

Lesson Twenty-Seven

Ratifying the Constitution

LESSON IDEA

To show how carefully the Constitution was scrutinized by individual Americans prior to ratification, and why the first ten amendments (Bill of Rights) were deemed necessary.

PREPARATION

Review lessons 24–26 prior to discussing the questions posed in the first part of tonight's lesson. Read "During the Week" and decide how to adapt the assignments suggested in *Your Rugged Constitution* to the needs of your family.

IN SEPTEMBER 1787, the Philadelphia State House was the focus of every American's attention. Fifty-five men had assembled there in May to decide on a form of government for the new nation. They met in the same room of the same building where patriots of similar vision had gathered in the summer of 1776 to decide whether the 13 colonies should submit to the dictates of the English King or fight for their independence.

Do you recall what happened in 1776? [Richard Henry Lee of Virginia proposed that of all ties with England be dissolved and that the colonies become free and independent states. The delegates approved the Lee Resolution, which became the official Declaration of Independence, on July 2nd. The final draft of the Declaration, largely the work of Thomas Jefferson, was adopted on July 4th.]

During the 11 years after the Declaration of Independence was signed, a war was fought, the British were defeated, and independence was established. Now, a permanent government was

needed — one that would preserve the independence of the states, yet give the fledgling nation sufficient strength to remain united and defend itself against such foreign powers as England, France, and Spain.

Delegates to the Constitutional Convention devised an ingenious solution. What form of government did they design? [Review points made in last week's lesson on republics and democracies.]

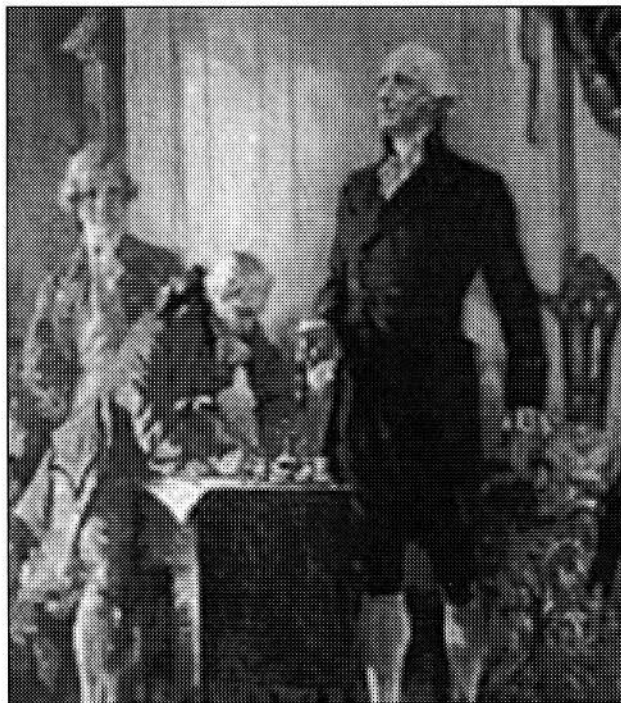
How did they preserve the independence of small states? [Review lesson 24 on the Constitutional Convention, explaining how both large and small state have equal representation in the Senate, while large states have more representatives in the House.]

What was the power of the federal government to be restrained? [Review lesson 25 on checks and balances, emphasizing the division of government authority into three branches — legislative, executive, and judicial.]

There were some leaders, even at the Philadelphia Convention, who believed that the federal government was still too powerful, or that it might become so. Edmund Randolph, Elbridge Gerry, and James Mason refused to sign the Constitution they had helped draft, due

to sundry flaws they perceived. Randolph, in particular, strongly believed that any corrections should be made before, not after, the state ratification process. "A bad feature in government," he argued, "becomes more and more fixed every day."

Based on what we know about government today, would you agree or disagree with Randolph's concern? [Encourage discussion. An



Washington at the Signing of the Constitution, 1787

U.S. House of Representatives



example that would illustrate Randolph's point: The top federal income tax rate, which was originally less than 2 percent, now stands at nearly 40 percent.]

Randolph, Gerry, and Mason believed that the judiciary would be been granted excessive power, which should be curbed. Randolph urged that the President's term of office be limited. And Mason and Gerry were convinced that a bill of rights should be included for the protection of the people.

There were other objections, but the main theme of their arguments was that there were loopholes in the Constitution that could be exploited to erode the freedoms the delegates were anxious to secure for the American people.

Nevertheless, when the Convention adjourned late in the afternoon of September 17th, Benjamin Franklin noted the painting of a glowing sun on the back of George Washington's chair and commented prophetically:

I have often ... in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that [sun] behind the President without being able to tell whether it was rising or setting. But now at length I

have the happiness to know that it is a rising and not a setting sun.

