

Patrick Henry on the Bill of Rights (June 16, 1788)

In this speech to Virginia's ratifying convention, the fiery orator Patrick Henry railed against the "absurdity" of not including a Bill of Rights with the Constitution. What did Henry feel might happen if rights were not explicitly reserved for the people of America? What governments did he say had encroached on their citizens' rights because they lacked such protections? Why was he doubtful about the intentions and actions of the new democratic government of the United States?

[16 June] I observed already, that the sense of the European nations, and particularly Great-Britain, is against the construction of rights being retained, which are not *expressly* relinquished. I repeat, that 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. 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.... 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. 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, everything 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 [Volume 1, Page 471] 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. The Founders' Constitution

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