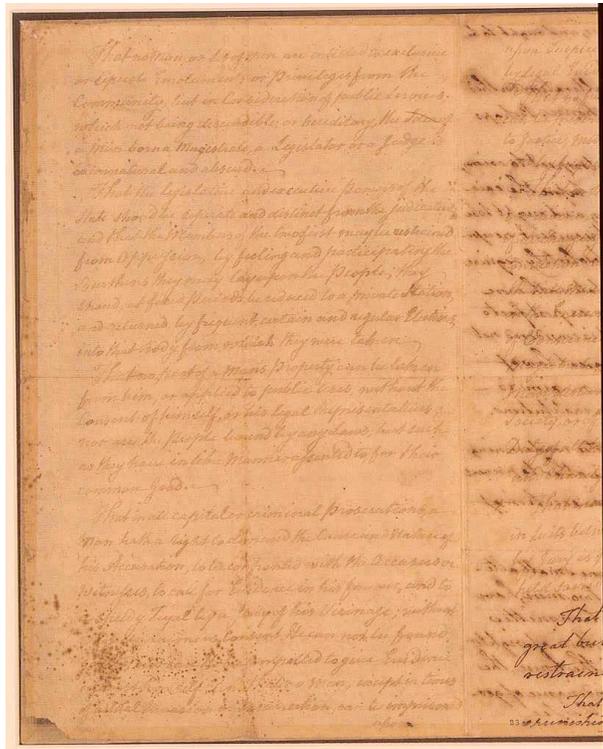


# THE BEST OF THE OLL #45

[George Mason], *“The Virginia Declaration of Rights”* (1776)  
<[oll.libertyfund.org/title/2547](http://oll.libertyfund.org/title/2547)>

***“That all Men are born equally free and independant, and have certain inherent natural Rights, of which they can not by any Compact, deprive or divest their Posterity; among which are the Enjoyment of Life and Liberty, with the Means of acquiring and possessing Property, and pursueing and obtaining Happiness and Safety”***



**"The Virginia Bill of Rights" (May, 1776)**

*The Best of the Online Library of Liberty* <[oll.libertyfund.org/title/2465](http://oll.libertyfund.org/title/2465)>

*The Best of Bastiat* <[oll.libertyfund.org/title/2477](http://oll.libertyfund.org/title/2477)>

[July, 2013]

## Editor's Introduction

George Mason (1725-1792) wrote the first draft of what was to become the Virginia Declaration of Rights in May 1776 and it was ratified by the Fifth Virginia Convention on June 12, 1776. It is noteworthy for being the first declaration of rights, preceding Jefferson's Declaration of Independence (written in June 1776 and adopted July 2), the Amendments to the U.S. Constitution (known as the Bill of Rights which was adopted by the House of representatives on August 21, 1789), and the French Declaration of the Rights of Man and the Citizen which was adopted on 26 August 1789. All three of these important documents were influenced to some degree by what Mason had written.

Mason objected to the powers granted to the new Federal government by the Constitution and so lobbied the state of Virginia not to ratify it, and refused to sign it himself. He, along with other Anti-Federalists, feared that without a clear statement of the rights of individuals embedded in the Constitution itself the Federal government would inevitably abuse its powers. Perhaps Mason's lasting legacy to the new nation was the passing of the first Amendments to the Constitution which are known as the "Bill of Rights."

In this paper we include Mason's original draft of May 1776, the Committee's corrected draft, and the final version which was enacted into law.

*“That all Men are born equally free and independant, and have certain inherent natural Rights, of which they can not by any Compact, deprive or divest their Posterity; among which are the Enjoyment of Life and Liberty, with the Means of acquiring and possessing Property, and pursueing and obtaining Happiness and Safety... That Government is, or ought to be, instituted for the common Benefit and Security of the People, Nation, or Community. Of all the various Modes and Forms of Government, that is best, which is capable of producing the greatest Degree of Happiness and Safety, and is most effectually secured against the Danger of mal-administration. And that whenever any Government shall be found inadequate, or contrary to these Purposes, a Majority of the Community had an indubitable, inalienable and indefeasible Right to reform, alter or abolish it, in such Manner as shall be judged most conducive to the Public Weal.”*

**George Mason's First Draft (May 20-26, 1776)<sup>1</sup>**

A Declaration of Rights, made by the Representatives of the good People of Virginia, assembled in full Convention; and recommended to Posterity as the Basis and Foundation of Government.

That all Men are born equally free and independant, and have certain inherent natural Rights, of which they can not by any Compact, deprive or divest their Posterity; among which are the Enjoyment of Life and Liberty, with the Means of acquiring and possessing Property, and pursueing and obtaining Happiness and Safety.

That Power is, by God and Nature, vested in, and consequently derived from the People; that Magistrates are their Trustees and Servants, and at all times amenable to them.

