

smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the most easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic,—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage.

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*“The extent of the Union gives it  
the most palpable advantage.”*

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fluence of factious leaders may kindle a  
in their particular States, but will be  
spread a general conflagration through the  
es. A religious sect may degenerate into a  
ction in a part of the Confederacy; but the  
sects dispersed over the entire face of it  
re the national councils against any danger  
source. A rage for paper money, for an abo-  
epts, for an equal division of property, or  
er improper or wicked project, will be less  
vade the whole body of the Union than a  
member of it; in the same proportion as  
alady is more likely to taint a particular  
county or district, than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

#### For Further Reading

Bernard Bailyn, ed., *The Debate on the Constitution*. New York: Library of America, 1993.

John P. Kaminski and Richard Leffler, eds., *Creating the Constitution: A History in Documents*. Madison, WI: The Center for the Study of the American Constitution, 1991.

Charles R. Kesler, *Saving the Revolution: The Federalist Papers and the American Founding*. New York: Free Press, 1987.

Marvin Meyers, *The Mind of the Founder: Sources of the Political Thought of James Madison*. Hanover, NH: University Press of New England, 1981.

Herbert Storing, *What the Antifederalists Were For*. Chicago: University of Chicago Press, 1981.

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## VIEWPOINT 17A

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### The Constitution Needs a Bill of Rights (1788)

Patrick Henry (1736–1799)

A recurring criticism of the Constitution by the anti-federalists during the ratification debates was that it lacked a bill of rights—a list of fundamental freedoms retained by the people that the government could not infringe. Beginning with Virginia in 1776, the majority of the states had included a bill of rights in their state constitutions. However, the 1787 Constitutional Convention, rejecting the wishes of some of its members, did not include such a list. People fearful and critical of creating a new and powerful national government argued that this omission was evidence that such a government could threaten people's liberties. One influential advocate of this view was Patrick Henry, perhaps the most prominent and renowned of the anti-federalists. Henry was a longtime Virginia political leader whose acclaimed oratorical skills had helped to inspire the American Revolution. As a multiple-term governor and leading member of Virginia's House of Delegates, he dominated Virginia state politics in the 1770s and 1780s. The following viewpoint is taken from speeches he made in June 1788 before the Virginia ratifying convention. Henry argues that the new Constitution will supersede Virginia's constitution and its bill of rights, thus endangering the people's freedoms.

From Patrick Henry's speech before the Virginia ratifying convention, June 16, and June 17, 1788.

What parts of Virginia's bill of rights should have been included in the proposed national constitution, according to Henry? He claims that most people want a bill of rights; what argument does he make using that claim? Some historians have argued that Henry and other anti-federalists were more concerned to retain the powers of state governments than individual liberties; do the excerpts presented here support this theory?

16 June 1788

**M**r. Chairman.—The necessity of a Bill of Rights appear to me to be greater in this Government, than ever it was in any Government before. . . .

All nations have adopted this construction—That all rights not expressly and unequivocally reserved to the people, are impliedly and incidentally relinquished to rulers; as necessarily inseparable from the delegated powers. It is so in Great-Britain: For every possible right which is not reserved to the people by some express provision or compact, is within the King's prerogative. It is so in that country which is said to be in such full possession of freedom. It is so in Spain, Germany, and other parts of the world.

#### Virginia's Example

Let us consider the sentiments which have been entertained by the people of America on this subject. At the revolution, it must be admitted, that it was their sense to put down those great rights which ought in all countries to be held inviolable and sacred. Virginia did so we all remember. She made a compact to reserve, expressly, certain rights. When fortified with full, adequate, and abundant representation, was she satisfied with that representation? No.—She most cautiously and guardedly reserved and secured those invaluable, inestimable rights and privileges, which no people, inspired with the least glow of the patriotic love of liberty, ever did, or ever can, abandon. She is called upon now to abandon them, and dissolve that compact which secured them to her. She is called upon to accede to another compact which most infallibly supercedes and annihilates her present one. Will she do it?—This is the question. If you intend to reserve your unalienable rights, you must have the most express stipulation. For if implication be allowed, you are ousted of those rights. If the people do not think it necessary to reserve them, they will be supposed to be given up. How were the Congressional rights defined when the people of America united by a confederacy to defend their liberties and rights against the tyrannical attempts of Great-Britain? The States were not then contented with implied reservation. No, Mr.

