

MYTHS ABOUT DEMOCRACY IN AMERICA

Democracy extends the sphere of individual freedom, socialism restricts it. Democracy attaches all possible value to each man; socialism makes each man a mere agent, a mere number. Democracy and socialism have nothing in common but one word: equality. But notice the difference: while democracy seeks equality in liberty, socialism seeks equality in restraint and servitude.

—ALEXIS DE TOCQUEVILLE (1805–1859)

Myth: “Even our **Founders** knew democracies eventually **self-destruct**.”

Reality: Adams got it wrong. He thought people could never rule themselves and democracy could never survive.

President John Adams was skeptical about the survivability of democracy right up until the last days of his life. Agreeing with the Federalist view that was then so prevalent, he felt that a benevolent autocracy wearing the mask of a democratic republic had the greatest chance of surviving, a belief that motivated him

to pass laws allowing him to throw dissenting newspaper editors and legislators into prison. In the decade before his death, he wrote a letter to John Taylor and candidly noted, “Remember, democracy never lasts long. It soon wastes, exhausts, and murders itself. There never was a democracy yet that did not commit suicide.”⁴⁷

But the next two centuries have shown that Adams had failed to understand the new world that he had played a vital part in creating.

Jefferson understood that the key is to empower the people.

Jefferson, on the other hand, believed in the essential wisdom of democracy. While he knew a “pure democracy” could work only in a small setting like the local Saxon tribes of his family’s England or the Indian tribes he’d personally observed, he also believed that a republic could be formed from a series of smaller democracies that would endure forever. Although the Greeks had never tried this (they kept their city-states separate from each other), and the Romans had failed at it when they didn’t extend the vote franchise beyond the city of Rome, Jefferson had seen this system work very effectively in the Iroquois Confederacy.

Two years after Adams’s bleak assessment, Jefferson wrote to Samuel Kercheval on September 5, 1816, stating that the key to making a democracy work was to continually reempower the people at a local level. “The article nearest my heart,” he wrote about how governments should be organized, “is the division of counties into wards. These will be pure and elementary republics, the sum of all which, taken together, composes the State, and will make of the whole a true democracy as to the business of the wards, which is that of nearest and daily concern.”

Jefferson might have smiled to learn that two hundred years later, House Speaker Tip O’Neill, one of the most successful legislators in America’s history, would describe his success like this: “All politics is local.”

Myth: “America was created by rich white men
to protect their wealth.”

Reality: The Founders made enormous sacrifices.

This is perhaps the most unfortunate and destructive of the widespread American myths.

People on the extreme ends of both the Left and the Right in contemporary American debate say the nation was founded exclusively of, by, and for “rich white men,” and the Constitution had, as its primary purpose, the protection of the wealth of this class of men against all others (particularly “the commoners”). They would have us believe that the signers didn’t really mean all that flowery talk about liberal democracy; they were just putting up a good front while they set up a nation for their private benefit.

But the signers didn’t send other people’s kids to war, as we do today when we wage war; the Founders themselves gave up everything, even risking (and losing) their families’ lives, giving up their life’s savings, and losing their own homes and families. While many of the conservative Tory families still have considerable wealth and power (in Canada and England), not a single Founder’s family persists today as a wealthy or politically dominant entity.

Where the myth of the greedy Founders came from

This myth/theory was first widely advanced by Columbia University professor of history Charles Beard, who published in 1913 a book titled *An Economic Interpretation of the Constitution of the United States*. Numerous historians and economists—on both the right and the left—have since cited his work as evidence that America was founded solely for the purpose of protecting wealthy interests. His myth helps conservatives advance the notion that their prowealth and procorporate agenda is simply a continuation of the intent of the nation’s Founders and Framers, and feeds liberal cynicism.

But, recent research proves, Beard was wrong. The majority of the signers of the Constitution were acting against their own best economic interests when they put their signatures on that document, just as had the majority of the signers of the Declaration of Independence. The story of how Beard's myth took such deep root in American popular culture and has come to be so widely believed by contemporary historians is fascinating, and the story of the actual actions and goals of the Constitution's signers is inspiring.

Beard imagined the present gave him clues to the past.

In many ways, there were significant parallels between Beard's time and the constitutional era. Twenty years before Beard wrote his book, America had been wracked by economic crisis and such a broad explosion of poverty—in the midst of the conspicuous wealth of the robber barons—that it spawned an era of populism during which old assumptions of governance were challenged.

