



## On THE BILL OF RIGHTS, 1787-1789

For many Americans after the Constitutional Convention of 1787, the decision to support or oppose the new plan of government came down to one issue—whether their individual liberties were jeopardized by its lack of a bill of rights. After all, they had rebelled against Britain because in their view it had ceased to respect their age-old liberties as Englishmen—liberties enshrined in the 1215 Magna Carta and the 1689 English Declaration of Rights. Having fought a long war to protect these rights, were they then to sacrifice them to their *own* government? Others countered that a bill of rights actually endangered their liberties—that listing the rights a government could *not* violate implied that unlisted rights *could* be restricted or abolished. What to do? Follow the discussion in these selections from newspapers, addresses, and correspondence of the day.

17 Sept. 1787. U.S. Constitution adopted by the Constitutional Convention and submitted to the states for ratification.

Dec. 1787. Constitution ratified by three states—DELAWARE, PENNSYLVANIA, and NEW JERSEY—of the nine required for ratification.

### ■ “*what the people are entitled to*” Thomas Jefferson, Paris,<sup>1</sup> to James Madison, 20 Dec. 1787\_\_

I will now add what I do not like [about the proposed Constitution]. First, the omission of a bill of rights providing clearly and without the aid of sophisms<sup>2</sup> for freedom of religion, freedom of the press, protection against standing armies, restriction against monopolies, the eternal and unremitting force of the habeas corpus laws, and trials by jury in all matters of fact triable by the laws of the land & not by the law of Nations. . . . Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, & what no just Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference. . . .

I have thus told you freely what I like and dislike: merely as a matter of curiosity for I know your own judgment has been formed on all these points after having heard every thing which could be urged on them. I own [admit] I am not a friend to a very energetic government. It is always oppressive. . . . After all, it is my principle that the will of the Majority should always prevail. If they approve the proposed Convention in all its parts, I shall concur in it cheerfully in hopes that they will amend it whenever they shall find it work wrong.

I think our governments will remain virtuous for many centuries, as long as they are chiefly agricultural; and this will be as long as there shall be vacant lands in any part of America. When they get piled upon one another as in Europe. Above all things I hope the education of the common people will be attended to, convinced that on their good sense we may rely with the most security for the preservation of a due degree of liberty.

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<sup>1</sup> Jefferson was serving in Paris as an American representative to the French government.

<sup>2</sup> *Sophism*: a deliberately misleading argument.