The Constitution, the Articles, and Federalism: Crash Course US History #8

Crash Course: U.S. History
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Hi, I'm John Green, this is Crash Course U.S. History, and today we're going to talk about the United States Constitution. And, in doing so, we're going to explore how the American style of government became the envy of the entire world, so much so that everyone else copied us.

What's that, Stan? We're not gonna talk about other countries stealing our form of government? Because no other country stole our form of government? That doesn't seem possible, Stan.

(Libertage)

No, Stan, not the Libertage. Cue the intro!

(Intro)

So, today we're going to learn why the green areas of not-America didn't copy us. All right, so as Americans may dimly remember from history classes, the Constitutional system we've been living under since 1788, the year of the first Presidential election, was not the original American government.

The first government set up by the Continental Congress was called the Articles of Confederation and it was, in a word: Bad. In two words, it was not good. Which is why it only lasted 10 years. The problem with the confederation is that it wasn't so much a framework for a national government as it was a "firm league of friendship," which unfortunately only sounds like a team of Care Bear Superheroes.

The Articles set up a "government" that consisted of a one-house body of delegates, with each state having a single vote, who, acting collectively, could make decisions on certain issues that affected all the states. There was no president and no judiciary. You can try to tell me that John Hanson, the president of the congress, was the first American president, but it's just not true.

Any decision required 9 of the 13 congressional votes, which pretty much guaranteed that no decisions would ever be made. Ah, super majorities: Always so efficient. But besides the 2/3rds requirement, the Congress was very limited in what it could actually do.

The government could declare war, conduct foreign affairs and make treaties— basically, the stuff you need to do to go to war with England. It could coin money, but it couldn't collect taxes; that was left to states. So if you needed money to, say, go to war with Britain, you had to ask the states politely. The articles could be amended, but that required a unanimous vote, so zero amendments were ever passed.

The government was deliberately weak, which followed logically from Americans' fear of tyrannical governments taxing them and quartering soldiers in their houses and so on. But here's the thing, weak government is like nonalcoholic beer: It's useless.

That said, the Articles government did accomplish a couple things. First, it won the war. So yay— unless you were a slave or a Native American, in which case, you know, probable boo. Second, the government developed rules for dealing with one of the most persistent problems facing the new nation: Ohio. Which was called the northwest, presumably because it is north and west of... Virginia.

Getting control of the land meant taking it from the Indians who were living there, and the Articles government was empowered to make treaties, which it did. Crash Course World History fans will remember the Athenians telling the Melians that "the strong do as they can and the weak suffer what they must," and the Americans definitely went to the Athenian School of Treaty-Making.

Through treaties signed at Fort Stanwix and Fort McIntosh, the Indians surrendered land north of the Ohio River. The biggest accomplishment of the Articles government was the Northwest Ordinance of 1787, which set up a process to create 5 new states between the Ohio and Mississippi rivers.

Two things to know about this: first, it acknowledged that American Indians had a claim to the land and that they had to be treated better if settlers wanted to avoid violence, and second, Stan, can I get the foreshadowing filter? Yes, perfect. The ordinance outlawed slavery in all five of the new states.

Still, the Articles government was a complete disaster for exactly one reason: It could not collect taxes. Both the national government and the individual states had racked up massive debt to pay for the war, and their main source of revenue became tariffs, but because Congress couldn't impose them, states had to do it individually. And this made international trade a total nightmare, a fact worsened by the British being kinda cranky about us winning the war and therefore unwilling to trade with us.

In 1786 and 1787, the problem got so bad in Massachusetts that farmers rose up and closed the courts to prevent them from foreclosing upon their debt-encumbered farms. This was called Shays' Rebellion, after Revolutionary War veteran and indebted farmer Daniel Shays. The uprising was quelled by the state militia, but for many, this was the sign that the Articles government, which couldn't deal with the crisis at all, had to go.

But not for everyone. Thomas Jefferson, for instance, was a fan of Shay's Rebellion. "A little rebellion now and then is a good thing. The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants." Which is all fine and good, I mean, unless you're the bleeding patriots or tyrants.

