

by Charles L. Ruffin



Photo by Zach Porter Photography

In Celebration of the Constitution

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."—Preamble to the U.S. Constitution

The first official engagement of the American Revolutionary War—the firing of the “Shot Heard Round the World”—took

place just after dawn on April 19, 1775, setting off the battle of Lexington and Concord. Less than 15 months later, on July 4, 1776, the Continental Congress formally adopted the Declaration of Independence. The rebellion by the 13 American colonies

against Great Britain continued until 1783, when the Treaty of Paris ended the war and recognized the sovereignty of the United States.

The first constitution of the United States of America—known as the Articles of Confederation—had been created in 1777, and its ratification was completed in 1781. The Articles were barely sufficient to enable the Continental Congress to legitimately direct the Revolutionary War, engage in diplomacy with Europe and address territorial issues and relations with the Native Americans. But following the success of the Revolution, many of the Founding Fathers recognized the need for a stronger set of laws and a stronger federal government.

In the summer of 1787, 55 delegates, out of 74 appointed, from 12 states (all but Rhode Island, which refused to participate) gathered in Philadelphia for the Constitutional Convention

and set about writing and approving a “supreme law of the land” for the United States, our present Constitution.

According to Roger A. Bruns’ introduction to *A More Perfect Union: The Creation of the United States Constitution*, published in 1986 by the National Archives in Washington, D.C., the major players in Philadelphia

“I, for one, am thankful that we have a Constitution, one built on the foundational principles of upholding the rule of law and protecting the liberties of all Americans.”

included Gen. George Washington, who was elected unanimously to preside over the convention; an 81-year-old Benjamin Franklin, who was crippled by gout; Alexander Hamilton of New York; and, Bruns wrote, "the small, boyish-looking, 36-year-old delegate from Virginia, James Madison." Among those absent were John Adams abroad on foreign missions, John Jay in New York and Patrick Henry who refused to attend because of his opposition to the establishment of a central government.

It was Madison who saw America's government under the Articles of Confederation as futile and weak and one which needed to be replaced with a strong central government to provide order and stability. He looked to the Constitutional Convention as the opportunity to forge a government in this mold. Throughout the sessions, Madison sat in front of the presiding officer, George Washington, and compiled a record of the proceedings, not missing a single day or a single major speech.

From the opening of the convention on May 25 through its adjournment on Sept. 17, the delegates held their sessions in secret. No reporters or visitors were permitted. In often sweltering conditions, they debated various plans for establishing the government and resolving issue after issue. The most acrimonious debate over whether the states would be represented in the legislative branch equally or based on population would deadlock the convention for a period of weeks before the "Great Compromise" split the difference: the states would be represented equally in the Senate and by population in the House of Representatives. Part of the compromise addressed a division between the northern and southern states by declaring that representation in the House would be based on the number of free persons and three-fifths of "all other persons," a euphemism for slaves.

On the final day of the convention, and just before the delegates formally signed the Constitution, Benjamin Franklin made an appeal for unity, declaring, "I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats." Copies of the six-page Constitution would leave Philadelphia the next morning, the debate over a national form of government moving to a larger arena: ratification by the states.

By January 1788, five of the nine states necessary for ratification of the Constitution had done so: Delaware, Pennsylvania, New Jersey, Georgia and Connecticut. They were followed in order later that year by Massachusetts, Maryland, South Carolina, New Hampshire, Virginia and New York; by North Carolina in 1789; and, finally, by Rhode Island in 1790. The first Congress convened in New York City on March 4, 1789. George Washington,

Making Sense of New Regulations isn't Easy. **SoftPro Can Help.**

In an industry filled with constant regulatory changes, understanding these changes and how they affect your business can be a daunting task. You need a software partner that is working alongside you to help make sense of everything.

As the nation's leading provider of closing and title software, you can count on SoftPro to deliver state-of-the-art technology that is always current with the latest industry regulations and requirements.



