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January 2011

# A Higher Law: Abraham Lincoln's Use of Biblical Imagery

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# A HIGHER LAW: ABRAHAM LINCOLN'S USE OF BIBLICAL IMAGERY

Wilson Huhn*

## INTRODUCTION

Abraham Lincoln's mind was a swirl of associations.[1] Among the few books in his childhood home were *The Pilgrim's Progress*, *Aesop's Fables*, and the Bible,[2] and Lincoln must have read and reread each until they were a very part of him.[3] In addition, as a boy Lincoln listened to the jokes and stories that his father and frontier travelers exchanged, and he would recite these the next day for the other children of the neighborhood.[4] Lincoln was raised on allegory, fables, parables, and funny stories - everything reminded him of something else, and the connections that he drew grew deeper and more profound. Throughout his life, Lincoln sought to understand and to express the relation between the imperfect society he lived in and the transcendent truths he believed in.[5]

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[1] *See* CARL SANDBURG, ABRAHAM LINCOLN: THE PRAIRIE YEARS AND THE WAR YEARS 563 (1954) (quoting Charles Sumner on Lincoln: "'His ideas moved,' noted Sumner, 'as the beasts entered Noah's Ark, in pairs.'").

[2] *See* DAVID HERBERT DONALD, LINCOLN 30-31 (1995) (stating that "his first books were the few that Sarah Bush Lincoln had brought with her from Kentucky," and that among these were the Bible, *The Pilgrim's Progress*, and *Aesop's Fables*); DORIS KEARNS GOODWIN, TEAM OF RIVALS: THE POLITICAL GENIUS OF ABRAHAM LINCOLN, at 51 ("When Lincoln obtained copies of the King James Bible, John Bunyan's *Pilgrim's Progress*, *Aesop's Fables*, and William Scott's *Lesson's in Elocution* in his hands, 'his eyes sparkled, and that day he could not eat, and that night he could not sleep.'") (*quoting* DAVID HERBERT DONALD, LINCOLN RECONSIDERED: ESSAYS ON THE CIVIL WAR ERA 67-68 (2001)). *See also* note 21 *infra*, (referring to the Lincoln family Bible on display at the Abraham Lincoln Birthplace National Historical Park in Kentucky.)

[3] *See* DONALD, LINCOLN, note 2 *supra*, at 30 ("books were scarce on the frontier and he had to read carefully rather than extensively. He memorized a great deal of what he read."); GOODWIN, note 2 *supra*, at 51 ("He read and reread the Bible and *Aesop's Fables* so many times that years later he could recite whole passages and entire stories from memory."); ELTON TRUEBLOOD, ABRAHAM LINCOLN: THEOLOGIAN OF AMERICAN ANGUISH 49-50 (1973) (quoting Bishop Matthew Simpson as stating, "He read few books … but mastered all he read. It was these few, of which the Bible was chief, which gave the bias to his character, and which partly molded his style.").

[4] *See* GOODWIN, note 2 *supra*, at 50 ("Night after night, Thomas Lincoln would swap tales with visitors and neighbors while his young son sat transfixed in the corner." … [Abraham] would spend, he said, 'no small part of the night walking up and down, and trying to make out what was the exact meaning of some of their, to me, dark sayings.' … The following day, having translated the stories into words and ideas that his friends could grasp, he would climb onto the tree stump or log that served as an impromptu stage and mesmerize his own circle of young listeners.").

[5] *See* TRUEBLOOD, note 3 *supra*, at 62 ("Lincoln's greatest interest in the Bible, and the spur to his steady reading of it, was the hope of finding light on the social and political problems which faced the nation."); *id.* at 121 (Lincoln became convinced that "our universe … is a theater for the working out of the moral law."); *id.* at 122 (Lincoln believed in "the moral pattern of history"); *id.* at 123 ("Lincoln accepted the ruling idea of the moral significance of history").

Not only did Lincoln have a remarkable ability to draw connections, but he possessed other formidable intellectual skills. As a trial lawyer Lincoln learned to identify and concentrate all of his energy on the "nub" of the case – he would concede any point that was inessential but contend every point that was vital to win the case.[6] As a man he memorized long passages from Shakespeare, which taught him cadence and wordplay,[7] and late in life he mastered Euclid, which taught him rigorous logic.[8] Finally, he was possessed of remarkable self control and sense of purpose[9] – he took nothing personally[10] and he left nothing to chance.[11] All of these characteristics are apparent within Lincoln's most famous speeches, letters, and remarks.

This paper traces just one of those tendencies, one strand that is intertwined with all the others – Lincoln's use of biblical quotation and imagery. Lincoln was intimately familiar with the Bible[12] and quoted it in myriad contexts and for various purposes: to score points against

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[6] *See* John A. Lupton, *The Common Touch at Trial*, ABA Journal (February 2009), http://www.abajournal.com/magazine/the_common_touch_at_trial/. Lupton states:

> Lincoln also was skillful at focusing on the key points in a case. A contemporary newspaper reported that he "never makes a big fight over a small or immaterial point, but frankly admits much, though never enough to damage his case."
>
> Leonard Swett, a fellow attorney, described Lincoln in the courtroom. At trial, he seldom objected like most attorneys, recounted Swett. Lincoln "reckoned" that it would be fair to let a piece of evidence in that his opponent could not completely prove.
>
> If he did object, and the court overruled him, Lincoln would say that he reckoned he must be wrong. The opposition failed to realize that Lincoln was giving away points he could not win. Instead, he would focus on carrying the main point, and with it the case. Swett concluded that "any man who took Lincoln for a simple-minded man would very soon wake up with his back in a ditch."

[7] *See* DONALD, LINCOLN, note 2 *supra*, at 47 ("he memorized long passages from Shakespeare's plays); *id.* at 569 (describing how, as President, "he rarely missed an opportunity" to see performances of Shakespeare's plays); *id.* at 580 (describing how, on the trip back from City Point to Washington on April 8, 1865, Lincoln read a passage from *Macbeth* and "began to explain to us how true a description of the murderer" it was); WILLIAM LEE MILLER, PRESIDENT LINCOLN: THE DUTY OF A PRESIDENT 223-224 (2008) (quoting Lincoln, "Some of Shakespeare's plays I have never read; while others I have gone over perhaps as frequently as any unprofessional reader."); JOHN CHANNING BRIGGS, LINCOLN'S SPEECHES RECONSIDERED 158 (2005) ("The density of Shakespearean references in this section of the [Peoria Address] is remarkable … We know Lincoln could recite [Richard III's] speech by heart, and to great effect, in the presidential years.).

[8] *See* GOODWIN, note 2 *supra*, at 152 ("During nights and weekends on the circuit … he taught himself geometry, carefully working out propositions and theorems until he could proudly claim that he had 'nearly mastered the Six-books of Euclid.'").

[9] *See* Noah Brooks, *Personal Recollections of Abraham Lincoln*, in THE LINCOLN ANTHOLOGY: GREAT WRITERS ON HIS LIFE AND LEGACY FROM 1860 TO NOW 177 (HAROLD HOLZER, ED. 2009) (stating "He was a profound believer in his own fixity of purpose, and took pride in saying that his long deloberations made it possible for him to stand by his own acts when they were once resolved upon.").

[10] MILLER, note 7 *supra*, at 225 (describing Lincoln's "extraordinary moral and human balance," and quoting his letter to the actor James H. Hackett, who had embarrassed him by publishing the contents of a private letter: "I have endured a great deal of ridicule without much malice; and have received a great deal of kindness, not quite free from ridicule. I am used to it.")

[11] I do not mean to imply that Lincoln did not take risks; he tried criminal and civil cases, he ran for political office, he freed the slaves and armed them, and he led the armies of the United States into war rather than let the nation perish. I simply mean that once Lincoln decided upon a course of action he did all that was within his power to bring about the desired result. *See, e.g.*, GOODWIN, note 2 *supra*, at 107 ("Lincoln left nothing to chance in the contest [for Congress] ….”); *see also*

[12] *See, e.g.*, TRUEBLOOD, note 3 *supra*, at 52:

political opponents,[13] to comfort the afflicted,[14] and simply for fun.[15] In one speech alone – his First Lecture on Discoveries and Inventions[16] – Lincoln included 34 separate references to the Bible to illustrate examples of human ingenuity.[17]

Furthermore, this article focuses on one particular purpose that Lincoln had for quoting the Bible. It examines how Lincoln used the language of the Bible to express what he regarded as the fundamental political and social beliefs that Americans stand for; the constitutional principles that retired Supreme Court Justice David Souter has called the "pantheon of values."[18]

This article discusses seven of Lincoln's works in which he uses biblical imagery to bring us to a more transcendent understanding of constitutional principles. In the Peoria Address (Part I), Lincoln uses the Bible to express why he felt compelled to speak out in opposition to slavery. In the "House Divided" speech (Part II), he compares slavery to an evil spirit that inhabits our country. At Chicago (Part III), he describes the principle "all men are created equal" as a standard that we can and must aspire to, like the standards that are established by God. At Lewistown (Part IV) Lincoln entreats us to "return … come back" to the eternal principles of the Declaration. In the "Word Fitly Spoken" fragment (Part V), his imagery implicitly identifies the Declaration of Independence with the Bible and the Constitution with the Church. At Gettysburg (Part VI), he associates the founders of our country with the Patriarchs of the Bible, Mary the mother of Jesus, and God; he equates the Declaration with the Word of God; and he links the

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> Part of Lincoln's humor consisted of quoting Scripture in spirited repartee. This he could do because the Bible is sufficiently varied to balance one statement with another, and Lincoln was so familiar with it that he knew, without hunting, how to pull out the appropriate phrase.

[13] *See, e.g.*, CLARENCE E. MACCARTNEY, LINCOLN AND THE BIBLE 6 (1949) ("In 1858 the knowledge of the Bible and the ability to quote it was an effective and popular weapon of the political orator, and no one used that weapon more successfully than Lincoln."); WILLIAM J. WOLF, THE ALMOST CHOSEN PEOPLE: A STUDY OF THE RELIGION OF ABRAHAM LINCOLN 132 (1959) (relating how when Stephen Douglas claimed that Adam and Eve were the first beneficiaries of the principle of popular sovereignty, Lincoln replied, "God did not place good and evil before man, telling him to make his choice. On the contrary, he told him there was one tree, of the fruit of which he should not eat, upon pain of certain death.").

[14] *See, e.g.*, MACCARTNEY, note 12 *supra*, at 13-14 (when a dying woman asked Lincoln to read to her from the Bible, Lincoln recited from memory the twenty-third Psalm and Jesus' farewell address to his disciples ("Let not your heart be troubled …."); *id.* at 35 (describing Lincoln's letter to his stepbrother upon learning that their father was dying, in which Lincoln wrote that God "notes the fall of a sparrow" and "He will not forget the dying man who puts his trust in Him.").

[15] *See, e.g.*, *id.* at 5 (as Lincoln prepared to speak at the first debate with Douglas, Lincoln took off his linen duster, handed it to one of his supporters, and said, "Hold my coat while I stone Stephen!"); *id.* at 77 (when McClellan complained to Lincoln that rain and mud had bogged down his army, Lincoln remarked to Hay that McClellan "seemed to think, in defiance of Scripture, that heaven sent its rain only on the just, and not on the unjust."); *id.* at 83-84 (describing Lincoln poking fun at what MacCartney describes as the four hundred "critics, complainers, and malcontents" who nominated Fremont for President in 1864 by quoting a passage from I Samuel describing the followers of David as "everyone that was in distress, and everyone that was in debt, and everyone that was discontented …; and there were with him about four hundred men."); WOLF, note 12 *supra*, 132-134 (relating other incidents of Lincoln's humorous use of the Bible).

[16] *See* 2 COLLECTED WORKS OF ABRAHAM LINCOLN 437-442 (Roy P. Basler, ed. 1953) (hereinafter COLLECTED WORKS, available online from a website maintained by the Abraham Lincoln Association, at http://quod.lib.umich.edu/l/lincoln/) (First Lecture on Discoveries and Inventions).

[17] *See* TRUEBLOOD, note 3 *supra*, at 59 ("The Lecture on Inventions contains thirty-four separate references to the Bible.").

[18] *See* notes 174-176 *infra* and accompanying text (discussing Justice David Souter's theory that the Constitution represents a "pantheon of values.").

abolition of slavery with the deliverance of the Jews. In the Second Inaugural (Part VII), Lincoln's biblical imagery creates a complex mural of divine justice without human judging, ultimate righteousness without self-righteousness. In Part VIII I briefly summarize how Lincoln's biblical imagery contributes to our understanding of the meaning of the Constitution.