Similarly, two decades before the Constitution was signed, Charles Beard noted in *The Rise of American Civilization* (coauthored with his wife, Mary Beard), America had faced a similar economic crisis.

"A widespread business depression had just set in," the Beards wrote about the late 1760s and early 1770s. "During the nine years of the French and Indian War [1754–1763], American merchants, planters, and farmers had been unusually prosperous . . ." but the bubble of this prosperity burst when "the swift reaction that followed inflated prices collapsed, business languished, workmen in the towns were thrown out of employment, farmers and planters, burdened by falling prices, found the difficulties of securing specie [cash] steadily growing."⁴⁸

And it wasn't just a depression among the big businesses in New York and Boston that led, in part, to the American Revolution, according to the Beards: "Moreover, all the colonies, not merely the commercial North, were now thrown into distress; all classes, too, disenfranchised and unemployed workmen of the

towns as well as farmers, planters and merchants. This is significant; it was the workmen of the commercial centers who furnished the muscle and the courage necessary to carry the protests of the merchants into the open violence that astounded the friends of law and order in England and America and threatened to kindle the flames of war."

Although America wasn't facing a revolutionary or civil war during Beard's era, it was facing an eerily similar time of great social upheaval, which ultimately brought about sweeping changes in our form of government. After the Seventeenth Amendment was ratified in 1913, citizens directly elected the U.S. Senate, which had previously been appointed in backroom deals by professional politicians in the states. Liquor was banned nationwide in 1919. Women gained the right to vote with the ratification of the Nineteenth Amendment on August 18, 1920. In 1921 the U.S. Supreme Court nearly broke the back of the American labor movement in the *Truax v. Corrigan* case by ruling that unions couldn't picket or distribute handbills about employers, and in several different cases during the early 1920s, the Court declared both minimum-wage laws and maximum-hour laws unconstitutional.

Just as during the Revolutionary era, when people studied the writings of John Locke, Charles de Montesquieu, and Jean-Jacques Rousseau to gain an understanding of how an ideal democratic government might work, in the first few decades of the twentieth century, people read the works of Beard and other Progressive thinkers to understand the basis of American history.

Thus, Charles Beard cast his gaze back to September 17, 1787, a cool day in Philadelphia that had broken an unusually hot summer, when James Madison noted in his diary of the Constitutional Convention: "The Constitution being signed by all the Members except Mr. Randolph, Mr. Mason, and Mr. Gerry who declined giving it the sanction of their names, the Convention dissolved itself by an Adjournment *sine die*." Of the original 55 delegates, 14 had previously walked out, many to attend to homes,

families, or businesses, and a few in disagreement. But now the deed was done, and in need only of ratification by the states.

There were no robber barons among the Founders in the colonial era—just among Tory loyalists.

Beard, writing as the great financial robber baron empires of Rockefeller, Gould, Morgan, and Carnegie were being solidified, looked back at the Framers of the Constitution and imagined he was seeing an earlier, albeit smaller, version of his own day's history.

Beard wrote: "The whole theory of the economic interpretation of history rests upon the concept that social progress in general is the result of contending interests in society . . ." and we can only understand the Constitution when we realize that it was "an economic document drawn with superb skill by men whose property interests were immediately at stake; and as such it appealed directly and unerringly to identical interests in the country at large."

And those interests weren't insignificant. In *The Rise of American Civilization*, Beard's most famous work, he notes that on the banks of the Hudson River, "From mansions that were castles, the Johnsons ruled in the Upper Mohawk Valley with a sway that was half feudal and half barbaric, relying on numerous kinsmen, armed Negro slaves, trained bands of Gaelic retainers, and savage allies from the dread Iroquois to maintain their sovereignty over forest and plain."

What Beard fails to mention is that the Johnsons were squarely in the middle of several wars against the Indians in the 1760s on behalf of England, were loyalists to the Crown throughout the Revolutionary War, and most eventually fled to Canada.

By the time of the constitutional era, Beard noted in *Civilization*, the wealthy of America who were closest to the Crown were reinventing the old British caste system. "In all the colonies the ruling orders, in English fashion, demanded from the masses the

obedience to which they considered themselves entitled by wealth, talents, and general preeminence. At Harvard and Yale, authority, houses, lands, and chattels determined the rank of students in the academic roll. In churches, Puritan and Anglican alike, congregations were seated according to age, social position, and estate. One old Virginia family displayed its regard for the commoners of the vicinity every Sunday by requiring them to wait outside the church until the superiors were duly seated in the large pew especially provided for them."

