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The BEACON *Lite*

A Condensed Curriculum of Constitutional Study

Clauses Discussed:

• Article I, Section 2, Clauses 4 & 5

Concept Discussed:

• House of Representatives

Article I, Section 2, Clause 4 of the Constitution reads:

> "When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies."

This clause directs the executive authority of the State to call a special election to fill vacancies.

Article I, Section 2, Clause 5 states:

> "The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment."

Clause 5 directs Representatives to "chuse a Speaker" (of the House), as well as their "other officers". How often they are to do so is found by looking at **Article I, Section 2, Clause 2**:

> "The House of Representatives shall be composed of Members chosen *every second Year*."

Every incumbent is thrown out of his or her seat by the very command of the Constitution itself that members are to be chosen every *second* year.

When a new Congress assembles after every election "at noon on the third day of January" (see the 20th Amendment), the Representatives must then, according to clause 5, "chuse their Speaker and other Officers".

Though not necessarily apparent initially, the execution of this command helps verify the actual structure of the Congress.

The reoccurring necessity to follow the commands of Clause 5 reinforces the crucial role the States play in their interrelationship with the United States assembled together. Without the States separately, there is no assembling of the States together — there are no *United* States.

Each *new* Congress is *numbered* to differentiate between them. In the year 2005, the current Congress is the **109th Congress** (First *Session*).

Numbering the Congress' helps denote their very structure; that of delegates representing separate States meeting together under predetermined authority to institute common objectives.

It is necessary to correctly understand the structure of Congress to properly understand the Constitution. To understand the structure of Congress, one must thoroughly understand the role of the *States* in the federal scheme.

Ignoring the division of governmental authority between State and federal jurisdiction which occurred with the ratification of the Constitution leads to inherent safeguards within the Constitution becoming essentially meaningless.

Those inclined toward a powerful central government can use this ignorance to their advantage.

Two primary strategies are used to surreptitiously enlarge federal authority beyond the Constitution.

The second strategy is to ignore vital differences between (legislative) *members* and (executive or judicial) *officers*. *Members* are made to appear relatively powerless in order to make *officers* appear omnipotent.

The Constitution gives great powers unto the legislative branch, though those powers are also well circumscribed. Little authority is given to executive and judicial officers; and for this reason, there are also fewer limitations directly imposed upon them by the Constitution.

Those seeking to reverse the relative importance between *members* and *officers* generally do so to attempt to give officers the ability to *enact legislation*.

If one can successfully "transfer" legislative ability away from Congress where powers are expressly delineated and thus expressly limited, to the executive with few express limitations, one effectively bypasses the express limitations imposed on enactments of law.

The primary strategy of furtively expanding federal authority beyond constitutional parameters is to disregard, as insignificant, the continued importance of the States in the distribution of governmental authority.

If one accepts that States have little importance, then the Constitution which they ratified becomes a mere inconvenience which federal officers can now ignore with relative impunity.

There is an argument dating back to the constitutional convention itself that the States, at the time of independence, did not become *sovereign* States. It is then said that out of their common fight for freedom, they somehow subjugated themselves.

The logical extension of this proposition is that the federal government is an entity greatly independent of and superior to the State governments.

If one buys off on this false basic premise (that States have little relevance) one finds oneself incapable of sufficiently fighting a federal government which is now *supreme* in *every* sphere.

A few of the delegates at the constitutional convention espoused such thoughts on June 19, 1787. **Rufus King**, a delegate from Massachusetts, stated (as noted by James Madison in his Notes):

"The States were not 'Sovereigns' in the sense contended for by some. They did not possess the peculiar features of sovereignty, they could not make war, nor peace, nor alliances nor treaties. Considering them as political Beings, they were dumb, for they could not speak to any foreign sovereign whatever. They were deaf, for they could not hear any propositions from such Sovereign."

James Wilson, delegate from Pennsylvania:

"could not admit the doctrine that when the Colonies became independent of Great Britain, they became independent also of each other."

Alexander Hamilton, of New York:

"assented to the doctrine of Mr. Wilson."

Hamilton went so far as recommending:

"As States, he thought they ought to be abolished. But he admitted the necessity of leaving in them, subordinate jurisdictions."

The doctrines of even important luminaries must be questioned when their statements contradict, to great extent, the historical record. The very structure and history of government opposes their thoughts far more than it supports them. The formation of the States (especially the formation of the 13 original States) is pertinent to the structure and relationship between State governments and the federal government.

The histories of the colonies will show, even though they shared some history, they were granted separate charters. By this action, they became separate governments, each only owing allegiance to the same crown. Similar circumstances bonded them together loosely, but no legal bond tied them together lawfully.

When the colonies threw off the king, there was no other entity which his sovereignty could have devolved upon, except the States *individually*.

Not until the **Articles of Confederation and Perpetual Union** were finally adopted in 1781 did the States voluntarily relinquish any sovereign authority and grant this over to their unified agent, the 13 States confederating together and meeting for common benefit. By the terms of the Articles (IX), an agreement between *nine* of the States would bind all the States on subjects of delegated authority of great importance (only a simple majority was needed regarding minor issues).

The absence of *delegated, coercive authority* prior to the Articles of Confederation is the fundamental flaw in the theory of interdependence. Without such authority, meetings are at the *will and pleasure of the participants*. If, in the absence of coercive ability, the will of the majority differs from the will of the minority of one, that States can stand in their resolve without repercussion.

With governmental authority, all is retained until properly transferred to another. Even governments decimated through war sign treaties of surrender, effectively transferring governing authority to the victor.

The Constitution is the document which now outlines the powers ceded by the States individually to the States acting collectively.

One should realize that delegates meeting from separate States (in convention or in Congress) is but a *convention* of *sovereign* representatives; in practice, the product of their meeting is but a *treaty*.

A continuing theme of any serious study of the Constitution must continually refer to the States which created and ratified it.

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