

## If Not for Lawyers

**O**ur role as lawyers, historically and currently, is critical to preserving the freedoms we have. As gatekeepers to the Constitution, it's the duty of our profession to protect the rights of our citizens from overreaching acts by the government. As consumer attorneys, we're the ones who must come to the aid of the indigent and oppressed and harmed.

I've often wondered how many of our founding fathers and early leaders were lawyers, so I did a little research and found out that those who've been given the honor of calling themselves lawyers have done some pretty amazing things for our country.



by Rebecca D. Lack

### U.S. PRESIDENTS

While I'm sure some of you know that some of our U.S. Presidents have studied law, you probably didn't know George Washington was merely the surveyor of his county before becoming the first president of our country. It's said we've had 44 presidents. That's not exactly true. Grover Cleveland was nominated twice, not back-to-back, so he was counted as two different presidents. Out of those 44, 27 of them had a legal background, but only 25 of them practiced law before becoming president.

Some of the U.S. Presidents who got their start in law are also among the most well-known. Although he never actually attended law school because there weren't any law schools yet, Abraham Lincoln may well be one of the most famous presidents who was also a lawyer. An Illinois law enacted in 1833 stated that to be a lawyer someone had to "obtain a certificate procured from the court of an Illinois county certifying to the applicant's good moral character." Lincoln was a self-taught attorney who learned all he needed to successfully practice by reading the law books and legal codes of the times. Another famous early president, Andrew Jackson, also entered the legal profession as a self-taught lawyer.

Other U.S. presidents who were also admitted to the bar include Thomas Jefferson, James Madison, James Monroe, John Quincy Adams, Martin Van Buren, John Tyler, James Polk, Millard Fillmore, Franklin Pierce, James Buchanan, Chester Arthur, Grover Cleveland, Benjamin Harrison, William McKinley, William Taft, Woodrow Wilson, Calvin Coolidge, Franklin Roosevelt, Richard Nixon, Gerald Ford and Bill Clinton. Barack Obama followed in the footsteps of Rutherford B. Hayes, the 19th president, as the second Harvard law graduate to make his way to the Oval Office.

You can even become president if you're a law school dropout, as demonstrated by Harry Truman and Theodore Roosevelt. Truman studied law at the University of Missouri-Kansas School of Law, then called Kansas City Law School, but never earned a degree. He was a farmer and a men's clothing retailer. Theodore Roosevelt studied law at Columbia without ever completing his degree, and worked as a public official, rancher and soldier prior to becoming president.

### Who Drafted the Declaration of Independence?

You guessed it, mostly lawyers did. A formal statement justifying the 13 North American colonies' break with Great Britain was needed in 1776. The

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Continental Congress on June 11, 1776 appointed John Adams, Thomas Jefferson, Benjamin Franklin, Roger Sherman and Robert R. Livingston as a committee to draft a declaration of independence. All but one of these men were lawyers. The committee then delegated Thomas Jefferson to undertake the task of writing the first draft of the declaration of independence. Jefferson, at 33 years of age, drew up a draft of the document, which included Franklin's and Adams' corrections.

Interestingly, Jefferson's early drafts of the Declaration of Independence included insults at King George and heavily, vehemently chided slavery, although this recalcitrant language was omitted from the final version submitted to the Continental Congress. On July 2, the Continental Congress voted for independence and refined its Declaration of Independence before releasing it to the public on July 4, 1776.

### **Lawyer John Adams (1735 - 1826)**

At age 16, Adams earned a scholarship to attend Harvard University, where he developed an interest in law, despite his father's wish for him to enter the ministry. After graduating in 1755, at age 20, Adams studied law in the office of John Putnam, a prominent lawyer. In 1758, he earned a master's degree from Harvard and was admitted to the Massachusetts bar. Adams became the first vice president of the United States and the second president. He died on the same day as Thomas Jefferson, July 4, 1826, the 50<sup>th</sup> anniversary of Independence Day.

### **Lawyer Thomas Jefferson (1743 - 1826)**

After three years at William and Mary College, Jefferson decided to read law under George Wythe, one of the pre-eminent lawyers of the American colonies. There were no law schools at this time; instead aspiring

attorneys "read law" under the supervision of an established lawyer before being examined by the bar. Wythe guided Jefferson through an extraordinarily rigorous five-year course of study (more than double the typical duration); by the time Jefferson won admission to the Virginia bar in 1767, he was already one of the most learned lawyers in America. From 1767-74, Jefferson practiced law in Virginia with great success.

### **Lawyer Robert R. Livingston (1746 - 1813)**

Robert R. Livingston was a politician, lawyer and diplomat from New York and is best known as one of the Founding Fathers of the United States. He served as the first Chancellor of New York for 25 years, becoming universally known as "The Chancellor," retaining the nickname even after he left the office. Livingston administered the presidential oath of office to George Washington in 1789.

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### Lawyer Roger Sherman (1721 - 1793)

Roger Sherman was an American government leader born on April 19, 1721 in Newton, Massachusetts. Sherman studied law and passed the bar in 1754. He then began a career in government in the 1760's, working as a judge and a member of Connecticut's general assembly. He was then elected to the Continental Congress in 1774. Sherman was a founding father who signed and drafted the Declaration of Independence and signed the U.S. Constitution.