I do not purport to know nor do I speculate about Lincoln's personal religious beliefs. Many scholars express their opinion on this question, and I refer the reader to those sources.[19] In this article I take Lincoln at his word – by that I mean I examine his words, and the associations that they call to mind.[20] Leading scholars and historians who have produced major works

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[19] *See* JOSIAH GILBERT HOLLAND, LIFE OF ABRAHAM LINCOLN 542 (1865) ("The power of a true-hearted Christian man, in perfect sympathy with a true-hearted Christian people, was Mr. Lincoln's power."); Brooks, note 9 *supra*, at 172 (referring to Lincoln's "childlike and simple reliance upon Divine aid"); WARD HILL LAMON THE LIFE OF ABRAHAM LINCOLN; FROM HIS BIRTH TO HIS INAUGURATION AS PRESIDENT 486 (1872) (contending that Lincoln was "never a member of any church, nor did he believe in the divinity of Christ, or the inspiration of the Scriptures in the sense understood by evangelical Christians."); S. TRAVENA JACKSON, LINCOLN'S USE OF THE BIBLE 6 (1909) ("In Herndon's Life of Lincoln the partner and President is portrayed as a foe rather than a friend to the Bible. This is erroneous …."); WOLF, note 12 *supra*, at 192 ("Lincoln was unquestionably our most religious President."); *id.* at 194 ("Lincoln was a 'biblical prophet' who saw himself as 'an instrument of God' and his country as God's 'almost chosen people' called to world responsibility."); Reinhold Niebuhr, *The Religion of Abraham Lincoln*, in THE LINCOLN ANTHOLOGY, note 9 *supra*, at 726 (originally published in CHRISTIAN CENTURY, (February 10, 1965), p. 173) (concluding that Lincoln appreciated the role of religion in history while resisting the temptation to identify God's will with his own purposes); *id.* (stating "Lincoln's religious convictions were superior in depth and purity to those held by the religious as well as by the political leaders of his day."); TRUEBLOOD, note 3 *supra*, (examining Lincoln's theology as expressed in his words and exemplified by his deeds); *id.* at 128 (concluding that Lincoln accepted the paradox "that man is most free when he is guided [by God]"); HANS J. MORGANTHAU AND DAVID HEIN, IV ESSAYS ON LINCOLN'S FAITH AND POLITICS (Kenneth W. Thompson, ed. 1983); *id.* at 15 (Morganthau concludes that "Skepticism and fatalism, then, are the dominant moods of Lincoln's religiosity."); *id.* at 107 (Hein concludes that Lincoln was not a "fatalist" but can more accurately be described as a "witness to God."); WAYNE C. TEMPLE, ABRAHAM LINCOLN: FROM SKEPTIC TO PROPHET (1995) (describing Lincoln's life and faith in chapters named after books of the Bible, from Genesis to Judges); *id.* at 67 (concluding that Lincoln was probably a deist); *id.* at 358 (ultimately agreeing with the views of Lincoln's friend Dr. William Jayne, who said that "Mr. Lincoln was by nature a deeply religious man. But I have no evidence that he ever accepted the formulated creed of any sect or denomination."); ALLEN C. GUELZO, ABRAHAM LINCOLN: REDEEMER PRESIDENT (1999) (describing Lincoln's moral philosophy); *id.* at 458 ("Abraham Lincoln's greatest political accomplishment was … that he made the idea of the nation – a single people, unified rationally … around certain propositions that transcended ethnicity, religious denominationalism, and gender – into the central political image of the republic."); *id.* at 463 (finding it likely that Lincoln was neither an infidel nor a prophet, but rather a "doubting Thomas," as he reportedly described himself in 1846); WILLIAM BARTON, THE SOUL OF ABRAHAM LINCOLN (1920, 2005) (contending that Lincoln's religion evolved throughout his life); *id.* at 300 (setting forth the author's construction of "The Creed of Abraham Lincoln"); G. GEORGE FOX, ABRAHAM LINCOLN'S FAITH BASED LEADERSHIP (2005) (explicitly relying upon materials rejected by other historians such as recollections of private conversations); *id.* at 102-109 (finding Lincoln to be like the prophet Jeremiah). other articles from the Abraham Lincoln Association Journal; Richard Carwardine, *Lincoln's Religion*, in OUR LINCOLN: NEW PERSPECTIVES ON LINCOLN AND HIS WORLD (Eric Foner, ed., 2008) (reviewing the conflicting evidence on Lincoln's faith); *id.* at 227 ("The weight of evidence points to an evolution in his views as a adult.").

[20] *See* MACCARTNEY, note 12 *supra*, at 50 (after reviewing conflicting opinions concerning Lincoln's religion, stating "Whatever ground for debate there may be as to just what Lincoln's religious faith was, there can be no doubt as to the way in which he made use of the Scriptures in his speeches and letters and in his conversation with fellow men."); JOHN PATRICK DIGGINS, ON HALLOWED GROUND: ABRAHAM LINCOLN AND THE FOUNDATIONS OF AMERICAN HISTORY 39 (2000) (stating, "Above all, even though he was no true believer, he brought religion to bear upon politics and had no hesitation citing the Bible as a source of moral authority). *See also* Bryon C. Andreason, *Lucas E. Morel: Lincoln's Sacred Effort: Defining Religion's Role in Americn Self-Government*, 23 Journal of the Abraham Lincoln Association 79 (Summer 2002), accessed at The History Cooperative,

analyzing the literary style of Lincoln's speeches include Garry Wills, Gabor Borritt, and John Channing Briggs.[21] In this essay I seek to bring together their observations and my own concerning Lincoln's use of religious imagery, and to apply these observations to the process of constitutional interpretation.

When Lincoln quotes the Bible it is from the King James Version or perhaps its closely-related forerunner, the Geneva Bible.[22] For the sake of consistency all biblical references in this article are to the King James Version.

## I. THE PEORIA ADDRESS, OCTOBER 16, 1854

*"It still will be the abundance of man's heart, that slavery extension is wrong; and out of the abundance of his heart, his mouth will continue to speak."*

Prior to 1854, although Lincoln had cast votes against slavery as a state legislator and a Congressman, he was not outspoken in his opposition to it.[23] Something happened to Lincoln at

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http://www.historycooperative.org/journals/jala/23.1/andreasen.html (reviewing Morel's book and several others that examine Lincoln's approach to the role that religion should play in political discourse.).

[21] *See* GARRY WILLS, LINCOLN AT GETTYSBURG: THE WORDS THAT REMADE AMERICA ( 1992) (describing the literary aspects of the Gettysburg Address); GABOR BORITT, THE GETTYSBURG GOSPEL: THE LINCOLN SPEECH THAT NOBODY KNOWS (2006) (analyzing the historical context, drafting, and significance of the Gettysburg Address); BRIGGS, note 7 *supra* (containing a thorough literary analysis of several of Lincoln's speeches). *See also* LUCAS E. MOREL, LINCOLN'S SACRED EFFORT: DEFINING RELIGION'S ROLE IN AMERICAN SELF-GOVERNMENT 23-70 (describing Lincoln's use of religious imagery in a number of speeches); *id.* at 163-210 (analyzing Lincoln's Second Inaugural in depth).

[22] Was Lincoln's Bible in fact the King James Version? *See* TRUEBLOOD, note 3 *supra*, at 50, n. 3, stating that the Lincoln family Bible is now on exhibit at the Visitor's Center near his birthplace Farm in Kentucky); *id.* at 134 (stating "The version of the Bible that the young Lincoln read so avidly was, of course, that dedicated to King James in 1611."). *But see* information sheet distributed by the National Park Service (on file with author) stating that the Bible on display at the Visitor's Center of the Abraham Lincoln Birthplace National Historical Park is a "Neufchatel Bible," a 1799 revision of the Geneva Bible); WOLF, note 12 *supra*, at 36:

> Their family Bible had been published in 1799 by the Society for the Propagation of Christian Knowledge. In addition to the text it had "arguments prefixed to the different books and moral and theological observations illustrating each chapter, composed by the Reverend Mr. Ostervald, Professor of Divinity. This was the battered old Bible from which Lincoln was seen reading in the White House.

Did Lincoln's mother read to him from that Bible? *See* WOLF, note 12 *supra*, at 35-36 (stating that although some Lincoln scholars maintain that Nancy Hanks was illiterate and simply repeated passages from the Bible that she had memorized, Lincoln stated that "My mother was a ready reader and read the Bible to me habitually."); CARL SANDBURG, I ABRAHAM LINCOLN – THE PRAIRIE YEARS 416 (1926). Sandburg reports:

> He had told Mrs. Rankin over near New Salem, that before he learned to read as a boy he had heard his mother saying over certain Bible verses day by day as she worked. He had learned these verses by heart; the tones of his mother's voice were in them; and sometimes, as he read these verses, he seemed to hear the voice of Nancy Hanks speaking them.

[23] Lincoln first publicly expressed his opposition to slavery in a formal protest dated March 3, 1837, when he and five other legislators dissented from the adoption of a legislative resolution that proclaimed the "sacred" right to possess slaves. The protest that Lincoln signed stated that "the institution of slavery is founded on injustice and bad policy." 1 COLLECTED WORKS 75. *See* GOODWIN, note 2 *supra*, at 91. Lincoln also voted against slavery in Congress. *See id.*, at 127 (as of 1848, "While Lincoln had consistently voted for the Wilmot Proviso [which would have banned slavery from the American territories], he had not delivered a single speech on the issue of slavery or

the age of 45 ("Nel mezzo del cammin di nostra vita"[24]) that drew him back into politics and made him a leader in the antislavery cause.[25] In the Peoria Address Lincoln leaves a clue as to why he decided to make it his mission to oppose slavery.

In March of 1854, Stephen Douglas, the United States Senator from Illinois, engineered the enactment of the Kansas-Nebraska Act that repealed the Missouri Compromise and opened all of the western territories to slavery.[26] Americans who were opposed to slavery were outraged,[27] but for several months Lincoln kept silent.[28] Finally, on October 3, 1854, after Douglas finished delivering a major address in Springfield justifying the Act, Lincoln jumped up on the stage and told the audience to come back the following day and that he would answer Douglas.[29] They returned, and Lincoln gave them a barn-burner of a speech, full of passion, full of logic, full of legal argument – his best work by far in what had been a successful but limited career as a lawyer and politician.[30]

What was it that brought Lincoln back into the fray on such a contentious issue? The true content of any man's heart at some point in the distant past is, of course, beyond our ability to know with certainty, but Lincoln left us clues, particularly at the close of his first great speech that became known as the "Peoria Address."[31]

Douglas had staked his political reputation and career upon the principle of "Popular Sovereignty," the notion that the people living in a Territory and forming a new State have the power and the right to choose whether the State should enter the Union as a free State or a slave State.[32] For the institution of slavery to survive it had to be sustained by law.[33] Under the law of

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initiated anything to promote the issue"); *id.* at 128-129 (describing how in 1849 Lincoln drafted and circulated but was unable to garner support for a bill providing for the gradual abolition of slavery in the District of Columbia).

[24] DANTE ALIGHIERI, THE DIVINE COMEDY: HELL 1 (Louis Biancolli trans. 1966) (referring to a time when the author faced a moral challenge, translated as "Halfway along the journey of our life").

[25] *See* GOODWIN, note 2 *supra*, at 87-92 (describing Lincoln's service in the Illinois Legislature from 1834 to1842); *id.* at 119-130 (describing Lincoln's term in Congress, 1846-1848); *id.* at 150-151 (describing the resumption of his law practice.).

[26] *See* GOODWIN, note 2 *supra*, at 160-163 (describing the debate in the Senate over the Kansas-Nebraska Act, and the Senate's adoption of the Act).

[27] *See id.* at 163 (describing the reaction in the north to the Kansas-Nebraska Act).

[28] *See* DONALD, LINCOLN, note 2 *supra*, at 168 ("he [Lincoln] made no comment, public or private, on the Kansas-Nebraska measure while Douglas, with brilliant parliamentary management and unrelenting ferocity toward his opponents, forced it through both houses of Congress.") *id.* at 170 ("Lincoln held back all summer, even though it was becoming clear that Illinois would be a major battleground for Douglas and the popular-sovereignty issue."); *id.* ("He did not act until the end of August, when he spoke at the Scott County Whig Convention in Winchester ….").

[29] *See id.* at 174.

[30] *See id.* at 177 ("It was a remarkable address, more elevated in sentiment and rhetoric than any speech Lincoln had previously made, and when he finished, the women in the audience waved their white handkerchiefs in support and the men gave loud and continuous hurrahs."); BRIGGS, note 7 *supra*, at 134-135 (2005) ("When [Lincoln] finally did speak in the summer and fall of that year, the result was a powerful performance.").

[31] *See* DONALD, LINCOLN, note 2 *supra*, at 178 (stating that the speech is called the "Peoria Address" because "At Peoria, Lincoln gave essentially the same speech that he had delivered in Springfield; this time he wrote it out for publication in full over a week's issues of the *Illinois State Journal*, so that it would be widely read throughout the state.").

[32] *See id.* at 168 (stating that Stephen Douglas had included language in the Kansas-Nebraska Act providing that new states "shall be admitted into the Union, with or without slavery, as their constitution may prescribe."). *See also* GEOFFREY WARD, RIC BURNS, AND KEN BURNS, THE CIVIL WAR (1990) 28 (noting that on February 18, 1861,

property slaves were considered real or personal property;[34] masters were largely free to assault their slaves to maintain discipline,[35] and even murder of slaves went largely unpunished.[36] A slave had no constitutional rights that the master or the government was bound to respect.[37] If even one of those legal building blocks had been removed the institution of slavery would have crumbled. For any person to don the cloak of "master" over another person it was necessary for voters, legislators, and judges to affirmatively weave the threads protecting slavery into the fabric of the law.[38] Douglas maintained that pursuant to the principle of self-government the people of a State have the absolute right to adopt laws instituting slavery.[39]

In the Peoria Address Lincoln confronts this proposition head on – he "took the bull by the horns"[40] – and here is what he says about the principle of self-government:

> The doctrine of self government is right – absolutely and eternally right – but it has no just application, as here attempted. Or perhaps I should rather say that whether it has such just application depends upon whether a negro is *not* or *is* a man. If he is *not* a man, why in that case, he who *is* a man may, as a matter of self-government, do just as he pleases with him. But if the negro *is* a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern *himself*? When the white man governs himself that is self-government; but

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Jefferson Davis gave a similar justification for secession in his inaugural address , invoking "the American idea that governments rest on the consent of the governed" as a justification for secession.). Neither Douglas nor Davis, of course, consulted black people about slavery or secession.

[33] *See generally* MARK V. TUSHNET, SLAVE LAW IN THE AMERICAN SOUTH (2003) (describing the law of slavery in the southern United States prior to the Civil War); *id.* at 5 (stating, "law was a means of maintaining the ideological hegemony of the Southern master class."); *id.* at 6 ("The law of slavery supported the social and economic system of slavery.").

[34] *See id.* at 12-13 ("Slavery was … a system of property in which human beings rather than land or goods were the objects of possession, sale, and the like. Whether slaves were treated more like land … or like other possessions … mattered ….").

[35] *See id.* at 1 (stating, "Slaveholders may not be prosecuted for assaults on their slaves."); State v. Mann, 13 N.C. 263 (1830) (overturning a criminal verdict against a slaveholder who had assaulted a slave and stating, "The power of the master must be absolute to render the submission of the slave perfect.").

[36] *See id.* at 13 (stating, "far more slaves were killed under circumstances fitting the legal definition of murder than defendants were prosecuted.").