Their work temporarily completed, the Framers met for dinner at the City Tavern in Philadelphia to say their farewells. It was a momentous and happy occasion, a well-earned relief from the tedious work of the four-month Convention. Yet few had any illusions about the difficulties they would encounter during the months and years ahead. Most knew that, after returning home, they spend endless hours writing and answering letters, debating issues, and defending provisions of the Constitution they had drafted from critics.

IN MASSACHUSETTS and Virginia (the states that had spearheaded the drive for independence and nationhood), there was substantial opposition to the creation of a central government. So strong were the convictions of Samuel Adams (the spirited Massachusetts patriot) and Patrick Henry (the fiery Virginia statesman and orator) that both stayed away from the Philadelphia Convention. New York Governor George Clinton was another strong foe of federalism. Even though ratification by only nine states was required to bring the Constitution into effect, the union could be neither permanent nor strong unless New York, Virginia, and Massachusetts endorsed the new pact.

Washington, no longer obligated to remain neutral (as he had while presiding at the Convention), made his position clear. He endorsed the Constitution and believed that it should be ratified. If later found wanting in some respects, it could be amended as the Constitution itself provided. In newspapers, shops, and taverns, Washington's prestige and opinions were utilized by pro-Constitutionalists to sway public sentiment in favor of ratification.

Delaware, whose vote had been decisive in ratifying the Declaration of Independence in 1776, was first to approve the Constitution on December 7, 1787. Pennsylvania ratified five days later and

FOR SERIOUS STUDENTS

Many revisionist historians have in recent years sought to reduce the American Revolution, the Constitution, and George Washington to the level of today's often corrupt and unprincipled politics. To counter such attempts, you may wish to acquaint your family with the superb seven-volume study of our first President by Douglas S. Freeman. Entitled *George Washington*, it is an exciting account of Washington, his associates, and the historical events in which he played such a central role. There is also a 754-page abridgement of the series, entitled, *Washington*, for those whose time is limited. Especially pertinent to our recent lessons is Chapter 19 of the abridged version, which details Washington's thoughts and actions during the tense period from September 1787 to July 1788, when the Constitution was facing the test of ratification by each state.

New Jersey ratified six days after Pennsylvania. Georgia and Connecticut followed suit in January. But in Massachusetts, New Hampshire, Virginia, and New York, debate continued to rage over perceived loopholes in the new structure of government. North Carolina was expected to follow Virginia's lead, while South Carolina, Maryland, and Georgia were believed to favor adoption. Ratification by Rhode Island was not expected, since it had refused to send delegates to the Philadelphia Convention.

THE BATTLE IN MASSACHUSETTS

It was the first to be decided, but it was less than a clear-cut victory. There was strong support for certain changes, including a demand that "it be explicitly declared that all Powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised."

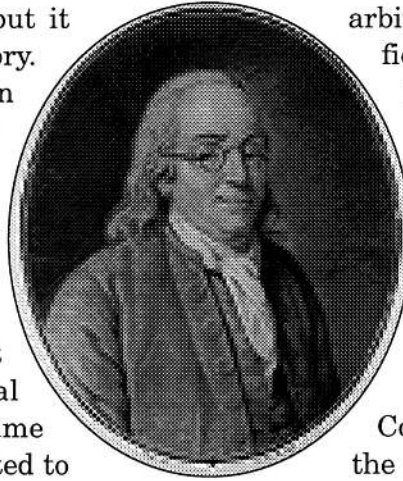
It was a crucial point. Without such a restriction, the federal Government might someday assume that it not only had the powers granted to it by the Constitution, but other not specifically prohibited as well.

To illustrate the point, let us apply it to our families. As a sons or daughters, we know that you are allowed to do certain things, but barred from doing others. But there are many other things that we, as parents, may not have mentioned. Should children be free to do anything they may wish that has not been specifically forbidden by their parents? As a son or daughter, for instance, should you feel free to invite your entire circle of friends to live with the family for a month, simply because mom and dad have not explained why that would be too inconvenient, expensive, crowded, etc.? What about other things that you obviously should not do, but have not been specifically told not to do? [Make the point that the "powers" not specifically given to children are reserved to their parents.]

For freedom to survive and flourish, the Massachusetts statesmen contended, the same parent-child relationship had to be established between the states and the federal government. The states and their citizens, like parents, had to

be in control when dealing with their federal offspring. Were the situation reversed, they feared, many of the bitter and oppressive experiences the colonists had suffered under the British Crown would be repeated. The King had played the role of parent, while the colonies were treated as children. Final authority resided with the King, and even though he had granted certain rights to his subjects, he remained free to do whatever he was not specifically prohibited from doing.

