

## The Creation of the Bill of Rights

### Materials:

- Copies of excerpted letter from James Madison to Thomas Jefferson
- Copies of excerpted letter from Thomas Jefferson to James Madison
- Document Chart
- Copies of the Bill of Rights

### Plan of Instruction:

#### 1. Introduction:

Give students the copies of the letters between Madison and Jefferson. Students should read the letters and complete the chart.

#### 2. Debrief:

Students should share out answers with the class. Be sure to emphasize that the letters are about the necessity of the Bill of Rights.

#### 3. Transition:

Ask the students to identify any of the Bill of Rights that they can.

When did the Bill of Rights get added to the Constitution?

Why was it added?

Did it address all of Jefferson's concerns?

Hand out the copy of the Bill of Rights (excerpted). Have students identify which of the amendments addresses a concern of Jefferson's. For the amendment that did not address a concern, what do the students think the reasoning behind the amendment is?

#### 4. Closing:

What does the Bill of Rights do?

What is it protecting the people from?

Does it work? Ask students to provide examples.

**LETTER A: Letter from Thomas Jefferson to James Madison, December 20, 1787.**

“I will now add what I do not like. First the omission of a bill of rights providing clearly & without the aid of sophisms for freedom of religion, freedom of the press, protection against standing armies, restrictions against monopolies, the eternal & 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. To say, as Mr. Wilson does, that a bill of rights was not necessary because all is reserved in the case of the general government which is not given, while in the particular ones all is given which is not reserved, might do for the Audience to whom it was addressed, but is surely a gratis dictum (gratuitous observation). . . 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 government should refuse or rest on inference.”

**LETTER B: Letter from James Madison to Thomas Jefferson, October 17, 1788.**

“It is true nevertheless that not a few, particularly in Virginia have contended for the proposed alterations from the most honorable & patriotic motives; and that among the advocates for the Constitution, there are some who wish for *further* guards to public liberty & individual rights. As far as these may consist of a constitutional declaration of the most essential rights, it is probable they will be added; though there are many who think such an addition unnecessary, and not a few who think it misplaced in such a Constitution. There is scarce any point on which the party in opposition is so much divided as to its importance and its propriety. My own opinion has always been in favor of a bill of rights; provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time I have never thought the omission a material defect, nor been anxious to supply it even by *subsequent* amendment, for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be of use, and if properly executed could not be of disservice. I have not viewed it in an important light . . . because I conceive that in a certain degree, though not in the extent argued by Mr. Wilson, the rights in question are reserved by the manner in which the federal powers are granted.”

	<b>Thomas Jefferson</b>	<b>James Madison</b>
<p><b>SOURCING:</b></p> <p>Who wrote this document? When was it written? Who is the intended audience?</p>		
<p><b>CONTEXTUALIZATION:</b></p> <p>What is being debated at this time in U.S. History? What was the fear with which many were concerned?</p>		
<p><b>CLOSE READING:</b></p> <p>Is the author pleased with the proposed Constitution? Why or why not?</p>		
<p><b>CLOSE READING:</b></p> <p>Find a quote in the document to support your claim.</p>		
<p>What does the author propose as a solution?</p>		
<p>Which author do you find more persuasive? Why?</p>		

Letters excerpted from letters printed by Rakove, Jack N. *Declaring Rights: A Brief History with Documents*, MA: Bedford Books, 1998.

Examine the Bill of Rights. If the amendment addresses a concern of Jefferson's, place a check in the space provided.

\_\_\_\_\_ Amendment I: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press...

\_\_\_\_\_ Amendment II: ...the right of the people to keep and bear Arms, shall not be infringed.

\_\_\_\_\_ Amendment III: No Soldier shall, in time of peace be quartered in any house without the consent of the Owner.

\_\_\_\_\_ Amendment IV: The right of the people...against unreasonable searches and seizures, shall not be violated.

\_\_\_\_\_ Amendment V: ...nor shall [any person] be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

\_\_\_\_\_ Amendment VI: ...the accused shall enjoy the right to a speedy and public trial, by an impartial jury...

\_\_\_\_\_ Amendment VII: ...the right of trial by jury shall be preserved...

\_\_\_\_\_ Amendment VIII: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

\_\_\_\_\_ Amendment IX: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

\_\_\_\_\_ Amendment X: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

For each amendment that did not address a concern of Jefferson's, what concerns might it have addressed?

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