

Celebrating the Constitution: The Bill of Rights

BY JIMMY SENGENBERGER

The date is Oct. 27, 1787. Three of our nation's most famous founding fathers—James Madison, Alexander Hamilton and John Jay—publish the first of a series of essays that would later become known as *The Federalist Papers*, written under the alias Publius. The articles, totaling 85 in the end, are published in New York State in hopes of convincing the people of that critical state to support the ratification of the Constitution.

The Federalist Papers came on the heels of the Constitutional Convention, which churned out a new document that would become, by 1789, the "Supreme Law of the land." It comprised a forceful rhetorical response, doused in political philosophy, to the claims of opposition against the charter.

The Federalists, those in favor of a stronger national government and therefore the ratification of the Constitution, were the wealthy, elite, landowning merchants. The Anti-Federalists, or those who were strongly adverse to a stronger central government and therefore opposed to the ratification of the Constitution, were the average Americans—the farmers, the debtors, the shopkeepers and the laborers.

Intellectual debate raged on between those two groups over a host of topics, some of which will be examined in my next column, but one of the most contentious issues was actually over the Bill of Rights.

While it seems foregone to us that a bill of rights should be included in the Constitution, debate over the issue was in fact intellectually intense. In what has been labeled Anti-Federalist No.



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84, Robert Yates, under the pseudonym Brutus, put forth the defining argument in favor of the inclusion of the Bill of Rights, becoming the counter to Alexander Hamilton's Federalist No. 84.

"Those who have governed," Yates argued, "have been found in all ages ever active to enlarge their powers and abridge the public liberty. This has induced the people in all countries, where any sense of freedom remained, to fix barriers against the encroachments of their rules."

In essence, the Anti-Federalist movement felt that, without the Bill of Rights in place, there was no real assurance that citizens' rights would be protected, and therefore their inclusion was necessary in order to prevent against an overreaching federal government.

Hamilton, however, took a sharply different view in his essay. Federalist No. 84, written to counter Anti-Federalist grievances, was an intellectually astute response in which he argued that a bill of rights was not only unnecessary, but dangerous as well.

In terms of a bill of rights being superfluous, Hamilton

argued several points. First, numerous protections of rights were already contained in the document. For instance, religious tests for office are forbidden, the insinuation being that individuals have the right to practice their own faith. The writ of *habeas corpus* can only be suspended during a time of rebellion, and all people, according to the original Constitution, have the right to a trial by jury. Finally, treason is explicitly defined as "levying war against them, or adhering to their enemies, giving them aid and comfort," thereby foiling any government attempt to define treason in another way as criticism of the government or some other such definition.

Second, Madison argued that the specific enumeration of the government's powers removed the need for new safeguards against what it already did not have the power to do.

Madison goes on to argue that bills of rights "are not only unnecessary in the proposed constitution, but would even be dangerous." In essence his argument in this portion of the essay is that, if the government is prohibited from doing *certain* things but isn't prohibited from doing *everything* it isn't expressly told it can do, then the danger is in its implications, namely that the government can do *anything* it's not expressly forbidden to do.

In the end, in an effort to appease opponents to ratify the Constitution, the Federalists promised to ratify amendments that would in essence be the Bill of Rights, a promise which they kept, as the ten amendments were ratified in 1791.

In retrospect, all Americans recognize the greatness and sig-

nificance of those amendments and are grateful for them, as their impact has been considerable. The United States has always been known as a land of opportunity. No matter what your circumstances in the beginning, you have the right to live and experience life and to become your own individual. In America, you can do something with your life; each and every one of us has the potential to live the American Dream. Everyone can rise from rags to riches; it's been done before, and it can happen again. In America, you have rights that enable you to build something that becomes greater than yourself.

Isn't it time we celebrated those rights? Well, if you're a teen age 13-18, you can at the 2007 Colorado Constitution Day Celebration. This outstanding nonpartisan event – organized by me on behalf of Liberty Day – is a fantastic opportunity to *earn a college credit* and learn about the Constitution from insiders like Sec. of State Mike Coffman, former State Senate President John Andrews, Benjamin Franklin (played by comedian Jimmie Viles), and more! I highly encourage all teenagers to take advantage of this excellent opportunity; it *will* be great. Visit www.libertyday.org for more details.

Jimmy Sengenberger is a senior at Grandview High School in Aurora organizing the 2007 Colorado Constitution Day Celebration for teens, age 13-18, on behalf of Liberty Day at the University of Colorado at Denver on Sept. 15. Visit www.libertyday.org for more details.

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