But to most elites, Shays' Rebellion showed that too much democratic liberty among the lower classes could threaten private property. Also, people who held government bonds were nervous, because without tax revenue, they were unlikely to get paid back. And when rich people feel like something has to be done, something is usually done. Let's go to the Thought Bubble.

The first attempt to do something was a meeting in Annapolis in 1786 aimed at better regulating international trade. Only six states sent delegates, but they agreed to meet the next year in Philadelphia to "revise" the Articles of Confederation.

The delegates who met in Philly the next year had a funny definition of "revision," though. Rather than make tweaks to the articles, they wrote a new charter of government, the Constitution, which is, with some significant alterations, the same one that Americans live under and argue about today.

Despite what some seem to believe, the 55 men who met in Philadelphia and hammered out a new form of government were not gods, but they were far from ordinary, especially for the time. Most were wealthy, some very much so. More than half had college educations, which was super rare since .001% of Americans attended college at the time. About 40% had served in the army during the war.

But, one thing they all shared was a desire for a stronger national government. The delegates agreed on many things – the government should have executive, legislative, and judicial branches and should be republican, with representatives, rather than direct democracy. But the devil appeared in the details.

Alexander Hamilton, probably the biggest proponent of very strong government, wanted the President and Senate to serve life terms,

for example. That idea went nowhere because the overarching concern of almost all the delegates was to create a government that would protect against both tyranny by the government itself and tyranny by the people.

They didn't want too much government, but they also didn't want too much democracy, which is why our Presidents are still technically elected not directly by regular people but by 538 members of the Electoral College. This system is so byzantine and strange that when American politicians speak of spreading democracy through the world, they never actually advocate for American-style elections. Thanks, Thought Bubble.

Yes, I know, you have fantastic elections in Canada. Yeah, right, okay. All that too. I get it, okay? It's U.S. History, Thought Bubble.

So conflicts between competing interests arose quickly at the Constitutional Convention in Philadelphia. The first being between states with big populations and those with small populations. Large states supported James Madison's Virginia Plan, which called for a two-house legislature with representation in both proportional to a state's population. And smaller states, fearing that the big boys would dominate, rallied behind the New Jersey plan. New Jersey… This called for a single legislative house with equal representation for each state, as with the Articles of Confederation. But, of course, coming from New Jersey, it had no chance of succeeding, and sure enough, it didn't.

Instead we got the Great Compromise, brokered by Connecticut's Roger Sherman, which gave us two houses, a House of Representatives with representation proportional to each state's population, and a Senate with two members from each state.

House members, also called Congressmen, served two year terms while Senators served six year terms, with 1/3 of them being up for election in every 2 year cycle. The House was designed to be responsive to the people, while the Senate was created to never pass anything and it was so masterfully designed that it still works to this day.

However, this solution created another problem: Who should be counted in terms of representation? Slaveholding states wanted slaves to count toward their population, even though of course they could not vote, because they were property. States with few slaves argued that slaves shouldn't be counted as people because, just to be clear, none of these dudes were not racist.

This issue was solved with the notorious 3/5ths compromise. For the purpose of determining the population, the total number of white people plus 3/5ths the population of "other persons" – the word "slave" was never used – would be the basis for the calculation. So…yeah. That's still in the Constitution.

The Constitution also contains a fugitive slave clause requiring any escaped slave to be returned to their master. And this meant that a slave couldn't escape slavery by moving to a state where slavery was outlawed, which meant that on some level some states couldn't enforce their own laws. Spoiler alert: this becomes problematic.

But except for the tyranny of slavery, the framers really hated tyranny. To avoid tyranny of the government, the Constitution embraced two principles: Separation of powers and federalism. The government was divided into three branches— legislative, executive, and judiciary, and the Constitution incorporated checks and balances: each branch can check the power of the others.

The legislature can make laws, but the president can veto those laws. The judiciary can declare laws void, too, but that's a power they had to grant themselves— you won't find it in the Constitution. I promise. You can look for it.

