The Constitutional Convention and The Bill of Rights

What are some of the freedoms you have at your home? Can you read as many books as you want? Can you eat more than one serving of fruits and vegetables?

And what about rules? Do you have to make your bed every morning? Are you allowed a limited number of minutes of screen time? Do you have to brush your teeth twice a day?

So, who came up with these rules? Well, your mom and dad, of course! And it is their job to make sure you follow their rules because they made them so you'll be safe and grow up to be a healthy, strong, and kind person.

But one day, when you're all grown up, you'll have your own house and decide what your house rules are. You'll take what you learned from your mom and dad and use those lessons in your own life. You may have neighbors, or you may have roommates, or you may have your own family, and in all of these cases, you'll have to work with those around you to make sure that your rules don't bother or infringe on anyone else.

When you move out of your house and out into the world, you'll be independent of your parents and have a lot of freedom. But you'll need to decide on the rules for your life – and you'll have many choices.

The first Americans were faced with similar decisions after they won their independence from the British in the American Revolution. It was now up to them to decide what the rules were and how to make sure that these rules protected the God-given freedoms and liberties of every person.

Beginning in 1774, the Continental Congress served as the governing body for the colonies. Recall from our earlier lessons that the Continental Congress put forward the Declaration of Independence and was in charge of overseeing the war effort against the British.[1]

In 1777, the Articles of Confederation were adopted by the Continental Congress, which established a "league of friendship" among each of the 13 sovereign and independent states. The Articles of Confederation were our country's first constitution and brought all of the colonies together during the American Revolution, which was a very dangerous time.[2] *[Editor's note: Twelve states approved the Articles of Confederation by 1779 and it became official law in 1781*

with Maryland's ratification.][3]

But do you remember what the British did to make the colonists mad before the Revolutionary War? If you said that the king had too much power and he forced the colonists to pay too many taxes, you'd be right!

For these reasons, the Articles of Confederation created a weak central government that reserved considerable power to the states.

In the fall of 1781, American and French forces defeated the British at the Battle of Yorktown.[4] In 1783, the Treaty of Paris was signed, which officially ended the American Revolution. The United States of America had achieved independence from British rule![5]

After the war, as soldiers returned to their homes and life returned to normal, the great American experiment dating back to the first settlers who came to the New World seeking religious freedom would be put to the test. America is the first country in the world to be based on an idea, which was enshrined in the Declaration of Independence at the start of the American Revolution. It's the reason the war started in the first place.

America was founded upon the idea that all men are created equal, all people have rights that come from God, and those rights include the right to life, liberty, and the pursuit of happiness. But this had never been done before. So, after the war, the question became, "How can we create a government that upholds and defends this idea? And how do we create one that works?"

Up until the late 1780s, the newly independent America thought that the previously enacted Articles of Confederation would do the trick.

As the founders quickly realized, they were wrong. Among the problems of the weak Articles of Confederation, the central government couldn't collect taxes, struggled to pass laws, couldn't pay back money from the war or maintain a military, and had difficulty creating uniform policies toward other countries. With the rivalries among states, the Articles of Confederation made preserving unity and resolving disputes without a central authority challenging.[6]

The centralized government was struggling, and the conditions in the states were continuing to worsen.

The failure of the Articles of Confederation came to a boiling point in Massachusetts amidst a building economic crisis and the eruption of Shays' Rebellion.

In 1786 and 1787, a violent uprising occurred in Massachusetts led by a former Continental Army captain named Daniel Shays.

Many former soldiers, including Shays, received very little pay or reimbursement for their military service. Soldiers returning home from the war and restarting their lives couldn't pay people the money that they owed, also known as a "debt." As debt grew, many farmers began losing land and property to debt collectors.

In 1786, many concerned citizens petitioned the Massachusetts state legislature to relieve the growing debt. This effort failed, which led to protests and an armed conflict that was fought between Shays' 1,500 armed men and 1,200 militiamen sent to end the uprising.[7]

Shay's men quickly retreated, but "Shays' Rebellion" ultimately caused concern among America's founders, including George Washington, James Madison, and Alexander Hamilton, who were fearful that the nation would collapse. The uprising inspired the change and action that resulted in the convening of the Constitutional Convention in Philadelphia in May 1787.

Gathering in Independence Hall, delegates from each state (except Rhode Island) assembled to discuss revising, or fixing, the Articles of Confederation. The delegates swore to secrecy and kept all windows shut so that they could speak openly.[8]

On June 20, 1787, after significant deliberation, the delegates decided to abandon the Articles of Confederation, rather than revise them.[9]

Now, the delegates had to start from scratch in designing a new American government – and they were faced with many important decisions.

