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What We Can Learn about the Art of Persuasive from Candidate Abraham Lincoln: A Rhetorical Analysis of the Three Speeches that Propelled Lincoln into the Presidency

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WHAT WE CAN LEARN ABOUT THE ART OF PERSUASION FROM CANDIDATE
ABRAHAM LINCOLN: A RHETORICAL ANALYSIS OF THE THREE SPEECHES THAT
PROPELLED LINCOLN INTO THE PRESIDENCY

Michael W. Loudenslager∗

“True ease in writing comes from art, not chance.”¹

Abstract

Abraham Lincoln is renowned as an impressive orator and writer, and historians have
long studied his speeches and writings. However, commentators largely have not focused upon
the persuasive techniques utilized by Lincoln in his speeches. Lincoln was an experienced
litigator, and over the course of his legal career, he tried a voluminous number of cases, was
involved in several appeals before the United States Supreme Court, and argued numerous times
before the Illinois Supreme Court. These experiences helped Lincoln cultivate various manners
of persuading judges and juries. Similarly, one major goal of Lincoln’s speeches, as with any
politician, was to persuade listeners to agree with the positions that he took on important issues
of the day. If examined closely and deconstructed, one can discern several persuasive techniques
that Lincoln used effectively in his speeches. These techniques include repetition, alliteration,
metaphor, theme and affirmatively dealing with adverse arguments, among others. Therefore,
Lincoln’s speeches provide attorneys with excellent examples of persuasive techniques that
attorneys can use to improve their legal arguments.

The period from 1854 to 1860, when Lincoln first re-entered the political arena to speak
against the expansion of slavery and before he became president, is especially interesting. This
was the time in which Lincoln developed, articulated and repeated basic themes concerning the
institution of slavery that, ultimately, would propel him into the presidency. This article
examines the persuasive techniques that Lincoln used in three major speeches during this time
period: (1) Lincoln’s October 16, 1854 speech on the Kansas-Nebraska Act at Peoria, Illinois;
(2) Lincoln’s June 16, 1858 “House Divided” speech at the Illinois Republican State Convention;
and (3) Lincoln’s February 27, 1860 Cooper Union, New York address. Through these speeches,
Lincoln articulated and developed his arguments against the expansion of slavery, which
ultimately established him as the Republican presidential candidate in 1860. After analyzing the
persuasive techniques that Lincoln used in each of these speeches, the article then sets out
several lessons for attorneys that will allow them to improve their own persuasive writing and
speaking.

∗ Associate Professor of Law, Director of Legal Process Program, Appalachian School of Law.
¹ This quote comes from a poem by Alexander Pope included in a literary anthology, Williams Scott’s LESSONS IN
ELOCUTION, that Abraham Lincoln studied as a child. Fred Kaplan, LINCOLN: THE BIOGRAPHY OF A WRITER 43
(2007) (“Two of the poetic maxims from Pope that Scott includes, ‘True ease in writing comes from art, not chance’
and ‘Two principles in human nature reign, / Self-love to urge and reason to restrain,’ express the fundamentals of
Lincoln’s art and mind.”).
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I. INTRODUCTION

Abraham Lincoln is renowned as an impressive orator and writer. Historians have long studied his life and writings, some dedicating their whole careers to this task. However, commentators largely have not focused upon the persuasive techniques that Lincoln used in his speeches. Lincoln was an experienced litigator, and over the course of his legal career, he tried a voluminous number of cases, was involved in several appeals before the United States Supreme Court, and argued numerous times before the Illinois Supreme Court. These experiences helped Lincoln to cultivate various manners of persuading judges and juries. Similarly, one major goal of Lincoln’s speeches, as with any politician, was to persuade listeners to agree with the positions that he took on important issues of the day. If examined closely and deconstructed, one can discern several persuasive techniques that Lincoln used effectively in his speeches. These techniques include repetition, alliteration, metaphor, theme and affirmatively dealing with adverse arguments, among others. Therefore, Lincoln’s speeches provide attorneys with excellent examples of persuasive techniques that attorneys can use to improve their legal arguments.