[37] *See, e.g.*, Dred Scott v. Sanford, 60 U.S. 393 (1857) (Taney, C.J.) (ruling that neither slaves, free blacks, nor their descendents could be considered citizens of the United States); *id.* at 407 (stating that at the time of the founding of the United States black people "had no rights which the white man was bound to respect.").

[38] *See* DONALD, LINCOLN, note 2 *supra*, at 218 (describing Stephen Douglas' "Freeport Doctrine," and quoting Douglas as stating "slavery cannot exist a day or an hour anywhere, unless it is supported by local police regulations.").

[39] *See id.* at 173 (paraphrasing Douglas' argument as being that "free men [have] the right to choose their own social institutions, including slavery.").

[40] About midway through the Peoria Address Lincoln stated:

> But one great argument in the support of the repeal of the Missouri Compromise, is still to come. That argument is "the sacred right of self government." It seems our distinguished Senator [Stephen Douglas] has found great difficulty in getting his antagonists, even in the Senate to meet him fairly on this argument – some poet has said
>
> "Fools rush in where angels fear to tread."
>
> At the hazzard of being thought one of the fools of this quotation, I meet that argument – I rush in, I take that bull by the horns.

2 COLLECTED WORKS 265.

> when he governs himself, and also governs *another* man, that is *more* than self-government---that is despotism. If the negro is a *man*, why then my ancient faith teaches me that "all men are created equal;" and that there can be no moral right in connection with one man's making a slave of another.[41]

In arguing against the inherent right of one people to enslave another Lincoln constructs a legal argument, making masterful use of the Declaration of Independence and the intent of the framers. After framing the specific issue (whether the principle of self-government supports the institution of slavery) Lincoln structures his speech as if it were an argument of logic or the brief of a case. He poses a series of questions – "Is the Negro a man? … Does not a man have the right to govern himself?" – and syllogizes answers to those questions.[42] He quotes the Declaration twice – once in the paragraph set forth above, and once again at length, the second time emphasizing the words that governments are instituted among men, "DERIVING THEIR JUST POWERS FROM THE CONSENT OF THE GOVERNED."[43]

But Lincoln does not limit himself to logic and legal argument. Even as he frames the issues and structures his arguments Lincoln intertwines his message with religious imagery. Each time that he quotes the Declaration of Independence he refers to it as an "ancient faith," first to express his own commitment, and second to describe our collective beliefs:

> **my ancient faith** teaches me that "all men are created equal;" … according to **our ancient faith**, the just powers of governments are derived from the consent of the governed.[44]

As the Civil War draws closer Lincoln's use of religious imagery in reference to the Declaration prolificates,[45] and as the war progresses at such terrible cost Lincoln increasingly expresses, in religious terms, both his sense of personal moral obligation and his understanding of national purpose.[46] But even at this early time in the Peoria Address Lincoln uses the Bible to communicate why slavery is wrong. Near the close of the Peoria Address Lincoln expressly sets aside law, politics, and history and instead he appeals to the religious beliefs of his audience, using phrases that they all were familiar with, and it is these words that are a window into Lincoln's heart. He says:

> Argue as you will, and long as you will, this is the naked FRONT and ASPECT, of the measure. And in this aspect, it could not but produce agitation. Slavery is founded in the selfishness of man's nature – opposition to it, is [in?] his love of justice. These principles are in eternal antagonism; and when brought into collision so fiercely, as slavery extension brings them, shocks, and throes, and convulsions must ceaselessly follow. Repeal the Missouri compromise – repeal

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[41] *Id.* at 265-266.
[42] *Id.*
[43] *Id.* (emphasis in original).
[44] *Id.* (emphasis supplied).
[45] For example, in his speech at Springfield on June 26, 1857, referring to the founding generation, he says, "In those days, our Declaration of Independence was held sacred by all." 2 COLLECTED WORKS 04. *See also* Part IV *infra* (describing the religious imagery from the Lewistown Speech and the speech at Cooper Union).
[46] *See* Parts VI and VII *infra* (analyzing the Gettysburg Address and the Second Inaugural).

> all compromises – repeal the declaration of independence – repeal all past history, you still can not repeal human nature. **It still will be the abundance of man's heart, that slavery extension is wrong; and out of the abundance of his heart, his mouth will continue to speak.**[47]

In the foregoing paragraph Lincoln abandons logical argument ("argue as you will, and as long as you will") and legal argument (repeal … repeal … repeal) for moral intuition. He conveys the fundamental conflict between those who think slavery right and those who think it wrong through the use of a series of powerful literary devices: stark contrast ("selfishness of man's nature" / "his love of justice"); vivid metaphor ("eternal antagonism" / "brought into collision so fiercely" / "shocks and throes and convulsions"); and repetition and parallel construction ("Repeal … repeal … repeal … you still can not repeal").

In the final sentence of his peroration Lincoln places his principal point – "slavery extension is wrong" – in the middle of a biblical reference which most nearly corresponds to a portion of the Sermon on the Mount as recorded in the following passage from the Book of Luke:

> For a good tree bringeth not forth corrupt fruit; neither doth a corrupt tree bring forth good fruit. For every tree is known by his own fruit. For of thorns men do not gather figs, nor of a bramble bush gather they grapes. **A good man out of the good treasure of his heart bringeth forth that which is good; and an evil man out of the evil treasure of his heart bringeth forth that which is evil: for of the abundance of the heart his mouth speaketh.**[48]

Stephen Douglas was much admired – he was one of the country's leading citizens and finest orators[49] – and Douglas had become a powerful man because he sought to open the west to slavery.[50] This passage from the Book of Luke may have brought Lincoln to the understanding that as powerful and as eloquent as Douglas was, still his words had sprung from a fundamentally corrupt belief.[51] Furthermore, it may have inspired Lincoln to the point that he

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[47] 2 COLLECTED WORKS 271.

[48] Luke 6:43-45. A close variant of this quote is also found in the Book of Matthew:

> "Either make the tree good, and his fruit good; or else make the tree corrupt, and his fruit corrupt: for the tree is known by his fruit. O generation of vipers, how can ye, being evil, speak good things? **for out of the abundance of the heart the mouth speaketh.** A good man out of the good treasure of the heart bringeth forth good things: and an evil man out of the evil treasure bringeth forth evil things. But I say unto you, That every idle word that men shall speak, they shall give account thereof in the day of judgment. For by thy words thou shalt be justified, and by thy words thou shalt be condemned."

Matthew 12:33-37

[49] *See* DONALD, LINCOLN, note 2 *supra*, at 163 (referring to Douglas as "the most powerful member of the United states Senate); *id.* at 214-215 (contrasting Douglas' graceful appearance to that of Lincoln at the debates); GOODWIN, note 2 *supra*, at 164-165 (describing Douglas' powerful oratorical style).

[50] *See* DONALD, LINCOLN, note 2 *supra*, at 168 (referring to Douglas' "brilliant parliamentary management" of the Kansas Nebraska Act).

[51] *See* BRIGGS, note 7 *supra*, at 158 (stating that Lincoln was arguing that "Douglas' legislation is malicious" and that the Kansas-Nebraska Act is wrong because it provoked a conflict between "self-interest and the love of justice.").

could, out of the abundance of *his* heart, find the courage to speak out forcefully against the extension of slavery.[52]

## II. THE "HOUSE DIVIDED" SPEECH, JUNE 16, 1858

*"A house divided against itself cannot stand."*

Four years after the Peoria Address, in accepting the Republican nomination to run for United States Senator from Illinois against Stephen Douglas, Lincoln delivered another rousing speech[53] in which he insists that the expansion of slavery must be halted and demands that the institution of slavery must be put "in the course of ultimate extinction." This speech is famously known by the biblical quotation Lincoln uses in the introductory portion of his address: "A house divided against itself cannot stand." The central biblical metaphor in this speech implicitly – almost subliminally – connects slavery with Satan. Here is the passage of the speech in which the quotation appears:

> Mr. PRESIDENT and Gentlemen of the Convention.
>
> If we could first know *where* we are, and *whither* we are tending, we could then better judge *what* to do, and *how* to do it. We are now far into the *fifth* year, since a policy was initiated, with the *avowed* object, and *confident* promise, of putting an end to slavery agitation.
>
> Under the operation of that policy, that agitation has not only, *not ceased*, but has *constantly augmented*. In *my* opinion, it *will* not cease, until a *crisis* shall have been reached, and passed.
>
> "**A house divided against itself cannot stand**."
>
> I believe this government cannot endure, permanently half *slave* and half *free*.
>
> I do not expect the Union to be *dissolved* – I do not expect the house to *fall* – but I *do* expect it will cease to be divided.
>
> It will become *all* one thing, or *all* the other.
>
> Either the *opponents* of slavery, will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in course of ultimate extinction; or its *advocates* will push it forward, till it shall become alike lawful in *all* the States, *old* as well as *new* – *North* as well as *South*.[54]

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[52] *See* WOLF, note 12 *supra*, at 90 (referring to Lincoln's return to politics in 1854 and stating, "In finding a cause that was bigger than himself Lincoln actually found himself.").
[53] 2 COLLECTED WORKS, at 461-468 ("A House Divided": Speech at Springfield, Illinois).
[54] *Id.* at 461-462.

Like the Peoria Address, the opening paragraph of this speech reminds us of the opening to Dante's Inferno, from the Divine Comedy – "I found myself in a dark wood, having strayed from the right path."[55] In asking "where we are, and whither we are going," it was necessary to acknowledge that the country was at a critical crossroads – that America faced a conflict of biblical proportions and a moral choice of eternal significance. Lincoln described this conflict and this choice through the use of antonyms, parallel but contrasting sentence structure, and the repetition of the word "not." The complex symmetry of Lincoln's prose poem is illustrated below:

> "agitation has **not** only **not** *ceased*, but has constantly *augmented* … it will **not** cease, until a crisis shall have been reached and passed … this government can**not** endure, permanently half *slave* and half *free* … I do **not** expect / I do **not** expect / I ***do*** expect … *all one thing*, or *all the other* … the *opponents* of slavery, will *arrest the further spread* of it / or its *advocates* will *push it forward*."[56]

But the most memorable language from this passage is the biblical quotation at its heart – "**A house divided against itself cannot stand.**" The metaphor of a "house divided" is an apt description of the coming Civil War – a war of brother against brother.[57] But what makes the quotation particularly meaningful is the larger context from which it is taken.

The "house divided" language is taken from Mark 3. In that chapter of the Bible Jesus taught his disciples how to heal others and to "cast out devils," but Jesus was then accused of serving the devil. Jesus then defends himself against this charge:

> And the scribes which came down from Jerusalem said, He hath Beelzebub, and by the prince of the devils casteth he out devils. And he called them *unto him*, and said unto them in parables, How can Satan cast out Satan? And if a kingdom be divided against itself, that kingdom cannot stand. **And if a house be divided against itself, that house cannot stand.** And if Satan rise up against himself, and be divided, he cannot stand, but hath an end. No man can enter into a strong man's house, and spoil his goods, except he will first bind the strong man; and then he will spoil his house. [58]

On other occasions Lincoln used powerful metaphors to describe slavery. At Peoria Lincoln had compared slavery to "a cancer." Lincoln uses the metaphor to suggest that the framers were ashamed of the institution and wanted to rid themselves of it, but that they did not know how:

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[55] HELL, note 23 *supra*, at 1.
[56] *Id.*
[57] *See* Ward, at 210 (stating that Mary Lincoln not only wept when her brother-in-law Confederate General Ben Hardin Helm died in battle, but that she also said that she hoped *all* of her relatives fighting for the Confederacy would be killed.).
[58] Mark 3:22-27; *see also* Matthew 12:22-26.

> [T]he thing is hid away, in the constitution, just as an afflicted man hides away a wen or a cancer, which he dares not cut out at once, lest he bleed to death; with the promise, nevertheless, that the cutting may begin at the end of a given time.[59]

Two years after the "House Divided" speech, in a speech at Hartford, Connecticut, Lincoln composes an extended metaphor comparing slavery to a snake, rather explicitly equating slavery with Satan.[60] But in the "House Divided" speech the comparison of the institution of slavery to satanic possession is more subtle and more powerful.[61] Lincoln implies that slavery is a devil that must eventually be cast out from America. As, in deed, it was.

In the following speeches Lincoln associates the Declaration of Independence with the Bible.

## III. SPEECH AT CHICAGO, JULY 10, 1858

*"As your father in heaven is perfect, be ye also perfect"*

In his speech at Chicago on July 10, 1858, prefatory to the debates with Stephen Douglas Lincoln centers his campaign on five words: "All men are created equal." Lincoln maintains that this principle is a "standard" – a standard that we must aspire to, just like religious standards.

That Lincoln based his political beliefs upon the principles of the Declaration there is no doubt. On February 22, 1861, at Independence Hall in Philadelphia, Lincoln stated:

> I have never had a feeling politically that did not spring from the sentiments embodied in the Declaration of Independence.[62]

In this address in the ethnically-mixed metropolis of Chicago,[63] Lincoln accords immigrants and their families equal standing to native-born Americans. At a time when the fiercely anti-immigrant "American" or "Know-Nothing" party was in the ascendency and was

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[59] 2 COLLECTED WORKS 274.

[60] *See* 4 COLLECTED WORKS 5. Lincoln states:

> If, then, we of the Republican party who think slavery is a wrong, and would mould public opinion to the fact that it is wrong, should get the control of the general government, I do not say we would or should meddle with it where it exists; but we could inaugurate a policy which would treat it as a wrong, and prevent its extension.
>
> For instance, out in the street, or in the field, or on the prairie I find a rattlesnake. I take a stake and kill him. Everybody would applaud the act and say I did right. But suppose the snake was in a bed where children were sleeping. Would I do right to strike him there? I might hurt the children; or I might not kill, but only arouse and exasperate the snake, and he might bite the children. Thus, by meddling with him here, I would do more hurt than good. Slavery is like this. We dare not strike at it where it is. The manner in which our constitution is framed constrains us from making war upon it where it already exists. The question that we now have to deal with is, "Shall we be acting right to take this snake and carry it to a bed where there are children?" The Republican party insists upon keeping it out of the bed.

[61] *See* BRIGGS, note 7 *supra*, at 168 ("The Union is, in a word, possessed.").

[62] 4 COLLECTED WORKS 240-241.

