The Bill of Rights: The Fight to Secure America's Liberties

Carol Berkin
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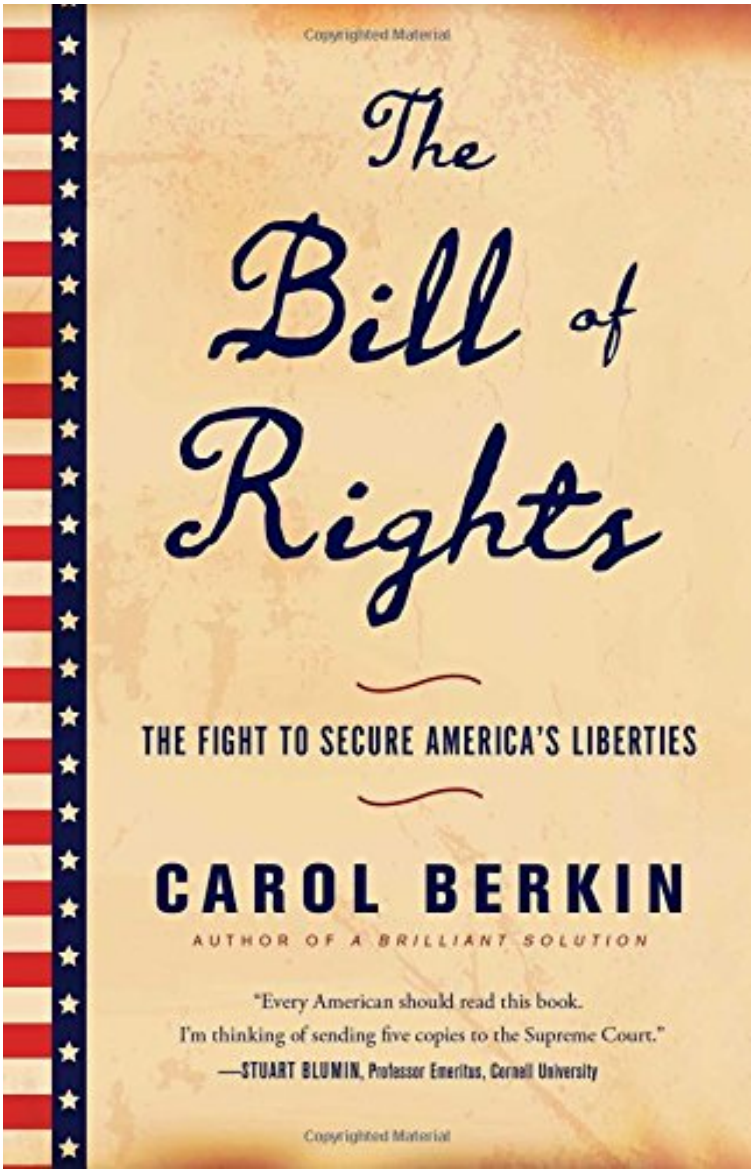

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Carol Berkin : The Bill of Rights: The Fight to Secure America's Liberties before purchasing it in order to gage whether or not it would be worth my time, and all praised The Bill of Rights: The Fight to Secure America's Liberties:

3 of 3 people found the following review helpful. Should be required reading in American History classes.By Jim MiskoI can't understand "Shaft's" review about Berkin being a liberal. The Bill of Rights is clearly a work of journalism and I do not perceive a tone to the left or right from the facts. It is well written and informative. It should be required reading in every high school American History class. There are references to the state of America near the

end that are almost in sync with today's political, economic, border, and emigrant situation that gives clear understanding that it has always been so with men and nations. It is a great personal read with diligent research behind it.1 of 1 people found the following review helpful. A must read to understand the process of the Contitution AND the Amendments ADDED on.By SaffVery interesting read. Well written with a lot of background and insight to what went into the making of the Bill of Rights. Why they compromised on the idea of the BOR rather than risk a rewrite/revision of the Constitution to include what some wanted to be included in that orgininal document.0 of 0 people found the following review helpful. Understanding the politics of todayBy Bob BThe history surrounding the creation of the Bill of Rights is fascinating. The issues of the time are relevant today. The controversies faced then help us understand that those we face today are not unique.

