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The Origins of the Bill of Rights

BACKGROUND ESSAY

The American colonists were British citizens, so they were angry when the British government began to take away their rights. Colonists were forced to allow British soldiers to stay in their homes and to pay taxes to a government that did not listen to them. The British government took their property, but they did not have a vote in Parliament [the part of the British government that makes laws] where tax laws were passed. The colonists used the phrase “taxation without representation” to describe this problem. The government took their weapons away. Colonists could not speak or gather freely and newspapers could not print freely, either. The government was ignoring what colonists thought of as natural rights. Even though the British were violating their rights, the colonists’ ideas about natural rights came from their British background.

What Is the Magna Carta?

The ideas of natural rights were very old. In fact, much of American law came from traditional English rights. The Magna Carta is the oldest document in British and American history that describes these rights. Although it was written in 1215, the Magna Carta describes the rights it lists as “ancient” [very old].

These historic rights are still protected in America today. More than half the amendments in the Bill of Rights have roots in the Magna Carta. The Magna Carta promised that freedom of the Church would be preserved. It also stated that the king had to hear petitions. The king agreed to remove foreign armies from England and not to take land from people to pay the government’s bills. The king could not take people’s lives or liberties without



In 1215, King John of England signs the Magna Carta, acknowledging the “natural rights” of all Englishmen.

due process or repayment. He was not allowed to delay trials or to punish people without hearing from witnesses. He also could not give unfair fines or punishments. The Founders believed that these rights were natural and that all people had them. For this reason, these rights were later protected in the Bill of Rights of the United States Constitution.

How Were Rights Protected and Expanded?

Over time, Magna Carta rights and freedoms became part of English common law. Englishmen wanted to protect these rights when the king tried to take them away. After King Charles I tried to take away peoples' rights and rule as a dictator, Parliament gave him a list of complaints. This list is now called the Petition of Right. The Petition of Right made sure that the king also had to obey laws. Charles's abuses of the law included violating due process, unjustly taking property or imprisoning people, denying the right to trial by fellow Englishmen, and giving unjust punishments and fines. Although Charles first agreed to obey the law, he soon broke his promise. He was put to death in 1649. The rights Parliament wanted to defend in the Petition of Right were later protected by the Constitution's Bill of Rights.

Prince William of Orange and his wife Mary were invited to the throne by Parliament in 1688. As a condition of

their rule, William and Mary accepted the Declaration of Rights and the Toleration Act in 1689. The Declaration of Rights gave Parliament freedom of speech and protected the right to gather peacefully and to petition the government. It protected the right to keep weapons as well as liberty and property. In addition, the Declaration of Rights protected the rights of criminals and people accused of crimes. The Toleration Act allowed greater religious freedom for Protestants who did not attend the official Church of England.

What Was the Purpose of Government?

Just after the Declaration of Rights, John Locke, an English philosopher who wrote about natural rights and society, wrote *Two Treatises of Civil Government* (1690). Locke said that men are naturally free and equal and that they own both themselves and their property. He said that people form communities "for their comfortable, safe, peaceable living" and in order to protect their rights. Locke believed that a government's purpose was to uphold natural rights protecting life, liberty, and property. If a government does not protect its people, then the people have a right to get rid of their government.

The colonists agreed. When the British ignored English laws in the American colonies, the colonists had a tradition demanding that those laws be followed.



The Declaration of Independence, from the Frieze of American History in the Capitol Rotunda.

What Did the Colonial Experience Teach the Founders?

When the first British colonists came to America, they brought their rights as Englishmen with them. The colony of Massachusetts adopted the “Body of Liberties” in 1641. The document protected free speech and petition, just payment for property taken for public use, protection from double jeopardy, right to trial by jury, the right to have a lawyer, and protection from cruel punishments and excessive bail. All of these rights were later protected by the Bill of Rights.

Between 1763 and 1776, the British government began to limit freedoms, especially relating to taxation without representation. Colonists were forced to give British troops shelter. The rights to free speech, press, and assembly, as well as the colonists’ weapons and protections of property were all taken away. Colonists also stood trial

in English courts, rather than colonial courts, and were imprisoned without trial. The colonists protested these acts and eventually decided to fight back. The colonists later addressed these issues in the United States Bill of Rights.

How Did History Repeat Itself?

The colonists had the right to get rid of a government that was not protecting their rights. Americans realized they needed self-government and issued the Declaration of Independence. While Locke had listed life, liberty, and property as natural rights, Thomas Jefferson, a Founding Father from Virginia and author of the Declaration of Independence, listed “life, liberty, and the pursuit of happiness.” The Declaration of Independence went on to list ways the British had violated the rights of Englishmen.

The former colonists then had to begin creating their own government.

The states all wrote new constitutions. Seven states included a Declaration of Rights. The most important of these was the Virginia Declaration of Rights. Written by Virginia statesman George Mason, the Virginia Declaration of Rights protected the free press, free exercise of religion, the right to keep weapons, property rights, and rights of criminals and the accused. James Madison, a leading Founding Father at the Constitutional Convention who is now known as the “Father of the Constitution,” later used it as a model when he wrote the United States Bill of Rights.

The states united under the Articles of Confederation from March 1781 to June 1788. Some believed that the Articles did not give enough power to America’s national government, however. As a result, the Founders replaced the Articles of Confederation with the Constitution of the United States of America.

Why Add a Bill of Rights?

Some Americans thought that the Constitution made the central government too strong. They believed that a separate listing of rights was needed to protect individual rights and states’ powers. The Bill of Rights was a compromise between those who wanted a stronger central government and those who wanted to protect individual rights and states’ freedom to make their own decisions. The new Constitution was ratified in 1788 and in 1791 amended to include the first ten amendments, now called the Bill of Rights.

The Founders had a tradition of rights that they valued. They created the American system of government carefully to make sure that future generations would enjoy all the “blessings of liberty.” In the end, the government is not in charge of the people; the people are in charge of the government.



Comprehension Questions

1. Name three rights protected by the Declaration of Rights and the Toleration Act.
2. What happened to King Charles I after he violated the rights of Englishmen?
3. According to John Locke, why should government’s main purpose be to protect the rights of individuals?
4. Name three ways in which the British violated the traditional rights of Englishmen in their North American colonies.
5. Before writing the Constitution, the Founding Fathers wrote another document to unite the colonies. What was that document?