[63] *See* ENCYCLOPEDIA OF CHICAGO, *Demography*, accessed at http://encyclopedia.chicagohistory.org/pages/962.html, (stating "The city was already half foreign-born in 1860.")

one of the constituencies that the newly formed Republican Party needed, it was a bold move.[64] At Chicago, Lincoln said:

> We have besides these men [native-born Americans of British lineage] – descended by blood from our ancestors – among us perhaps half our people who are not descendants at all of these men, they are men who have come from Europe – German, Irish, French and Scandinavian – men that have come from Europe themselves, or whose ancestors have come hither and settled here, finding themselves our equals in all things. If they look back through this history to trace their connection with those days by blood, they find they have none, they cannot carry themselves back into that glorious epoch and make themselves feel that they are part of us, but when they look through that old Declaration of Independence they find that those old men say that "We hold these truths to be self-evident, that all men are created equal," and then they feel that that moral sentiment taught in that day evidences their relation to those men, that it is the father of all moral principle in them, and that they have a right to claim it as though they were blood of the blood, and flesh of the flesh of the men who wrote that Declaration, and so they are. That is the electric cord in that Declaration that links the hearts of patriotic and liberty-loving men together, that will link those patriotic hearts as long as the love of freedom exists in the minds of men throughout the world.[65]

In the foregoing passage Lincoln draws a number of powerful images that he will build upon in the remainder of this address and in future speeches. Lincoln wants immigrants to regard the founders as if they were their own fathers: to consider themselves "blood of the blood, flesh of the flesh" of the framers of the Declaration. (At Gettysburg, "those old men" who wrote the Declaration explicitly become "Our fathers.")[66] Even more importantly, the idea that "all men are created equal" in "that old Declaration of Independence" "is the **father** of all moral principle."[67] Lincoln suggested that just as the founding generation had to struggle against the inequity of monarchy, his own generation had to fight the inequity of slavery, and he contends that arguments in favor of slavery are the same as arguments in favor of monarchy.[68] Lincoln

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[64] *See* GOODWIN, note 2 *supra*, at 180 (describing the rise of the Know-Nothing Party in the early 1850s); *id.* ("Lincoln had nothing but disdain for the discriminatory beliefs of the Know-Nothings."); DONALD, LINCOLN, note 2 *supra*, at 170 ("Lincoln had no sympathy for nativism, but he had to recognize that Know Nothings were a powerful political force ….").

[65] 2 COLLECTED WORKS 499-500.

[66] *See* notes 104-105 *infra* and accompanying text.

[67] *See* text accompanying note 64 *supra* (emphasis added).

[68] 2 COLLECTED WORKS 500-501. Lincoln stated at Chicago:

> Those arguments that are made, that the inferior race are to be treated with as much allowance as they are capable of enjoying; that as much is to be done for them as their condition will allow. What are these arguments? They are the arguments that kings have made for enslaving the people in all ages of the world. You will find that all the arguments in favor of king-craft were of this class; they always bestrode the necks of the people, not that they wanted to do it, but because the people were better off for being ridden. That is their argument, and this argument of the Judge is the same old serpent that says you work and I eat, you toil and I will enjoy the fruits of it. Turn in whatever way you will---whether it come from the mouth of a King, an excuse for enslaving the people of his country, or from the mouth of men of one race as a reason for enslaving the men of another race, it is all the same old serpent, and I hold if that course of argumentation that is made for the purpose of convincing the public mind that we should not care about this, should be

does not deny that slavery is the law, but he reminds his audience that at one time the divine right of kings was the law, and that their ancestors had revolted against the concept.[69] At Chicago Lincoln repeated the argument that he had made at Peoria that the framers of the Constitution countenanced slavery only because of "necessity," and not as a matter of principle.[70] Lincoln raises the Declaration above the Constitution; he calls the Declaration "the charter of our liberties."[71] Lincoln says, "Let that charter stand as our standard."[72]

The word "standard" is a legal term, but Lincoln's understanding of the standard of equality is much broader than a simple rule of law. Near the end of this speech Lincoln explains to his audience that the standard "all men are created equal" is equivalent to a divine injunction that calls us to obedience:

> My friend has said to me that I am a poor hand to quote Scripture. I will try it again, however. It is said in one of the admonitions of the Lord, "**As your Father in Heaven is perfect, be ye also perfect.**" The Savior, I suppose, did not expect that any human creature could be perfect as the Father in Heaven; but He said, "**As your Father in Heaven is perfect, be ye also perfect.**" He set that up as a standard, and he who did most towards reaching that standard, attained the highest

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> granted, it does not stop with the negro. I should like to know if taking this old Declaration of Independence, which declares that all men are equal upon principle and making exceptions to it where will it stop. If one man says it does not mean a negro, why not another say it does not mean some other man? If that declaration is not the truth, let us get the Statute book, in which we find it and tear it out! Who is so bold as to do it! [Voices---``me" ``no one," &c.] If it is not true let us tear it out! [cries of ``no, no,"] let us stick to it then, [cheers] let us stand firmly by it then. [Applause.]

*See also* 3 COLLECTED WORKS 315 (where Lincoln expresses the same idea so eloquently in the seventh and last debate at Alton, Illinois):

> That is the real issue. That is the issue that will continue in this country when these poor tongues of Judge Douglas and myself shall be silent. It is the eternal struggle between these two principles---right and wrong---throughout the world. They are the two principles that have stood face to face from the beginning of time; and will ever continue to struggle. The one is the common right of humanity and the other the divine right of kings. It is the same principle in whatever shape it develops itself. It is the same spirit that says, "You work and toil and earn bread, and I'll eat it." No matter in what shape it comes, whether from the mouth of a king who seeks to bestride the people of his own nation and live by the fruit of their labor, or from one race of men as an apology for enslaving another race, it is the same tyrannical principle.

[69] *See id.*

[70] *See* 2 COLLECTED WORKS 501. At Chicago, Lincoln stated:

> It may be argued that there are certain conditions that make necessities and impose them upon us, and to the extent that a necessity is imposed upon a man he must submit to it. I think that was the condition in which we found ourselves when we established this government. We had slavery among us, we could not get our constitution unless we permitted them to remain in slavery, we could not secure the good we did secure if we grasped for more, and having by necessity submitted to that much, it does not destroy the principle that is the charter of our liberties. Let that charter stand as our standard.

*See also id.* at 274 (the Peoria Address, where Lincoln had said "The argument of "Necessity" was the only argument they ever admitted in favor of slavery ….").

[71] *See* note 69 *supra*, at 2 COLLECTED WORKS 501.

[72] *Id.*

> degree of moral perfection. So I say in relation to the principle that all men are created equal, let it be as nearly reached as we can.[73]

Lincoln's closing remarks at Chicago echo a revival meeting, in which he calls his listeners to rededicate themselves to the idea "all men are created equal:"

> If we cannot give freedom to every creature, let us do nothing that will impose slavery upon any other creature. Let us then turn this government back into the channel in which the framers of the Constitution originally placed it. Let us stand firmly by each other. …
>
> My friends, I have detained you about as long as I desired to do, and I have only to say, let us discard all this quibbling about this man and the other man – this race and that race and the other race being inferior, and therefore they must be placed in an inferior position – discarding our standard that we have left us. Let us discard all these things, and unite as one people throughout this land, until we shall once more stand up declaring that all men are created equal.[74]

## IV. THE LEWISTOWN SPEECH, AUGUST 17, 1858

*"Return to the fountain whose waters spring close by the blood of the Revolution."*

On August 17, 1858, at Lewistown, Illinois, Lincoln repeats the revival theme that he closed with at Chicago, finding even more eloquent language to call Americans back to the principles of the Declaration. At Lewistown, Lincoln sought to convey the significance of the Declaration with this appeal:

> Now, my countrymen … if you have been taught doctrines conflicting with the great landmarks of the Declaration of Independence; if you have listened to suggestions which would take away from its grandeur, and mutilate the fair symmetry of its proportions; if you have been inclined to believe that all men are *not* created equal in those inalienable rights enumerated by our chart of liberty, let me entreat you to come back. **Return to the fountain whose waters spring close by the blood of the Revolution.** Think nothing of me – take no thought for the political fate of any man whomsoever – but come back to the truths that are in the Declaration of Independence. You may do anything with me you choose, if you will but heed these sacred principles. You may not only defeat me for the Senate, but you may take me and put me to death. While pretending no indifference to earthly honors, I *do claim* to be actuated in this contest by something higher than an anxiety for office. I charge you to drop every paltry and insignificant thought for any man's success. It is nothing; I am nothing; Judge Douglas is nothing. *But*

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[73] 2 COLLECTED WORKS 501. Lincoln is evidently quoting Matthew 5:48: "Be ye therefore perfect, even as your Father which is in heaven is perfect."
[74] *Id.*

> *do not destroy that immortal emblem of Humanity---the Declaration of American Independence*.[75]

The number and variety of poetic and religious allusions to the Declaration in the foregoing passage are breathtaking. Lincoln commences this passage with landscape or architectural metaphors ("great landmarks," "grandeur," "fair symmetry") but quickly shifts to an extended religious metaphor. He entreats his audience, as if they were attending a revival, to "come back …return … come back … heed these sacred principles." In a cadenced sentence he implores his listeners to "return to the fountain whose waters spring close by the blood of the Revolution," a four-pronged metaphor ("fountain … waters … spring … blood") for the Declaration, its principles, and the sacrifices of the founders.

Like the earlier imagery in this speech, Lincoln's plea for us to "return to the fountain whose waters spring close by the blood of the Revolution" appears to be a landscape or architectural metaphor, but I believe that it would also have reminded his listeners of several Bible passages: how, in the Song of Songs, the beloved is described as "a fountain of gardens, a well of living waters;"[76] how in Jeremiah, God says, "For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water;"[77] how it is said in Isaiah, "And the LORD shall guide thee continually, and satisfy thy soul in drought, and make fat thy bones: and thou shalt be like a watered garden, and like a spring of water, whose waters fail not;"[78] and how, in the Book of Revelations, a great multitude stood before the throne of God, and their robes had been washed white "in the blood of the Lamb."[79] The Declaration is the fountain of our liberties; its principles are living waters; it springs from the sacrifices of the founding generation.

Lincoln concludes his speech by reducing the "earthly" concern for honors to "nothing" – "I am nothing; Judge Douglas is nothing." This reminds us of the refrain from Ecclesiastes that much of life is "vanity" and "vexation of spirit," particularly this passage:

> So I returned, and considered all the oppressions that are done under the sun: and behold the tears of such as were oppressed, and they had no comforter; and on the side of their oppressors there was power; but they had no comforter. Wherefore I praised the dead which are already dead more than the living which are yet alive. Yea, better is he than both they, which hath not yet been, who hath not seen the evil work that is done under the sun.
> Again, I considered all travail, and every right work, that for this a man is envied of his neighbour. This is also vanity and vexation of spirit.[80]

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[75] 2 COLLECTED WORKS 547.
[76] Song of Songs 4:15.
[77] Jeremiah 2:13.
[78] Isaiah 58:11.
[79] Revelations 7:13-14. Four years earlier, at Peoria, Lincoln had made a more explicit use of this biblical metaphor:

> Our republican robe is soiled, and trailed in the dust. Let us repurify it. Let us turn and wash it white, in the spirit, if not the blood, of the Revolution."

2 COLLECTED WORKS 276.
[80] Ecclesiastes 4:1-4.

Like the author of Ecclesiastes, Lincoln says that fame or exalted position, even as a reward for good works, is of no matter, but unlike that author, Lincoln is neither hopeless nor fatalistic in the face of oppression; instead he tells his audience at Lewistown that there is *one* thing that matters in the election – "that immortal emblem of Humanity – the Declaration of American Independence."

As the war drew closer Lincoln's rhetoric grew even stronger. On February 27, 1860, at Cooper Union, Lincoln exhorted his audience to have "faith" in the antislavery position and he implored them to be ready to meet their obligation to defend that faith:

> Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the Government nor of dungeons to ourselves. LET US HAVE FAITH THAT RIGHT MAKES MIGHT, AND IN THAT FAITH, LET US, TO THE END, DARE TO DO OUR DUTY AS WE UNDERSTAND IT.[81]

After Lincoln's election to the Presidency the crisis will be reached.

## V. THE "WORD FITLY SPOKEN" FRAGMENT, EARLY 1861

*"The assertion of that principle, at that time, was the word, 'fitly spoken' which has proved an 'apple of gold' to us."*

When secession and civil war were imminent the newly-elected President Lincoln ruminated on the reasons to preserve the Union, and he was drawn to consider the relation between the Declaration of Independence and the Constitution. In the short fragment set forth below Lincoln borrows the language of the Bible to illustrate this relationship.

After the election of 1860, as the South prepared to secede and both sides prepared for war, Lincoln exchanged letters with his friend Alexander Stephens, the former Congressman from Georgia and future Vice-President of the Confederacy.[82] Stephens is most famous for his "Cornerstone Address,"[83] in which he argued that the idea that "all men are created equal" is "fundamentally wrong."[84] Stephens said that in contrast to the Declaration:

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[81] 3 COLLECTED WORKS 550. (Address at Cooper Institute, New York City).

[82] *See* Biographical Dictionary of the United States Congress, Stephens, Alexander Hamilton (1812-1883), at http://bioguide.congress.gov/scripts/biodisplay.pl?index=S000854.

[83] *See* Modern History Sourcebook: Alexander H. Stephens (1812-1883): Cornerstone Address, March 21, 1861 at http://www.fordham.edu/halsall/mod/1861stephens.html; *see also* KENNETH M. STAMPP, THE CAUSES OF THE CIVIL WAR 152-153 (1991) (excerpting the Cornerstone Address).

[84] *Id.* Stephens invoked a biblical image in conveying this idea:

> The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old Constitution were, that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally and politically. … Those ideas, however, were fundamentally wrong. They rested upon the assumption of the equality of races. This was an error. It was a sandy foundation, and the idea of a Government built upon it – when the "storm came and the wind blew, it *fell*."

(emphasis in original).