Narrative, celebratory history at its purest (Publishers Weekly)the real story of how the Bill of Rights came to be: a vivid account of political strategy, big egos, and the partisan interests that set the terms of the ongoing contest between the federal government and the states.Those who argue that the Bill of Rights reflects the founding fathers original intent are wrong. The Bill of Rights was actually a brilliant political act executed by James Madison to preserve the Constitution, the federal government, and the latters authority over the states. In the skilled hands of award-winning historian Carol Berkin, the story of the founders fight over the Bill of Rights comes alive in a drama full of partisanship, clashing egos, and cunning manipulation. In 1789, the nation faced a great divide around a question still unanswered today: should broad power and authority reside in the federal government or should it reside in state governments? The Bill of Rights, from protecting religious freedom to the peoples right to bear arms, was a political ploy first and a matter of principle second. The truth of how and why Madison came to devise this plan, the debates it caused in the Congress, and its ultimate success is more engrossing than any of the myths that shroud our national beginnings. The debate over the Bill of Rights still continues through many Supreme Court decisions. By pulling back the curtain on the short-sighted and self-interested intentions of the founding fathers, Berkin reveals the anxiety many felt that the new federal government might not surviveand shows that the true original intent of the Bill of Rights was simply to oppose the Antifederalists who hoped to diminish the governments powers. This book is a highly readable American history lesson that provides a deeper understanding of the Bill of Rights, the fears that generated it, and the miracle of the amendments (Kirkus Reviews).

Fluidly written and readily accessible, Carol Berkin's account of the genesis and adoption of the Bill of Rights is a must-read for every American seeking to learn the history of this iconic addition to the Constitution. The narrative of rights included and omitted gives us much to ponder, even in the 21st century. (Mary Beth Norton, Professor, Cornell University, and author of In the Devils Snare: The Salem Witchcraft Crisis of 1692)"Having crafted the definitive volume on the creation of the Constitution in A Brilliant Solution, Carol Berkin here turns her attention to the men who drafted and battled over that documents first ten amendments. Bristling with vivid insights, packed with colorful tales and personalities, and narrated with her customary verve, The Bill of Rights reaffirms Berkins status as one of the most original, vital, and essential historians of the eighteenth century." (Douglas R. Egerton, author of Death or Liberty: African Americans and Revolutionary America)"Carol Berkins brilliant new book demystifies the Bill of Rights. In crystal-clear prose it demonstrates that James Madisons shepherding of the first ten amendments through a reluctant Congress was, above all, a successful strategy for preserving the new Constitution, and with it a viable national government. Every American should read this book. Im thinking of sending five copies to the Supreme Court." (Stuart M. Blumin, Professor Emeritus, Cornell University)Carol Berkin unravels the story of our Bill of Rights as only she can. Under her pen the founders come to lifevivid and complexstruggling to meet the challenges of their times. Berkin reveals the intricacy, struggle, political infighting, and self-interest at work in the American political process while celebrating the remarkable and enduring accomplishments of these very human American citizens. (William E. White, PhD, Vice President of the Colonial Williamsburg Foundation)"With this concise, wonderfully readable, and masterfully crafted book, Carol Berkin has made the eighteenth-century legislative debates over the Bill of Rights accessible and intelligible to the American public. This book should be required reading in every high school and college civics, history, and social studies classroom in America." (Julie Silverbrook, Executive Director, The Constitutional Sources Project (ConSource))"Once again Professor Berkin has given us a beautifully written, insightful history about the intricacies of securing American liberty in her new book The Bill of Rights. Her careful treatment of the political process has produced a profound look into the motives both political and personal of the framers of our government, and the role that each one, especially James Madison, performed in creating and securing American liberty. It is amazing how she has been able to bring to new life a topic that has been so often explored by other historians. Her writing is compelling and clear. The Bill of Rights is a dynamic reexamination of the principal document which is at the foundation of American freedoms." (George W. Henry, Jr., Professor, University of Utah)"Berkins well-crafted and readable narrative focusing on the struggle in Congress over the Bill of Rights in the summer of 1789 should be required reading for those who seek to understand the political divisions among the Founding Fathers and the legacy inherited by future generations. Berkin offers an even-handed account of the forces