In particular, the period from 1854 to 1860, which Lincoln began by re-entering the political arena to speak against the expansion of slavery into United States territories and ended with Lincoln being elected president, is especially interesting. This was the time in which Lincoln developed, articulated and repeated basic themes concerning the institution of slavery that, ultimately, would propel him into the presidency. In 1854, Congress passed the Kansas-Nebraska Act that allowed these territories to vote on whether or not to have slavery. This

\[ \text{See infra notes 10–11, 32–35 and accompanying text.} \]

\[ \text{ERIC FONER, THE FIERY TRIAL: ABRAHAM LINCOLN AND AMERICAN SLAVERY 63 (2010).} \]

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legislation repealed the agreement between “free” Northern states and slave-holding Southern states that slavery would not exist in new states north of Missouri arrived at through the Missouri Compromise.\textsuperscript{4} After the enactment of the Kansas-Nebraska Act, Lincoln argued that the expansion of slavery, if not slavery itself, violated the principles laid out in the Declaration of Independence.\textsuperscript{5} Lincoln then went on, immediately prior to becoming the Republican presidential candidate in 1860, to argue that the stance that the federal government could not prohibit slavery in United States territories was contrary to the views of America’s founding fathers.\textsuperscript{6}

This article will examine three major speeches made by Lincoln during this time period: (1) Lincoln’s October 16, 1854 speech on the Kansas-Nebraska Act at Peoria, Illinois; (2) Lincoln’s June 16, 1858 “House Divided” speech at the Illinois Republican State Convention; and (3) Lincoln’s February 27, 1860 Cooper Union, New York speech, which he gave a few months prior to his nomination as the Republican presidential candidate. Through these speeches, Lincoln articulated and developed his arguments against the expansion of slavery, which ultimately established him as the Republican presidential candidate in 1860.

After this Introduction, in Section II., this article briefly discusses Lincoln’s legal career in which he learned and mastered the persuasive techniques used in his speeches. The article goes on in Section III. to give an overview of some of the techniques identified in Lincoln’s speeches. Then, in Section IV., the article deconstructs key passages from the three speeches mentioned above and demonstrates exactly how Lincoln used specific rhetorical devices to good

\textsuperscript{4} FONER, supra note 3, at 63; LEWIS E. LEHRMAN, LINCOLN AT PEORIA: THE TURNING POINT 8 (2008).
\textsuperscript{5} See infra notes 140–41, 147–49, 158–60 and accompanying text (discussing this argument as presented in the Peoria speech).
\textsuperscript{6} See infra notes 231–41 and accompanying text (discussing this argument as presented in the Cooper Union Address).
effect to persuade audiences of the correctness of his position on the slavery issue. In Section V., the article sets out several lessons from these speeches that attorneys can use to improve their own persuasive writing and speaking. The article then ends with a short Conclusion in Section VI.

II. LINCOLN’S LEGAL CAREER

Lincoln practiced law for almost twenty-five years. He received his license in 1836 and continued to practice law until the summer of 1860 when he suspended his practice to focus on his campaign for the United States presidency. Lincoln was a prodigious litigator being involved in as many as five thousand (5,000) cases during his career, which averages out to about two hundred (200) cases a year.