Chairman. It was expressly declared in our Confederation that every right was retained by the States respectively, which was not given up to the Government of the United States. But there is no such thing here. You therefore by a natural and unavoidable implication, give up your rights to the General Government. Your own example furnishes an argument against it. If you give up these powers, without a Bill of Rights, you will exhibit the most absurd thing to mankind that ever the world saw—A Government that has abandoned all its powers—The powers of direct taxation, the sword, and the purse. You have disposed of them to Congress, without a Bill of Rights—without check, limitation, or controul. And still you have checks and guards—still you keep barriers—pointed where? Pointed against your weakened, prostrated, enervated State Government! You have a Bill of Rights to defend you against the State Government, which is bereaved of all power; and yet you have none against Congress, though in full and exclusive possession of all power! You arm yourselves against the weak and defenceless, and expose yourselves naked to the armed and powerful. Is not this a conduct of unexampled absurdity? What barriers have you to oppose to this most strong energetic Government? To that Government you have nothing to oppose. All your defence is given up. This is a real actual defect.—It must strike the mind of every Gentleman. When our Government was first instituted in Virginia, we declared the common law of England to be in force.—That system of law which has been admired, and has protected us and our ancestors, is excluded by that system.—Added to this, we adopted a Bill of Rights. By this Constitution, some of the best barriers of human rights are thrown away. Is there not an additional reason to have a Bill of Rights? By the ancient common law, the trial of all facts is decided by a jury of impartial men from the immediate vicinage. This paper speaks of different juries from the common law, in criminal cases; and in civil controversies excludes trial by jury altogether. There is therefore more occasion for the supplementary check of a Bill of Rights now, than then. Congress from their general powers may fully go into the business of human legislation. They may legislate in criminal cases from treason to the lowest offence, petty larceny. They may define crimes and prescribe punishments. In the definition of crimes, I trust they will be directed by what wise Representatives ought to be governed by. But when we come to punishments, no latitude ought to be left, nor dependence put on the virtue of Representatives. What says our [state] Bill of Rights? "That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Are you not therefore now calling on those Gentlemen who

are to compose Congress, to prescribe trials and define punishments without this controul? Will they find sentiments there similar to this Bill of Rights? You let them loose—you do more—you depart from the genius of your country. That paper tells you, that the trial of crimes shall be by jury, and held in the State where the crime shall have been committed.—

Under this extensive provision, they may proceed in a manner extremely dangerous to liberty.—Persons accused may be carried from one extremity of the State to another, and be tried not by an impartial jury of the vicinage, acquainted with his character, and the circumstances of the fact; but by a jury unacquainted with both, and who may be biassed against

## THE BILL OF RIGHTS

*The first ten articles amending the Constitution, known as the Bill of Rights, were proposed in Congress on September 25, 1789. After being approved by Congress and ratified by the states, they were declared in force on December 15, 1791.*

### AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### AMENDMENT II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

### AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

### AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

### AMENDMENT VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

### AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

### AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

him.—Is not this sufficient to alarm men?—How different is this from the immemorial practice of your British ancestors, and your own? I need not tell you, that by the [English] common law a number of hundredors [residents from the same group of one hundred] were required to be on a jury, and that afterwards it was sufficient if the jurors came from the same county. With less than this the people of England have never been satisfied. That paper ought to have declared the common law in force.