which supported and opposed a Bill of Rights. She introduces us to intelligent and articulate men such as Roger Sherman, Fisher Ames, and Elbridge Gerryand the omnipresent James Madisonsupplementing the volume with interesting short biographies of the members of Congress." (John M. Belohlavek, Professor, University of South Florida)Berkin is a talented writer. . . . A scholarly and readable book that is excellent for history buffs. (Library Journal (starred review))A highly readable American history lesson that provides a deeper understanding of the Bill of Rights, the fears that generated it and the miracle of the amendments. (Kirkus)This is narrative, celebratory history at its purest. (Publishers Weekly)About the AuthorCarol Berkin is the Presidential Professor of History at Baruch College and a member of the history faculty of the Graduate Center of CUNY, Emerita, where she taught early American and womens history. Professor Berkin has worked as a consultant on several PBS and History Channel documentaries, including one on the Scottsboro Boys, which was nominated for an Academy Award as the best documentary of 2000.Excerpt. Reprinted by permission. All rights reserved.The Bill of Rights I On September 12, 1787, Virginian George Mason rose on the floor of what came to be known as the constitutional convention.1 He proposed that the delegates gathered in Independence Hall add a bill of rights to the Constitution they had just created. The response Mason received was a resounding no. Was it possible that the men we call the founding fathers opposed such basic rights as freedom of speech, the press, or conscience? Was their intention to introduce a new tyranny to replace the tyranny of George III and his government? Why was Masons request so firmly denied? The answer is simple. These men were weary on that fateful September day. They had been meeting since mid-May, trudging through the rain on many a morning or wiping the perspiration from their brows on those days when the stifling heat and humidity of an all too typical Philadelphia summer seemed unbearable. Their evenings had been spent in the cramped quarters above the citys many taverns, in rooms occupied by two and sometimes three men. Most surely slept fitfully, sharing beds in rooms redolent of spittoons and chamber pots, the smells intensified by the need to keep the shutters tightly closed against a summer invasion of bluebottled flies. Far from home, countinghouse, law office, plantation, or farm, they fretted about inventories, clients, and crops, with no choice but to rely on the good sense of family members or employees to ensure that their fortunes did not suffer. As the weeks dragged by, they longed for the comforts of home, the satisfactions of a well-cooked meal, and the companionship of wives and children. Yet they stayed. They stayed because the business they had come to Philadelphia to do was too important to abandon. They were there, they believed, to save their country. They feared that their experiment in republican government was in danger of invasion or, worse, of internal collapse if a new government was not created to replace the league of friendship known as the Confederation, which had proved woefully inadequate to deal with the problems facing America. The Articles of Confederation, Americas first constitution, did not owe its creation to a lapse of judgment on the part of the Revolutionary generation. To the men who wrote it, this very restricted government seemed to perfectly embody the goals of their Revolution. They did not yet think of themselves as citizens of a unified nation; like their neighbors, they thought of themselves as Marylanders, Virginians, New Yorkers, or Connecticut men. Their history and their historical circumstances made this a reasonable identification. Their newly independent states had once been coloniescolonies with different patterns of settlement, different mixes of ethnic and religious populations, and different internal histories. Virginia did not share New Yorks Dutch origins; Connecticuts lingering Puritan heritage was alien to Pennsylvanias Quaker roots. And Marylands religious wars between Catholics and Protestants had no parallel in Georgia or North Carolina. It was true that by the time the war for independence began, all the rebellious colonies did have some striking political similarities. In each, the local legislature was elected by men whose race and property ownership qualified them to full citizenship. But families who traced their history back to Barbados refugees in South Carolina did not feel a natural affinity for the men and women who fled religious persecution to settle Massachusetts. Thus it was not surprising that, when asked what his country was, a leading revolutionary like Patrick Henry could immediately respond, Virginia is my country, sir. In short, the men who represented their rebellious states in the Continental Congressand later in the Confederation Congresswere loyal not to something so vague as the United States but to their own state. Travel and communication in the eighteenth century reinforced this loyalty to place that we today might dismiss as provincialism. The great revolutions in transportation and communication lay decades ahead in the nineteenth century. In 1776, when the Articles of Confederation were written, horses and horse-drawn carriages, often moving along little more than Indian paths, were the fastest modes of transportation. Travel from Boston to the Continental Congress in Philadelphia could take weeks if roads were washed out by rain or if rivers had risen too high for a man on horseback to ford. Indeed, to many a Georgian in the late eighteenth century, a trip to Massachusetts might as well have been a voyage to the moon. Ships, it was true, could sail along the coast of these mainland states, but few Georgia farmers were likely to be on board. Communication was unpredictable and cumbersome. Letters often found their way to their intended recipients through elaborate relays: entrusted first to friends heading to port cities, then passed on to ship captains heading in the right direction, and finally turned over to local residents who promised to deliver them to the addressee. Much depended on whether any link in this chain failed; and even when the system worked, it could take months for a letter to find its way from writer to reader. News traveled just as slowly in a world where not every household had access to a daily newspaper. Often the best source of news was travelers, especially ship captains, who brought with them newspapers already several months old. Under these circumstances,

