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The BEACON *Lite*

A Condensed Curriculum of Constitutional Study

Clauses Discussed:

- Article I, Section 7, Clauses 1 - 3

Concept Discussed:

- Bills

Article I, Section 7, Clause 1 of the Constitution mandates:

> "All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills."

The requirement for all bills for raising Revenue to originate in the House which is tied to representation can trace its roots to the fundamental theme of the American Revolution that taxation be tied to representation. Though the British colonies were taxed by Great Britain, they had no voice in their legislation enacted overseas (the local colonial governments were powerless to oppose Britain's mandates).

Having revenue bills originate in the House that is elected every *second* year provides a quicker positive-feedback-mechanism to ensure that voters are more apt to have the representation they desire. This gives voters a quicker opportunity to replace Representatives who tax-and-spend in an inappropriate manner.

Once a revenue bill which originated in the House of Representatives passes that House, it is sent over to the Senate, which may then modify the bill ("propose or concur with Amendments") as they think proper.

Article I, Section 7, Clause 2 declares:

> "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law."

Clause 3, with its similarly-worded requirements discussing orders, resolutions and votes, should be discussed concurrently with clause 2.

Article I, Section 7, Clause 3 states:

> "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

Clause 3 mandates that other legislative actions of importance must, in effect, follow the general procedural requirements found in Clause 2.

The normal process by which a proposed bill becomes an enacted law is detailed in the second clause. The main theme of this clause is that before any proposed bill can become a law, it must specifically follow one of three courses, depending upon the action (or inaction) of the President.

The normal procedure for enacting a law is for a bill which passes the majority vote of a quorum of both Houses to be sent to the President who signs it.

Another possible course is that a bill which passes the majority of the quorum of both Houses is *returned* to the House which originated it by the President's *veto*. If *both* Houses, looking at the President's objections,

can agree by a *two-thirds* majority of a quorum on the reconsideration of that bill, then the bill is enacted into law over the President's objections.

The third scenario involves a bill passing the majority vote of both Houses and is sent to the President, who does not act upon it (neither signing, nor rejecting) for 10 days (not counting Sundays). This bill automatically becomes law after 10 days provided that Congress is still in session. If Congress adjourns, thereby preventing the President from returning the bill to the House of origination, then the bill will not become a law.

Section 7 outlines the procedure by which *every* Law is enacted into existence. Proper procedure is critical because the proper *delegation* of authority *must* occur for such action to be lawful government activity.

Clauses 2 & 3 of Section 7 are two of the Clauses most ignored since the dawn of the administrative agencies in the 1880's.

The wording in Section 7 leaves no room for administrative dictates imposed from behind closed-door sessions of un-elected lawyer-bureaucrats within the Executive Departments or *Independent Establishments.*

Republican government, which these United States *guarantee* to every State in the Union, is government by one's elected Representatives who enact law and direct government action according to their powers.

The Constitution is very clear as to the status of any legislative bill which does not meet the strict requirements of Section 7 — "in which Case it shall *not* be a Law". Section 7, Clause 2 is discussing bills which were *legislatively* acted upon. Certainly something "Shall not be a Law" which is not enacted (nor even proposed) by the *Legislative* department!

To be enacted as law, a bill must:

1. Be passed by both the House of Representatives and the Senate by majority-vote of a quorum, and approved by the President of the United States; or

2. Be passed by both the House of Representatives and the Senate by majority-vote of a quorum, and not be dis-approved of by the President of the United States within 10 days while Congress is in session; or

3. Be passed by both the House of Representatives and the Senate by two-thirds vote of a quorum over the President's veto (after reviewing the President's objections).

If a bill does not pass *both* Houses, then it *cannot* be a law. In no way can **any** legislation be law that was not enacted by the legislative branch (the President can unilaterally issue that which carries the equivalent force of law when granting reprieves and pardons for offenses against the United States other than impeachments).

Law may be enacted unilaterally by the legislative branch, but never by the executive branch (other than reprieves/pardons [which cannot strictly be considered *law*, though they carry the full force of law]). Since the President cannot create law unilaterally; certainly his inferior department officers cannot ever enact law — that is why it is called *legislation*!

For the *executive* branch, which is empowered solely to *execute/administer* the laws, to *enact* law (or that treated as law) unilaterally is contrary to representative government and is contrary to the division of power granted to the three branches of government.

Article I, Section 7, Clause 2 is very specific about the status of a bill which does not follow the stated procedures — "in which Case it shall *not* be a Law". Likewise, "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary" shall follow lawful procedure "before the Same shall take Effect".

No law can be law but by proper legislative action and proper legislative procedure. Even action proposed by the Senate and House of Representatives but not conforming to the required procedures will not be law. Certainly no action which *bypasses* the Senate and House of Representatives completely can ever become law in these United States of America.

The elaboration of what is and what is not a law may seem repetitive, but when one realizes the extent of all that masquerading as law which has not been specifically passed by both Houses of Congress, then one realizes the vast extent of the problem. Repetition is here certainly not out of order.

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