

1789  
**A Bill of Rights**  
*Letter To James Madison*

**Thomas, Jefferson 1743-1826**

Paris, Mar 15, 1789

DEAR SIR, --

I wrote you last on the 12th of Jan. since which I have received yours of Octob 17, Dec 8 & 12. That of Oct. 17. came to hand only Feb 23. How it happened to be four months on the way, I cannot tell, as I never knew by what hand it came. Looking over my letter of Jan 12th, I remark an error of the word "probable" instead of "improbable," which doubtless however you had been able to correct. Your thoughts on the subject of the Declaration of rights in the letter of Oct 17. I have weighed with great satisfaction. Some of them had not occurred to me before, but were acknowledged just in the moment they were presented to my mind. In the arguments in favor of a declaration of rights, you omit one which has great weight with me, the legal check which it puts into the hands of the judiciary. This is a body, which if rendered independent & kept strictly to their own department merits great confidence for their learning & integrity. In fact what degree of confidence would be too much for a body composed of such men as Wythe, Blair & Pendleton? On characters like these the "*civium ardor prava jubentium*" would make no impression. I am happy to find that on the whole you are a friend to this amendment. The Declaration of rights is like all other human blessings alloyed with some inconveniences, and not accomplishing fully it's object. But the good in this instance vastly overweighs the evil. I cannot refrain from making short answers to the objections which your letter states to have been raised.

1. That the rights in question are reserved by the manner in which the federal powers are granted.

*Answer.* A constitutive act may certainly be so formed as to need no declaration of rights. The act itself has the force of a declaration as far as it goes; and if it goes to all material points nothing more is wanting. In the draught of a constitution which I had once a thought of proposing in Virginia, & printed afterwards, I endeavored to reach all the great objects of public liberty, and did not mean to add a declaration of rights. Probably the object was imperfectly executed; but the deficiencies would have been supplied by others, in the course of discussion. But in a constitutive act which leaves some precious articles unnoticed, and raises implications against others, a declaration of rights becomes necessary by way of supplement. This is the case of our new federal constitution. This instrument forms us into one state as to certain objects, and gives us a legislative & executive body for these objects. It should therefore guard us against their abuses of power within the field submitted to them.

2. A positive declaration of some essential rights could not be obtained in the requisite latitude.

*Answer.* Half a loaf is better than no bread. If we cannot secure all our rights, let us secure what we can.

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3. The limited powers of the federal government & jealousy of the subordinate governments afford a security which exists in no other instance.

*Answer.* The first member of this seems resolvable into the first objection before stated. The jealousy of the subordinate governments is a precious reliance. But observe that those governments are only agents. They must have principles furnished them whereon to found their opposition. The declaration of rights will be the text whereby they will try all the acts of the federal government, In this view it is necessary to the federal government also; as by the same text they may try the opposition of the subordinate governments.

4. Experience proves the inefficacy of a bill of rights. True. But tho it is not absolutely efficacious under all circumstances, it is of great potency always, and rarely inefficacious. A brace the more will often keep up the building which would have fallen with that brace the less. There is a remarkable difference between the characters of the Inconveniences which attend a Declaration of rights, & those which attend the want of it. The inconveniences of the Declaration are that it may cramp government in it's useful exertions. But the evil of this is short-lived, trivial & reparable. The inconveniences of the want of a Declaration are permanent, afflicting & irreparable. They are in constant progression from bad to worse. The executive in our governments is not the sole, it is scarcely the principal object of my jealousy. The tyranny of the legislatures is the most formidable dread at present, and will be for long years. That of the executive will come in it's turn, but it will be at a remote period. I know there are some among us who would now establish a monarchy. But they are inconsiderable in number and weight of character. The rising race are all republicans. We were educated in royalism; no wonder if some of us retain that idolatry still. Our young people are educated in republicanism, an apostasy from that to royalism is unprecedented & impossible. I am much pleased with the prospect that a declaration of rights will be added; and hope it will be done in that way which will not endanger the whole frame of the government, or any essential part of it.

I have hitherto avoided public news in my letters to you, because your situation insured you a communication of my letters to Mr. Jay. This circumstance being changed, I shall in future indulge myself in these details to you. There had been some slight hopes that an accommodation might be affected between the Turks & two empires but these hopes do not strengthen, and the season is approaching which will put an end to them for another campaign at least. The accident to the King of England has had great influence on the affairs of Europe. His mediation joined with that of Prussia, would certainly have kept Denmark quiet, and so have left the two empires in the hands of the Turks & Swedes. But the inactivity to which England is reduced, leaves Denmark more free, and she will probably go on in opposition to Sweden. The K. of Prussia too had advanced so far that he can scarcely retire. This is rendered the more difficult by the troubles he has excited in Poland. He cannot well abandon the party he had brought forward there so that it is very possible he may be engaged in the ensuing campaign. France will be quiet this year, because this year at least is necessary for settling her future constitution. The States will meet the 27th of April: and the public mind will I think by that time be ripe for a just decision of the Question whether they shall vote by orders or persons. I think there is a majority of the nobles already for the latter. If so, their affairs cannot but go on well. Besides settling for themselves a tolerably free constitution, perhaps as free

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a one as the nation is yet prepared to bear, they will fund their public debts. This will give them such a credit as will enable them to borrow any money they may want, & of course to take the field again when they think proper. And I believe they mean to take the field as soon as they can. The pride of every individual in the nation suffers under the ignominies they have lately been exposed to and I think the states general will give money for a war to wipe off the reproach. There have arisen new bickerings between this court & the Hague, and the papers which have passed shew the most bitter acrimony rankling at the heart of this ministry. They have recalled their ambassador from the Hague without appointing a successor. They have given a note to the Diet of Poland which shews a disapprobation of their measures.

The insanity of the King of England has been fortunate for them as it gives them time to put their house in order. The English papers tell you the King is well: and even the English ministry say so. They will naturally set the best foot foremost: and they guard his person so well that it is difficult for the public to contradict them. The King is probably better, but not well by a great deal. 1. He has been bled, and judicious physicians say that in his exhausted state nothing could have induced a recurrence to bleeding but symptoms of relapse. 2. The Prince of Wales tells the Irish deputation he will give them a definitive answer in some days; but if the king had been well he could have given it at once. 3. They talk of passing a standing law for providing a regency in similar cases. They apprehend then they are not yet clear of the danger of wanting a regency. They have carried the king to church; but it was his private chapel. If he be well why do not they shew him publicly to the nation, & raise them from that consternation into which they have been thrown by the prospect of being delivered over to the profligate hands of the prince of Wales. In short, judging from little facts which are known in spite of their teeth the King is better, but not well. Possibly he is getting well, but still, time will be wanting to satisfy even the ministry that it is not merely a lucid interval. Consequently they cannot interrupt France this year in the settlement of her affairs, & after this year it will be too late.

As you will be in a situation to know when the leave of absence will be granted me which I have asked, will you be so good as to communicate it by a line to Mr. Lewis & Mr. Eppes? hope to see you in the summer, and that if you are not otherwise engaged, you will encamp with me at Monticello for awhile.

**Jefferson, Thomas, 1743-1826. Letters**

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