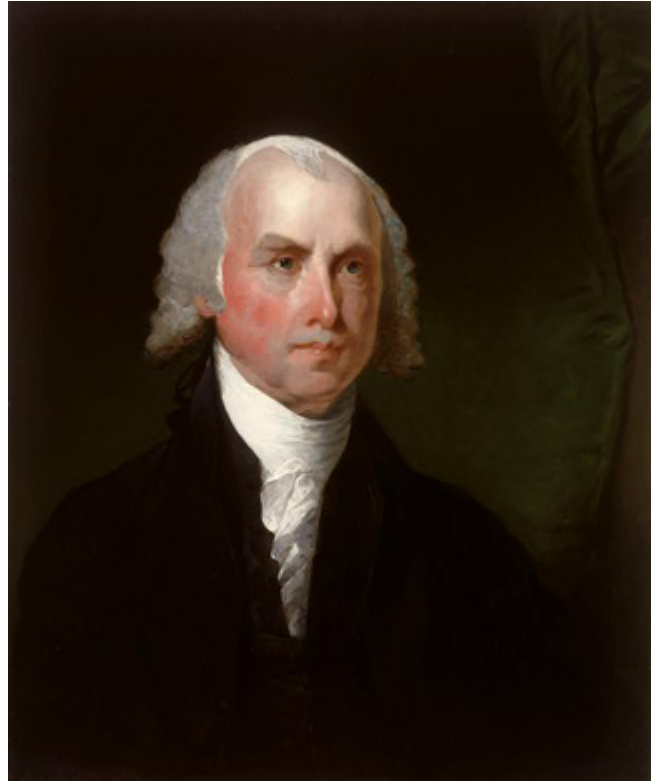




Bill of Rights Day: a Day of Celebration or of Mourning?

The Cato Institute's newspaper ad reminding citizens that December 15th was Bill of Rights Day summarized the desperate shape those first ten amendments to the Constitution of the United States is in, thanks to an overweening government and an uninformed citizenry. Reviewing each of the amendments, Cato pointed to specific infringements of each of them, concluding that "It's a disturbing picture, to be sure, but not one the Framers of the Constitution would have found altogether surprising. They would sometimes refer to written constitutions as mere "parchment barriers" [to totalitarian government].

The erection of the original "parchment barrier," the Bill of Rights, was initially considered unnecessary because the language of the Constitution explicitly enumerated limited powers to the newly created government and why should further protections against powers not even granted be needed? As "Brutus," one of the authors of the [Anti-Federalist Papers](#), wrote:



If everything which is not given is reserved, what propriety is there in these exceptions?...With equal truth it may be said, that all the powers which the bills of rights guard against the abuse of, are contained or implied in the general ones granted by this Constitution.

This was the argument which ran aground in the face of opposition by George Mason, the Virginia delegate to the Constitutional Convention. Mason demanded an explicit list of a Bill of Rights [be added](#) before he would ratify the Constitution. Ratification only succeeded when the states were assured that a Bill of Rights would be added immediately after ratification. Twelve amendments were offered, and ten of them were adopted, with final passage on December 15, 1791. Initially opposed to a Bill of Rights, Thomas Jefferson changed his mind and concluded that "A Bill of Rights is what the people are entitled to against every government, and what no just government should refuse, or rest on inference."

In his memorial of Bill of Rights Day 2011, Richard Schwartzman, editor of Chadds Ford Live, [wrote](#) that "The Bill of Rights does not *grant* any rights to any person. It *guarantees* the rights that belong to all mankind. The source of those rights may be presumed to be God...Thomas Jefferson cited the "Creator" as the source of those rights. And he referred to them as 'inalienable' rights, meaning that they can't be separated or taken from us."

But 220 years later, government overreach has effectively neutralized most of those guarantees so



Written by [Bob Adelman](#) on December 16, 2011

carefully crafted by the founders. As Schwartzman noted, “The wars on terror and...drugs have virtually gutted the provisions of the Fourth, Fifth and Sixth Amendments.” He cites the Supreme Court case of *Kelo v. The City of New London* (reviewed [here](#)) which allowed private property to be taken from an owner and given to another, under “eminent domain.”

Schwartzman points to the passage by overwhelming margins in the House and Senate of the vicious, anti-freedom National Defense Authorization Act, which “would allow the military to pick up U.S. citizens on American streets strictly on suspicion, without charging them with any crime, and then lock them up in places like Guantanamo for an indefinite period of time.” Cato calls such infringements “preventive detention” which deliberately does away with due process, another right guaranteed in the Bill of Rights. As Cato noted: “The Republican presidential aspirants seem to have only the smallest concern about any of this dismembering of the Bill of Rights...”

John Whitehead, [writing for the Rutherford Institute](#), expressed his discouragement: “The First Amendment is supposed to protect the freedom to speak your mind ... but students are often stripped of their rights for such things as wearing a t-shirt that school officials find offensive.” Four high school athletes were recently suspended for “[Tebowing](#)” in the halls of Riverhead High School on Long Island. Peace activists exercising their rights peaceably to assemble are arrested and investigated by the FBI, journalists are threatened with jail time for reporting on government misbehavior and not revealing their sources. The list goes on.

Recent victories supporting individual ownership of guns have been dampened by rulings rendering private citizens powerless to defend themselves against the government. Earlier this year, the Indiana Supreme Court ruled that citizens [don't have the right to resist](#) police officers who enter their homes illegally.

Cato and others have outlined further abuses jeopardizing each of the Ten Amendments, but the point is made: precious rights have been and are continuing to be abridged, infringed and ignored by a government that is no longer restrained by “parchment barriers.” Adrian King, [writing at The Daily Bell](#), is also discouraged. He claims “It’s over, and I mean all of it.”

The Bill of Rights, which is the first ten amendments to the US Constitution, was passed by Congress on December 15th, 1791. The USA Patriot Act violates the first, fourth, fifth, sixth, eighth, ninth and tenth provisions of the Bill of Rights...

In the first week of December 2011 the Senate — or more exactly, 93 US senators — committed high treason when they voted to pass the McCain/Levin Defense Spending bill (NDAA). This was hardly the first act but rather the last straw. The only opposition came from Senators Rand Paul (R, KY), Mike Lee (R, UT) and five other senators who are literate and able to read the Constitution and Bill of Rights. In the end, 7 senators voted correctly against and 93 voted for the bill and against America...

Those in the freedom fight need not be discouraged, however. The Bill of Rights remains as a touchstone for liberty. Those amendments do not have to be developed or created or ratified. They remain. What needs to be done is to remind citizens of the government’s proper role and what their responsibilities are when government exceeds it.

Photo: James Madison, “Father of the Constitution” and primary author of the Bill of Rights



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