These rich families, he suggests, in 1787 pushed on the American people a constitution grounded "upon the concept that the fundamental private rights of property are anterior to government and morally beyond the reach of popular majorities."

What he overlooks is that it was generally the wealthiest families of the colonies who most strongly opposed both the Revolutionary War and the Constitution, because both endangered the stability of their fortunes, most of which were grounded in trade or relationships with England. Thousands of these families fled the colonies after the Revolutionary War, both to England and Canada.

Beard thought he saw his own era's robber barons among the colonial economic elite. And, had the Revolution not have happened, he might have been right. But the great fortunes loyal to the Crown were dispersed or fled, and while we still have the financial empires of Beard's day with us, nobody can point to a Rockefeller dynasty equivalent that survived colonial times.

How rich is rich?

Although among the Founders and Framers in America, some had amassed great land holdings and what was perceived then as a patrician lifestyle, Pulitzer Prize-winning author Bernard Bailyn suggests in his brilliant 2003 book, *To Begin the World Anew: The Genius and Ambiguities of the American Founders*, that they couldn't hold a candle to the true aristocrats of England.⁴⁹ With page after page

of photographs and old paintings of the homes of the Founders and Framers, Bailyn shows that none of those who created this nation were rich by European standards.

After an artful and thoughtful comparison of American and British estates, Bailyn concludes bluntly: “There is no possible correspondence, no remote connection, between these provincial dwellings and the magnificent showplaces of the English nobility.” After showing and describing to his readers the mansions of the families of power in eighteenth-century Europe, Bailyn writes: “There is nothing in the American World to compare with this.”

While the Founders and Framers had achieved a level of literacy, creativity, and a depth of thinking that rivaled that of any European state or era, nonetheless, Bailyn notes, “The Founders were provincials, alive to the values of a greater world, but not, they knew, of it—comfortable in a lesser world but aware of its limitations.”

As Kevin Phillips documents in his masterpiece book *Wealth and Democracy: A Political History of the American Rich*, “George Washington, one of the richest Americans, was no more than a wealthy squire in British terms.”⁵⁰ Phillips says that it wasn’t until the 1790s—a generation after the War of Independence—that the first American accumulated a fortune that would be worth one million of today’s dollars.* The Founders and Framers were, at best, what today would be called the upper middle class in terms of lifestyle, assets, and disposable income.

Even Charles and Mary Beard noted that wealth and land ownership, which in many states defined who could vote, was diffuse. Land, after all, didn’t have the scarcity it does today, and thus didn’t have the same value. Just about any free man could find land to settle, where Native Americans had either been decimated by disease or displaced by war.

Some histories posit George Washington as one of the

*Shipowner Elias Hasket Derby of Salem, Massachusetts.

wealthiest men among the Revolutionaries, which is true. But Washington, when he wrote his will and freed his slaves, didn’t have enough assets to buy the slaves his wife had inherited and free them as well. Like Jefferson, who died in bankruptcy, Washington was “rich” in land but poor in cash.

The “rich white guys” hypothesis crumbles.

In 1958, one of America’s great professors of history, Forrest McDonald, published an extraordinary book debunking Charles Beard’s 1913 hypothesis that the Constitution was created of, by, and for rich white men. McDonald’s book, titled *We the People: The Economic Origins of the Constitution*, bluntly states, “Economic interpretation of the Constitution does not work.”⁵¹

Over the course of more than four hundred meticulously researched pages, McDonald goes back to original historical records and reveals who was promoting and who was opposing the new Constitution, and why. So far as I can tell, he is the first and only historian to do this type of original-source research, and his conclusions are startling.

McDonald notes that a quarter of all the delegates to the Constitutional Convention had voted in their own state legislatures for laws that would have helped debtors and the poor and thus harmed the interests of the rich. “These [debt relief laws] were the very kinds of laws which, according to Beard’s hypothesis, the delegates had convened to prevent,” says McDonald. He adds: “Another fourth of the delegates had important economic interests that were adversely affected, directly and immediately, by the Constitution they helped write.”

Whereas Beard theorizes that the Framers were largely drawn from the class of wealthy bankers and businessmen, McDonald shows that “the most common and by far the most important property holdings of the delegates were not, as Beard has asserted, mercantile, manufacturing, and public security investments, but agricultural property.” Most were farmers or plantation owners and, as noted earlier, owning a lot of land did not always make

one rich in those days, particularly compared with the bankers and mercantilists of New York and Boston.

