

A

Why a Bill of Rights? What Impact Does it Have?

BACKGROUND ESSAY

All have heard the saying, “Great minds think alike.” When many great minds of the colonies gathered to create a new government, two rarely thought exactly alike. The Bill of Rights was created through the kind of debate and exchange of ideas that it protects to this day.

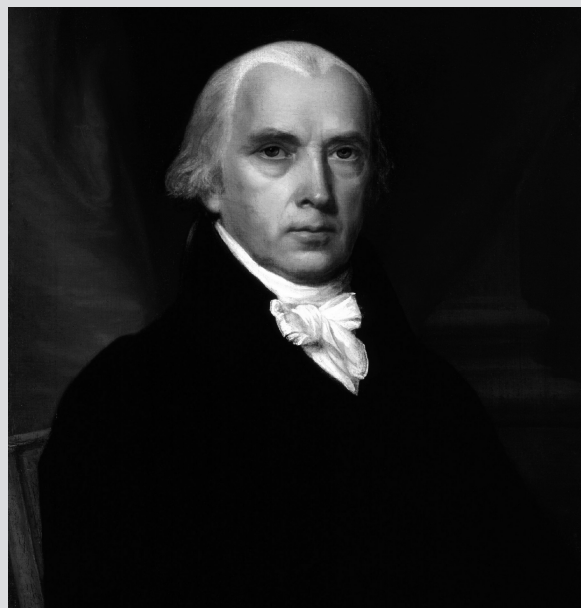
The Declaration of Independence states that the purpose of government is to protect our basic natural or inalienable rights. This was one principle on which all the Founders did agree. But if they created a great system to protect rights, why did they disagree about a bill of rights?

Who Were the Federalists and Anti-Federalists?

The Constitutional Convention was divided into two groups – the Federalists and the Anti-Federalists. Both the Federalists and Anti-Federalists wanted to have checks on the power of the government, but they differed on the manner in which to prevent the government from taking power from the people. The Anti-Federalists supported amending the Articles of Confederation, while the Federalists sought to create an entirely new Constitution with a central government. The Federalists wanted to limit the amount of power held by the

states. The Federalists believed that the Constitution would create a central government that would be balanced in separate branches and checked by the state governments in order to keep it from growing too powerful. Many Anti-Federalists were concerned that putting too much power in any concentrated central government would inevitably diminish citizens’ rights. They believed that the power should remain in the state governments because the states could be more responsive to the needs of their citizens.

During the ratification of the Constitution, two groups formed during the discussion over a bill of rights.



James Madison

Federalists strongly supported the Constitution as it was written and did not think a bill of rights was needed. Anti-Federalists believed that a bill of rights was necessary to prevent the central government from threatening states' authority and oppressing citizens.

Leading Federalists were Alexander Hamilton from New York and James Madison from Virginia. They believed a bill of rights was not needed because the Constitution itself limited the government's powers. They also feared that creating a list of rights might lead to other dangers, such as implying powers that had not been granted to the government. It would be impossible to list every right. Federalists did not want certain rights to be ignored or violated just because they were not listed.

Leading Anti-Federalists were George Mason and Patrick Henry of Virginia. Anti-Federalists wanted to protect against a powerful central government taking away the freedoms they had fought a revolution to preserve. They believed a bill of rights needed to be added to the Constitution so that citizens would be protected against the government infringing upon rights. George Mason had written a similar document to protect the rights of Virginians called the Virginia Declaration of Rights. Some of the language in this document was used to develop the amendments used in the United States Bill of Rights.

Why Did Madison Change His Mind?

The Constitutional Convention ended in late 1787, but the debate went on. Nine states ratified (approved) the Constitution by the summer of 1788. However, New York, Virginia, and Massachusetts submitted long lists of proposed amendments to guarantee rights. It became clear the people wanted a bill of rights.

Madison sought the advice of Thomas Jefferson, John Adams, George Mason, and President George Washington. They all expressed support for a bill of rights. Mason (the author of Virginia's Declaration of Rights) suggested using state bills of rights as a guide. Madison agreed to add a bill of rights to discourage the attempt to call a second Constitutional Convention, and he used Mason's *Virginia Declaration of Rights* in drafting it. Madison offered his proposed changes to Articles I and III of the Constitution on June 8, 1789. He initially made additions and changes to the original text of the Constitution. Some Anti-Federalist Congressmen, led by Roger Sherman, objected, arguing that Congress did not have the power to change the original form of the Constitution that had been ratified by the states. They decided the Amendments would be added as a separate list.

The House of Representatives debated through the summer. On August 24, 1789, the House sent a list of seventeen amendments to the

Senate. The Senate approved twelve. Those twelve were sent to the states for ratification, but only ten were ratified. On December 15, 1791, Virginia's state convention became the last state needed to ratify the ten amendments that protected individual and states' rights. The Bill of Rights now joined the Constitution as the governing document of the United States.

What Is the Impact of the Bill of Rights?

The Bill of Rights limited only actions taken by the federal government against people. The Founders assumed citizens would be protected against state governments by their home states' constitutions. For this reason, the Bill of Rights did not strongly affect Americans' lives until the Fourteenth Amendment was passed in 1868. The Fourteenth Amendment prohibits the states from violating people's life, liberty, or property without due process.

Beginning in the 1920s, the Supreme Court began to apply the Bill of Rights to the states to fulfill the Fourteenth Amendment's guarantee of "liberty." Gradually, one issue at a time, the Supreme Court has interpreted most of the provisions of the Bill of Rights to apply as limits on state and local governments through the due process clause of the Fourteenth Amendment.

In the twentieth century, the role of the federal government shifted. As a result of the federal government's expanded role, its size, purpose, and significance have changed. The change also affected the national view of the Bill of Rights. The document that had rarely affected Americans' lives prior to the 1920s now took center stage in American society, politics, and conversation.

The Bill of Rights began with debate over its very existence. Perhaps it is fitting that it still brings about questions and controversy today.



Comprehension Questions

1. Why did Federalists think a bill of rights was unnecessary and could even be dangerous?
2. Why did James Madison change his mind about adding a bill of rights to the Constitution?
3. Why did the Bill of Rights not strongly affect citizens' lives until after the 1920s?