That Government is, or ought to be, instituted for the common Benefit and Security of the People, Nation, or Community. Of all the various Modes and Forms of Government, that is best, which is capable of producing the greatest Degree of Happiness and Safety, and is most effectually secured against the Danger of mal-administration. And that whenever any Government shall be found inadequate, or contrary to these Purposes, a Majority of the Community had an indubitable, inalienable and indefeasible Right to reform, alter or abolish it, in such Manner as shall be judged most conducive to the Public Weal.

That no Man, or Set of Men are entitled to exclusive or seperate Emoluments or Privileges from the Community, but in Consideration of public Services; which not being descendible, or hereditary, the Idea of a Man born a Magistrate, a Legislator, or a Judge is unnatural and absurd.

That the legislative and executive Powers of the State should be seperate and distinct from the judicative; and that the Members of the two first may be restrained from Oppression, by feeling and participating the Burthens they may lay upon the People; they should, at fixed Periods be reduced to a private Station, and returned, by frequent, certain and

regular Elections, into that Body from which they were taken.

***“That all Men are born equally free and independant, and have certain inherent natural Rights, of which they can not by any Compact, deprive or divest their Posterity; among which are the Enjoyment of Life and Liberty, with the Means of acquiring and possessing Property, and pursueing and obtaining Happiness and Safety.”***

That no part of a Man's Property can be taken from him, or applied to public uses, without the Consent of himself, or his legal Representatives; nor are the People bound by any Laws, but such as they have in like Manner assented to for their common Good.

That in all capital or criminal Prosecutions, a Man hath a right to demand the Cause and Nature of his Accusation, to be confronted with the Accusers or Witnesses, to call for Evidence in his favour, and to a speedy Tryal by a Jury of his Vicinage; without whose unanimous Consent, he can not be found guilty; nor can he be compelled to give Evidence against himself. And that no Man, except in times of actual Invasion or Insurrection, can be imprisoned upon Suspicion of Crimes against the State, unsupported by Legal Evidence.

That no free Government, or the Blessings of Liberty can be preserved to any People, but by a firm adherence to Justice, Moderation, Temperance, Frugality, and Virtue and by frequent Recurrence to fundamental Principles.

That as Religion, or the Duty which we owe to our divine and omnipotent Creator, and the Manner of discharging it, can be governed only by Reason and Conviction, not by Force or Violence; and therefore that all Men should enjoy the fullest Toleration in the Exercise of Religion, according to the Dictates of

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<sup>1</sup> George Mason's 1st draft at George Mason's Gunston Hall website <[http://www.gunstonhall.org/georgemason/human\\_rights/vdr\\_first\\_draft.html](http://www.gunstonhall.org/georgemason/human_rights/vdr_first_draft.html)>.

Conscience, unpunished and unrestrained by the Magistrate, unless, under Colour of Religion, any Man disturb the Peace, the Happiness, or Safety of Society, or of Individuals. And that it is the mutual Duty of all, to practice Christian Forbearance, Love and Charity towards Each other.

That in all controversies respecting Property, and in Suits between Man and Man, the ancient Tryal by Jury is preferable to any other, and ought to be held sacred.

That the freedom of the press, being the great bulwark of Liberty, can never be restrained but in a despotic government. That laws having a retrospect to crimes, & punishing offences committed before the existence of such laws, are generally dangerous, and ought to be avoided.

## Notes

N. B. It is proposed to make some alteration in this last article when reported to the house. Perhaps somewhat like the following That all laws having a retrospect to crimes, & punishing offences committed before the existence of such laws are dangerous, and ought to be avoided, except in cases of great, & evident necessity, when safety of the state absolutely requires them. This is thought to state with more precision the doctrine respecting ex post facto laws & to signify to posterity that it is considered not so much as a law of right, as the great law of necessity, which by the well known maxim is -- allowed to supersede all human institutions.

Another is agreed to in committee condemning the use of general warrants; & one other to prevent the suspension of laws, or the execution of them.

The above clauses, with some small alterations, & the addition of one, or two more, have already been agreed to in the Committee appointed to prepare a declaration of rights; when this business is finished in the house, the committee will proceed to the ordinance of government.

T. L. Lee

## ***Committee Draft (May 27, 1776)***<sup>2</sup>

A DECLARATION of RIGHTS made by the representatives of the good people of Virginia, assembled in full and free Convention; <which rights do pertain to us, and our> posterity, as the basis and foundation of government.

Article 1. THAT all men are born equally free and independent, and have certain inherent natural rights, of which they cannot, by any compact, deprive or divest their posterity; among which are, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Article 2. That <all> power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Article 3. That government is, or ought to be, instituted for the common benefit, <protection,> and security, of the people, nation, or community, of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the publick Weal.