“Finally,” McDonald concludes, “it is abundantly evident that the delegates, once inside the convention, behaved as anything but a consolidated economic group.”

After dissecting the means and motivations of the Framers who wrote the Constitution, McDonald goes into an exhaustive and detailed state-by-state analysis of the constitutional ratifying conventions that finally brought the U.S. Constitution into law. For example, in the state of Delaware, which voted for ratification, “almost 77 percent of the delegates were farmers, more than two-thirds of them small farmers with incomes ranging from 75 cents to \$5.00 a week. Slightly more than 23 percent of the delegates were professional men—doctors, judges, and lawyers. None of the delegates was a merchant, manufacturer, banker, or speculator in western lands.”

In other states, similar numbers showed up. Of the New Jersey delegates supporting ratification, 64.1 percent were farmers. In Maryland, “the opponents of ratification included from three to six times as large a proportion of merchants, lawyers, and investors in shipping, confiscated estates, and manufacturing as did the delegates who favored ratification.” In South Carolina it was those in economic distress who carried the day: “No fewer than 82 percent of the debtors and borrowers of paper money in the convention voted for ratification.” In New Hampshire, “of the known farmers in the convention 68.7 percent favored ratification.”

The Constitution wasn’t primarily written to protect its authors’ wealth.

But did farmers support the Constitution because they were slave owners or the wealthiest of the landowners, as Beard had guessed back in 1913? McDonald shows that this certainly wasn’t the case in northern states like New Hampshire or New Jersey, which were not slave states.

But what about Virginia and North Carolina, the two largest slaveholding states, asks McDonald rhetorically. Were their plantation owners favoring the Constitution because it protected their economic and slaveholding interests?

“The opposite is true,” writes McDonald. “In both states the wealthy planters—those with personality interests [wealth] as well as those without personality interests—were divided approximately equally on the issue of ratification. In North Carolina small farmers and debtors were likewise equally divided, and in Virginia the great mass of the small farmers and a large majority of the debtors favored ratification.”

After dissecting the results of the ratification votes state by state—the first author in history to do so, as far as I can determine—McDonald sums up: “Beard’s thesis—that the line of cleavage as regards the Constitution was between substantial personality interests [wealth] on the one hand and small farming and debtor interests on the other—is entirely incompatible with the facts.”

So what did motivate the Framers of the Constitution?

Along with the answer to this question, we may also find the answer to the question historians have asked for two centuries about why the Constitutional Convention was held in secret behind locked doors, and why James Madison didn’t publish his own notes of the Convention until 1840, just after the last of the other participants had died.

As with any political body, a few of the delegates, “a dozen at the outside,” according to McDonald, “clearly acted according to the dictates of their personal economic interests.”

But there were larger issues at stake. The men who hammered out the Constitution had such a strong feeling of history and destiny that it at times overwhelmed them. They realized that in the seven-thousand-year history of what they called civilization, only once before—in Athens, and then only for a brief flicker of a few centuries—had anything like a democracy ever been brought into existence and survived more than a generation.

Their writings show that they truly believed they were doing sacred work, something greater than themselves, their personal interests, or even the narrow interests of their constituents back in their home states. They believed they were altering the course of world history, and that if they got it right it would truly create a better world.

Thus the secrecy, the hurry, the intensity. And thus the willingness to set aside economic interest to produce a document—admittedly imperfect—that would establish an enduring beacon of liberty for the world.

George Washington, who presided over the Constitutional Convention, wrote to the nation on September 17, 1787, when “transmitting the Constitution” to the people of the new nation: “In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence.”⁵²

Washington noted that many compromises were made, and many in the Convention had acted in a far more noble and altruistic way than political cynics might think. “This important consideration,” he wrote, “seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected.” He concluded with his “most ardent wish”—that the Constitution “may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness.”⁵³

Myth: “The Founders wrote slavery into the Constitution.”

Reality: The compromise necessary to get the Constitution ratified prevented a ban on slavery, but Jefferson and many other Founders believed slavery would be ended in their lifetimes.

A recent correspondent, hearing me discuss this topic on the radio, wrote to say, “Nobody can credibly assert that the Constitution originally intended to include the rights of women, Blacks, Native Americans, or others than rich, white land-owning men!” He went on to point out that “Blacks were identified as only three-fifths human in the Constitution!” In these, the writer was echoing the most common myths about the Constitution and the Framers.