And federalism is the idea that governmental authority rests both in the national and the state governments. As an American, I am a citizen both of the United States and of the state of Indiana. And the national government, the one set up by the Constitution, is supposed to be limited in scope to certain enumerated powers. Most other powers, especially the protection of health, safety and morals, are left to the states.

But the Constitution also seeks to protect against the radicalism that too much democracy can bring. The mostly rich framers worried that the people, many of whom were poor and indebted, might vote in congress people, or God forbid a President, in favor of, like, redistribution of property.

To hedge against this, senators were elected by the states, usually by state legislatures, and they were supposed to be, like, leading citizen types. You know, the kind of good Americans who take bribes and have adulterous affairs in airport bathrooms and patronize prostitutes and shoot Alexander Hamilton.

Anyway, the other hedge against too much democracy is the aforementioned Electoral College, which many Americans hate because it has the potential to elect a president who did not win the popular vote, but that's kind of the point. The electors were supposed to be prominent, educated men of property who were better able to elect a president than, like, the rabble.

But, the Constitution of the United States is a really impressive document, especially when you consider its longevity. I mean, as Crash Course World History fans will remember, the nation-state is pretty new on the historical scene, and the United States established by the Constitution, is actually one of the oldest ones.

But the Constitution would be meaningless if it hadn't been ratified, which it was, but not without a fight that helped clarify America's political ideology. 9 out of the 13 states were required to ratify the Constitution in special conventions called for the purpose.

In order to convince the delegates to vote for it, three of the framers, Alexander Hamilton, James Madison, and John Jay wrote a series of 85 essays that together are known as the "Federalist Papers." Taken together, they're a powerful and ultimately persuasive argument for why a strong national government is necessary and ultimately not a threat to people's liberty. Oh, it's time for the Mystery Document?

The rules here are simple. If I name the author of the Mystery Document, shock as in surprise. If I don't shock as in... Alright, Stan, let's see what we've got here.

"If circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist."

Federalist Papers. Alexander Hamilton. YES. Too easy, Stan, although I appreciate the opportunity for a rant...

The whole idea of the Second Amendment was that the people could protect themselves from a standing army by being equally well-armed. Which, these days, would mean not that citizens should have the right to buy assault rifles, but that they should have the

right to buy, like, unmanned drones. And arguably, suitcase nukes.

And by the way, in the Constitution, this is not listed as a privilege, it is listed as a right. And, as a right, if I can't afford my own predator drone, I guess the government should buy one for me. It's almost as if Alexander Hamilton had no way of knowing that weaponry would one day advance past the musket.

P.S. You know how Alexander Hamilton died? GUNSHOT. Sorry, I just, I had to. I am on a roll.

So, it would be easy to ignore the people who opposed the Constitution because, you know, they lost. But some of the ideas of these so-called Anti-Federalists were particularly powerful, and they deserve a bit of attention.

Anti-Federalists, unlike the mostly wealthy federalists, were usually supported by common people, small farmers who weren't as involved in commercial activity. They saw less need for a strong national government that would foster trade and protect creditors.

And, the Anti-Federalists were very afraid of a strong government, especially one dominated by the wealthy. Writers like James Winthrop held that a large group of united states would be like an empire and "that no extensive empire can be governed upon Republican principles."

As evidence, he could point to Britain, or all the way back to Rome. Smaller, more local governments, are more responsive to the people and better able to protect their rights. To the Anti-Federalists, that meant state governments.

And while ultimately the Federalists won out and the Constitution was ratified, the issue of how large government should be did not go away. So, the Constitution was really only a starting point. It's a vague document, and the details would be worked out in the political process. And then on the battlefield. Thanks for watching. I'll see you next week.

Crash Course is produced and directed by Stan Muller. Our script supervisor is Meredith Danko. The show is written by my high school history teacher, Raoul Meyer, and myself. Edited by Stan and Mark Olsen. The associate producer is Danica Johnson. And our graphics team is Thought Bubble.

If you have questions about today's video, or anything about American history, good news! There are historians in comments, so ask away.

Thanks for watching Crash Course and as we say in my hometown, Don't Forget To Be Awesome.