> Our new government [the Confederacy] is built upon exactly the opposite ideas; its foundations are laid, its cornerstone rests, upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and moral condition. This, our new Government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth.[85]

Despite his commitment to slavery, however, Stephens did not desire war, and in December, 1860, he exchanged letters with Lincoln seeking to prevent secession and preserve the peace. On December 22, 1860 Lincoln wrote Stephens this note:

> Your obliging answer to my short note is just received, and for which please accept my thanks. I fully appreciate the present peril the country is in, and the weight of responsibility on me.
>
> Do the people of the South really entertain fears that a Republican administration would, *directly, or indirectly*, interfere with their slaves, or with them, about their slaves? If they do, I wish to assure you, as once a friend, and still, I hope, not an enemy, that there is no cause for such fears.
>
> The South would be in no more danger in this respect, than it was in the days of Washington. I suppose, however, this does not meet the case. You think slavery is *right* and ought to be extended; while we think it is *wrong* and ought to be restricted. That I suppose is the rub. It certainly is the only substantial difference between us.[86]

On December 30, 1860, Stephens replied to Lincoln, imploring him to assuage the fears of the south:

> Personally, I am not your enemy – far from it; and however widely we may differ politically, yet I trust we both have an earnest desire to preserve and maintain the Union. . . . When men come under the influence of fanaticism, there is no telling where their impulses or passions may drive them. This is what creates our discontent and apprehensions, not unreasonable when we see . . . such reckless exhibitions of madness as the John Brown raid into Virginia, which has received so much sympathy from many, and no open condemnation from any of the leading members of the dominant party. . . . In addressing you thus, I would have you understand me as being not a personal enemy, but as one who would have you do what you can to save our common country. A word fitly spoken by you now would be like "apples of gold in pictures of silver."[87]

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[85] *Id.*

[86] 4 COLLECTED WORKS 160 (letter to Alexander Stephens).

[87] 4 COLLECTED WORKS 160-161 n. 1 (*quoting* RECOLLECTIONS OF ALEXANDER H. STEPHENS (Myrta L. Avary 1910)). Three years later, on February 3, 1864, Lincoln met Stephens at Fort Monroe to see whether an end to the war could be negotiated without further bloodshed. The conference failed because Lincoln insisted upon the

Stephens' closing words quote one of the sayings of Solomon contained in Chapter 25 of the Book of Proverbs. These sayings instruct us how to speak to rulers or to each other in a time of conflict or crisis.[88] It was thus perfectly appropriate to the occasion.

Lincoln never responded to Stephens' plea to condemn John Brown's raid. He had, in fact, already condemned the raid,[89] and he had already and would again issue many statements plainly expressing that he had no intention of interfering with slavery where it already existed.[90] But the biblical phrase at the close of Stephens' letter of December 30 apparently triggered in Lincoln some thoughts about the relation between the Declaration of Independence and the Constitution of the United States. After Lincoln's death the following undated, unsigned fragment was found among his papers.[91] Evidently referring to the success of the American experiment and to the country's material prosperity, Lincoln wrote:

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restoration of the union and an end to slavery, and Stephens could not agree to either of these conditions. *See* GOODWIN, note 2 *supra*, at 693-694 (describing the Hampton Roads Conference).

[88] *See* Proverbs 25:8-15 (King James Version). Here are some of the sayings surrounding the passage in question:

> Go not forth hastily to strive, lest thou know not what to do in the end thereof, when thy neighbour hath put thee to shame.
> Debate thy cause with thy neighbour himself; and discover not a secret to another:
> Lest he that heareth it put thee to shame, and thine infamy turn not away.
> **A word fitly spoken is like apples of gold in pictures of silver.**
> As an earring of gold, and an ornament of fine gold, so is a wise reprover upon an obedient ear.
> As the cold of snow in the time of harvest, so is a faithful messenger to them that send him: for he refresheth the soul of his masters.
> Whoso boasteth himself of a false gift is like clouds and wind without rain.
> By long forbearing is a prince persuaded, and a soft tongue breaketh the bone.

[89] *See* GOODWIN, note 2 *supra*, at 228 (stating although Lincoln acknowledged that Brown had displayed "great courage" and "rare unselfishness," he concluded "that cannot excuse violence, bloodshed, and treason."); DONALD, LINCOLN, note 2 *supra*, at 239 (describing how Lincoln condemned Brown's raid as "wrong" and called him "insane");

[90] *See, e.g.*, 4 COLLECTED WORKS 262-263 (Lincoln's First Inaugural Address, March 4, 1961), where Lincoln said:

> Apprehension seems to exist among the people of the Southern States, that by the accession of a Republican Administration, their property, and their peace, and personal security, are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed, and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you.
>
> I do but quote from one of those speeches when I declare that "I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so." Those who nominated and elected me did so with full knowledge that I had made this, and many similar declarations, and had never recanted them. And more than this, they placed in the platform, for my acceptance, and as a law to themselves, and to me, the clear and emphatic resolution which I now read:
>
> "*Resolved*, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

[91] *See* 4 COLLECTED WORKS 169 n. 1 (stating that "The only clue in the context as to a date is Lincoln's allusion to the metaphor in *Proverbs* 25:11, which Alexander Stephens had used in his letter to Lincoln of December 30, 1860 ….").

> All this is not the result of accident. It has a philosophical cause. Without the *Constitution* and the *Union*, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of "Liberty to all"' – the principle that clears the *path* for all – gives *hope* to all – and, by consequence, *enterprize*, and *industry* to all.
>
> The *expression* of that principle, in our Declaration of Independence, was most happy, and fortunate. *Without* this, as well as *with* it, we could have declared our independence of Great Britain; but *without* it, we could not, I think, have secured our free government, and consequent prosperity. No oppressed, people will *fight*, and *endure*, as our fathers did, without the promise of something better, than a mere change of masters.
>
> **The assertion of that *principle*, at *that time*, was *the* word, "*fitly spoken*" which has proved an "apple of gold" to us. The *Union*, and the *Constitution*, are the *picture* of *silver*, subsequently framed around it.** The picture was made, not to *conceal*, or *destroy* the apple; but to *adorn*, and *preserve* it. The *picture* was made *for* the apple – *not* the apple for the picture.
>
> So let us act, that neither *picture*, or *apple*, shall ever be blurred, or bruised or broken.[92]

Stephens had employed the phrase "the word fitly spoken" to persuade Lincoln to conciliate the South and thereby preserve both the Union and slavery. He invoked the proverb in a straightforward and literal manner – he hoped that Lincoln's utterances might calm the waters and prevent civil war. In contrast, Lincoln focuses on the metaphor contained in second half of the quote – "the word fitly spoken *is like apples gold in pictures of silver*" – and he explores a much deeper meaning. Lincoln attempts to describe the proper relation between the fundamental ideals of this country and its present form of constitutional government. Lincoln ends up using the biblical metaphor to support a proposition that Stephens opposed[93] – that the Constitution and its provisions protecting slavery[94] are secondary and inferior to the great principles of liberty and equality contained in the Declaration.

Consider how Lincoln introduces the quotation:

"The assertion of that *principle*, at *that time*, was *the word* …."[95]

In other words, the language of the Declaration of Independence was "the word" that was spoken "in the beginning."[96] Lincoln is identifying the Declaration with the Word of God, the

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[92] 4 COLLECTED WORKS 168-169.
[93] *See* note __ *supra* and accompanying text.
[94] *See* Art. I, sec. 2, cl. 3 (Three-Fifths Clause); Art. I, sec. 9, cl. 1 (clause protecting the slave trade); Art. IV, sec. 2, cl. 3 (Fugitive Slave Clause).
[95] 4 COLLECTED WORKS 169.
[96] *See* John 1:1 ("In the beginning was the Word, and the Word was with God, and the Word was God."

Bible; in contrast, the present American government that the Constitution "ordains"[97] is merely the Church, the vessel carrying the Word. Whatever Lincoln's religion was, it "was centered far more in the Bible than in the Church."[98] The principles announced in the Declaration constitute the "apple of gold" and the government created by the Constitution is the "picture of silver" framed around it. "The picture was made for the apple – not the apple for the picture."

Two and a half years later at the height of the Civil War Lincoln delivered his greatest speech, the Gettysburg Address – the speech that historian Garry Wills refers to as "The Words that Remade America."[99] In this speech Lincoln persuades the people of our country to embrace the principles of the Declaration as the touchstone of American identity.

## VII. THE GETTYSBURG ADDRESS, NOVEMBER 19, 1863

*"Four score and seven years ago, our fathers brought forth on this continent a new nation"*

The Gettysburg Address is so familiar to us – as children nearly all Americans are asked to commit the speech to memory – that we take its great passages for granted. Certainly the most famous analysis of the speech is Wills' Pulitzer-prize winning work, *Lincoln at Gettysburg*, in which Wills explores the philosophical and literary foundations of the speech.[100] In this article I focus primarily upon the biblical references contained in the first few words of the speech: "Four score and seven years ago our fathers brought forth on this continent a new nation …."

The Gettysburg Address is quite short: eleven sentences, 266 words. Here is the Address in its entirety:

> **Fourscore 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 battlefield 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 cannot dedicate, we cannot consecrate, we cannot 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,

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[97] U.S. CONST. pmbl. ("We, the people of the United States … do ordain and establish this Constitution for the United States of America.").

[98] TRUEBLOOD, note 3 *supra*, at 55; *see also* WOLF, note 12 *supra*, at 42 (stating, "The Bible far more than competing churches was his source of inspiration.").

[99] GARRY WILLS, LINCOLN AT GETTYSBURG: THE WORDS THAT REMADE AMERICA (1992).

[100] *Id.*

> 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.[101]

As Wills and many others have noted, the central metaphor in the Gettysburg Address is one of birth, life, death, and rebirth,[102] bringing to mind the unending cycle of the seasons or the enduring significance of the life of Christ.[103] These images, in turn, stand for the eternal and unchanging truths that the soldiers of the Civil War died for – liberty and equality. At Gettysburg, by means of this metaphor, Lincoln infused the war with meaning.

In many previous speeches Lincoln had expressed similar ideas. He had often linked the principles of the Declaration to the sacrifices that the Revolutionary generation had made for us. For example, on February 22, 1861, at Independence Hall in Philadelphia, Lincoln had said:

> I have often pondered over the dangers which were incurred by the men who assembled here and adopted that Declaration of Independence – I have pondered over the toils that were endured by the officers and soldiers of the army, who achieved that Independence. I have often inquired of myself, what great principle or idea it was that kept this Confederacy so long together. It was not the mere matter of the separation of the colonies from the mother land; but something in that Declaration giving liberty, not alone to the people of this country, but hope to the world for all future time. It was that which gave promise that in due time the weights should be lifted from the shoulders of all men, and that *all* should have an equal chance. This is the sentiment embodied in that Declaration of Independence.[104]

In the Gettysburg Address Lincoln changes his focus from the era of the founders to his own generation – from the sacrifices of the Revolution to the sacrifices of the Civil War – which makes even more immediate Americans' duty not only to honor their sacrifices but to follow their example.

How do the introductory words of the Gettysburg Address further Lincoln's objective? How did these phrases resonate with his audience? Lincoln achieves his intended effect by identifying the founders of our country with three different biblical characters: the Patriarchs of the Bible, the Virgin Mary, and God.

There are at least five places in the Bible where the words "four score" are used in reference to a person's age. They are from the Books of Genesis, Exodus, 2 Samuel, Joshua, and Psalms. I recite each passage below:

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[101] 7 COLLECTED WORKS 23 (Gettysburg Address).

[102] *See* WILLS, at 59-62 (analyzing the imagery of birth, life, death, and rebirth in the Gettysburg Address, and referring to previous scholars who had described the same pattern); GABOR BORITT, THE GETTYSBURG GOSPEL: THE LINCOLN SPEECH THAT NOBODY KNOWS 120 (2006) ("Birth, sacrificial death, rebirth. A born-again nation.").

[103] BORITT, at 120 (The devout in the cemetery heard Lincoln speak an intimately familiar beloved language. His words pointing to rebirth went even deeper than the Christian message, if that was possible, reaching the primeval longing for a new birth that humankind has yearned for and celebrated with every spring since time immemorial.)

[104] 4 COLLECTED WORKS 240-241 (Speech in Independence Hall, Philadelphia, Pennsylvania).

Genesis 16:16
And Abram was **fourscore and six years** old, when Hagar bare Ishmael to Abram.

Exodus 7:7
And Moses was **fourscore years** old, and Aaron **fourscore and three years** old, when they spake unto Pharaoh.

2 Samuel 19:32
Now Barzillai was a very aged man, even **fourscore years** old.

Joshua 14:10-11
And now, behold, the LORD hath kept me [Caleb, son of Jephunnah] alive, as he said, these forty and five years, even since the LORD spake this word unto Moses, while the children of Israel wandered in the wilderness: and now, lo, I am this day **fourscore and five years** old. As yet I am as strong this day as I was in the day that Moses sent me: as my strength was then, even so is my strength now, for war, both to go out, and to come in.

Psalm 90:10
The days of our years are threescore years and ten; and if by reason of strength they be **fourscore years**, yet is their strength labour and sorrow; for it is soon cut off, and we fly away.

At Chicago, Lincoln had referred to the founders as "iron men" and "those old men,"[105] but at Gettysburg he calls them "our fathers," and his use of the term "four score" identifies the founders with men of the Old Testament such as Abraham, Moses, Aaron, Barzillai, and Caleb.[106] Lincoln is implying that the Fathers of our country have something important in common with the Patriarchs of the Jews. The biblical references associated with the words "four score years" of age also reflect the central metaphor of the Gettysburg Address – birth, life, and death. At Gettysburg Lincoln tells his audience of the founding of this country, and he centers his speech on the "brave men, living and dead, who struggled here … us the living … these honored dead." But the Old Testament passages using the term "four score" would remind the listener of the birth of Ishmael to Abraham in the Book of Genesis; the vibrant health of Caleb, as well as his willingness to go to war, in the Book of Joshua; and the images of old age and death from 2 Samuel and the Book of Psalms.

Midway through the speech Lincoln introduces another theme: that of rebirth and salvation.[107] At Gettysburg Lincoln refers to "those who gave their lives that the nation might

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[105] 2 COLLECTED WORKS 499. *See also* 179 (Brooks reports: "Once, speaking of his own age and strength, he quoted with admiration that passage, 'His eye was not dim, nor his natural force abated.'" The reference is to Deuteronomy 34:7 ("And Moses *was* an hundred and twenty years old when he died: his eye was not dim, nor his natural force abated.").