When trying to pull together a nation after the Revolutionary War, the Framers knew that if they couldn’t bring in the southern states, heavily dependent on slave labor for their agricultural prosperity, they wouldn’t be able to create a nation that would hold together. Even many of the Founders who had inherited slaves and slavery-based estates were concerned about the future damage slavery could do to the new nation they were birthing.

Jefferson’s thoughts on slavery

Consider, for example, the slaveholding Founder Thomas Jefferson. In 1781, he wrote a collection of answers to questions posed by “a Foreigner of Distinction, then residing among us,” which was published on February 27, 1787, as his *Notes on Virginia*. In one of the most brilliant short essays written by any of the Founders on the issue of slavery, Jefferson reveals an extraordinary insight into the nature and problem of slavery and honestly lays out his fears for the damage slavery may wreak on the nation he helped birth:

“There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal.”

In this, Jefferson saw slavery as an institution that was train-

ing future generations of Americans to submit to slavery by foreign or domestic governments or corporations run wild, just as it oppressed slaves in the process. He continued:

“This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraint in the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to the worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities.”

Nobody, Jefferson said, except the most rare of individuals could remain uncorrupted by slavery existing in a free society. “The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who, permitting one half the citizens thus to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the amorpatrice of the other.”

Thus, Jefferson suggested, slavery would ultimately corrupt the entire nation, both morally and economically. “With the morals of the people, their industry also is destroyed. For in a warm climate, no man will labor for himself who can make another labor for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labor.”

Jefferson fears slavery’s consequences.

At this point in his letter, Jefferson reflected on the theological implications of the issue, writing words that are repeated on the walls of the Jefferson Memorial in Washington, D.C.: “And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be vio-

lated but with His wrath? Indeed I tremble for my country when I reflect that God is just; that his justice cannot sleep forever; that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation is among possible events; that it may become probable by supernatural interference!

“The Almighty has no attribute which can take side with us in such a contest.”

Jefferson was also hopeful that he would see the ending of slavery in America, perhaps even in his own lifetime. He ended his thoughts on slavery in this 1781 letter by writing, “I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events to be with the consent of the masters, rather than by their extirpation.”

In fact, as Fawn M. Brodie points out in what is one of the finest biographies of Jefferson ever written (*Thomas Jefferson: An Intimate History*), “It deserves notice that his phrase ‘all men are born free,’ which appeared six years later in his Declaration of Independence, and which has been traced with such zealous scholarship to men of the Enlightenment, first came to his lips publicly in the legal defense of a black man.”⁵⁴

Jefferson fights slavery.

In April of 1770, Jefferson was practicing law and defended a slave who was requesting his freedom (*Howell v. Netherland*). In his arguments on behalf of the slave, Jefferson said that “under the law of nature, all men are born free, and every one comes into the world with the right to his own person, which includes the liberty of moving and using it at his own will.”

The year before, 1769, as a legislator in Virginia, he had written a bill to abolish the importation of slaves into that state. It was unsuccessful, and even brought down the wrath of many of

his peers on him and his relative, Richard Bland, who Jefferson had asked to introduce the proposed legislation.

In his 1774 booklet *A Summary View of the Rights of British America*, Jefferson attacked King George III for forcing slavery on the colonies, a charge that was repeated in his first draft of the Declaration of Independence in 1776 but deleted from the final draft in order to keep the representatives of South Carolina and Georgia willing to sign the document. That same year, Jefferson tried to write into the constitution of the state of Virginia a provision that would gradually but totally eliminate slavery, starting in 1800; and in 1778 he presented an even more radical bill that would have abolished slavery altogether in Virginia. Although these attempts failed, he was successful in passing a Virginia law that year preventing any more slaves from being imported into the state.

In 1783, he again unsuccessfully attempted to amend Virginia's constitution, proposing language that said: "The general assembly shall not . . . permit the introduction of any more slaves to reside in this State, or the continuance of slavery beyond the generation which shall be living on the thirty-first day of December, 1800; all persons born after that day being hereby declared free."

The next year, he proposed at a national level a law banning slavery in the "Northwest Territories"—the Midwest and western states—and stating that any state admitted to the union would have to declare any person of any race born in that state after 1800 to be a free person. His proposal lost by a single vote, although parts of his proposed legislation were lifted and inserted into the Northwest Ordinance, which became law when Jefferson was in Paris in 1787.