provincialism or localism was reasonable, even among men more privileged, better traveled, and more sophisticated than their neighbors. But ideology, as much as circumstances, played a critical role in the belief that a league of friendship among thirteen separate and sovereign nation-states fulfilled the goals of the Revolution. The men who fought for independence had rallied to the cry No taxation without representation. And to them, this meant no taxation by any legislature other than their local assembly. The Lockean contractthat a legitimate government must represent the interests and protect the liberties of those it governedhad been reinterpreted by free Americans; it meant that only a government composed of men you knew, men who lived among you and shared your interests, deserved your obedience, your loyaltyand your taxes. As they began a war for independence against a distant government, made up of men who would not suffer the consequences of the taxes they imposed, Americans believed the only safeguard against such tyranny was to put power in the hands of local legislatures. Thus the Continental Congress produced a constitution that preserved the sovereignty of the states and restricted the powers of the national government to the barest essentials: to coordinate the military and diplomatic war effort against Great Britain.2 Even this was miraculous, because the colonies had never before cooperated. But, as they prepared to wage a war against the most powerful army and navy in the world, American leaders recognized the need for unity. The constitution they drafted was, in many ways, a defense against a new tyranny. Their enemy had taxed them from afar, and had regulated their trade and commerce; they would avoid creating another government with such powers. They would avoid suffering under a new tyrant by refusing to create a separate executive branch. They would deprive the government of the power to tax or dictate trade policy. They would not allow it to introduce a uniform currency that could prevent each state from providing its own citizens with ready cash. Above all, they would avoid attempts by large states to dominate small ones by ensuring a rule of one state, one vote in the new government. The Articles of Confederation embodied the hopes and fears of the revolutionaries. They were a culmination of the colonies 150 years of history as possessions of a powerful empire. But in the effort to avoid the oppressions of the past, the men who wrote this constitution did not provide for the problems of the future.3 Those problems had emerged even before the ink on the peace treaty was dry in 1783. Peace brought a lingering postwar economic depression, as America adjusted to its independence from Great Britains protective, though often smothering, embrace. No longer escorted by Royal Navy vessels, American merchant ships carrying cargoes meant for Mediterranean buyers became easy targets for North African pirates. In New England, shippers discovered how much they had depended on trade with the Caribbean islands that flew the British flag. In Georgia and South Carolina, states that had suffered the devastation of two major British campaigns during the war, planters found themselves scrambling to find new slaves to replace those who had fled to the welcoming arms of the British army. The new nation faced the embarrassment of debts to European allies that it could not pay. The government, forced to rely on requisitions from the states, found itself helpless to establish its credit, and efforts to borrow more money from Holland and France were futile. To the great embarrassment of the members of the Confederation Congress, the government was also unable to pay military veterans or repay the civilians who had sacrificed crops and livestock to the war effort. Confidence in the governments ability to honor the promissory notes, called continentals, that it had given to farmers, merchants, and artisans could be measured by the popular term for worthlessnessnot worth a continental. Four years after the war ended, the new nations borders stood virtually undefended against Indians or European powers. Britain still occupied its forts in the Ohio Valley, and alliances forming among displaced or threatened Indian tribes boded ill for eager American settlers. Perhaps most troubling of all was that the spirit of cooperation, which had reigned among the states during the struggle for independence, had evaporated. Thirteen separate nation-states now vied with one another for advantages in commerce and trade. Each established trade barriers at its borders and thus duties had to be paid at every state line. Price gouging by New York, whose port city brought in vital foreign goods, enriched New Yorkers and enraged consumers in New Jersey and Connecticut. To the south, Virginia shamelessly exploited the consumer needs of North Carolina. Every state had its own currency, and some of this was worthless paper. Small wonder that interstate trade was in chaos, making recovery from postwar depression even more difficult. By the time the Philadelphia convention met, the members of the Confederation Congress, sitting in New York City, had thrown up their hands