[106] *See* BORITT, at 120 ("At a less than conscious level, Lincoln weaved together the biblical story and the American story: 'Fathers.' 'Conceive.' 'Perish.' 'Consecrate.' 'Hallow.' 'Devotion.'").

[107] *See* WOLF, note 12 *supra*, at 170 (speaking of the Gettysburg Address, "The central image behind the whole speech is the rite of baptism or the solemn dedication of children to God.").

live," he vows that "these dead shall not have died in vain," and expresses the expectation "that this nation under God shall have a new birth of freedom." This language is an obvious reference to Christ's sacrifice on the cross. The theme of rebirth and salvation is strengthened through biblical references contained in the first sentence of the Address. The words "**brought forth … a new nation**" have a dual meaning – liberation as well as birth.[108] The Jewish patriarchs created a new nation, but it was God who liberated the Jews from slavery. In the Second Book of Chronicles the Lord states:

> "I **brought forth** my people out of the land of Egypt …"[109]

The most familiar Bible passage that Lincoln's listeners would have been reminded of is the passage in the Book of Matthew describing the birth of Jesus:

> Then Joseph being raised from sleep did as the angel of the Lord had bidden him, and took unto him his wife: And knew her not till she had **brought forth** her firstborn son: and he called his name JESUS.[110]

Taken as a whole, the first sentence of the Gettysburg Address identifies America with the nation of Israel and with Jesus, both chosen by God; it associates the Declaration with the Word of God, as revealed to Moses and conveyed by Jesus; and it equates the freeing of the black race in America with the deliverance of the Jews from bondage. All of these images serve Lincoln's overarching goal – to bind Americans' devotion to the principles of liberty and equality that are expressed in the Declaration of Independence.

There are several other overtly religious references in the Gettysburg Address. For example, Lincoln plays with the dual meaning of the word "dedicate" – to "devote" and to "consecrate" – both of which have religious connotations. At the beginning of the Address, Lincoln states that at the founders of this country were "dedicated to the proposition that all men are created equal." He then shifts gears, and uses the word dedicate" to mean "consecrate" or "hallow," and he employs those religious synonyms in speaking of the immediate purpose of the ceremony at the Gettysburg cemetery. After that he switches back and employs the word "dedicate" as a synonym for "devote" – that we must dedicate ourselves to the "unfinished work," the "great task remaining before us" – that we should take "increased devotion" from "the last full measure of devotion" that the fallen soldiers at Gettysburg had given.[111]

In addition, in the Gettysburg Address Lincoln refers to America as "this nation, under God."[112] Elton Trueblood notes that in the dedication of the King James Version of the Bible the translators "address the King, not as absolute sovereign, but as the one "who, under God, is the

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[108] *See* BRIGGS, note 7 *supra*, at 306 ("They assisted in the nation's birth ….").
[109] 2 Chronicles 6:5.
[110] Matthew 1:24-25.
[111] *See* WILLS, at 172-174 (analyzing the use of the terms "dedicate," "consecrate," hallow," and "devote" in the Gettysburg Address).
[112] 7 COLLECTED WORKS 23. *See also* TRUEBLOOD, note 3 *supra*, at 134, noting that the dedication to the King James Bible refers to the King as being "under God.").

immediate Author of their true happiness."[113] In 1954, this phrase was incorporated into the Pledge of Allegiance ("one nation, under God").[114]

Finally, the last line of the Gettysburg Address – "that government of the people, by the people, for the people shall not perish from the earth" – borrows the words that John Wycliffe had used to describe the Bible that he had translated into English. Wycliffe had said, "This Bible is for the government of the people, by the people, and for the people."[115]

The Gettysburg Address is powerful because of the myriad associations it has for us. America becomes a country worth fighting for and dying for because of the fundamental principles it stands for. These principles are timeless in their application and universal to all mankind.

The last great speech considered in this article is Lincoln's Second Inaugural; it contains the most biblical references of any of his political works.

## VII. THE SECOND INAUGURAL, MARCH 5, 1865

*"It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces; but let us judge not that we be not judged."*

*"Woe unto the world because of offences! for it must needs be that offenses come; but woe to that man by whom the offence cometh!"*

*"The judgments of the Lord, are true and righteous altogether."*

In March of 1865 the war was nearly won, and Lincoln had turned his thoughts to reconstruction of the south and reintegration of southern people into the American nation. Lincoln continued to stand firm against the southern institution of slavery, but he also withstood northern calls for vengeance against the people of the south.

The Second Inaugural is somewhat longer than the Gettysburg Address, so I have set it forth in the footnote below.[116]

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[113] *See* TRUEBLOOD, note 3 *supra*, at 134.

[114] *See* Elk Grove Unified School District v. Newdow, 542 U.S. 1, 7 (2004) ("Congress revisited the Pledge of Allegiance … when it amended the text to add the words 'under God.' Act of June 14, 1954, ch. 297, 68 Stat. 249."). *See also* notes 142-144 *infra* (discussing Lincoln's use of religious imagery in connection with the constitutionally prescribed oath of office).

[115] *See* BORITT, at 186 (stating that "Lamon, Nicolay, and numerous others turned up a lot of varied predecessors of the speech's concluding words … reaching all the way back to John Wycliffe's Bible."); BRIGGS, note 7 *supra*, at 141 (tracing this language to the speeches of the antislavery preacher Theodore Parker defining democracy as "a government of all, for all, and by all"); McColloch v. Maryland, 17 U.S. 316, 404-405 (1819) (Marshall, C.J.) (stating, "The government of the Union, … is, emphatically and truly, a government of the people. In form, and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit."

[116] 8 COLLECTED WORKS 332-333 (Second Inaugural). Lincoln stated:

> At this second appearing to take the oath of the presidential office, there is less occasion for an extended address than there was at the first. Then a statement, somewhat in detail, of a

Some people consider Lincoln's Second Inaugural Address to be his greatest speech,[117] and there is certainly merit to that opinion. In this last great effort of his life Lincoln attempted to "bind up the nation's wounds" and, as at Gettysburg, to explain why it had been necessary for the people of our country to endure the sacrifices of the Civil War. Once again, Lincoln carefully selected his biblical references so that the larger meaning of the passages he quoted would contribute to the larger meaning he was attempting to convey.

The first religious reference we encounter in the Second Inaugural actually brings to mind two separate Bible passages – one from the Book of Genesis and one from the Sermon on

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course to be pursued, seemed fitting and proper. Now, at the expiration of four years, during which public declarations have been constantly called forth on every point and phase of the great contest which still absorbs the attention, and engrosses the energies of the nation, little that is new could be presented. The progress of our arms, upon which all else chiefly depends, is as well known to the public as to myself; and it is, I trust, reasonably satisfactory and encouraging to all. With high hope for the future, no prediction in regard to it is ventured.

On the occasion corresponding to this four years ago, all thoughts were anxiously directed to an impending civil-war. All dreaded it – all sought to avert it. While the inaugural address was being delivered from this place, devoted altogether to *saving* the Union without war, insurgent agents were in the city seeking to *destroy* it without war – seeking to dissolve the Union, and divide effects, by negotiation. Both parties deprecated war; but one of them would *make* war rather than let the nation survive; and the other would *accept* war rather than let it perish. And the war came.

One eighth of the whole population were colored slaves, not distributed generally over the Union, but localized in the Southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was, somehow, the cause of the war. To strengthen, perpetuate, and extend this interest was the object for which the insurgents would rend the Union, even by war; while the government claimed no right to do more than to restrict the territorial enlargement of it. Neither party expected for the war, the magnitude, or the duration, which it has already attained. Neither anticipated that the *cause* of the conflict might cease with, or even before, the conflict itself should cease. Each looked for an easier triumph, and a result less fundamental and astounding. Both read the same Bible, and pray to the same God; and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces; but let us judge not that we be not judged. The prayers of both could not be answered; that of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offences! for it must needs be that offences come; but woe to that man by whom the offence cometh!" If we shall suppose that American Slavery is one of those offences which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South, this terrible war, as the woe due to those by whom the offence came, shall we discern therein any departure from those divine attributes which the believers in a Living God always ascribe to Him? Fondly do we hope – fervently do we pray – that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue, until all the wealth piled by the bond-man's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord, are true and righteous altogether."

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan – to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.

[117] RONALD C. WHITE, LINCOLN'S GREATEST SPEECH: THE SECOND INAUGURAL (2006).

the Mount in Book of Matthew – God's judgment casting Adam and Eve out of the Garden of Eden, and Jesus' rebuke to those who think of themselves "holier than thou." Referring to *both* the people of the North and the people of the South, Lincoln says:

> Both read the same Bible, and pray to the same God; and each invokes His aid against the other. **It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces; but let us judge not that we be not judged.** The prayers of both could not be answered; that of neither has been answered fully. The Almighty has His own purposes.[118]

The Old Testament passage that is called to mind by this language is directed to the people of the South:

> And unto Adam he said, Because thou hast hearkened unto the voice of thy wife, and hast eaten of the tree, of which I commanded thee, saying, Thou shalt not eat of it: cursed is the ground for thy sake; in sorrow shalt thou eat of it all the days of thy life;
> Thorns also and thistles shall it bring forth to thee; and thou shalt eat the herb of the field; **In the sweat of thy face shalt thou eat bread**, till thou return unto the ground; for out of it wast thou taken: for dust thou art, and unto dust shalt thou return. ...
> Therefore the LORD God sent him forth from the garden of Eden, to till the ground from whence he was taken.[119]

God's curse upon Adam was that he should earn bread by the sweat of his face. Lincoln observes that slaveholders had wrung their bread from the sweat of *other* men's faces. In that sense they were doubly cursed – guilty not only of original sin (disobedience to God), but guilty also of the sin of slavery.

The New Testament passage that Lincoln reminds us of is directed to the people of the North. Here is the passage from the Book of Matthew from which the injunction, "Judge not" is taken:

> **Judge not, that ye be not judged.** For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again. And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye? Or how wilt thou say to thy brother, Let me pull out the mote out of thine eye; and, behold, a beam is in thine own eye? Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye.[120]

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[118] 8 COLLECTED WORKS 333.
[119] Genesis 3:17-23.
[120] Matthew 7:1.

Lincoln was not self-righteously claiming that only the people of the North were seeking divine guidance. "Both read the same Bible, and pray to the same God." When a minister visiting the White House reportedly told President Lincoln that he hoped "the Lord was on our side,"[121] Lincoln responded, "I am not at all concerned about that, for I know that the Lord is *always* on the side of the *right*. But it is my constant anxiety and prayer that *I* and *this nation* should be on the Lord's side."[122]

Furthermore, despite the strength of his conviction that slavery was wrong,[123] Lincoln did not believe that the people of the South bore sole responsibility for the sin of slavery. At the time of the Revolution slavery existed in the North as well, and the people of the North entered into an unholy bargain when they ratified a Constitution that recognized and protected the institution of slavery.[124] With the words "let us judge not, that we be not judged," Lincoln is reminding us that all Americans, north and south, were "complicit" in the sin of slavery and that all would share in the judgment against it.[125]

The next passage from the Bible that Lincoln quotes in the Second Inaugural comes entirely from the Book of Matthew. The portion of the Second Inaugural containing this bible passage is as follows:

> The prayers of both could not be answered; that of neither has been answered fully. The Almighty has His own purposes. "**Woe unto the world because of offences! for it must needs be that offences come; but woe to that**

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[121] WOLF, note 12 *supra*, at 128.
[122] *Id.*
[123] 7 COLLECTED WORKS 281 (Letter to Albert G. Hodges) ("If slavery is not wrong, then nothing is wrong.").
[124] *See, e.g.*, III MAX FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787 367 (1911) (available at the Library of Congress website on Farrand's Records, http://memory.loc.gov/ammem/amlaw/lwfr.html) (reporting George Mason's remarks that Georgia and South Carolina had struck a bargain with three New England states to permit the slave trade to continue for 20 years in return for other concessions.); *see also* Gunstall Hall: Home of George Mason (brief biographical sketch of Mason) at http://www.gunstonhall.org/georgemason/ (stating that Mason refused to sign the Constitution in part because it protected the slave trade).
[125] *See* 7 COLLECTED WORKS 282 (Letter to Albert G. Hodges) (stating, "If God now wills the removal of a great wrong, and wills also that we of the North as well as you of the South, shall pay fairly for our complicity in that wrong, impartial history will find therein new cause to attest and revere the justice and goodness of God."). *See also* 2 COLLECTED WORKS 255 (Peoria Address). Lincoln stated:

> Before proceeding, let me say I think I have no prejudice against the Southern people. They are just what we would be in their situation. If slavery did not now exist amongst them, they would not introduce it. If it did now exist amongst us, we should not instantly give it up. This I believe of the masses north and south. Doubtless there are individuals, on both sides, who would not hold slaves under any circumstances; and others who would gladly introduce slavery anew, if it were out of existence. We know that some southern men do free their slaves, go north, and become tip-top abolitionists; while some northern ones go south, and become most cruel slave-masters. When southern people tell us they are no more responsible for the origin of slavery, than we; I acknowledge the fact.

*See also* DONALD, LINCOLN, note 2 *supra*, at 560 (quoting Lincoln at the Hampton Roads Conference: "If it was wrong in the South to hold slaves, it was wrong in the North to carry on the slave trade and sell them to the South."); Morel, note __ *supra*, at 199 (stating, "Lincoln asks both sides to concede something; the north must admit that they benefitted from the goods produced by slave labor, and the south must admit that slavery is wrong. … [I]f he can get both sides to agree that slavery is wrong *and* that both sides profitted from it and therefore deserve punishment, then the nation can reunite based upon the common suffering of both sides in the Civil War.").

