

America's Bill of Rights: Unfinished story

By Charlene LaVoie 18-13-91

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THIS SUNDAY, December 15, Americans celebrate the incorporation of the First Ten Amendments, also known as the Bill of Rights, into the United States Constitution. This two hundred year anniversary is as important today as was the original adoption in 1791.

In 1787 a specific declaration of rights was not included in the Constitution. The Constitution specified what the government could do but did not say what the government could not do. Those opposed to a list of rights in the Constitution argued that it was unnecessary because government respect for civil liberties would follow automatically as a by-product of the limited system they had created, with its division of functions, separation of powers and checks and balances. Alexander Hamilton argued that since Congress was given no authority to act beyond the scope of its enumerated powers, "Why declare that things shall not be done which there is no power to do?"

The citizens had an opportunity to examine the substance of the Constitution when it went to the states for ratification. The absence of a Bill of Rights became the dominant criticism of the Constitution at the state conventions. Thomas Jefferson was a key figure in persuading others of the need for a bill of rights. He wrote what became one of the preeminent statements for a bill of rights: "A bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference."

The constitution was ratified on July 2, 1789, after the framers pledged to add to it such provisions as a Bill of Rights would provide.

It was not until Dec. 15, 1791, that the last necessary state ratification was obtained and the Bill of Rights became a part of the Constitution.

The Constitution, however, was a deeply flawed document despite the inclusion of the Bill of Rights. Ratification of the Bill of Rights marked only the beginning of the quest for individual freedom in the United States. The Constitution did not apply to women, native Americans or others and it legitimized slavery and racial discrimination and protected it until the Civil War. Indeed, for 130 years the most notable thing about the Bill of Rights was its almost total lack of implementation. Rights were declared but justice was denied.

The Constitution we celebrate today, which guarantees equality before the law, required a civil war and years of struggle during the document's first century. Public interest groups, such as the National Lawyers Guild and the American Civil Liberties Union, organized in the Constitution's second century to provide the missing ingredient that made our constitutional system and the Bill of Rights finally work. These groups exist to remind the Supreme Court of its historic role and provide meaning and substance to the Bill of Rights by urging and fighting for individual rights in the courts and the legislature.

For 200 years, today, and into the Constitution's third century, the struggle to fully realize the principles established in the Bill of Rights continues to be a major theme of life in this country. And many people around the world strive for the rights that Americans enjoy. We must celebrate the ongoing struggle in this bicentennial year of the Bill of Rights, realizing that much remains to be achieved and protected.

Charlene LaVoie is a Community Lawyer in Winsted.

Reported by
C. LaVoie