

Powers and Prerogatives of the House

A. GENERALLY

§ 1. Scope

This chapter does not exhaustively treat the powers of Congress enumerated in the Constitution. It is intended, rather, as a discussion of selected areas, including some in which issues have arisen, or may arise, as to the relative scope of authority of Congress and other branches of government.⁽¹⁾

§ 2. Admitting States to the Union

Article IV, section 3, clause 1, empowers Congress to admit new states to the Union. No new state may be formed within the jurisdiction of any other state or by the junction of two or more states, or parts of states, without the consent of the legislatures of the two

1. See Ch. 11, *supra*, for a discussion of the related subject, privilege of the House, and Ch. 24, *infra*, for a discussion of congressional vetoes.

See also 2 Hinds' Precedents §§1480–1561; and 6 Cannon's Precedents §§314–329, for treatment of precedents arising prior to 1936.

states concerned as well as the Congress.⁽²⁾

Alaska

§ 2.1 The House and Senate agreed to a bill admitting Alaska into the Union.

The House on May 28, 1958,⁽³⁾ and the Senate on June 30, 1958,⁽⁴⁾ agreed to H.R. 7999, admitting Alaska into the Union. The measure was approved on July 7, 1958.⁽⁵⁾

Hawaii

§ 2.2 The Senate and House agreed to a bill admitting Hawaii into the Union.

2. See *House Rules and Manual* §216 (1973); and *Constitution of the United States of America: Analysis and Interpretation*, S. Doc. No. 9282, 92d Cong. 2d Sess., pp. 842–845 (1973) for discussion of this provision.

3. 104 CONG. REC. 9756, 9757, 85th Cong. 2d Sess.

4. *Id.* at p. 12650.

5. 572 Stat. 339 (Pub. L. No. 85–508).

The Senate on Mar. 11, 1959,⁶ and the House on Mar. 12, 1959,⁷ agreed to S. 50 admitting Hawaii into the Union. The House agreed

to S. 50 in lieu of H.R. 4221.⁸ S. 50 was approved on Mar. 18, 1959.⁹

B. WAR POWERS

§ 3. In General

Article I, section 8, clauses 11–14 of the Constitution describe the fundamental war powers of Congress, including:

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;⁽¹⁰⁾

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

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces. . . .

Like all powers of Congress, the war power must also be understood in light of the general grant of legislative authority of article I, section 8, clause 18:

The Congress shall have Power . . .
To make all Laws which shall be nec-

essary 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.

A more general grant of authority appears in article I, section 8, clause 1, “Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States. . . .”

In addition to these powers, article I, section 8, clauses 15 and 16 grant Congress power over the militia, including:

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

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

the unanimous-consent agreement to consider S. 50 in lieu of H.R. 4221.

9. 73 Stat. 4 (Pub. L. No. 86–3).

10. See §5, *infra*, for a discussion of authority to declare war.

6. 105 CONG. REC. 3890, 86th Cong. 1st Sess.

7. *Id.* at pp. 4038, 4039.

8. See 105 CONG. REC. 4005, 86th Cong. 1st Sess., Mar. 12, 1959, for