### The People Want a Bill of Rights

In this business of legislation, your Members of Congress will lose the restriction of not imposing excessive fines, demanding excessive bail, and inflicting cruel and unusual punishments.—These are prohibited by your Declaration of Rights. What has distinguished our ancestors?—That they would not admit of tortures, or cruel and barbarous punishments. But Congress may introduce the practice of the civil law, in preference to that of the common law.—They may introduce the practice of France, Spain, and Germany—Of torturing to extort a confession of the crime. They will say that they might as well draw examples from those countries as from Great-Britain; and they will tell you, that there is such a necessity of strengthening the arm of Government that they must have a criminal equity, and extort confession by torture, in order to punish with still more relentless severity. We are then lost and undone.—And can any man think it troublesome, when we can by a small interference prevent our rights from being lost?—If you will, like the Virginian Government, give them knowledge of the extent of the rights retained by the people, and the powers themselves, they will, if they be honest men, thank you for it.—Will they not wish to go on sure grounds?—But if you leave them otherwise, they will not know how to proceed; and being in a state of uncertainty, they will assume rather than give up powers by implication. A Bill of Rights may be summed up in a few words. What do they tell us?—That our rights are reserved.—Why not say so? Is it because it will consume too much paper? Gentlemen's reasonings against a Bill of Rights, do not satisfy me. Without saying which has the right side, it remains doubtful. A Bill of Rights is a favourite thing with the Virginians, and the people of the other States likewise. It may be their prejudice, but the Government ought to suit their geniuses, otherwise its operation will be unhappy. A Bill of Rights, even if its necessity be doubtful, will exclude the possibility of dispute, and with great submission, I think the best way is to have no dispute. In the present Constitution, they are restrained from issuing general warrants to search suspected places, or seize persons not

named, without evidence of the commission of the fact, &c. There was certainly some celestial influence governing those who deliberated on that Constitution:—For they have with the most cautious and enlightened circumspection, guarded those indefeasible rights, which ought ever to be held sacred. The officers of Congress may come upon you, fortified with all the terrors of paramount federal authority.—Excisemen may come in multitudes:—For the limitation of their numbers no man knows.—They may, unless the General Government be restrained by a Bill of Rights, or some similar restriction, go into your cellars and rooms, and search, ransack and measure, every thing you eat, drink and wear. They ought to be restrained within proper bounds. With respect to the freedom of the press, I need say nothing; for it is hoped that the Gentlemen who shall compose Congress, will take care as little as possible, to infringe the rights of human nature.—This will result from their integrity. They should from prudence, abstain from violating the rights of their constituents. They are not however expressly restrained.—But whether they will intermeddle with that palladium of our liberties or not, I leave you to determine.

17 June 1788

*[Editor's note: In the following argument Henry examines the ninth section of Article I of the Constitution, which includes a few civil rights provisions, and argues that it is a meager substitute for a substantive bill of rights.]*

Mr. Chairman.—We have now come to the ninth section [of Article I], and I consider myself at liberty to take a short view of the whole. I wish to do it very briefly. Give me leave to remark, that there is a Bill of Rights in that Government [established by the Constitution]. There are express restrictions which are in the shape of a Bill of Rights: But they bear the name of the ninth section. The design of the negative expressions in this section is to prescribe limits, beyond which the powers of Congress shall not go. These are the sole bounds intended by the American Government. Whereabouts do we stand with respect to a Bill of Rights? Examine it, and compare it to the idea manifested by the Virginian Bill of Rights, or that of the other States. The restraints in this Congressional Bill of Rights, are so feeble and few, that it would have been infinitely better to have said nothing about it. The fair implication is, that they can do every thing they are not forbidden to do. What will be the result if Congress, in the course of their legislation, should do a thing not restrained by this ninth section? It will fall as an incidental power to Congress, not being prohibited expressly in the Constitution. The first prohibition is, that the privilege of the writ of *habeas corpus* shall not be suspended, but

when in cases of rebellion, or invasion, the public safety may require it. It results clearly, that if it had not said so, they could suspend it in all cases whatsoever. It reverses the position of the friends of this Constitution, that every thing is retained which is not given up. For instead of this, every thing is given up, which is not expressly reserved. . . .

### Limited Protections

You are told, that your rights are secured in this new Government. They are guarded in no other part but this ninth section. The few restrictions in that section are your only safeguards. They may controul your actions, and your very words, without being repugnant to that paper. The existence of your dearest privileges will depend on the consent of Congress: For these are not within the restrictions of the ninth section.

