

Fixing the Framers' Failure

Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

—Abraham Lincoln,
“Gettysburg Address,”
November 19, 1863

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The 13th, 14th, and 15th Amendments
and America's New Birth of Freedom

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The cover of this book features “Take My Hand,”
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*My sister Paula,
the best person on the planet.
Love Bobby*

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Prologue

America and Herself

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed ...

—The Declaration of Independence (1776)

We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure 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.

—United States Constitution, Preamble (1789)

America began with the words

“We hold these truths to be self-evident, that all men are created equal ...”

The Declaration of Independence founded us on equality rather than ethnicity, liberty rather than race.



In 1789 “*all men are created equal*” manifested itself in the Constitution “*We the People*” adopted. “*We the People*,” not “we the states” or “we the white male Protestants” or even “we the citizens.”

The original constitution was a masterful compromise creating a representative democracy fulfilling the aspiration that we could govern ourselves. Its balance, often tenuous, created a country from parochial states.

But the Framers failed.

They failed to live up to their own words.

Although the Constitution embodies “*created equal*” and “*the People*,” the Framers failed to resolve the conflict between freedom and slavery.

As the champions of universal rights Thomas Jefferson and James Madison looked out over their vast plantations from their Monticello and Montpelier hilltops, did they recognize the hypocrisy that they lived on the backs of enslaved people? Did they understand their legacy would not just be our vision of a democratic republic but also America’s original birth defect of slavery, racism, and genocide?

Throughout our history we have both risen to the ideal that all people are “*created equal*” and yet fail to meet its aspiration.

In 1861, some 70 years after the Constitution began, we turned on each other over what “*created equal*” and “*the People*” meant. We fought over slavery.

Young men went to the war for many reasons.

Northerners fought for “the Union” and free labor. Many enlisted for the fee. Others were drafted. Some believed in the abolition of slavery as a moral imperative, but not all.

Southerners fought for honor, the “southern way of life,” and a vague notion of “rights.” The Confederacy pressed them into service for the duration of the war. Desertion was greater than in the Union armies. But whatever the gloss the South gave soldier and citizen to ennoble the cause, the Confederacy existed to perpetuate slavery. One can argue the North did not originally go to war over slavery, but the South certainly did.

Any mythology that somehow the Civil War was not about slavery fails to address the irrefutable fact: Before the Civil War slavery was legal; after the Civil War it was not.

From the carnage, the Thirteenth Amendment (1865) emerged, mandating that “*Neither slavery nor involuntary servitude . . . shall exist within the United States.*” The Fourteenth Amendment (1868) followed to guarantee due process, equal protection, and the same privileges and immunities for all Americans. The Fifteenth Amendment (1870) recognized all Americans’ voting rights regardless of “*race, color, or previous condition of servitude.*” Each Amendment ends with, “*Congress shall have power to enforce this article by appropriate legislation.*”

These amendments reshuffled the deck of American government. They are why we talk about the Bill of Rights applying to us directly. They meant to transform the United States from “half-slave and half-free” to a nation in which the “blessings of liberty” extend to all.

Yet, today, there remain two Americas—one dedicated to the proposition all people are created equal and one not.

One is an expansive view of America as a big country of universal rights with an inclusive Constitution . . . the other is a limited view of America and her citizens,



March for Freedom and Jobs Washington, DC, Lincoln Memorial (August 28, 1963)



where boundaries are strict, and some people separate and inferior.

America has always been about a choice: Will we be a true democratic-republic or some form of aristocracy?

Two Americas came out of the Constitutional Convention in 1789: a republic north and an aristocratic south. Slavery was the divide. The Thirteenth, Fourteenth, and Fifteenth Amendments emerged from the struggle between these two Americas and capstoned the Civil War.

These Amendments set a new and ever higher threshold for individual liberty. But the choice between the two Americas remains as relevant today as ever.

Will we be a “*government of the people, by the people, for the people*” or not?