Chapter 8 Lesson 1

Our Constitution

The Constitution is based on 7 key principles:

1. Popular sovereignty
2. A republican form of government
3. Limited government
4. Federalism
5. Separation of powers
6. Checks and balances
7. Individual rights

Popular Sovereignty

The Constitution begins with the preamble – “We the People” - and lays the foundation for our government: popular sovereignty is the belief that government is subject to the will of the people. The people of the US hold the power and have established a system of government for their own well-being.

The Nation is a Republic

A republic is a government which the people rule through elected officials. Those officials make laws and conduct government on behalf of the people. Republic and representative government mean the same thing.

Limited Government

Powers of government are strictly defined and has only those powers that are given to it by the people.

Federalism

The Articles of Confederation protected the hard won independence from England but failed to create a national government strong enough to deal with the numerous challenges that lay before it. Our federal government allows for many state governments to share power with a single federal government.

The Constitution creates the federal system. It explains how powers are distributed among different levels of government and spells out powers given to Congress and establishes the executive and judicial branches of government.

 The Constitution lists enumerated powers, powers specifically given to Congress. Enumerated powers include the power to coin money, regulate interstate and foreign trade, maintain the armed forces, and create federal courts. States canNOT exercise these powers.

Reserved powers are those powers that belong to the states. The Constitution does not specifically list the reserved powers. The 10th amendment declares that all powers not specifically granted to the federal government “are reserved to the States.” These powers include the power to establish schools, pass marriage and divorce law, and regulate trade within a state.

Under the Constitution the federal and state governments share certain powers, known as concurrent powers. Examples are the right to raise taxes, borrow money, provide for public welfare, and carry our criminal justice.

While states have their own powers and laws, the Constitution is “the supreme Law of the Land.” If a state law contradicts the Constitution or federal law, the Constitution or the federal law prevails. This is stated in Article IV, Clause 2, of the Constitution known as the “Supremacy Clause.”

Separation of Powers

The Constitution separates the legislative, executive, and judicial powers of government. Each branch has different – and limited – powers, duties, and responsibilities.

Checks and Balances

Each branch of government can check, or limit, the power of the other branches.

For example:

 Congress has the power to pass a law. If the president disagrees with the law, he or she can reject it through the presidential power of the veto. This veto power checks the power of Congress. At the same time, Congress can override the veto. This checks the power of the executive branch.

 The US Supreme Court also has important checks. They have the power to interpret the Constitution and decide whether or not actions by the legislative and executive branches are allowed.

 Congress can check the power of the courts by beginning the process of changing the Constitution itself. In 1857 Dred Scott v. Sandford decided that enslaved African Americans were not citizens. In 1866 Congress proposed the 14th amendment granting full citizenship to formerly enslaved African Americans. When ratified by the states in 1868, the 14th amendment had the effect of overruling the Dred Scot decision.

Individual Rights

The Constitution written by the Framers in 1787 did not include a Bill of Rights. These 10 amendments became part of the Constitution in 1791. They guarantee basic freedoms and liberties including:

 Freedom of religion

 Freedom of speech and the press

 Freedom to assemble in groups and protest against the government

 The right to bear arms

 The right to a speedy and public trial by jury

 The right to be free from unreasonable searches and seizures by the government

 Freedom from “cruel and unusual” punishments

Since 1791, other amendments have expanded on the rights of the American people. Amendments have abolished slavery, defined citizenship, guaranteed “equal protection of the law” for all people, and guaranteed the right to vote for people aged 18 and older. Amendments have also authorized the direct, popular election of senators.

Amending the Constitution

The US Constitution is one of the world’s oldest written Constitutions. It is also a short document compared to others. Its clear, direct language has helped support a stable government for well over 2 centuries. The Constitution has changed as a result of formal amendment. The Framers allowed for this process when they wrote the Constitution. The Framers made the amendment process hard explaining only the 27 times it’s been amended.

Amending the Constitution involves 2 steps.

1. A formal proposal of an amendment. Congress can only do this by two-thirds vote. Also, two-thirds of the state legislatures can call a convention to propose an amendment, though this method has never been used
2. Ratification of an amendment requires approval by three-fourths of the states. States can ratify the amendment at either a state convention or through a vote by the state legislature

Amendments have brought significant changes to the nation. The 15th amendment (1870) sought to ensure that African American men would have the right to vote. The 19th amendment (1920) extended voting rights to women. The 24th amendment (1964) outlawed poll taxes allowing more people to vote. The 26th amendment (1971) lowered the voting age to 18.

Congress also has implied powers, powers that are suggested but not directly stated. Article 1, Section 8 of the Constitution includes the “necessary and proper clause” or the “elastic clause”. This clause directs Congress to “make all Laws which shall be necessary and proper” for carrying out its duties.

Article I, Section 8, also includes the “commerce clause”. This gives Congress the power to “regulate Commerce with foreign Nations, and among several states.”