Nonetheless, Jefferson, like most of the Founders, confronted the terrible balancing act of trying to hold together a nation that included slave states while still laying down an archetypal foundation of liberty that he believed would eventually encompass all persons. The conflict he faced is evident in a letter he wrote from

Paris in 1788 to J. P. Brissot de Warville, the leader of a French abolitionist society:

"Sir, I am very sensible of the honor you propose to me, of becoming a member of the society for the abolition of the slave trade. You know that nobody wishes more ardently to see an abolition, not only of the trade, but of the condition of slavery; and certainly, nobody will be more willing to encounter every sacrifice for that object.

"But the influence and information of the friends to this proposition in France will be far above the need of my association. I am here as a public servant, and those whom I serve, having never yet been able to give their voice against the practice, it is decent for me to avoid too public a demonstration of my wishes to see it abolished. Without serving the cause here, it might render me less able to serve it beyond the water."

The year after the signing of the Declaration of Independence, Vermont—which was then a sovereign nation—modified its constitution to ban slavery. Pennsylvania passed a law initiating the emancipation of slaves in that state in 1780. New Hampshire and Massachusetts followed Vermont's lead in 1783, although by court rulings in both states, and the process spread down the eastern seaboard to New York and New Jersey by the turn of the century.

In Thomas G. West's seminal book *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America*, he notes that the southward movement of the abolition movement had achieved tidal wave proportions during Jefferson's lifetime: "Delaware owners freed their slaves in such large numbers that it amounted to a near abolition. By 1810, 76 percent of Delaware blacks were free; in Maryland, free blacks numbered a substantial 23 percent."⁵⁵

African Americans and the three-fifths argument

Even the argument that the Constitution condoned slavery and defined African Americans as "three-fifths human" is inaccurate.

Slavery was the hottest issue debated at the Constitutional Convention of 1787, and—to keep the Union together—ultimately led to several compromises. One was that the importation of slaves would be phased out by 1807 (Article I, Section 9 of the Constitution still reads: “The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight . . .”), and the other being an effort to prevent the southern states from using their large slave populations to gain such influence in the House of Representatives that they might be able to keep legislating in favor of slavery.

The southern representatives argued that, since it was agreed that their slaves would eventually be free (even if it was in future generations), the slaves should be considered part of the census that determined the number of representatives a state could send to Congress. The northern states argued that because the slaves were not allowed to vote in the South (free blacks did in the North), they should not be counted in the census at all. This would have dramatically reduced the power of the southern states, because they didn’t have large cities like New York or Boston but were instead mostly rural and agrarian. Without their slaves being counted toward their census numbers, they’d have so few representatives that, they suggested, they would be wasting their time joining the republic that was being forged in Philadelphia that summer of 1787.

Because this issue was a deal breaker that could have ended the nation before it began, a compromise was reached. The South could count three-fifths of its slaves toward the census, even though they couldn’t vote, and thus have a bit more power in Congress, but it couldn’t count any more African Americans than that until they were freed.

The language, as written into Section 2 of the U.S. Constitution, lays this out: “Representatives and direct taxes shall be apportioned among the several states which may be included

within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons.”

As West notes in *Vindicating the Founders*, the Constitution, while it allowed slavery, also allowed freedom for slaves. Millions of African Americans exercised the right to vote and other civil rights long before the Civil War, and, “The rest won their liberty through a [Civil] war fought under its authority.”⁵⁶

The South fights to keep slavery.

Nonetheless, the Founders who believed that they would see the end of slavery within a few years after the founding of the nation—or at least by 1808—were devastated by the forcefulness with which the southern states held on to the manpower that made their agricultural enterprises profitable. The Virginia legislature made it impossible for any slave owner to free his slaves and still maintain contact with them: On May 1, 1806, while Jefferson was president but held no power in Virginia, the Virginia Assembly passed a law that any slave freed in the state had to leave the state forever or would be arrested by the state itself and sold back into slavery.⁵⁷

Virginia slave owners like Jefferson were also haunted by an earlier 1691 Virginia law that specified that slaves who were freed and stayed in the state risked being “hung, burned at the stake, dismembered, castrated and branded” as well as the ordinary punishment of whippings.⁵⁸

The practical consequence of this was that upon arriving in any other state, a newly freed Virginia slave with no right of return and no recourse to Virginia could easily be “captured” and impressed back into slavery. This probably accounts for why Jefferson was unwilling to free his own slaves during his lifetime or in his will (he couldn’t afford, as Washington did with some of his slaves, to pay for their safe resettlement). He was also haunted by a 1662 Virginia law that said if the authorities of Virginia ever