

## Wilderness House Literary Review 13/3

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### A 28TH AMENDMENT IS NEEDED TO SAVE OUR DEMOCRACY

*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. – from the Declaration of Independence, July 4, 1776.*

**T**oday there are many Americans of all races, religions and personal preferences trying to live their lives with the liberty and happiness that our founders promised. Sadly, there are other Americans – including our 45th President – who would prevent them from doing so if it weren't for the U.S. Constitution. But does the Constitution -- the "law of the land" -- truly protect everybody?

So far, it's been liberal interpretations that have given minorities equal footing in many cases since the Constitution, according to most legal scholars, is neither liberal nor conservative. It merely sets limits.

The powerful words above, including "all men are created equal," written on parchment by Thomas Jefferson, were signed at a gathering of the Second Continental Congress in Philadelphia by 56 men representing 13 colonies. Their "Declaration" represented the heartfelt passion with which the American colonists wanted their absolute freedom from England.

Why weren't those famous words, referred to by many historians as the most potent and consequential words in American history, repeated in the U.S. Constitution?

The "why" is fairly obvious. The difference in writing a "declaration" and the drafting of a new constitution was truly an apples-to-oranges undertaking. The fledgling colonies were on the cusp of becoming a sovereign nation in which slavery was integral to its economic growth, and had those noble words been included in the early drafts of the new constitution -- written in 1787 and ratified by 11 states, and put into law in 1789 -- there probably would have never been a Constitution.

It's also understood that the "men" who were "created equal" were, in fact, white men of European ancestry who owned land. Slaves and Native Americans weren't equals, of course. Nor were women equals; they wouldn't get the right to vote for more than another century.

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A movement for a change to the Constitution began in 1854, 65 years after its ratification. Abraham Lincoln – then a rapidly rising young politician from Illinois – gave an anti-slavery speech in Peoria, Ill. He urged that those famous words from the Declaration be added to the Constitution. Said Lincoln, "I love the sentiments of those old-time men."

Lincoln's speech received national attention. As expected, it wasn't received very well in many parts of the country. In a 2013 article entitled, What Abraham Lincoln Thought of the Declaration of Independence, author Rich Lowry, editor of the National Review, wrote:

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“For the Slave South, the Declaration’s statement that ‘all men are created equal’ was ‘nonsense.’ John C. Calhoun (South Carolinian who served as 7th Vice President of the U.S.) called it nothing less than ‘the most false and dangerous of all political error.’ Indiana Senator John Pettit called the central contention of the Declaration ‘a self-evident lie.’”

Lowry’s most interesting observation was that Lincoln lamented that “our republican robe is soiled, and trailed in the dust. Let us re-purify it. Let us turn and wash it white, in the spirit, if not the blood, of the Revolution.”

Unfortunately, Lincoln’s 1854 metaphor presaged the spilling of much more American blood. He, of course, was elected president in 1860 and took office in March 1861. A month later, the Civil War began. The war succeeded in ending slavery at the cost of hundreds of thousands of American lives, and while Lincoln saw to it that the 13th Amendment was added to Constitution before his assassination in 1865, the words from the Declaration still hadn’t found their way into the Constitution.

Move ahead 58 years, to 1923, when an amendment to prohibit sex discrimination was first introduced in Congress. It came on the heels of the adoption of the 19th Amendment in 1920, which gave women the right to vote. However, the gender equality effort went nowhere.

It was re-introduced in 1972 as the “Equal Rights Amendment” and finally gained congressional support and approval. However, it was accepted by only 35 state legislatures during a 7-year “approval window,” during which it needed the approval of 38 states (3/4 of all states) to be added to the Constitution. The “window” was extended for another five years, but by 1982, no additional states had approved the amendment. Another stoppage.

Then in 2008, with the election of Barack Obama, I -- along with many other Americans -- thought the time had finally come for an amendment asserting “equal rights for all.” Sadly, it had not. There were many other Americans who believed Obama, as a black man, was unworthy of the office. Even in Congress, that feeling was pervasive.

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The movement forward to give equal rights to all Americans again has been stopped in its tracks. It is now in reverse. Since his inauguration in 2017, President Donald Trump has repeatedly sought to ban Muslims from entering the country, and is currently seeking to detain and deport and illegal immigrants without giving them a chance to achieve citizenship. He also seeks to end the citizenship birthright of all American-born children of illegal immigrants. He supports efforts to disenfranchise members of the LBGT community. And now he has nominated a Supreme Court Justice who would deny women the right to choose.

We’re now at a crossroads 229 years after the Constitution became the law of the land and the acid test for all subsequent laws. Its validity is being tested as it has never been tested. It is being snubbed by a President who is openly contemptuous of the Constitution and the rule of law, and a Congress that is complicit in its silence.

We now need a Constitutional amendment that decrees in no uncertain

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terms that any effort by the 45th president, or any future president, Congress or Supreme Court, to deny equal rights to any American – will be deemed unconstitutional.

“All people are created equal, and that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness” should be the new 28th amendment. It’s gone from being “long overdue” to “necessary to save our democracy.” We need our Constitution to evolve with the times and to become more relevant than ever to the changing demographics of America -- so that it never, ever becomes an outdated, worthless piece of parchment.

Sadly, we’re closer to that day than ever before.