive Power shall be vested in a President of the United States of America."

Article II, Section 3 of the Constitution specifically charges to the President the responsibility to:

> "take Care that the Laws be faithfully executed."

Article II, Section 2, Clause 1 of the Constitution specifically makes the President the:

> "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."

Clearly, given that the Constitution permanently *vests* with the President the power to execute the Laws of the Union and to command the Militia when called forth, Congress has no power to do the same.

In Clause 15, the wording "to execute the Laws…" clearly does not relate to a separate power of *Congress*; it is but one of the *purposes* for which this particular power of Congress ("to call forth the Militia") may be used.

Congress has the power to provide for calling forth the Militia for the purpose of executing the Laws of the Union; for the purpose of quelling domestic disturbances when the State Legislatures or Executives apply to Congress for such aid (see Article IV, Section 4); and for calling forth the Militia for the purpose of repelling foreign Invasions.

Congress also has the ability to enact legislation with regards to the Militia (under Clause 16).

Congress does not have the power to execute the Laws of the Union; nor the power to suppress Insurrections; nor the power to repel Invasions — even though these purposes are listed within Section 8 which specifically lists the powers of Congress.

Clause 15 merely lists the singular power of Congress to call forth the Militia and then lists the purposes for which the Militia may be called. Once the Militia is called forth by Congress, the President, as Commander-in-Chief, commands the Militia to carry out his express authority to execute the Laws of the Union and to suppress Insurrections and repel Invasions.

Clause 15 merely lists the singular power of Congress to call forth the Militia and then lists the purposes for which the Militia may be called.

A noticeable difference between Clause 1 and Clause 15 can be seen. A comma *was used* in Clause 1 (after a listing of *different* items, giving pause) and *was not used* in Clause 15 between "Militia" and "to execute" (after listing only *one* power). Further study is necessary to see if this the use or disuse of a comma is here significant.

Multiple Powers of Congress listed within one Clause

Article I, Section 8, Clause 17 of the Constitution lists in one clause multiple powers of Congress. It reads, "The Congress shall have Power…"):

> "To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;"

By this clause, Congress has the specific ability "to exercise exclusive Legislation…over…the Seat of the Government of the United States" ***and*** Congress has the power "to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings".

In Clause 17, only *two* powers are discussed (exclusive Legislation over the Seat of Government and exclusive Legislation over properties purchased in the States [with consent of the Legislatures]).

Between these two physical areas over which the exclusive legislation jurisdiction of the United States extends, the conjunction "and" is used to link the authority over the second areas back to Congress.

It is common today when listing three items in a sentence to use a comma between the first two items listed. Between the second the third items, however, the comma is often omitted and a conjunction is used to connect the second and third items together (such as: "John, Jane and Sally went to the store").

That a comma be used before the conjunction would not change the meaning ("John, Jane, and Sally...").

When only two items are listed, a comma is seldom used today (such as "John and Jane went to the store"), though it was used in Clause 17 when only two items were discussed.

In Clause 17, it is not the comma in the clause which extends to Congress their second-listed power, it is the use of the conjunction "*and*".

That a comma was listed in Clause 17 before the conjunction where it would not usually be placed today provides one with the example that commas are used in the Constitution where modern writers would not normally use them (so its use in Clause 1 is not necessarily detrimental to the case against a separate power of Congress).

Multiple Powers Separated by only a Comma

The Constitution does separate different items discussed within the same clause simply by using only by a comma, but a closer inspection will show that they are not really *separate* or *multiple* powers.

Article I, Section 8, Clause 5, for example, grants to Congress the power:

> "To coin money, regulate the value thereof, and of foreign coin, and fix the Standard of Weights and Measures."

The coining of money and the regulation of the value of that coined money (separated only by a comma) are actually but a discussion of a *major* power (to coin money) and of a *related, minor* power (to regulate the value of that coined money).

In this instance, a *comma* did not separate *different* powers, **but better defined the extent to which the primary power reached** (to definitely include the secondary power listed).

When the *first* power discussed is the *primary* power, then the *secondary* power can be set apart from it by merely using a *comma*.

The power to regulate the value of coined money and the power to fix the Standard of Weights and Measures are also *related* powers, but the power to fix the Standard of Weights and Measures is a larger power[5] than that of coining money.

It is thus appropriate when the *secondary* power (in this case, the coining of money and regulating its value) is discussed before the *primary* power (here the fixing of the Standard of Weights and Measures) to include the conjunction "*and*". When the first power listed is the *secondary* power, listing next the *primary* power requires the use of the conjunction "*and*".

Article I, Section 8, Clause 11 is similar to Clause 5 — "The Congress shall have Power":

> "To declare War, grant of Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water."

The separation of the "grant of Letters of Marque and Reprisal" (from the power "to declare war") by simply a comma again only speaks of a major power followed by a related subsidiary power. The granting of Letters of Marque & Reprisal is but a subset of the power to declare and wage war.

Conjunctions

The Constitution does not shy away from connecting separate powers of Congress within the same clause by the use of a conjunction (*and* is used in Clause 1 *five* times; surely if the convention delegates meant to list four *separate* powers of Congress in this clause, they would **not** have hesitated to use "*and*" a *sixth* time, especially where it would be of such fundamental importance).

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5. The coining of money and regulating its value are but a fixing of a Standard of Weights and Measures for one item — money. That a dollar is a weight and fineness of silver (412.5 grains of silver 900/1,000^{ths} fine [since 1837]) is no different of a standard than 12 inches equaling one foot, or four quarts equaling one gallon.

For example, **Article I, Section 8, Clause 10** lists a number of powers of Congress using *and* to connect them. By this Clause, Congress has the Power:

> "To define **and** punish Piracies **and** Felonies committed on the high Seas**, and** Offences against the Law of Nations."