and surrendered any hope of solving these pressing problems. Surveying the situation, the former commander in chief of the Continental Army, George Washington, lamented that the Confederation was a mere shadow of a government. And William Pierce of Georgia described the Confederation as a ship bearing under the weight of a tempest; it is trembling, and just on the point of sinking.4 The men who met in Philadelphia agreed with these sentiments. Clearly, something had to be done to save their country. And this was why, by September 1787, the delegates to the convention had put themselves through over four grueling months of debate, discussion, and often heated argument. This is why they endured cramped quarters, dismal weather, and a steady diet of tavern food. Behind locked doors and draped windows, they had undertaken the task of writing a new constitution. If any group was up to the challenge, these fifty-four delegates were. Gathered in Independence Hall were members of Americas economic and social elite, men far better educated and more widely traveled than their farmer and shopkeeper neighbors. And, in a society that still assumed men of wealth should hold the reins of government, their political leadership experience was broad and deep. They had learned politics at the dinner table, listening to fathers, uncles, cousins, and older brothers. They had studied rhetoric and political

philosophy at colleges at home and abroad and most of them were trained in the law. They had served in Continental Congresses, colonial assemblies, and state legislatures. They had overseen trials as justices of the peace and directed state policies as governors. During the Revolution, many had led men into battle as Continental Army officers, and thus they had observed firsthand how that experience had unified men of every region and state. Many, though not all of them, had been born or educated abroad and this background, like their army experience, had given them a less provincial perspective than most of their fellow members of the American elite. They were, in Alexander Hamiltons apt phrase, men who thought continentally, men who wanted to create a nation, not a loosely knit confederation of squabbling states. The charge they had been given by the Confederation Congress was narrow: propose amendments to strengthen the current constitution. But men like Virginias James Madison, New Yorks Alexander Hamilton, Pennsylvanias Benjamin Franklin, and the universally admired George Washington believed the crisis was too serious for mere patchwork. Thus, within the first week of the convention, the delegates had agreed to abandon what they saw as a faulty government and create a new one. The men who made this decision to abandon one frame of government and create another understood the challenge they facedand they were uncertain if they were wise enough to meet it. But they knew they had models to guide them. Behind them were two centuries of Anglo-American political culture, with its emphasis on the rule of law, its limitations on the power of the men in office, and its threefold division of government into executive, legislative, and judicial branches. Their republic would have no king and no legislative branch belonging to the aristocracy, of coursethis was one legacy of their Revolution. But whatever form the new framework took, it would draw its authority from the consent of the governed. Many of the delegates had participated in the arduous process of drafting and seeing ratified their state constitutions. But they knew that the superimposition of what eighteenth-century men called an energetic national government on thirteen quarrelsome mini nations, each jealously guarding its sovereignty, would be far more controversial. This is why anxiety, thick as the summer humidity, hung over the convention throughout its months of deliberation. The delegates knew that the government they designed must have far more power than the one they sought to replace. The question was: how much power? Ardent nationalists like Madison, Hamilton, and Pennsylvanias brilliant, flamboyant Gouverneur Morris wanted to provide a full panoply of powers: the right to tax, to regulate foreign and interstate trade, to raise an army for defense, and to establish a uniform currency. Above all, they wished to create a truly national government able to win the loyalty of citizens of every state. But this was far from a goal shared outside the convention walls. Many of the political leaders who refused to attend this convention did not wish to see such a transfer of loyalty. Devoted revolutionaries like Samuel Adams of Massachusetts and Patrick Henry of Virginia continued to believe that representative government meant local government. When Henry learned of the gathering in Philadelphia, his judgment was succinct: I smell a rat, he declared, for he was certain the delegates intended to abandon the Articles and propose a new government. Men like Henry were immune to Hamiltons plea that Americans think continentally. They embraced the political certainty that only a local government could understand and serve the interests of the citizens. Even within the convention, Madison and Hamilton knew, there were delegates wary of creating a government that would erode the autonomy of the states. The divided loyalties of the former governor of Virginia, thirty-four-year-old Edmund Randolph; the cranky but clever Elbridge Gerry of Massachusetts; and many of the men from smaller states would be revealed in the daily efforts to thread the needle between the preservation of state authority and the empowering of a central government. Compromise was the watchword of the conventions deliberation, but perseverance proved the mode. Debates