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*“My mind will not be quieted till  
I see something substantial come  
forth in the shape of a Bill of Rights.”*

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If Gentlemen think that securing the slave trade is a capital object; that the privilege of the *habeas corpus* is sufficiently secured; that the exclusion of *ex post facto* laws will produce no inconvenience; that the publication from time to time [of government expenditures] will secure their property; in one word, that this section alone will sufficiently secure their liberties, I have spoken in vain.—Every word of mine, and of my worthy coadjutor [George Mason], is lost. I trust that Gentlemen, on this occasion, will see the great objects of religion, liberty of the press, trial by jury, interdiction of cruel punishments, and every other sacred right secured, before they agree to that paper. These most important human rights are not protected by that section, which is the only safeguard in the Constitution.—My mind will not be quieted till I see something substantial come forth in the shape of a Bill of Rights.

### VIEWPOINT 17B

## The Constitution Does Not Need a Bill of Rights (1788)

Alexander Hamilton (1755–1804)

Alexander Hamilton, a past military aide to General George Washington and future secretary of the treasury during Washington's presidency, was one of

the main supporters of the new Constitution, and he worked hard for its ratification in New York and other states. Among his efforts in support of the Constitution was a collaboration with James Madison and John Jay in writing a series of eighty-five letters to newspapers under the pseudonym “Publius.” These essays, which supported and defended the proposed Constitution against various criticisms and urged ratification, were published in 1788 in book form as *The Federalist*.

Hamilton wrote the bulk of the essays, including No. 84, from which the following viewpoint is taken. He directly takes up the criticism that the Constitution lacks a bill of rights. He summarizes the arguments by which many federalists defended the absence of a bill of rights—that the rights of Americans are protected by state constitutions, and the new federal government is not being given express powers to infringe upon individual rights and liberties. The structure of the new government, he asserts, with its separation of powers and guarantees of the right to elect representatives, among other features, is enough to ensure the people's liberties. Hamilton goes on to conclude that a listing of rights might be dangerous, because it could be construed to mean that any rights and freedoms not listed would lack protection.

What are the true sources of liberty, according to Hamilton? In his view, in what ways is the whole Constitution a bill of rights? Does Hamilton's argument that adding a bill of rights would be unnecessary and dangerous contradict his previous citing of civil liberties clauses in the Constitution? Explain.

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**T**o the People of the State of New-York.

In the course of the foregoing review of the constitution I have taken notice of, and endeavoured to answer, most of the objections which have appeared against it. There however remain a few which either did not fall naturally under any particular head, or were forgotten in their proper places. These shall now be discussed: but as the subject has been drawn into great length, I shall so far consult brevity as to comprise all my observations on these miscellaneous points in a single paper.

The most considerable of these remaining objections is, that the plan of the convention contains no bill of rights. Among other answers given to this, it has been upon different occasions remarked, that the constitutions of several of the states are in a similar predicament. I add, that New-York is of this number. And yet the opposers of the new system in

From *The Federalist* No. 84, by Alexander Hamilton, under the pseudonym Publius (New York, 1788).

this state, who profess an unlimited admiration for its constitution, are among the most intemperate partizans of a bill of rights. To justify their zeal in this matter, they alledge two things; one is, that though the constitution of New-York has no bill of rights prefixed to it, yet it contains in the body of it various provisions in favour of particular privileges and rights, which in substance amount to the same thing; the other is, that the constitution adopts in their full extent the common and statute law of Great-Britain, by which many other rights not expressed in it are equally secured.

### Clauses in the Constitution

To the first I answer, that the constitution proposed by the convention contains, as well as the constitution of this state, a number of such provisions.

Independent of those, which relate to the structure of the government, we find the following: Article I. section 3. clause 7. "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law." Section 9. of the same article, clause 2. "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." Clause 3. "No bill of attainder or ex post facto law shall be passed." Clause 7. "No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince or foreign state." Article III. section 2. clause 3. "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed." Section 3, of the same article, "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court." And clause 3, of the same section. "The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

It may well be a question whether these are not upon the whole, of equal importance with any which

are to be found in the constitution of this state. The establishment of the writ of habeas corpus, the prohibition of ex post facto laws, and of Titles of Nobility, to which we have no corresponding provisions in our constitution, are perhaps greater securities to liberty and republicanism than any it contains. The creation of crimes after the commission of the fact, or in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments have been in all ages the favourite and most formidable instruments of tyranny. . . .