Call **800-848-0143** for a **FREE 30 DAY TRIAL** or visit **www.softprocorp.com**.

unanimously elected as the first president, and John Adams, the first vice president, were sworn in on April 30, 1789.

So the period that began with the first shots fired at Lexington and Concord, continued with the Declaration of Independence, the Articles of Confederation, the conclusion of the eight-year Revolutionary War, drafting and ratification of a whole new Constitution and ending with the seating of a new national government, spanned only 14 years.

Two hundred twenty-five years later, we can only marvel at our Founding Fathers' ability to produce a written instrument that, while embodying our foundational principles, established a government and the rule of law and guaranteed certain rights for a relatively small population in the 18th century. Amazingly, that Constitution has stood the test of time and continues to meet the more complex and challenging needs of more than 300 million citizens in the 21st century.

It should be noted that during our nation's formative years, England was ruled by a king, Germany by a kaiser, Russia by a czar, China by an emperor and Japan by a shogun. Situations have, of course, changed dramatically for all of those superpowers past and present. The one constant republic has been the United States and our Constitution, now the oldest in the world.

Last month, as this year's "President's Project," the State

Bar of Georgia proudly hosted a National Celebration of the U.S. Constitution on the occasion of the 225th anniversary of its ratification (see page 16). Our first keynote speaker was historian and author David McCullough, who reminded us that the Founding Fathers were all imperfect mortals with human weaknesses, and that the Constitution as written in 1787 was not a perfect document. After all, as Thomas Jefferson noted in the Declaration of Independence, the birth of our nation was taking place "in the course of human events." During the ratification period, for example, support had grown for a "Bill of Rights" to be added to the Constitution. By the fall of 1788, Roger Bruns wrote, James Madison had been convinced that not only was a bill of rights necessary to ensure acceptance of the Constitution but that it would have positive effects. He wrote, on Oct. 17, that such "fundamental maxims of free Government" would be "a good ground for an appeal to the sense of community" against potential oppression and would "counteract the impulses of interest and passion." On Oct. 2, 1789, President Washington sent to each of the states a copy of the 12 amendments adopted by the Congress in September. By Dec. 15, 1791, three-fourths of the states had ratified the 10 amendments known as the Bill of Rights.

In the 225 years since its ratification, the Constitution has been amended a total of only 27 times

(including the Bill of Rights), the last amendment having been ratified in 1992. These amendments have, for example, abolished slavery and ensured that women and minorities have the right to vote. It is still and always will be a work in progress.

I, for one, am thankful that we have a Constitution, one built on the foundational principles of upholding the rule of law and protecting the liberties of all Americans. Or, as David McCullough said in a 2003 speech to the National Endowment for the Humanities, "Blessed we are. And duty bound, to continue the great cause of freedom, in their spirit and in their memory and for those who are to carry on next in their turn."

When I first took office as State Bar president, I said I believe the Constitution is only as good as the people for whom it was enacted and who are covered by its provisions. The character of the population for whom the Constitution provides guiding principles is paramount to its longevity.

At the close of the Constitutional Convention in 1787, Benjamin Franklin was asked, "Well, Doctor, what have we got—a republic or a monarchy?" Franklin replied succinctly, "A republic, if you can keep it."

I ask you, are we keeping it? 

Charles L. Ruffin is president of the State Bar of Georgia and can be reached at cruffin@bakerdonelson.com.



The *Georgia Bar Journal* is available online at www.gabar.org. You can now:

- Search the *Georgia Bar Journal* in its entirety by keywords.
- Access all the information of the printed edition, but electronically.
- Add "sticky notes" and "favorite" tabs to the copy you access.
- Share the entire *Journal* or specific pages of the *Journal* with your colleagues by sending an email or posting it on social networking sites.
- Link directly to advertisers within each issue.

Try it now! www.gabar.org/newsandpublications/georgiabarjournal/