and arguments over the structure and shape of the new national government were long and often redundant. Over the months, the convention repeatedly circled back to revive issues once deemed resolved. No vote ever seemed final, no decision above reconsideration. What could not be resolved was sent to committees, where debate continued but the pressure to compromise was greater. Although the convention adjourned each day around 4 p.m., discussion often continued long into the night. Caucuses of like-minded state delegations met to plan the next days strategy, while anxious men gathered to tally and re-tally potential votes. On the best of evenings, essential compromises were hammered out over a glass or two of good port wine. By July, the general shape of the new government and the scope of its powers had been decided. While these powers would seem broad to many opponents of the Constitution, they may seem curiously limited to modern sensibilities. To the founders, the national governments raison dtre was threefold: the defense of the countrys borders, the maintenance of law and order at home, and the establishment of a stable and expanding economy based on good credit. These powers were, in effect, to be siphoned away from the states in an arrangement that was truly novel for the eighteenth-century world: it was called federalism. Under this system of shared sovereignty, the national government acquired some exclusive powers, the states retained exclusive rights to others, and some belonged to both. Under federalism, the convention left untouched and unchallenged many of the powers enjoyed by the state governments. States would determine voting requirements, they would determine the fate of slavery within their borders, they retained taxing powers, and they maintained their own judicial systems. The delegates were practical politicians, not idealists, and they understood the limit of their capacity to wrest power from the states where it resided. Some delegates believed the states would reject federalism. A few delegates would, in the end, refuse to sign a document that they felt robbed the states of too much autonomy. On the other hand, the devout nationalist Alexander Hamilton felt that federalism left the task of nation-building

incomplete. His solution struck most of the delegates as even more extreme and surely less realistic: Hamilton proposed to abolish the states. Weeks and months of argument, debate, and compromise took their toll. Patience had grown short as August turned to September and nerves were frazzled. By September 12, the delegates believed that all that stood between them and home were a few small, finishing touches to their new Constitution. And then, George Mason demanded a statement of the rights and liberties of the people. Masons proposal on that fateful September day took the majority of delegates by surprise. Only the men of the Committee on Detail, charged with polishing the language of the Constitution, might have seen it coming, for South Carolinas brash young delegate, Charles Pinckney, had pressed them in late August to add a guarantee of several rights to the document. The committee had rejected the idea. Now Mason had revived it, calling on the whole convention to produce a national bill of rights. No one doubted Masons sincerity, for his reputation as a champion of rights was well known at the convention. A scion of a wealthy planter family, the sixty-two-year-old Mason had authored his own states Declaration of Rights, making Virginia the first state to guarantee freedom of the press, tolerance of religion, protection from unreasonable searches, and the right to a fair and speedy trial. What the delegates did doubt, however, was Masons sanguine assurances that the drafting of a bill of rights could be done quickly. They knew from experience that nothing at the convention was speedily done. A nightmare vision arose of days of wrangling and debate. What rights would they agree to include? How could they be certain these were the most deserving of protection? If a critical right was overlooked, would that mean it was denied to the people? Did the inclusion of some rights mean, inevitably, the exclusion of others? Was there unanimity to be found on the definition of any right? If not, its simple phrasing could take hours of discussionor, worse, added committee work. Heated opposition to Masons proposal emerged quickly. Pennsylvanias Gouverneur Morris resisted any further tampering with the conventions handiwork. No doubt Morriss role in editing and refining the language of the final draft contributed to his adamant refusal to tolerate any last-minute changes or additions. But it was Connecticuts Roger Sherman, the cobbler turned lawyer, whose stern demeanor and terse speech conveyed a rectitude that many admired, who best expressed the general feelings of the convention: Masons concern was groundless. The peoples rights, Sherman said, clearly remained under the protection of the states, eight of which had included a bill of rights in their constitutions. The convention had given the national government no jurisdiction in the matter of the peoples rights and liberties. It could not restrict them; it could not expand them; it could not endanger them. There was, in short, no need to protect Americans against powers the proposed government did not have.5 And there, to the relief of almost everyone, the matter ended. Or so it seemed. Yet, even before the struggles over ratification of the new Constitution began in the states, some astute delegates realized they had made a serious tactical error. In refusing to add a bill of rights, the men who supported the Constitution had handed their opponents the most powerful weapon in their arsenal.