Congress, by **Clause 10**, shall have the powers to:

(1) "define Piracies"; and

(2) "punish Piracies"; and to

(3) "define Felonies committed on the high Seas"; and to

(4) "punish Felonies committed on the high Seas"; and to

(5) "define Offences against the Law of Nations"; and to

(6) "punish Offences against the Law of Nations."

Congress can define piracy and Congress can provide for the punishment of piracies.[6]

Congress can define felonies committed on the high Seas, and Congress can provide punishment for felonies committed on the high Seas.

Congress can define offenses against the Law of Nations and Congress can provide for the punishment of offenses against the Law of Nations.

The extensive use of the conjunction *and* in clause 10 was necessary to clearly delineate these powers of Congress (given that they were listed within the same clause).

Many other of the single clauses of Section 8 list multiple powers. Here one again finds extensive use of the conjunction "*and*". For example, Congress has the Power by the listed clauses:

Clause 4:

> "To establish an uniform Rule of Naturalization**, and** uniform Laws on the subject of Bankruptcies throughout the United States;"

Clause 6:

> "To provide for the Punishment of counterfeiting the Securities **and** current Coin of the United States;"

Clause 7:

> "To establish Post Offices **and** post Roads;"

Clause 8:

> "To promote the Progress of Science **and** useful Arts, by securing for limited Times to Authors **and** Inventors the exclusive Right to their respective Writings **and** Discoveries;"

Clause 12:

> "To raise **and** support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;"

Clause 13:

> "To provide **and** maintain a Navy;"

Clause 14:

> "To make Rules for the Government **and** Regulation of the land **and** naval Forces;"

Clause 16:

> "To provide for organizing, arming**, and** disciplining, the Militia**, and** for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers**, and** the Authority of training the Militia according to the discipline prescribed by Congress;"

Clause 18:

> "To make all Laws which shall be necessary **and** proper for carrying into Execution the foregoing Powers**, and** all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

In summation, the conjunction "*and*" is used to list *multiple* powers of Congress within the same clause.

The preposition "to" functions to *qualify* and *restrict* that which follows it to that which precedes it.

A *comma* can be used to separate items listed, but is used in the Constitution when a primary power is followed by a related subsidiary power (the power discussed *after* a comma relates and qualifies the power discussed *before* the comma).

A look at another part of the Constitution which clearly gives a listing of items is **Article I, Section 2, Clause 2** (or Art. I:3:3). This clause lists *three* separate requirements for becoming a Representative. It reads:

> "No Person shall be a Representative who shall not have attained to the Age of twenty five Years**, and** been seven Years a Citizen of the United States**, and** who shall not, when elected, be an Inhabitant of that State in which he shall be chosen."

Between each of the three separate requirements in Clause 2 a *comma* is used, **but so is the conjunction "and"**; it is the *conjunction* which connects each of these requirements back to Persons who can be a Representative.

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6. Congress passes laws defining piracy and provides for the extent of punishment for those convicted of piracy. With the enactment of such piracy law, the executive branch would bring those who are accused of such crime before the judicial branch. Upon conviction, the executive branch carries out the sentence against the convicted according to the judgment.

Clause 1 of Section 8 is somewhat similar to the **Preamble**, where it lists that:

> "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, *provide for the common defence, promote the general Welfare*, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

When one looks at the wording in the Preamble and Section 8 regarding the *common defense* and *general welfare*, one understands that these examples merely outline the general reasons for the government's existence and the general purposes of raising revenue.

The federal government was granted limited powers for specified purposes. To give Congress the discretion to act at their own will would be inconsistent with not only the rest of the Constitution, but also with its very structure.

The most succinct answer to those who would argue about the power "to provide for the common Defence and general Welfare" are actual grants of power was provided by James Madison in **The Federalist, # 41**, which provides:

> "It has been urged and echoed, that the power 'to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States,' amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defence or general welfare. No stronger proof could be given of the distress under which these writers labour for objections, than their stooping to such a misconstruction.
>
> "Had no other enumeration or definition of the powers of the Congress been found in the Constitution, than the general expression just cited, the authors of the objection might have had some colour for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases…
>
> "If the different parts of the same instrument ought to be so expounded as to give meaning to every part which will bear it; shall one part of the same sentence be excluded altogether from a share in the meaning; and shall the more doubtful and indefinite terms be retained in their full extent and the clear and precise expressions, be denied any signification whatsoever? For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural or common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars, which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity which as we are reduced to the dilemma of charging either on the authors of the objection, or on the authors of the Constitution, we must take the liberty of supposing, had not its origin with the latter."

In words of the Constitution's "father", the idea that Clause 1 grants to Congress "an unlimited commission to exercise every power which may be alleged to be necessary for the common defence or general welfare" is a "misconstruction" and a confounding and misleading "absurdity".

One must realize that the Constitution merely provides the form and framework for the government of the United States of America. Prior to the Constitution, the government was organized under the Articles of Confederation.

Tying the raising of revenue and the proper disbursement of it together was not something dreamed up by the constitutional convention delegates. **Article VIII** of the **Articles of Confederation** declares:

> "All charges of war, and all other expenses that shall be incurred for the *common defence or general welfare*, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury."

Article IX similarly declares:

> "The United States in Congress assembled shall never…ascertain the sums and expenses necessary for the *defence and welfare of the United States*…unless nine states assent to the same."

Article III, similar to the Preamble of the Constitution, declares that:

> "The said states hereby severally enter into a firm league of friendship with each other for their *common defence*, the security of their liberties, and their mutual and *general welfare*."

The main complaint about the Articles were their lack of command. Obviously the same overall wording in different documents of the same time period couldn't give little power in one and in another, great power.

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