The delegates, or "framers," had to address the issue of how the government should be structured, what powers it should have, and how it should work with the states. The framers did not want another king, so, in the Constitution, they set up a system of checks and balances.

They divided the U.S. government into three branches – the Legislative branch (Congress), the Executive branch (the president), and the Judicial branch (the Federal court system).[10]

Here's an example of how checks and balances work. Congress passes laws, but if the president thinks a law is bad, he can veto, or reject, the law. But Congress can vote to overturn the president's veto and put the law into effect. But then, the Supreme Court can get involved and determine that the law in question goes against the Constitution, so it must be rejected.

This process of checks and balances keeps any one branch of government from having too

much power.

But there was also the question of representation in government, which would make sure that the government worked for the people and that they had their voices heard. Remember the colonists' lack of say in the British government over high taxes? The framers didn't want that to happen again!

So the framers wondered, how should we determine how many representatives each state has? James Madison's Virginia Plan would create a two-house legislature consisting of the House of Representatives and the Senate. The total number of representatives for each state in each chamber would be based on how many people lived in the state.[11]

This idea sounded great for large states that had a lot of people living there. But small states wouldn't have as many representatives, and it would be harder for them to ensure that their constituents' voices were heard. In response, William Paterson put forward the New Jersey Plan, which would have created a one-house legislature wherein every state had one vote.[12]

Well, the more populous states didn't like this idea!

So, on July 16, 1787, the Convention adopted the Great Compromise, also known as the Connecticut Compromise. The Connecticut Compromise created a two-house legislature, together known as the U.S. Congress. In the upper house, which we now call the Senate, every state has the same number of senators – two. And in the lower house, which we call the House of Representatives, the number of representatives a state has is based on population.

(Note for Parents: The framers also were faced with the issue of slavery. The framers decided that each state would have at least one representative and no more than one representative for every 30,000 people.[13] *Many states also wanted the number of slaves to be factored into their total population, while other delegates did not agree. The three-fifths clause counted three-fifths of the total slave population when apportioning representation and direct taxation. Many delegates of the convention opposed the institution of slavery and wanted to end it altogether. However, the debate over slavery put the convention at risk of collapse.*[14] *The delegates compromised and agreed that the slave trade could potentially be banned by Congress, but not until 1808.*[15]*)*

After months of debate, the final draft of the Constitution was signed on September 17, 1787. It was then sent to the states for ratification. For the Constitution to be ratified, or approved, 9 of the 13 states had to agree to it.

Sounds like the hard part was over, right? Not so fast! Many early Americans looked at the draft of the Constitution and thought that it didn't do enough to protect the rights of the people and

the states from the federal government.

The Federalists, on one hand, supported the ratification of the Constitution and the creation of a strong, central government. Alexander Hamilton, John Jay, and James Madison wrote and campaigned for the support of the document in 85 articles called the Federalist Papers.[16]

Anti-Federalists, including George Mason, Patrick Henry, and Samuel Adams, advocated against the powerful central government in favor of strong state rights. They thought that a federal government with too much power was a bad idea and didn't like that the Constitution lacked a bill of rights that would protect the rights of the people.

Delaware was the first state to ratify the Constitution in December of 1787. Many states went on to support the document after Massachusetts' "vote now, amend later" compromise – in other words, approve the Constitution now and we will improve it later with a bill of rights.[17] In June 1788, New Hampshire was the ninth state to ratify the Constitution, making the document legal.[18]

On June 8, 1789, James Madison introduced a list of amendments to the Constitution that would ensure the protection of individual freedoms and liberties. What's an amendment, you ask? In short, an amendment is something that's added to the original Constitution.

On October 2, 1789, after receiving approval from the newly formed Congress, President George Washington sent 12 amendments to the states for ratification.[19] Ten were approved by the states in December 1791 and as a result, became the first 10 amendments to the Constitution, known together as the Bill of Rights.[20]

The Bill of Rights guarantees civil rights and liberties to every American – including freedom of speech, press, and religion – and reserves all powers not expressed in the Constitution to the states.

Today, there are 27 ratified amendments. The U.S. Constitution is the longest-surviving constitution in the world and has influenced the creation of other national constitutions. The impact of the U.S. Constitution is lived and experienced by every American every day, and it began with the extraordinary vision of the framers who created the foundation of our great nation.

Footnotes

1. https://history.state.gov/milestones/1776-1783/continental-congress
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