Article 4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of publick services; which, not being descendible, or hereditary, the idea of a man born a magistrate, a legislator, or a judge, is unnatural and absurd.

Article 5. That the legislative and executive powers of the state should be separate and distinct from the judicative; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return

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<sup>2</sup> Committee Draft, 27 May 1776 at George Mason's Gunston Hall website <[http://www.gunstonhall.org/georgemason/human\\_rights/vdr\\_committee\\_draft.html](http://www.gunstonhall.org/georgemason/human_rights/vdr_committee_draft.html)>. Angle brackets < > in the text reflect the substantive changes from George Mason's first draft.

into that body from which they were <originally> taken, <and the vacancies be supplied> by frequent, certain, and regular elections.

Article 6. <That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage.>

Article 7. That no part of a man's property can be taken from him, or applied to publick uses, without his own consent, or that of his legal representatives; nor are the people bound by any laws but such as they have, in like manner, assented to, for their common good.

Article 8. <That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.>

Article 9. That laws having retrospect to crimes, and punishing offences, committed before the existence of such laws, are generally <oppressive,> and ought to be avoided.

Article 10. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers or witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, <nor> can he be compelled to give evidence against himself; that <no man be deprived of his liberty except by the law of the land, or the judgment of his peers>.

Article 11. <That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.>

Article 12. <That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and ought not to be granted.>

Article 13. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

Article 14. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments.

***“That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and ought not to be granted.”***

Article 15. <That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.>

Article 16. <That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of Virginia, ought, of right, to be erected or established within the limits thereof.>

Article 17. That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

Article 18. That religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be <directed> only by reason and conviction, not by force or violence; and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless, under colour of religion, any man disturb the peace, the happiness, or safety of society. And that it is the mutual duty of all to practice

Christian forbearance, love, and charity, towards each other.

### ***Final Draft (June 12, 1776)***<sup>3</sup>

Made by the Representatives of the good People of Virginia, assembled in full and free Convention, which rights to pertain to them and their posterity as the basis and foundation of government.

I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amendable to them.

III. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when a government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

IV. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services, which not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

V. That the legislative, executive and judicial powers should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were

originally taken, and the vacancies be supplied by frequent, certain and regular elections, in which all, or any part of the former members to be again eligible or ineligible, as the laws shall direct.

***“when a government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.”***

VI. That all elections ought to be free, and that all men having sufficient evidence of permanent common interest with, and attachment to the community have the right of suffrage, and cannot be taxed, or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good.

VII. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

VIII. That in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

IX. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

X. That general warrants, whereby an officer or messenger may be commanded to search suspected

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<sup>3</sup> In James McClellan, *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government* (3rd ed.) (Indianapolis: Liberty Fund, 2000). APPENDIX F: Virginia Bill of Rights. <<http://oll.libertyfund.org/title/679/68388>>.

places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the ancient trial by jury of twelve men is preferable to any other, and ought to be held sacred.

XII. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIII. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

***“XIII. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.”***

XIV. That the people have a right to uniform government; and therefore, that no government separate from or independent of the government of Virginia, ought to be erected or established within the limits thereof.

XV. That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

XVI. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be

directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the duty of all to practice Christian forbearance, love and charity towards each other.

## Further Information

### SOURCE

The editions used for this extract: George Mason's 1st draft at George Mason's Gunston Hall website <[http://www.gunstonhall.org/georgemason/human\\_rights/vdr\\_first\\_draft.html](http://www.gunstonhall.org/georgemason/human_rights/vdr_first_draft.html)>.

Committee Draft, 27 May 1776 at George Mason's Gunston Hall website <[http://www.gunstonhall.org/georgemason/human\\_rights/vdr\\_committee\\_draft.html](http://www.gunstonhall.org/georgemason/human_rights/vdr_committee_draft.html)>.

Final draft in James McClellan, *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government* (3rd ed.) (Indianapolis: Liberty Fund, 2000). APPENDIX F: Virginia Bill of Rights. <<http://oll.libertyfund.org/title/679/68388>>.

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### FURTHER READING

School of Thought: The Founding Fathers of the U.S. Constitution <<http://oll.libertyfund.org/collection/36>>.

Topic: The American Revolution and Constitution <<http://oll.libertyfund.org/collection/65>>.

***“The distinctive principle of Western social philosophy is individualism. It aims at the creation of a sphere in which the individual is free to think, to choose, and to act without being restrained by the interference of the social apparatus of coercion and oppression, the State.”***  
***[Ludwig von Mises, “Liberty and Property” (1958)]***



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Another useful sampling of the contents of the OLL website is the collection of weekly *Quotations about Liberty and Power* which are organized by themes such as Free Trade, Money and Banking, Natural Rights, and so on. See for example, Richard Cobden's "I have a dream" speech <[oll.libertyfund.org/quote/326](http://oll.libertyfund.org/quote/326)>.

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