### WHO DRAFTED THE U.S. CONSTITUTION?

The Philadelphia Convention of 1787 (also known as the Federal Convention or the Constitutional Convention) was a landmark in American and world history. The convention met in the State House (now called Independence Hall) in Philadelphia from May 25 to September 17, 1787. Fifty-five delegates from 12 of the 13 states (Rhode Island did not send delegates) took part in its deliberations. The convention was the result of a campaign to reform the first charter of government of the United States, the Articles of Confederation. The convention consisted of states' gover-

nors, chief justices, attorneys general and many delegates to the Confederation Congress, as well as several distinguished Americans who had agreed to come out of retirement to participate one last time in American politics.

Instead of amending the Articles of Confederation, the convention discarded them and framed an entirely new constitution. They based their work on a set of resolutions known as the Virginia Plan, largely the work of James Madison (a lawyer). These resolutions proposed the creation of a supreme national government with separate legislative, executive, and judicial branches.

The U.S. Constitution is the work of several men, directly and indirectly. The three most notable persons whose work influenced the Constitution but who were not involved in its writing are Thomas Jefferson, John Adams and Thomas Paine.

No single individual wrote the Constitution. The 55 delegates at the Constitutional Convention all worked on political questions and debate over several months until Gouverneur Morris (again, a lawyer) created most of the actual wording which was included in the final draft of the Constitution.

### Lawyer Gouverneur Morris (1752 - 1816)

Gouverneur Morris was born on Jan. 31, 1752. After graduating from King's College, New York City, in 1768, he studied law under the chief justice of New York and in October 1771 was licensed as an attorney.

In 1775, Morris served as a member of New York's provincial congress and in the following year sat in its constitutional convention. In 1778, he was elected a delegate to the Continental Congress, where he served as chairman of some of Congress's most important standing committees. As a delegate to the Constitutional Convention in 1787, he played a leading role, speaking more often than any other delegate and contributing substantially to the writing of the U.S. Constitution.

### WOMEN'S RIGHTS

In 1964, the Civil Rights Act was passed. As originally written, and shortly before voting it into law, this Act outlawed major forms of discrimination against racial, ethnic, national and religious minorities. It did not include protection for gender-based discrimination.

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## Lawyer Howard Smith (1883 - 1976)

Born in Broad Run, Virginia, on February 2, 1883, Howard Smith graduated from Bethel Military Academy, Warrenton, Virginia, in 1901. He graduated from the University of Virginia in 1903, was admitted to the bar in 1904 and practiced in Alexandria, Virginia.

In 1930, he was elected to Congress. As chairman of the United States House Committee on Rules after 1955, Smith controlled the flow of legislation in the House. An opponent of racial integration, Smith used his power as chairman of the Rules Committee to keep much civil rights legislation from coming to a vote on the House floor. When the Civil Rights Act of 1957 came before Smith's committee, Smith said, "The Southern people have never accepted the colored race as a race of people who had equal intelligence ... as the white people of the South." Smith delayed passage of the Civil Rights Act of 1964, but under pressure, the bill was forced to a vote. The prohibition of sex discrimination was added on the floor by Smith as a protected class of Title VII to the Act. Some believe Smith added gender-based discrimination to the bill at the last minute in order for it to be soundly defeated because he was against racial discrimination and didn't want

it to pass. Smith asserted that he sincerely supported the amendment and was one of the chief spokespersons for the amendment. Either way, Smith's amendment passed by a vote of 168 to 133, and women were possibly the unintended recipient of this protection. Yeah for women!

Fast forward to 2009. The Lilly Ledbetter Fair Pay Act of 2009 ("LLFPA") was the first bill signed into law by President Barack Obama on January 29, 2009 in the company of Lilly Ledbetter herself. The LLFPA amended the Civil Rights Act of 1964.

Lilly Ledbetter was a production supervisor at a Goodyear tire plant in Alabama for decades when she realized that men who had less seniority and qualifications than she received more compensation. She was unaware of this disparate treatment until many years after it was taking place. In order to receive back pay, she filed an equal-pay lawsuit regarding pay discrimination under Title VII of the Civil Rights Act of 1964, six months before her early retirement in 1998. The U.S. Supreme Court ruled in 2007 by a 5-4 majority vote that Ledbetter's complaint was time-barred because the discriminatory decisions relating to pay had been made more than 180 days prior to the date she filed her claim, and the SOL for such claims was 180 days. Justice Ruth Bader Ginsburg's

dissenting opinion proposed an interpretation according to which the law runs from the date of *any* paycheck that contains an amount affected by a prior discriminatory pay decision.

By signing the LLFPA into law, President Obama nullified the 2007 Supreme Court decision. The Act clarified that a discriminatory compensation decision or other practice that was unlawful occurs each time compensation was paid pursuant to the discriminatory compensation decision or other practice, as Justice Ginsburg proposed in her dissenting opinion in 2007.

Kudos to the attorneys who represented Lilly Ledbetter and stuck with her for those nine long years it took to get this right. Kudos to President Obama too.

## LAWYERS AS MEMBERS OF CONGRESS

In the first U.S. Congress, from 1789 to 1791, there were 94 total members. Of those members, 34 were lawyers. Today, the 112<sup>th</sup> Congress has a total of 539 members. Of those members, there are 200 lawyers. From the beginning to today, 37% of the members of Congress are lawyers.

I'll bet most of you didn't know much of this fascinating stuff. I hope you enjoyed learning it as much as I did. **TBN**

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