Unit 5 Speech 1

The Articles of Confederation were not working. States with higher populations than other states wanted more voice in Congress, the Federal Government (without the power to tax) had no funds, and amendments were difficult to make. As a result, people from the states came together in Philadelphia to discuss changes in the Articles. This became the Constitutional Convention. A proposal to draft a Constitution for the nation was set forth. The Federalists, led by people such as Alexander Hamilton, John Jay, and James Madison, pushed for the Constitution. However, the Anti-Federalists feared too powerful of a central government and rejected a Constitution without the inclusion of a Bill of Rights. This Bill of Rights was ratified and came into effects as the first 10 Constitutional Amendments on December 15, 1791.

Rights found in the Bill of Rights and the United States Constitution was influenced by many of the same ideas that influenced documents such as the Declaration of Independence. Classical Republican and natural rights philosophers such as Hobbes, Locke, and Montesquieu brought many of the ideas found in these central documents to the forefront. When communities are brought together to consent to establish and submit to an authority, called a “social contract”, was an idea expressed by Thomas Hobbes. In the Preamble to the United States Constitution, the people of the United states “ordain and establish” the Constitution to “provide for the common defense” and to “promote the general welfare”. This idea of “social contract”, with the government being a product of the people is included in the Constitution through checks and balances such as in Article I, Section 7, Clause 3 which puts forth the ability for the President to Veto legislature from the legislative branch. The clause also includes the ability for Congress to override the presidential veto. This is one example of a system within the constitution that limits the power of the government and protects the rights of the people to retain sovereignty.

Amendment IV of the Constitution with its description of need of “probable cause.. [for the] persons or things to be seized” can coincide with Article I, Section 9, Clause 2 which states that “the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. Among the rights that the first Americans wanted to make sure were protected was the right to be protected from unlawful imprisonment. The idea of *habeas corpus* was introduced in Britain around the time of the drafting of the Magna Carta. The privilege of the writ of habeas corpus protects you and I today from imprisonment without probable cause.

Rights impose obligations on government depending on the category of right mainly, positive and negative. Negative rights restrict government action while positive rights require it. On March 23, 2010 President Obama signed the Patient Protection and Affordable Care Act which requires U.S. citizens and legal residents to have qualifying health care. The act also creates state based American Health Benefit Exchanges through which individuals can purchase coverage. The Act is controversial and a question arises as to whether or not Health Care is a right and whether the government should be involved in it as a result.

Rights can be found within a constitution as well as within a Bill of Rights. Some constitutions however have a declaration of rights instead of a bill. The declarations can be distinguished from bills based on their purpose. As state Constitutions were being written beginning in 1776, decisions were made. Seven states included a declaration of rights to their constitution while the four remaining states did not have a declaration. The declarations were used to state the purpose for why the citizens of the state had chosen what was in their constitution. A Bill of Rights, however, is used for protection of rights by the government. Both the bill and the declarations were intended to express certain beliefs and ideas that Americans held. Article 6 of the Declaration of Rights of the Constitution of Maryland states that “the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.” Tracing back to principles of the Declaration of Independence and even further back to philosophers such as John Locke, expressions such as these found within the constitutions of our states protect us as citizens of the United States from a government that does not promote our happiness.