To the second, that is, to the pretended establishment of the common and statute law by the constitution, I answer, that they are expressly made subject "to such alterations and provisions as the legislature shall from time to time make concerning the same." They are therefore at any moment liable to repeal by the ordinary legislative power, and of course have no constitutional sanction. The only use of the declaration was to recognize the ancient law, and to remove doubts which might have been occasioned by the revolution. This consequently can be considered as no part of a declaration of rights, which under our constitutions must be intended as limitations of the power of the government itself.

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*"Bills of rights . . . are not  
only unnecessary in the  
proposed constitution, but  
would even be dangerous."*

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It has been several times truly remarked, that bills of rights are in their origin, stipulations between kings and their subjects, abridgments of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was Magna Charta, obtained by the Barons, sword in hand, from king John. . . . Such also was the declaration of right presented by the lords and commons to the prince of Orange in 1688, and afterwards thrown into the form of an act of parliament, called the bill of rights. It is evident, therefore, that according to their primitive signification, they have no application to constitutions professedly founded upon the power of the people, and executed by their immediate representatives and servants. Here, in strictness, the people surrender nothing, and as they retain every thing, they have no need of particular reservations. "We the people of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States

of America.” Here is a better recognition of popular rights than volumes of those aphorisms which make the principal figure in several of our state bills of rights, and which would sound much better in a treatise of ethics than in a constitution of government.

But a minute detail of particular rights is certainly far less applicable to a constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns. If therefore the loud clamours against the plan of the convention on this score, are well founded, no epithets of reprobation will be too strong for the constitution of this state. But the truth is, that both of them contain all, which in relation to their objects, is reasonably to be desired.

### A Bill of Rights Would Be Dangerous

I go further, and affirm that bills of rights, in the sense and in the extent in which they are contended for, are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers which are not granted; and on this very account, would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power. They might urge with a semblance of reason, that the constitution ought not to be charged with the absurdity of providing against the abuse of an authority, which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it, was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

On the subject of the liberty of the press, as much has been said, I cannot forbear adding a remark or two: In the first place, I observe that there is not a syllable concerning it in the constitution of this state, and in the next, I contend that whatever has been said about it in that of any other state, amounts to nothing. What signifies a declaration that “the liberty of the press shall be inviolably preserved”? What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable; and from this,

I infer, that its security, whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion, and on the general spirit of the people and of the government. And here, after all, as intimated upon another occasion, must we seek for the only solid basis of all our rights.

### The Constitution Is a Bill of Rights

There remains but one other view of this matter to conclude the point. The truth is, after all the declamation we have heard, that the constitution is itself in every rational sense, and to every useful purpose, a Bill of Rights. The several bills of rights, in Great-Britain, form its constitution, and conversely the constitution of each state is its bill of rights. And the proposed constitution, if adopted, will be the bill of rights of the union. Is it one object of a bill of rights to declare and specify the political privileges of the citizens in the structure and administration of the government? This is done in the most ample and precise manner in the plan of the convention, comprehending various precautions for the public security, which are not to be found in any of the state constitutions. Is another object of a bill of rights to define certain immunities and modes of proceeding, which are relative to personal and private concerns? This we have seen has also been attended to, in a variety of cases, in the same plan. Adverting therefore to the substantial meaning of a bill of rights, it is absurd to allege that it is not to be found in the work of the convention. It may be said that it does not go far enough, though it will not be easy to make this appear; but it can with no propriety be contended that there is no such thing. It certainly must be immaterial what mode is observed as to the order of declaring the rights of the citizens, if they are to be found in any part of the instrument which establishes the government. And hence it must be apparent that much of what has been said on this subject rests merely on verbal and nominal distinctions, which are entirely foreign from the substance of the thing.

### For Further Reading

- Richard Beeman, *Patrick Henry: A Biography*. New York: McGraw-Hill, 1974.
- James MacGregor Burns and Stewart Burns, *A People's Charter: The Pursuit of Rights in America*. New York: Knopf, 1991.
- Paul Goodman, ed., *The American Constitution*. New York: John Wiley & Sons, 1970.
- Bernard Schwartz, *The Bill of Rights: A Documentary History*. New York: Chelsea House, 1971.
- Garry Wills, *Explaining America: The Federalist*. New York: Doubleday, 1982.