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The BEACON *Lite*

A Condensed Curriculum of Constitutional Study

Clauses Discussed:

- Preamble
- Article I, Section 1

Concepts Discussed:

- Purposes of Government
- Legislative Powers granted vested in Congress

The **Preamble** of the Constitution declares that "We the People … do ordain and establish this Constitution" for a number of listed reasons.

The purposes listed for establishing the Constitution help explain its function.

Though the purposes *to form a more prefect Union* and *to establish Justice* may infer imperfection and injustice, they signify the struggle to create better government, including the creation of the Executive and Judicial branches (under the Articles of Confederation, there were no Executive or Judicial Branches).

The new Constitution split governmental authority three ways (with the Legislative branch further divided into the Senate and House of Representatives) for better protection from arbitrary government action.

Ensuring *domestic Tranquility* ties in with another of the stated purposes — *to promote the general Welfare*. The Constitution promoted the States working well together by creating a uniform trade market, and better allowing a free flow of people across State borders.

One must understand that the power to *promote the general Welfare* is not a specific grant of power, but an overview of the powers later delineated. If any law could be passed simply due to the singular qualification that it was *for the general Welfare,* there would be little reason to enumerate the specific powers listed in Section 8 and elsewhere.

America under such a concept would be a country that had a government by the government's own volition and discretion rather than a representative government.

Another stated purpose was to *provide for the common defence*. To put forth a united front to defend against foreign aggression to ensure domestic tranquility was perhaps the fundamental purpose of the Union.

The last reason to cover for establishing the Constitution was *to secure the Blessings of Liberty*. The blessings of liberty were not enumerated, but were left open for each person to define in his own way.

America was the country where a penniless emigrant could come, work hard, raise a family, and be King of his own Castle and Captain of his own Ship.

Organization

The Constitution is divided into seven major divisions called *Articles*. Articles are often in turn divided into *Sections*; and these into *Clauses*.

Article I, Section 1 of the Constitution for the United States of America reads:

> "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

The legislative power is the power to enact laws. This power is specifically *granted* to the Congress of the United States. It necessarily follows that if one is *granted* power, *another must be doing the granting*. The States, being the entities who not only called the convention, but who ratified the Constitution and all of its amendments, are the entities granting power to the Congress.

The States, of course, would be unable to give powers which they did not have. The fundamental principle of our Constitution and confirmed by our history, is that the sovereign States each extracted a portion of their own governing authority; enumerated these powers in a constitution; and gave these enumerated powers to the collective agent they created.

It necessarily follows that when an entity is ***granted*** power, there is an **extent** and **limitation** of that power; that there is no power other than that listed.

The powers granted are limited to those enumerated. The enumeration of granted (Legislative) power is listed primarily in Article I of the Constitution.

For those people not understanding this principle of the limitation of granted power in the Constitution, the States ratified the **Tenth Article in Amendment**, which declares:

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The Tenth Amendment declares that the States hold all powers held by government not delegated expressly to the United States (with the people holding all powers not delegated to any government). This necessarily follows from the principle of delegated powers: the party giving power retains all power not given.

One must notice that Article I discusses legislative *Power*. One will also find that Article II discusses Executive *Power* and Article III — Judicial *Power*. It is imperative for later discussion that one realizes that government has Power (which is granted to them).

The Tenth Amendment, besides conceding that *government* has *Power*, also acknowledges that people have *(reserved) Power*.

The Declaration of Independence acknowledges that men have *rights*. It states:

> "men…are endowed by their Creator with certain unalienable *Rights*."

The Ninth Amendment (as also the others) further recognizes that people have *rights*:

> "The enumeration in the Constitution, or certain rights, shall not be construed to deny or disparage others retained by the people."

Nowhere in the Constitution (nor the Declaration, nor Articles of Confederation) is it ever discussed that *governments* have *rights*. Nor does it follow that a man-made entity, a legal fiction, could have rights which are inherent to it. The re-occurring principle throughout our government is that *human beings created by God have inherent rights*; entities created at law by man have but enumerated power and delegated authority.

Therefore, when *rights* are being discussed, one knows that they pertain to people. People have inherent rights and they have (inherent and reserved) power; government has but delegated power.

As covered above, **Section 1** of the **First Article** of the Constitution declares that:

> "All legislative Powers herein granted shall be *vested* in a Congress."

Vested means *held completely* or *fixed by law*. "All legislative powers…shall be *vested* in a Congress" means that only Congress has *legislative* power. Congress is the only federal entity entrusted with the ability to pass law under which every American lives.

Article I, Section 8, Clause 18 provides that **Congress** shall have **Power**:

> "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."

This clause acknowledges that Congress is to make all laws; including those laws both necessary and proper for carrying into execution the powers vested in the government, but also every department and officer.

Both clause 18 and Article I, Section 1, preclude any law (or any code treated as law) from being enacted by any administrative Department or Officer themselves.

It is upon these principles that the entire concept of our federal republic rests. To attempt to not only bypass the Citizen but also their Congressmen to have executive agencies pass regulations which are treated as law to define the extent of privileges allowed Citizens (treated as Subjects) completely destroys the notion of a representative government.

Article IV, Section 4 of the Constitution mandates:

> "The United States shall guarantee to every State in the Union a Republican Form of Government."

A *Republican* form of government means, in basic form, a *representative* government. Representation means having laws passed by the ones elected to represent us. It is not representation to have the majority of that treated as law — regulations — decreed by un-elected, appointed bureaucrats within the executive branch.

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