To preclude that situation from arising in the new nation, Massachusetts wanted to make it clear that the states were the ultimate arbiters of power. Nevertheless, it ratified the Constitution on February 6, 1788, by a vote of 187 to 168. Maryland and South Carolina ratified in April and May, and the outcome in remaining states now hinged Virginia.



Franklin

PATRICK HENRY feared that the creation of a federal government, as the Constitution proposed, would destroy the rights of the people and the sovereignty of the States. He opened the debate in the Old Dominion with an attack on the Preamble. Why did it read, "We, the people," He stormed. Why not, "We, the States"? This challenge forecast a fight over every line of the Constitution, but the prolonged discussions actually helped those who supported the document. They did not yet have the numerical strength to risk a quick vote, and the protracted debate gave such articulate advocates of ratification as James Madison and John Marshall an opportunity to sway votes with persuasive analyses of each Constitutional provision.

THE MEETING had barely begun when the Federalists (who favored ratification) sprung a surprise. Governor Edmund Randolph, a delegate to the Constitutional Convention who had refused to sign the final document, switched sides and backed the Federalists. The world, he said, had looked upon Americans "as little wanton bees, who had played for liberty, but had no sufficient solidity or wisdom" to keep it. "I am," he dramatically declared, "a friend to

the Union.”

Madison defended the Constitution, clause by clause, on its merits. Young attorney (later Supreme Court Chief Justice) John Marshall argued for its judicial provisions. The final vote was close — 89 to 79 for ratification — and Virginia strongly recommended that certain amendments be adopted soon to safeguard the rights of the people. Of 12 proposals, ten were approved by Congress in 1789 and submitted to the states for ratification. They became part of the Constitution on December 15, 1791. Since they were all proposed and ratified together, they are known collectively as the Bill of Rights, though technically only the first eight actually comprise the Bill of Rights. We will begin our discussion of these important Amendments next week.

In New York, the Federalists once again met fierce opposition, basically over the same issues that had been debated in Massachusetts and Virginia. Alexander Hamilton, a former aide to George Washington and a vigorous advocate of the Constitution at the Philadelphia Convention, sized up the opposition and went the offensive. In October, one month after the Convention, the first of a series of 85 letters appeared in New York newspapers under the pen name Publius. These brilliant essays, most of which were written by Hamilton, but also by James Madison and John Jay, explained and defined the Constitution so precisely and persuasively that *The Federalist Papers* (the title under which they were later published) is still considered to be the single most authoritative presentation of what the Framers intended the Constitution to be.

Time was again on the side of the Federalists. The New York ratifying convention was not held immediately, when rejection of the Constitution would have been assured, but was instead delayed until the summer of the following year. By then, ten states (more than the nine required) had ratified, so New York delegates were faced with a fait accompli. Regardless of their own decision, the new instrument of government would remain in effect. They gave their approval, but with recommendations for amendments similar to those proposed by Virginia.

Eleven of the 13 states were now in the Union. Two remained aloof for a time. North Carolina held a second convention before ratifying in

November 1789, and Rhode Island gave its reluctant blessing to the Constitution in May 1790.

Following the New York vote, friends and foes joined in the celebration. Elaborate fetes and processions were held in Boston, Charleston, Philadelphia, and New York, with each city trying to outdo the others. Dr. Benjamin Rush expressed the feelings of many when he wrote to John Adams, then in England as the American ambassador:

[The Constitution] has a thousand ... things to recommend it. It makes us a nation. It rescues us from anarchy and slavery. It revives agriculture and commerce. It checks moral and political iniquity. In a word, it makes a man both willing to live and to die. To live, because it opens to him fair prospects of great public and private happiness. To die, because it ensures peace, order, safety, and prosperity to his children.

Concluding Thought

The Constitution was no ordinary document conceived by run-of-the-mill politicians. Nor was it casually adopted by an apathetic citizenry. For both the delegates at Philadelphia and most Americans, it was a very serious business. The debates in the state ratifying conventions were predicated on a deep-seated desire to make the basic law of the new nation as perfect as humanly possible.

Looking Ahead

Next week we will learn how the new government began to function, and how the Bill of Rights further restricted government power.

DURING THE WEEK

Continue the section-by-section study of *Your Rugged Constitution* with Article III (the powers of the judicial branch and the definition of treason) on pages 144–152. Also, review the impeachment process described on pages 24–27, 38–39, and 140–141, so each family member understands which government officials may be impeached, for what reasons, and how it is accomplished. Assign specific pages to family members and ask each to report during dinner hour what is learned.