The Bank Debate

Two readings of congressional power

SS24.USG.6c "Contrast strict and loose constructionist views of the Constitution of the United States."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline the constitutional powers both sides use, circle the phrase that shows Jefferson's test for a new law, and number two phrases that show Hamilton's or Marshall's broader test.

A Bank Not Named

1 Imagine Congress debating whether to create a national bank in the 1790s. The Constitution gives Congress powers to tax, borrow money, and regulate commerce, but it does not name a power to charter a bank. It also allows Congress to make laws "necessary and proper" for carrying its listed powers into effect. A strict constructionist reads federal powers narrowly and asks for a close connection between a proposed law and an expressed power. A loose constructionist allows more flexibility in choosing means to carry out those powers. Neither view permits Congress to ignore constitutional limits.

2 Thomas Jefferson objected to the bank. He argued that collecting taxes and borrowing money could be done without creating a corporation, so a bank was not necessary under his narrow reading. Alexander Hamilton defended it. He argued that a bank could hold federal funds and help the government collect taxes and borrow money efficiently. For Hamilton, "necessary" did not mean absolutely indispensable; an appropriate tool serving an authorized end could qualify. Both men looked to the same constitutional powers. Their disagreement concerned how much freedom Congress had to select tools when the Constitution did not specify them.

3 In 1819, the Supreme Court considered a later national bank in McCulloch v. Maryland. Chief Justice John Marshall concluded that Congress could charter it as a means of carrying out its listed powers. He reasoned that the Constitution identifies broad ends without naming every permissible tool. His opinion did not give Congress unlimited authority: the end had to be constitutional, and the means had to be appropriate and not prohibited. This ruling favored a flexible reading over Jefferson's narrower one. To contrast the views, identify both the shared constitutional goal and the different tests each side applies to a proposed law.

2 ANSWER WITH EVIDENCE

Use the passage

1. How would Jefferson and Hamilton each respond to the fact that the Constitution does not name a power to charter a bank?

2. Why did the ability to collect taxes without a bank matter more to Jefferson's argument than to Hamilton's?

3. How did Marshall's ruling favor Hamilton's reading over Jefferson's?

4. Which view gives Congress more choice in selecting tools, and what limit on that choice appears in both views?

3 YOUR TURN

Your own words

Congress considers requiring safety checks on drones that deliver goods across state lines. In four sentences, contrast how a strict and a loose constructionist might evaluate the law under Congress's power to regulate commerce, and identify a constitutional limit both would recognize.

ANSWER KEY

The Bank Debate

GRADE 12 · SS24.USG.6c

PART 1 · READ AND MARK

Underline the constitutional powers both sides use, circle the phrase that shows Jefferson's test for a new law, and number two phrases that show Hamilton's or Marshall's broader test. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How would Jefferson and Hamilton each respond to the fact that the Constitution does not name a power to charter a bank?	**Jefferson would reject the bank because he saw no need for it to carry out listed powers. Hamilton would allow it as an appropriate tool for carrying out those powers.**
2	Why did the ability to collect taxes without a bank matter more to Jefferson's argument than to Hamilton's?	**Jefferson saw that alternative as evidence that a bank was not necessary. Hamilton did not require the bank to be indispensable; it could qualify if it helped carry out an authorized power.**
3	How did Marshall's ruling favor Hamilton's reading over Jefferson's?	**Marshall upheld an unlisted tool for carrying out listed powers, favoring Hamilton's flexible reading over Jefferson's narrower test.**
4	Which view gives Congress more choice in selecting tools, and what limit on that choice appears in both views?	**Loose construction gives Congress more choice. Both views require Congress to act within its constitutional powers and limits.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

A strict constructionist might support the checks only if they are closely tied to regulating goods moving between states. A loose constructionist might accept the checks as an appropriate tool for carrying out Congress's power to regulate interstate commerce, even though the Constitution does not mention drones. The strict reading would demand a tighter link to that listed power than the loose reading. Neither view would allow a law that violates a constitutional prohibition.

Accept answers that distinguish a close connection to a listed power from greater flexibility in selecting appropriate means. Students need not claim that strict construction always rejects laws concerning technologies the Constitution does not name.