

Lesson Twenty-Eight

Amending the Constitution

LESSON IDEA

To show how the fear of federal power was squelched by the election of George Washington as President and the adoption of the Bill of Rights' restrictive amendments.

PREPARATION

Make copies of the Bill of Rights for each family member. Have a dictionary handy, and a copy of Your Rugged Constitution.

LIKE A NEWBORN CALF struggling to stand for the first time on four wobbly legs, in 1788 the new U.S. federal government began the transformation from mere words and concepts to a working body of lawmakers, executives, and judges. North Carolina and Rhode Island remained reticent about ratifying the Constitution, but each of the 11 states that had ratified by then began formulating procedures for electing Senators and Representatives, as well as the presidential electors who would choose the first President.

Does anyone know how the presidential electoral system worked in that initial election? [If not, ask a family member to look it up in Your Rugged Constitution, pages 114–116, and explain it to the entire family during the next evening's dinner hour.]

The choice for President was unanimous. George Washington captured every electoral vote. Even Patrick Henry, the politically powerful Virginian who viewed the Constitution as a danger to freedom, voted for him. Only one man was not wholeheartedly in favor of the result: Washington himself. He had repeatedly told friends that he had "no wish which aspires beyond the humble and happy lot of living and dying a private citizen on my own farm."

Anxious as he was to see the new government rise on the foundation of the Constitution, he had no apparent desire to become the first American President. He had served his country and its citi-

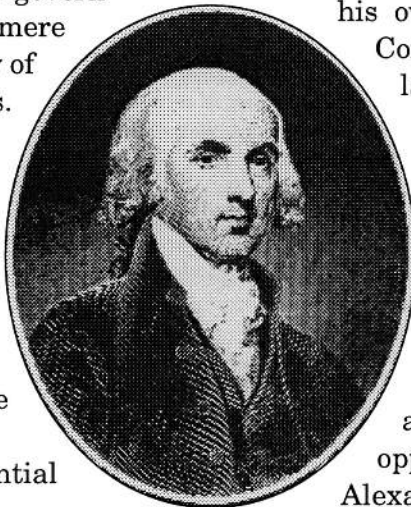
zens almost continuously since age 16. During the Revolutionary War, he had accepted the prodigious task of building an army, and for eight long years had kept it on its feet until victory was achieved.

The constant exposure to bad weather and inferior food, as well as endless days and months of fatigue, had aged him considerably. Financially, his resources were exhausted. As Commander-in-Chief of the American forces he had received no salary, but had drawn money for expenses from his own accounts in the hope that the Continental Congress would repay him later. With the war won and the Constitution ratified, he yearned for retirement to his Virginia home, where he could straighten out his business affairs and lead a quiet life.

But his friends and admirers gave him no peace. Letters flowed to Mount Vernon urging him to accept the presidency should the opportunity arise. The appeal from Alexander Hamilton, his former aide, was typical: "In a matter so essential . . . a citizen of so much consequence as yourself . . . has no option but to lend his services if called for."

Newspapers continually mentioned his name, and none other, as President-to-be. The July 4th celebration in 1788 became, in large part, a general call for his election. As the public demand grew, Washington reluctantly postponed his retirement plans and prepared to accept the inevitable.

ONE FACTOR that may have drawn him into public service once again was fear of what the anti-Federalists who opposed the Constitution might do to the new government were they elected to Congress in large numbers. James Madison, a fellow Virginian and ardent Federalist, had warned that the anti-Federalists



James Madison
"Father of the Constitution"

might work to “get a Congress appointed in the first instance that [would] commit suicide on their own authority.”

There were still strong feelings that the new Constitution could endanger the citizenry unless it was amended to restrict government power and authority. Virginia, New York, Massachusetts, and New Hampshire had ratified the Constitution, but had also urgently recommended such amendments, and the anti-Federalists were determined to have it accomplished.

In Virginia, many congressional races between Federalists and anti-Federalists in Virginia were hotly contested close, especially for Madison, who was forced to run for a House seat in a district that was strongly laced with anti-Constitutional opinions. The prospects of winning in such a situation seemed slim, but as the contest drew to a close he punctured his opponent’s balloon by endorsing the proposed amendments. And it was no idle campaign promise merely intended to attract votes, as Madison would subsequently confirm. Two months after the first Congress convened, he rose to his feet on the House floor and declared:

This day, Mr. Speaker, is the day assigned for taking into consideration the subject of amendments to the Constitution. As I considered myself bound in honor and in duty to do what I have done on the subject, I shall proceed to bring the amendments before you as soon as possible, and advocate them until they shall be finally adopted or rejected by a constitutional majority of this House.

That same day, Madison presented his first draft of the amendments, which were based on the Virginia Bill of Rights. He explained why, in his opinion, each was necessary. The confidence of our fellow citizens will be gained, he asserted, “in proportion as we fortify the rights of the people against the encroachments of the Government.”

Americans in 1789 knew, from personal experience with the English monarchy, that the greatest danger to rights is government itself, even including the one that Madison and the other Framers had designed.

EACH AMENDMENT was scrutinized and debated, word by word and clause by clause. Madison personally and patiently wrote and rewrote each until majority support for all but two was achieved.

The ten amendments that were approved amounted to a list of restrictions on the federal government. Some are specific, others more general. We call them a “Bill of Rights,” but they were, and are, more than that. Any country can have a formal bill of rights. The Soviet Union had one. So does the United Nations. They meant and mean nothing. Stating a basic human right in flowery phrases amounts to empty rhetoric unless the right is protected by specific, meaningful restrictions on what government may or may not do. And this is especially true if it is assumed (as does the UN) that rights are granted by government, rather than that they should merely be protected by government because they are God-given, inherent, and pre-existing. The latter assumption underpins the U.S. Bill of Rights.

It may, for example, sound wonderful to say: “The people have the right to free speech.” But suppose a government decides to make it illegal to criticize federal actions? What good is a proclaimed right to free speech if it can be made illegal by government edict? [Encourage discussion. Give examples of the “rights” of people in Cuba, Red China, erstwhile Nazi Germany, or the former Soviet Union.]

Can you see how the “right” becomes more secure when it reads: “Congress shall make no law ... abridging the freedom of speech or of the

FOR THE SERIOUS STUDENT

Patrick Henry: Patriot and Statesman by Norine Campbell is an informative book that provides additional background about the fiery Virginia orator. It is said that Henry was one of the few speakers who could hold an audience spellbound, hungering for his next words.

Henry used his rhetorical skills in the Virginia Convention to point out what he perceived to be weaknesses in the Constitution. Some were subsequently corrected by amendments. Others have only become evident in recent decades as our central government has increasingly usurped power from the states and otherwise far exceeded its Constitutional boundaries.]

