

## Virginia Declaration Of Rights (June 12, 1776)

After the members of the Fifth Virginia Convention voted in favor of preparing a new plan of government, the Virginia Declaration of Rights was drafted by George Mason.

As a landowner and near neighbor of George Washington, George Mason took a leading part in local affairs. He also became deeply interested in Western expansion and was active in the Ohio Company, organized in 1749 to develop trade and sell land on the upper Ohio River.

At about the same time, Mason helped to found the town of Alexandria, Virginia. Because of ill health and family problems, he generally avoided public office, though he accepted election to the House of Burgesses in 1759. Except for his membership in the Constitutional Convention at Philadelphia, this was the highest office he ever held - yet few men did more to shape US political institutions.

A leader of the Virginia patriots on the eve of the American Revolution (1775 - 1783), Mason served on the Committee of Safety and in 1776 drafted Virginia's state constitution. (Britannica)



Early in 1776 John Adams published *Thoughts in Government*, a pamphlet laying out his framework for a republican form of government that influenced colonies as they created their individual state constitutions. Virginia, like many of the states, would include a list of rights guaranteed to its citizens.

Mason's initial draft contained ten paragraphs that outlined rights, such as the ability to confront one's accusers in court, to present evidence in court, protection from self-incrimination, the right to a speedy trial, the right to a trial by jury, and the extension of religious tolerance.

The final version of the Virginia Declaration of Rights consisted of sixteen sections,

Section 1. 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.

Section 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.

Section 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 maladministration. And that, when any government shall be found inadequate or contrary to these purposes, a

majority of the community has 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.

Section 4. That no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, nor being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

Section 5. That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first 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.

Section 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 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, assembled for the public good.

Section 7. 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.

Section 8. That in all capital or criminal prosecutions a man has 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 a 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.

Section 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Section 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive and ought not to be granted.

Section 11. 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.

Section 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

Section 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense 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.

Section 14. 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.

Section 15. 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.

Section 16. 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 mutual duty of all to practise Christian forbearance, love, and charity toward each other.

The Virginia Declaration of Rights was unanimously adopted by the Virginia Convention of Delegates, on June 12, 1776. The same Convention also framed and adopted the Virginia Constitution.

Among the delegates were Mason, the most important contributor, and twenty-five-year-old James Madison, who drafted the section on the “free exercise of religion.”



Also present at the creation of the Virginia Declaration and Constitution were John Blair and Edmund Randolph. Eleven years later, these four delegates were chosen to the seven-member Virginia delegation to the Constitutional Convention.

The Virginia Declaration of Rights was an influential document and a forerunner for many documents that followed. This declaration was the first state declaration establishing the fundamental human liberties that government was created to protect.

It was widely read by political leaders on both sides of the Atlantic. Thomas Jefferson drew upon it when writing the Declaration of Independence and James Madison expanded on Mason's ideas of guaranteed rights when he wrote the Bill of Rights to the United States Constitution. (Virginia-gov)

The declaration was particularly influential on later state constitutions because it represented the first protection of individual human rights under state constitutions of the American revolutionary period.

It also represented the shift from colonial charters to state constitutions, as the nation moved toward independence from Great Britain. (Middle Tennessee State University)

### **Declaration of Rights Is Similar to the Declaration of Independence**

In language echoed later in the Declaration of Independence (it was drafted the next month by Thomas Jefferson). Section 1 of the Virginia Declaration proclaimed that all men "are by nature equally free and independent and have certain inherent rights," including "the enjoyment of life and liberty" and property and that of "pursuing and obtaining happiness and safety."

Section 2 recognized that the people were the source of all power, and Section 3 proclaimed the right of the people to replace governments that did not meet these needs. Section 4 reflected the republican principle that no individual is entitled to power on the basis of hereditary, while Section 5 proclaimed the idea of separation of powers.

### **The Rights are Similar to First Amendment Rights (Bill of Rights)**

Much of the rest of the Declaration of Rights outlined rights similar to those later incorporated into the US Bill of Rights.

At least two of these rights are similar to those incorporated in the First Amendment. Section 12 proclaimed that "freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments."

Although the Virginia Declaration does not contain a provision on freedom of speech, its provision for religious freedom is actually more extensive than those incorporated in the First Amendment. Section 16 of the declaration declares:

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 mutual duty of all to practice Christian forbearance, love, and charity toward each other.

Mason had originally phrased this declaration in terms of "tolerance" for all, but, consistent with the teachings of John Witherspoon, the president of College of New Jersey (later Princeton) under whom he had studied, Madison insisted that religious practice was not a matter of majority grace but of natural rights.

Although the content of the Virginia Declaration and the later US Bill of Rights overlap in many ways, there are differences.



Section 15 of the Virginia Declaration provides 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.

Most other provisions of the Virginia Declaration, like those of the similar state declarations that followed, were phrased in the precatory language of “oughts.”

Madison appears to have constructed most provisions of the Bill of Rights more forcefully, so that courts could more readily protect individual rights by enforcing such provisions - for example, the First Amendment provision stating that “Congress shall make no law”. (Middle Tennessee State University)



**Virginia Capitol, Williamsburg VA where the Fifth Convention of 1776 met**

Information here is primarily from National Archives; Virginia-gov; Middle Tennessee State University, John Vile; Britannica

In an effort to provide a brief, informal background summary of various people, places and events related to the American Revolution, I made this informal compilation from a variety of sources. This is not intended to be a technical reference document, nor an exhaustive review of the subject. Rather, it is an assemblage of information and images from various sources on basic background information. For ease in informal reading, in many cases, specific quotations and citations and attributions are often not included – however, sources are noted in the summary. The images and text are from various sources and are presented for personal, noncommercial and/or educational purposes. Thanks, Peter T. Young