> **man by whom the offence cometh!**" If we shall suppose that American Slavery is one of those offences which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South, this terrible war, as the woe due to those by whom the offence came, shall we discern therein any departure from those divine attributes which the believers in a Living God always ascribe to Him?[126]

The Bible verse that Lincoln employs is Matthew 18:7, which literally conveys the straightforward notion that woe should come to anyone who sins. However, the larger context of this passage connotes a more specific message – indicating that Lincoln had a specific type of "offense" in mind. Here is Matthew 18:1-12:

> At the same time came the disciples unto Jesus, saying, Who is the greatest in the kingdom of heaven? And Jesus called a little child unto him, and set him in the midst of them, And said, Verily I say unto you, Except ye be converted, and become as little children, ye shall not enter into the kingdom of heaven. Whosoever therefore shall humble himself as this little child, the same is greatest in the kingdom of heaven. And whoso shall receive one such little child in my name receiveth me. But whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea.
>
> **Woe unto the world because of offences! for it must needs be that offences come; but woe to that man by whom the offence cometh!**
>
> Wherefore if thy hand or thy foot offend thee, cut them off, and cast them from thee: it is better for thee to enter into life halt or maimed, rather than having two hands or two feet to be cast into everlasting fire. And if thine eye offend thee, pluck it out, and cast it from thee: it is better for thee to enter into life with one eye, rather than having two eyes to be cast into hell fire.
>
> Take heed that ye despise not one of these little ones; for I say unto you, That in heaven their angels do always behold the face of my Father which is in heaven. For the Son of man is come to save that which was lost.[127]

Over 620,000 American soldiers died in the Civil War,[128] and many hundreds of thousands more suffered crippling injuries, including blindness and the loss of hands and feet.[129] Why was this punishment visited upon us? With the foregoing reference to the Book of Matthew, Lincoln implies that the American nation was subjected to this slaughter not simply

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[126] 8 COLLECTED WORKS 333.

[127] Matthew 18:1-10

[128] *See* DREW GILPIN FAUST, THIS REPUBLIC OF SUFFERING: DEATH AND THE AMERICAN CIVIL WAR xi (2008) (estimating the number of soldiers killed in the Civil War at 620,000).

[129] *See* Richard W. Hertle, *Ophthalmic Injuries and Civil War Medicine*, 94 DOCUMENTA OPHTHALMOLOGICA 123 (March, 1997) ("Nearly one-half million soldiers came out of the Civil War permanently disabled."), accessed online at http://www.springerlink.com/content/922268h0637pv50u/.

because it had sinned, but because of the particular sin that it had committed – that slavery was the moral equivalent of, and often literally consisted of, the abuse of children.[130] When Lincoln says "woe to that man by whom the offense cometh," his listeners would also have heard, "Take heed that ye despise not one of these little ones," and "whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea."

Lincoln completed the thought that the slaughter of the Civil War was just punishment for the sins of slavery and child abuse with a prayer for relief coupled with an acceptance of God's judgment. Lincoln said:

> Fondly do we hope – fervently do we pray – that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue, until all the wealth piled by the bond-man's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord, are true and righteous altogether."[131]

This passage commences with the prayer that the war should end, but Lincoln employs a metaphor that is both religious and legal to explain why the war had dragged on so long and why it might continue. He recognizes that the country owes a debt to the slaves for their "two hundred and fifty years of unrequited toil," and that a judgment had been entered against us on account of that debt. The Civil War constitutes satisfaction of that judgment.

Furthermore, "the judgments of the Lord" refers not only to a sentence of punishment imposed upon all Americans for the sin of slavery,[132] but also connotes a legal ruling against slavery. Once again, the context of the biblical quotation adds meaning to Lincoln's speech. Here are the ringing phrases from Psalm 19:9:

> The law of the LORD is perfect, converting the soul: the testimony of the LORD is sure, making wise the simple.
> The statutes of the LORD are right, rejoicing the heart: the commandment of the LORD is pure, enlightening the eyes.
> The fear of the LORD is clean, enduring for ever: **the judgments of the LORD are true and righteous altogether.**[133]

On January 31, 1865, less than five weeks before the Second Inaugural, Congress approved the Thirteenth Amendment, triggering great rejoicing.[134] In the Second Inaugural

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[130] *See* HARRIET BEECHER STOWE, UNCLE TOM'S CABIN, OR LIFE AMONG THE LOWLY (1852) describing the cruelty of slavery, particularly the separation of children from their parents); WARD, at 18-19 (describing the profound effect of Stowe's book in the north and around the world).

[131] 8 COLLECTED WORKS 333.

[132] *See* BRIGGS, note 7 *supra*, at 322 ("These are texts that help [Lincoln] identify the war's destructive power, as well as its unanticipated length, with a divine judgment upon North and South for their mutual perpetuation of slavery over hundreds of years.").

[133] Psalm 19:9

Lincoln expressly treats the *moral* debt created by slavery as if it were a *legal* debt – he implies that slavery is not only morally wrong, but, by virtue of the Thirteenth Amendment, it will be legally prohibited. There had been entered a legal judgment against slavery, a judgment that Lincoln considers "true and righteous altogether."

In the Second Inaugural Lincoln suggests that the unimaginable scale of human suffering in the Civil War can be attributable only to divine judgment; consistent with that judgment, the war ultimately made us wiser and more enlightened, and the end of the war will give rise to a new birth of freedom. When the Thirteenth Amendment becomes effective and slavery is finally abolished the law will be "perfect" and our statutes will be "right," thus "converting the soul" and "rejoicing the heart" of the nation.

## II. HOW LINCOLN'S RELIGIOUS IMAGERY CONTRIBUTES TO OUR UNDERSTANDING OF THE CONSTITUTION

The central purpose of Lincoln's life and work was to bring the Constitution into harmony with the Declaration. A principal tool he used to accomplish this was religious imagery. Through use of the words "four score," Lincoln implicitly compares the founders of our country ("our fathers") to biblical figures such as Abraham and Moses.[135] The term "brought forth" reminds us not only of the birth of Jesus but also of the liberation of the Jews from bondage.[136] He traces the birth of our country to 1776 when the Declaration was written, not 1787 when the Constitution was drafted.[137] The Declaration is "the word;"[138] it is "our ancient faith;"[139] it is "the fountain whose waters spring close by the blood of the revolution,"[140] At our nation's birth our fathers dedicated us the proposition that "all men are created equal."[141] This proposition is not a simple rule that we can unthinkingly follow like one of the Ten Commandments. It is instead a "standard,"[142] – a sacred, eternal, and universal standard – that we must aspire to.

Lincoln sought to raise the Constitution to the level of the Declaration. There is evidence for this in how he referred to the Constitution when he took the oath of office.[143] On March 4,

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[134] *See* MILLER, note 7 *supra*, at 395 (quoting the Congressional Globe as to the celebration in Congress when the 13th Amendment was adopted); GOODWIN, note 2 *supra*, at 689 (quoting Noah Brooks stating that after the vote "there was an explosion, a storm of cheers, the like of which probably no Congress of the United States ever heard before.").

[135] *See* notes __-__ *supra* and accompanying text (discussion of Gettysburg Address).

[136] *See id.*

[137] *See id.*

[138] *See* notes __-__ *supra* and accompanying text (discussion of "The Word Fitly Spoken" fragment).

[139] *See* notes __-__ *supra* and accompanying text (discussion of Peoria Address)

[140] *See* notes __-__ *supra* and accompanying text (discussion of Speech at Lewiston)

[141] *See* notes __-__ *supra* and accompanying text (discussion of Gettysburg Address)

[142] *See* notes __-__ *supra* and accompanying text (discussion of Speech at Chicago).

[143] Article II of the Constitution of the United States prescribes the specific oath that a President must take. It provides:

> Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: - "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

1861, near the end of his first Inaugural Address Lincoln issued the following admonition to the people of the southern states:

> In *your* hands, my dissatisfied fellow countrymen, and not in *mine*, is the momentous issue of civil war. The government will not assail *you*. You can have no conflict, without being yourselves the aggressors. *You* have no oath registered in Heaven to destroy the government, while *I* shall have the most solemn one to "preserve, protect and defend" it.[144]

Four years later at his second inauguration Lincoln added the words "So help me God" to the oath of office.[145] For Lincoln, the oath of office is not merely a constitutional requirement; it is "registered in heaven," and he considered it appropriate to call upon the help of God when he undertook the sacred duty to preserve, protect, and defend the Constitution.

Lincoln was elected President for this express purpose – to incorporate the Declaration into the Constitution. In 1860, Lincoln's platform explicitly asserted that the Constitution embodies the principles of the Declaration,[146] and in 1864 his platform called for the adoption of a constitutional amendment abolishing slavery.[147] On January 30, 1865, at Lincoln's urging and under his political leadership, the 38th Congress approved the 13th Amendment to the Constitution,[148] and on June 13th, 1866, six months after convening, the 39th Congress that Lincoln had led into office in the landslide election of 1864 approved the 14th Amendment.[149] I agree with those scholars who believe that these Amendments should be interpreted in light of

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[144] 4 COLLECTED WORKS 271 (emphasis in original). *See* MILLER, note 7 *supra*, at 24-28 (noting that Lincoln referred to his oath three times during his first Inaugural Address, and discussing its significance.).

[145] LINCOLN OBSERVED: CIVIL WAR DISPATCHES OF NOAH BROOKS 169 (Michael Burlingame, ed. 1998).

[146] *See* John Woolley and Gerhard Peters, The American Presidency Project at http://www.presidency.ucsb.edu/ws/index.php?pid=29620 (setting forth the 1860 Republican Party platform referring to the "principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution," and quoting the second sentence of the Declaration).

[147] *See id.* at http://www.presidency.ucsb.edu/ws/index.php?pid=29621 (1864 Republican Party platform, favoring the adoption of a constitutional amendment "as shall terminate and forever prohibit the existence of Slavery within the limits of the jurisdiction of the United States.").

[148] *See* MILLER, note 3 *supra*, at 394 (stating that Lincoln "worked harder for the passage of the slavery-ending Thirteenth Amendment than he had worked for any other piece of legislation in his presidency, even to the point of twisting arms and doling out projects, dangling offices in front of congressmen to help them make up their minds."). GOODWIN, note 2 *supra*, at 690 (quoting William Lloyd Garrison):

> And to whom is the country more immediately indebted for this vital and saving amendment of the Constitution than, perhaps, to any other man? … I believe I may confidently answer – to the humble railsplitter of Illinois – to the Presidential chainbreaker for millions of the oppressed – to Abraham Lincoln!

[149] *See* GOODWIN, note 2 *supra*, at 661-666 (describing the results in the state and national elections of 1864); *id.* at 665-666 (stating that in 1864 Lincoln won the electoral vote over McClellan by a margin of 212-21 and outpolled him by 400,000 votes. In addition, Republicans gained 37 seats in the House of Representatives, placed 12 governors in office, and gained control of most of the state legislatures that would appoint the next round of U.S. senators.); CONGRESSIONAL GLOBE, 39th Congress, 1st Session, 3149 (June 13, 1866) (recording that both houses of Congress had voted, by more than a two-thirds margin, in favor of the 14th amendment), at THE LIBRARY OF CONGRESS, A CENTURY OF LAWMAKING FOR A NEW NATION: U.S. CONGRESSIONAL DOCUMENTS AND DEBATES, 1774 – 1875, at http://memory.loc.gov/cgi-bin/ampage?collId=llcg&fileName=073/llcg073.db&recNum=270.

Abraham Lincoln's understanding of what the Constitution *should* be – that the Constitution must more nearly reflect the ideals of the Declaration.[150]

Lincoln persuades us to embrace this idealistic understanding of what this nation stands for not by hectoring us, but rather by gently yet firmly teaching us to identify with other people. Lincoln's use of religious imagery is not didactic; instead, like his humor, it draws us in by inviting us to perceive a situation from a different perspective. Lincoln loved funny stories,[151] but Lincoln did not tell stories merely for amusement; there was almost always a point to them. As Lincoln explained:

> "it is not the story itself, but its purpose or effect that interests me. I often avoid a long and useless discussion by others, or a laborious explanation on my own part, by a short story that illustrates my point of view. So, too, the sharpness of a refusal or the edge of a rebuke may be blunted by an appropriate story so as to save wounded feelings and yet serve the purpose. No, I am not simply a storyteller, but storytelling as an emollient saves me friction and distress."[152]

In addition to being face-saving and efficient, Lincoln's stories often have a moral dimension.[153] The moral dimension is *more* effective for being *less* direct. As William Wolf says, "Like parables, they shift responsibility from the narrator to his hearers."[154] Two examples of Lincoln's storytelling should suffice to make this point. Near the end of the Civil War "amid the tumbling ruins of the Confederacy,"[155] a "party of gentlemen … anxiously asked, 'What would he do with Jeff. Davis?'"[156] Lincoln replied:

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[150] *See* CHARLES L. BLACK, A NEW BIRTH OF FREEDOM 5 (1991) (finding a constitutional commitment to human rights in the Declaration of Independence, the Ninth Amendment, and the Privileges or Immunities Clause of the 14th Amendment); JAMES M. MCPHERSON, ABRAHAM LINCOLN AND THE SECOND AMERICAN REVOLUTION 41 (1991) (finding that Lincoln was not an "ideological revolutionary" but rather a "pragmatic revolutionary who found it necessary to destroy slavery and create a new birth of freedom in order to preserve the union."); HERMAN BELZ, ABRAHAM LINCOLN, CONSTITUTIONALISM, AND EQUAL RIGHTS IN THE CIVIL WAR ERA 197-198 (1998) (contending that the 13th and 14th Amendments were intended as "a completion of the Constitution" that would incorporate the principles of the Declaration of Independence); GEORGE P. FLETCHER, OUR SECRET CONSTITUTION: HOW LINCOLN REDEFINED AMERICAN DEMOCRACY 4 (2001) (stating, "The Gettysburg Address functions in our historical consciousness as the preamble of the second American constitution," and it reminds us of "our collective commitment to nationhood, equality, and democracy.").

[151] *See* SANDBURG, note 1 *supra*, at 561 ("Lincoln was the first true humorist to occupy the White House."); II ANNUAL REPORT OF THE AMERICAN HISTORICAL ASSOCIATION FOR THE YEAR 1902: DIARY AND CORRESPONDENCE OF SALMON P. CHASE 89 (1903), at http://www.archive.org/stream/diaryandcorrespo00chasrich#page/88/mode/2up (diary entry of September 22, 1862, in which Chase notes that before reading the Emancipation Proclamation to his cabinet, Lincoln read them a chapter from Artemus Ward's new humor book).

