

A Government Shut-down Imperils the Power of Congress

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Congress should think twice before forcing a government shutdown as the consequences could be the loss of the power of Congress to control spending through authorization and appropriation bills.

Congress permitted President George W. Bush to accumulate new powers in the executive, and these powers have passed to Obama. Bush succeeded in establishing that as a wartime commander-in-chief he had the “inherent power” to disobey the laws against torture, spying on Americans without obtaining warrants, and indefinite detention. In addition, Bush used signing statements in ways inconsistent with his oath and obligation to uphold the laws of the United States, and he took the U.S. to war based on lies, deception, and fabricated “evidence,” an offense that qualifies as treason.

With these precedents, it is a simple matter for President Obama to declare that, with the U.S. at war in a world of growing instability, he has the inherent power to ignore the debt limit and to continue financing the government with the creation of new money by the Federal Reserve.

Congress could try to protect its loss of the power of the purse by impeaching Obama. But how credible would it be to impeach a wartime president who is using the same “inherent power” of his office that Congress permitted the previous president to use?

The powers that Bush asserted not only violated statutory law, but also set aside constitutionally guaranteed rights that are the essence of American liberty. Yet, Congress made no attempt to restrain him with impeachment. How then does Congress impeach a president who is merely using his power to keep a government at war operating?

As President Bush’s acts were not deemed impeachable offenses, it seems likely that Congress has lost its power to impeach through default.

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