



The BEACON *Lite*

Volume II: Issue 2

A Condensed Curriculum of Constitutional Study

Clauses Discussed:

- Article I, Section 5, Clauses 2 - 4

Concepts Discussed:

- Rules
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Article I, Section 5, Clause 2 of the Constitution for the United States affirms:

"Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."

Clause 2 allows for each House to individually keep its proceedings orderly by adopting necessary procedural rules.

Punishment consists of varying degrees of action based upon the severity of the transgression: the *reprimand*, *censure/condemnation* and *expulsion*.

In the history of the Senate, this house has censured only nine Senators. Other than the Civil War era removal of 14 Senators sympathetic to the South, the Senate has expelled only one Senator during its entire history (William Blount in 1797 for his mischief of foreign intrigue with regards to Florida).

The House of Representatives has reprimanded seven Representatives and censured 21 others. Since its inception, the House has only expelled five members (three members were expelled during the Civil War for disloyalty to the Union; another in 1980 in the Abscam bribery and conspiracy scandal; and the last in 2002 for tax evasion).

Article I, Section 5, Clause 3 states:

"Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal."

Clause 3 helps keep legislative sessions public. Thankfully, governments are sticklers for preserving even seemingly-insignificant details. This historical preservation of public records proves itself invaluable when working to restore limited government.

Government documents such as those mandated by Clause 3 provide researchers with original and generally objective evidence to help prove or disprove their theories.

The House and Senate Journals, mandated directly by Section 5, provide a recap of the day-to-day activities of those Houses, listing bills and resolutions discussed, voting records when mandated, etc.

Also informative is the publication which provides the actual texts of enacted law: the *United States Statutes at Large*.

It is a legal fiction in a Republic that the public knows a law as soon as it is enacted. Of course, it is far easier to know and understand law when there is few of them!

Early volumes spanned a period of 10-14 years each (through 5-7 Congress'). Volume IX spanned only six years (1845-51); Volume X, XI, and XII four years each. Since the Civil War year 1863, each Volume spanned only two years; a period of one Congress. Beginning with the 75th Congress in 1937, each volume contained laws enacted during a single legislative session (i.e., annually). Multiple books (Part 1, Part 2, etc.) in each volume have become commonplace since 1897.

Article I, Section 5, Clause 3 provides that the result of any vote will be noted on the Journal when only *one-fifth* of those voting vote for such disclosure. Such a low quorum requirement for this one purpose aids *accountability*; that individual Representatives and Senators cannot easily hide within the group to obscure their individual votes when a relative few desire otherwise.

The main thought behind recording voting records would be for disclosure during the inevitable re-election campaigns of the Senators and Representatives. Armed with voting records, opponents can exploit such record against the incumbent when that member voted against the interests of his constituents.

In the era before widespread political oversight by private political watchdogs, Congressmen still knew that their vote could be chronicled for all history by only one-fifth of those voting. Prevailing thought was that their normal desire for a favorable reflection in the history books would keep them from enacting legislation dangerous to the republic. It was hoped that chronicling the vote would overrule an impulsive desire to seek otherwise advantageous short-term personal benefits which may be harmful to the country.

Matters requiring secrecy can be kept from the journals of either House at the discretion of each House. *Security* and *secrecy* seem to go hand-in-hand, though one may quite successfully argue that government *secrecy* breeds *distrust* in government (certainly at least when government action routinely sidesteps the vast bulk of constitutional limitations which were placed to expressly limit that action).

In a government which is generally viewed to be honorable in all its actions and circumscribed in its conduct, secrecy is likely to also be minimal.

Conversely, a government of questionable behavior which constantly seeks to expand its parameters outside established procedures of amendment is likely to have many secrets. Distrust in government leads to inevitable chain of consequences which ultimately undermine its very authority.

Secrets may be kept for a time, but the truth eventually seems to come out, often after causing a great amount of difficulty. Cover-ups are generally even more harmful than the activity which first caused such secrecy.

Government action circumscribed by the express wording of the Constitution would create far fewer enemies than are now found, both in America and abroad. When government is not nosing into affairs of Citizens or foreign governments where it has neither meaningful nor justifiable interest, then there is far less need to act in a secret or furtive manner.

With fewer roadblocks in their way, Citizens find a direct cause-and-effect relationship between their activity and its reward or punishment. When proper activity is allowed to prosper, and improper activity punished to the necessary degree, society will develop to promote the general interests of the individuals in society.

Article I, Section 5, Clause 4 states;

"Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting."

Clause 4 is designed to help keep the legislative sessions functioning properly.

Article I, Section 7 requires that all legislative bills and resolutions must pass the majority of the quorum of *both* Houses (and be signed by the President, or by 2/3 of both Houses over his veto) to become law.

From such a requirement, it is obvious that both Houses must be sitting for a law to be enacted. It would therefore be inappropriate for one House to sit in a general manner for a period of time without the other, as legislation could not continue (the President can, under Article II, Section 3, convene one or both Houses [if they are in recess] for a specific reason; such as Senate confirmation of officers or treaty ratification).

Clause 4 prevents one House from adjourning unilaterally for more than a few days as a measure to prevent the use of adjournment as a means to short-circuit the legislative process.

Clause 4 also prevents either House from individually adjourning to another *Place* than the seat of the Government.

The assembling of either House at places distant could favor legislation one way or another, by making it more difficult for some to assemble. As such, it is likewise expressly disallowed.

The last seat of government of the United States under the Articles of Confederation was in New York City (during the Revolutionary War, it was necessary to move the government seat often).

Congress met in New York City from March 4, 1789 until August 12, 1790. Congress then met at Philadelphia from December 6, 1790 until May 14, 1800.

After this point, with the District of Columbia readied with roads, utilities, and buildings, Congress began their Second Session of their Sixth Congress at the at the "City of Washington, in the Territory of Columbia" on November 17, 1800, (as last directed by Congress in Chapter 67, II Stat. 85 [1800]).