[152] WOLF, note 12 *supra*, at 138.

[153] *See* GOODWIN, note 2 *supra*, at 166 (stating, "Instead of the ornate language so familiar to men like Webster, Lincoln used irony and humor, laced with workaday, homespun images to build an eloquent tower of logic."): *id.* at 630 (Horace Porter (General Grant's aide) observed that Lincoln "did not tell a story merely for the sake of the anecdote, but to point a moral or clench a fact.").

[154] *Id.* at 137.

[155] ANECDOTES AND STORIES OF ABRAHAM LINCOLN 154 (J.B. McClure, ed. 2006)

[156] *Id.*

> There was a boy in Springfield … who saved up his money and bought a "coon," which, after the novelty wore off, became a great nuisance. He was one day leading him through the streets, and had his hands full to keep clear of the little vixen, who had torn half his clothes off of him. At length he sat down on the curb stone, completely fagged out. A man passing was stopped by the lad's disconsolate appearance, and asked the matter. "Oh," was the only reply, "this coon is such a *trouble* to me." "Why don't you get rid of him then?" said the gentleman. "*Hush!*" said the boy; "don't you see he is gnawing his rope off? I am going to let him do it, and then I will go home and tell the folks *that he got away from me!*"[157]

General Sherman asked Lincoln the same question about what to do with Jefferson Davis, and informs us us that "As usual, … he illustrated his meaning by a story."[158] Lincoln told Sherman:

> A man had taken the total-abstinence pledge. When visiting a friend, he was invited to take a drink, but declined, on the score of his pledge; when his friend suggested lemonade, [the man] accepted. In preparing the lemonade, the friend pointed to the brandy-bottle, and said the lemonade would be more palatable if he were to pour in a little brandy; when his guest said, if he could do so "unbeknown" to him, he would not object.[159]

Sherman understood that "Mr. Lincoln wanted Davis to escape, 'unbeknown' to him."[160]

Both stories are emphatic but empathetic morality tales; they keenly reflect human nature. In each case Lincoln creates vivid yet familiar images. The protagonist in each story is a person faced with a dilemma, wanting one thing after having pledged to do another. Even though the little boy and the abstinent guest are meant to represent Lincoln himself, caught in the dilemma of what to do with the Confederate leaders, we see ourselves in those characters as well, and even these characters they are the butts of the jokes, Lincoln depicts them playfully, not scornfully. The foils, the kindly man and the friendly host, are likewise easy to identify with, listening to the silly story just as we do. Even the antagonists are portrayed in a kindly fashion. The raccoon and the brandy are dangerous only according to their nature, and are not evil in themselves. Small wild animals and strong drink, like Jeff Davis, are more to be avoided than exterminated.[161]

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[157] *Id.* at 155.
[158] GOODWIN, note 2 *supra*, at 713.
[159] *Id.*
[160] *Id.*
[161] *See* 1 COLLECTED WORKS 271-279 (Temperance Address, February 22, 1842, in which Lincoln cautions the members of the Temperance Society not to condemn those who abuse alcolhol, but rather to identify with and understand them); *id.* at 277 ("For the man to suddenly, or in any other way, to break off from the use of drams, who has indulged in them for a long course of years, and until his appetite for them has become ten or a hundred fold stronger, and more craving, than any natural appetite can be, requires a most powerful moral effort. In such an undertaking, he needs every moral support and influence, that can possibly be brought to his aid, and thrown around him."); *id.* at 278 ("In my judgment, such of us as have never fallen victims, have been spared more from the absence of appetite, than from any mental or moral superiority over those who have.").

Both Carl Sandburg and William Wolf perceive a commonality between Lincoln's humorous stories and his use of the Bible.[162] Wolf says:

> One of the greatnesses of Lincoln was the way he held to strong moral positions without the usual accompaniment of self-righteousness or smugness. He expressed this rare achievement provisionally in his humor and in an ultimate dimension in his religious evaluations. To the Pennsylvania delegations that congratulated him after the inauguration he said, urging forbearance and respect for differences of opinion between the states, "I would inculcate this idea, so that we may not, like Pharisees, set ourselves up to be better than other people."[163]

This is the same message that is at the heart of the Second Inaugural: "Judge not that we be not judged."[164] Lincoln conveys a sense of ultimate righteousness without self-righteousness; divine judgment without human judging.

One of Lincoln's great strengths was that he saw us as we are;[165] that we are often foolish, and that our nature is fundamentally selfish.[166] It is not ourselves but rather the transcendent principles of the Declaration that make our nation great. In defense of these principles individual Americans have been called to great sacrifice. It is correspondingly possible to comprehend these principles only through the lens of active compassion.

The Supreme Court has exemplified this capacity for empathy in its greatest decisions of the modern era, as these passages demonstrate:

> To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.[167]

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[162] *See* SANDBURG, at 561-577 (Chapter 50 entitled "Lincoln's Laughter – and His Religion"); WOLF, note 12 *supra*, at 137 (citing Sandburg and drawing the same link).

[163] Wolf, note 12 *supra*, at 139, *quoting* 4 COLLECTED WORKS 274 (Reply to Pennsylvania Delegation).

[164] *See* note 117 *supra* (Second Inaugural Address).

[165] *See* WARD HALL LAMON AND DOROTHY LAMON TEILLARD, RECOLLECTIONS OF ABRAHAM LINCOLN, 1847-1865 143 (1911), available at http://books.google.com/books?id=F6r2xxJtlDEC&printsec=frontcover&dq=recollections+of+abraham+lincoln&source=bl&ots=ydj9SXoTfs&sig=CeyMrZK-fKs4Kih62vcwPpTKXF0&hl=en&ei=bHisTJjWMtT-nAeNjpzhDA&sa=X&oi=book_result&ct=result&resnum=5&ved=0CC0Q6AEwBA#v=onepage&q&f=false. The authors state:

> Lincoln read men and women quickly, and was so keen a judge of their peculiarities that none escaped his observation.

[166] At his seventh and last debate with Stephen Douglas, Lincoln made this point with both humor and the Bible:

> You may say and Judge Douglas has intimated the same thing, that all this difficulty in regard to the institution of slavery is the mere agitation of office seekers and ambitious Northern politicians. He thinks we want to get "his place," I suppose. [Cheers and laughter.] I agree that there are office seekers amongst us. The Bible says somewhere that we are desperately selfish. I think we would have discovered that fact without the Bible. I do not claim that I am any less so than the average of men, but I do claim that I am not more selfish than Judge Douglas. [Roars of laughter and applause.]

[167] Brown v. Board of Education, 347 U.S. 483, 493 (1954) (striking down racial segregation in the public schools).

> A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm. This is the clear and strong command of our Constitution's Equal Protection Clause. This is an essential part of the concept of a government of laws and not men. This is at the heart of Lincoln's vision of "government of the people, by the people, [and] for the people." The Equal Protection Clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races.[168]
>
> We say the same whether the citizen, otherwise qualified to vote, has $1.50 in his pocket or nothing at all, pays the fee or fails to pay it. The principle that denies the State the right to dilute a citizen's vote on account of his economic status or other such factors by analogy bars a system which excludes those unable to pay a fee to vote or who fail to pay.[169]
>
> However "liberally" this plan serves the State's sons, it makes no provision whatever for her daughters. That is not equal protection.[170]
>
> This, as a general rule, should counsel against attempts by the State, or a court, to define the meaning of the relationship or to set its boundaries absent injury to a person or abuse of an institution the law protects. It suffices for us to acknowledge that adults may choose to enter upon this relationship in the confines of their homes and their own private lives and still retain their dignity as free persons. When sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring. The liberty protected by the Constitution allows homosexual persons the right to make this choice.[171]

Abraham Lincoln attended church but did not join one;[172] similarly, he read the Bible daily but he did not interpret it literally.[173] Lincoln draws upon the Bible for guidance and strength, and his use of the Bible for these purposes is both pervasive and deep. He does not simply drop isolated biblical quotations into his speeches and letters to convey an impression of religiosity – instead he calls to mind myriad associations with the biblical contexts from which the quotations are taken.[174] It is not the words themselves but the meaning behind the words that

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[168] Reynolds v. Sims, 377 U.S. 533, 568 (1963) (striking down malapportionment of legislative districts).
[169] Harper v. Virginia Board of Elections, 383 U.S. 663, 668 (1966) (striking down poll tax).
[170] United States v. Virginia, 518 U.S. 515 (1996) (striking down admissions policy that excluded women from prestigious state-supported military institute).
[171] Lawrence v. Texas, 539 U.S. 558, 567 (2003) (striking down state law making homosexual intercourse a crime).
[172] *See* DONALD, LINCOLN, note 2 *supra*, at 337 (noting that when he was President Lincoln rented a pew at a church and had several long talks with the pastor but did not become a member).
[173] *See* MACCARTNEY, note 12 *supra*, at 14-15 (quoting Lincoln's secretary Nicolay that Lincoln was "a constant reader of the Bible"); TRUEBLOOD, note 3 *supra*, at 53 (Lincoln "did not feel the need to be literalistic in application" of the Bible); *id.* at 58 (stating that Lincoln "adopted at several stages of his career the practice of daily Bible reading.").
[174] *See* Earl Schwartz, *"A Poor Hand to Quote Scripture": Lincoln and Genesis 3:19*, 23 JOURNAL OF THE ABRAHAM LINCOLN ASSOCIATION 37 (Summer 2002), accessed at the History Cooperative, http://www.historycooperative.org/journals/jala/23.2/schwartz_e.html (examining Lincoln's use of the biblical

he seeks to convey. He evokes myriad images from the Bible to connect us to deeper values, and to persuade us to adopt a moral understanding of our fundamental law. Lincoln's religious imagery places upon *us* the responsibility to find the deeper meaning of the principles of liberty and equality.

On May 27, 2010, retired Supreme Court Justice David Souter delivered an address in which he explained his vision of the Constitution.[175] The Constitution, he said, is a "pantheon of values."[176] Justices who attempt to interpret the Constitution by simply consulting the "plain meaning" of the text miss the point – they do not understand that in many important respects the Constitution does not delineate rules but rather establishes standards.[177] Similarly, I would add, those who blindly follow history in their interpretation of the Constitution are misguided; constitutional standards do not look to the past but are oriented towards the future.[178] Concepts such as "liberty" and "equality" cannot be captured by fixed rules and static states of affairs but rather challenge us to to constantly question ourselves and our society. Every generation must struggle to determine how much freedom each individual is entitled to and whether it is fundamentally fair for society to treat certain groups of people differently. Lincoln taught us that each generation has the responsibility to apply the standards of liberty and equality to the problems of its age in order to make the Constitution a "living truth."[179]

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passage "In the sweat of thy face shalth thou eat bread" in several contexts). On the one hand, Schwartz finds that in the "house divided" reference and other instances, Lincoln's "conscious intention … was to employ a passage's imagery without reference to its original significance." *Id.* at 38. Schwartz adds,

> However, many of Lincoln's biblical citations are exegetical. These latter references not only evidence the rhetorical skill with which he appropriated biblical imagery, but also shed light on his understanding of the passages cited.

*Id.*

[175] *See* http://news.harvard.edu/gazette/story/2010/05/text-of-justice-david-souters-speech/ (text of Souter's Commencement address at Harvard University, as published in the Harvard Gazette).

[176] *Id.*

[177] *See id.* Justice Souter states:

> The reasons that constitutional judging is not a mere combination of fair reading and simple facts extend way beyond the recognition that constitutions have to have a lot of general language in order to be useful over long stretches of time. Another reason is that the Constitution contains values that may well exist in tension with each other, not in harmony. Yet another reason is that the facts that determine whether a constitutional provision applies may be very different from facts like a person's age or the amount of the grocery bill; constitutional facts may require judges to understand the meaning that the facts may bear before the judges can figure out what to make of them.

By way of contrast, Justice Scalia opposes the use of standards rather than rules. *See* Antonin Scalia, *The Rule of Law as a Law of Rules*, 56 U. CHI. L. REV. 1175 (1989) (rejecting standards in favor of rules); Michael H. v. Gerald D., 491 U.S. 110, 127 n. 6 (1989) (Scalia, J.) ("a rule of law that binds neither by text nor by any particular, identifiable tradition is no rule of law at all."); Morrison v. Olson, 487 U.S. 654, 733 (1988) (Scalia, J., dissenting) ("A government of laws means a government of rules.").

[178] *See* Nina Totenberg, *Justice Stevens: An Open Mind on a Changed Court* (October 4, 2010 description of interview with former Justice Stevens), at NPR http://www.npr.org/templates/story/story.php?storyId=130198344 (summary of Totenberg's interview with former Justice John Paul Stevens). According to Totenberg, Stevens describes his point of disagreement with Justice Scalia in these words:

> "To suggest that the law is static is quite wrong," he says. Stevens argues that "the whole purpose was to form a more perfect union, not something that's perfect when we started. We designed a system of government that would contemplate a change and progress."

[179] Cooper v. Aaron, 358 U.S. 1, 20 (1958) (reaffirming Brown v. Board of Education, and stating, "Our constitutional ideal of equal justice under law is thus made a living truth.").

## CONCLUSION

Lincoln uses biblical imagery to express the depth of his own conviction, the stature of the founders of this country, the timeless and universal nature of the principles of the Declaration, and the magnitude of our moral obligation to defend those principles.

Lincoln persuaded the American people to embrace the standard "all men are created equal" and to make it part of our fundamental law. This goal was formally accomplished as a matter of law in 1868 when the Equal Protection Clause was added to the Constitution as part of the Fourteenth Amendment, but it is approached in fact only through our constant application of this ideal to our society and in our daily lives. The principle of equality is a higher law, but it need not exceed our grasp – "let it be as nearly reached as we can."[180]

[180] *See* text accompanying note 72 *supra*; Andrew Delbanco, *Lincoln's Sacramental Language*, in FONER, note 18 *supra*, at 219 ("Lincoln's achievement as a writer was to communicate his faith that the Declaration is America's scripture.").