Chapter 7 Lesson 3

The Constitution’s Sources

Those that wrote the Constitution looked for insight and inspiration from other sources. Many of these ideas came from European political institutions and writers. Respecting many British traditions, cultural beliefs and practices. Many Framers had taken part in their own state assemblies and valued the individual rights guaranteed by the British judicial system.

European Influences

The Magna Carta (1215) which placed limits on the power of the monarch, causing Parliament to become a force that the King or Queen had to depend on to pay for wars and the royal government. Colonial assemblies controlled their colonies’ funds, they also had some control over colonial governors.

The English Bill of Rights of 1689 was another model for Americans. Many people felt a Bill of Rights was necessary for the Constitution. James Madison and others were familiar with John Locke and Baron de Montesquieu, two philosophers of the Enlightenment period. The Enlightenment was a movement of the 1700’s that promoted knowledge, reason, and science as a means of improving society.

Locke wrote that all people have natural rights, he stated that these natural rights included the rights to life, liberty, and property. In his Two Treatises of Civil Government (1690) government is based on an agreement between the people and the rulers. The Framers viewed the Constitution as a contract between the American people and their government, it protected people’s rights by limiting government power.

Montesquieu’s The Spirit of Laws (1748) declared that the powers of government should be separated and balanced against each other. The Framers carefully spelled out and divided the powers of government.

Federalism

Power was divided between the national government and the states. In the Articles, the states had most of the power, under the Constitution the states sacrificed some powers to the federal government. Federalism, sharing between federal and state powers, is one of the key features of the US government. The federal government gained wide ranging powers to tax, regulate trade, control the currency, raise an army, and declare war. It could also pass laws that were “necessary and proper” for carrying out its responsibilities. This power allowed Congress to make laws as needed.

States retained some powers like control of trade inside their borders, they could also set up local governments and schools and establish marriage and divorce laws.

The Constitution called for the sharing of some powers, like the power to tax and to establish criminal justice.

The laws of Congress were to be “the supreme law of the land”. No state could make laws or take actions that went against the Constitution. Federal courts would settle disputes between the federal government and the states based on the Constitution.

Government Structure

The government is divided into 3 powers: legislative, executive and judicial. The first 3 articles of the Constitution describe each branch’s powers and responsibilities detailing the methods for electing or selecting key members of each branch.

Government Branches

Legislative branch, the lawmaking branch, of the government. Congress is composed of the House of Representatives and the Senate. Powers include establishing taxes, coining money, and regulating trade.

Executive branch (Article 2) carries out the nation’s laws and policies. At the head are the President and Vice-President. The Electoral College elects the Pres and VP. Voters in each state choose the electors who make up the Electoral College.

Judicial branch (Article 3) or court system. Nation’s judicial power resides in “one supreme Court” and any lower federal courts Congress creates. The Supreme Court and other federal courts hear cases involving the Constitution, federal laws and disputes between states.

Checks and Balances

Each branch of government has ways to check, or limit, the power of the other branches. No single branch can gain too much power in the government.

Debate and Adoption

Nine of th13 states had to approve the Constitution before it could go into effect. Americans debated arguments for and against in newspapers, at meetings, and in everyday conversations.

Federalists and Anti-Federalists

People who supported the Constitution were called Federalists and those opposed were called Anti-Federalists. Federalists took the name to stress that they were creating a system of federalism, in which government’s power is divided between the national government and state’s governments. Federalists included George Washington and Benjamin Franklin. James Madison, Alexander Hamilton and John Jay wrote a series of essays explaining and defending the Constitution known as the Federalists Papers. These essays were later published in newspapers and sent to delegates at state conventions. They made a powerful argument in favor of ratification.

The Anti-Federalists wrote their own essays, in which became known as the Anti-Federalists Papers. They argued that a strong national government would take away liberties Americans had fought for in the American Revolution. They warned that the government would ignore the will of the states and favor the wealthy few over the common people. They favored local governments which are more controlled by the people.

A Bill of Rights

Several state conventions announced they would not ratify the Constitution unless a bill of rights was added. George Mason expressed the problem:

“There is not a declaration of rights, and the laws of the general government being paramount to the laws and constitutions of the several States, the declaration of rights in separate States are no security.”

Ratifying the Constitution

December 7, 1787, Delaware became the first state to approve the Constitution. By June 21, 1788,m the 9th state, New Hampshire, ratified it. In theory this made the Constitution law. However, without the support of the largest states – New York and Virginia – the new government could not succeed.

In Virginia Patrick henry claimed the Constitution did not place enough limits on government power. Still Virginia did ratify the document after promises that there would be a bill of rights amendment. This promise was met in 1791. In July 1788, NY ratified the Constitution followed by NC in November 1789 and Rhode Island in May 1790.