

## **James Wilson Speech: Pennsylvania Ratifying Convention, 28 November 1787**

I am called upon to give a reason, why the Convention omitted to add a bill of rights to the work before you. I confess, sir, I did think that in point of propriety, the honorable gentleman [John Smilie] ought first to have furnished some reasons, to show such an addition to be necessary; it is natural to prove the affirmative of a proposition; and if he had established the propriety of this addition, he might then have asked, why it was not made.

I cannot say, Mr. President, what were the reasons, of every member of that Convention, for not adding a bill of rights; I believe the truth is, that such an idea never entered the mind of many of them. I don't recollect to have heard the subject mentioned, till within about three days of the time of our rising, and even then there was no direct motion offered for anything of this kind. I may be mistaken in this; but as far as my memory serves me, I believe it was the case. A proposition to adopt a measure, that would have supposed that we were throwing into the general government every power not expressly reserved by the people would have been spurned at, in that house, with the greatest indignation; even in a single government, if the powers of the people rest on the same establishment, as is expressed in this Constitution, a bill of rights is by no means a necessary measure. In a government possessed of enumerated powers, such a measure would be not only unnecessary, but preposterous and dangerous. Whence comes this notion, that in the United States there is no security without a bill of rights? Have the citizens of South Carolina no security for their liberties? They have no bill of rights. Are the citizens on the eastern side of the Delaware less free, or less secured in their liberties, than those on the western side? The State of New Jersey has no bill of rights. The State of New York has no bill of rights. The states of Connecticut and Rhode Island have no bills of rights. I know not whether I have exactly enumerated the states who have thought it unnecessary to add a bill of rights to their constitutions; but this enumeration, sir, will serve to show by experience, as well as principle, that even in single governments, a bill of rights is not an essential or necessary measure. But in a government consisting of enumerated powers, such as is proposed for the United States, a bill of rights would not only be unnecessary, but, in my humble judgment, highly imprudent. In all societies, there are many powers and rights, which cannot be particularly enumerated. A bill of rights annexed to a constitution is an enumeration of the powers reserved. If we attempt an enumeration, everything that is not enumerated is presumed to be given. The consequence is, that an imperfect enumeration would throw all implied power into the scale of the government; and the rights of the people would be rendered incomplete. On the other hand, an imperfect enumeration of the powers of government reserves all implied power to the people; and, by that means the constitution becomes incomplete; but of the two it is much safer to run the risk on the side of the constitution; for an omission in the enumeration of the powers of government is neither so dangerous, nor important, as an omission in the enumeration of the rights of the people.

Mr. President, as we are drawn into this subject, I beg leave to pursue its history a little further. The doctrine and practice of declarations of rights have been borrowed from the conduct of the people of England, on some remarkable occasion; but the principles and maxims, on which their government is constituted, are widely different from those of ours. I have already stated the

language of Magna Charta. After repeated confirmations of that instrument, and after violations of it, repeated equally often, the next step taken in this business was when the Petition of Rights was presented to Charles I.

It concludes in this manner, "all of which they most humbly *pray* to be allowed, as their rights and liberties, according to the laws and statutes of this realm." One of the most material statutes of the realm was Magna Charta; so that we find they continue upon the old ground, as to the foundation on which they rest their liberties. It was not till the era of the Revolution [of 1688], that the two houses assume an higher tone, and "*demand* and insist upon all the premises as their undoubted rights and liberties. But when the whole transaction is considered, we shall find that those rights, and liberties, are claimed only on the foundation of an original contract, supposed to have been made at some former period, between the king and the people.

But, in this Constitution, the citizens of the United States appear dispensing a part of their original power in what manner and what proportion they think fit. They never part with the whole; and they retain the right of recalling what they part with. When, therefore, they possess, as I have already mentioned, the fee simple of authority, why should they have recourse to the minute and subordinate remedies, which can be necessary only to those, who pass the fee, and reserve only a rent charge?

To every suggestion concerning a bill of rights, the citizens of the United States may always say, WE reserve the right to do what we please.

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