Lincoln was a part of three different legal partnerships during his career. He started practicing law with John Todd Stuart, the cousin of his wife, Mary Todd Lincoln. After four years, Lincoln left the partnership with Stuart and joined in a partnership with Stephen Logan, a former state circuit judge. Lincoln practiced with Logan for almost four years. Then, when

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9 Lupton, supra note 8, at 49.
10 Brian Dirck, A. Lincoln, Respectable “Prairie Lawyer,” in ABRAHAM LINCOLN, ESQ.: THE LEGAL CAREER OF AMERICA’S GREATEST PRESIDENT 65, 68 (Roger Billings & Frank J. Williams eds., 2010); Harold Holzer, Reassessing Lincoln’s Legal Career, in ABRAHAM LINCOLN, ESQ.: THE LEGAL CAREER OF AMERICA’S GREATEST PRESIDENT 5, 9 (Roger Billings & Frank J. Williams eds., 2010); ARTHUR L. RIZER, III, LINCOLN’S COUNSEL xiv (2010); Davis, supra note 7, at 62.
12 Lupton, supra note 8, at 22; Dirck, supra note 7, at 25.
13 Lupton, supra note 8, at 25. See Dirck, supra note 7, at 25 (describing Logan as an Illinois Circuit Court judge).
14 Lupton, supra note 8, at 28; Dirck, supra note 7, at 27, 29
their partnership dissolved, Lincoln formed another partnership, this time with Lincoln as the senior partner, with William Herndon, who at the time had recently become a member of the bar and had studied law with the Logan and Lincoln partnership. Lincoln practiced law with Herndon for almost seventeen years before he suspended his legal practice to focus on his presidential campaign.

Throughout his career, Lincoln represented all types of people from all walks of life as well as different companies. “[Lincoln] represented plaintiffs and defendants, the guilty and the innocent, and nearly all of the various possible sides in divorce cases, contract disputes, property disputes, and so on.” However, “[t]he Illinois Central Railroad was Lincoln’s biggest and most frequent client during his entire career: he litigated over fifty cases on [its] behalf.” One commentator asserts that Lincoln’s representation of various railroads, such as the Illinois Central, “catapulted Lincoln from local to much wider prominence . . . and created his ultimate standing as a leading attorney of the American West.” Despite this, Lincoln ended up opposing railroads in cases about as often as he represented them.

Lincoln engaged in the general practice of law with his cases involving debt collection, bankruptcy, wills and trusts, mortgage foreclosure, divorce, slander, medical malpractice, railroads, and criminal law, including some murder trials. However, while Lincoln engaged

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15 Lupton, supra note 8, at 28; Dirck, supra note 7, at 29-30.
16 Lupton, supra note 8, at 31, 49.
17 Dirck, supra note 10, at 73.
18 Dirck, supra note 7, at 97.
19 Davis, supra note 7, at 67.
20 Dirck, supra note 7, at 97-98; Lupton, supra note 8, at 39.
21 Lupton, supra note 8, at 22; Dirck, supra note 10, at 69, 71.
22 Dirck, supra note 7, at 115 (noting that Lincoln was involved in twenty-seven murder trials “usually as defense attorney”).

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in a general practice, the majority of his cases dealt with debtor-creditor law.  Moreover, Lincoln appeared at all levels of courts and in both the state and federal court systems.

During his years of law practice, Lincoln would spend as much as six months out of the year travelling “the circuit.” This involved traveling from county to county along with a judge and other attorneys to try whatever controversies existed in a particular locale in state court and then moving on to the next county seat. Attorneys and judges could spend as much as three weeks in one locale before disposing of all of the litigation in the area. Lincoln rode the Eighth Circuit in Illinois, which was compromised during the time that Lincoln practiced of differing counties throughout the central portion of Illinois, including Sangamon County where Lincoln’s office was located. The Eighth Circuit “was known as the ‘mud circuit’ because of its awful roads and rural conditions.”

23 RIZER, supra note 10, at 30; Dirck, supra note 10, at 69.
24 RIZER, supra note 10, at 29; Davis, supra note 7, at 62 (“Nearly every year he spent between four and six months visiting the dispersed county courthouses of the Eighth Judicial Circuit in central and eastern Illinois.”).
25 Dirck, supra note 7, at 44 (“Many American states at one time or another relied on lawyers like Lincoln to join with other lawyers and itinerant judges and travel through an area, stopping at county seats and litigating cases in short order for whomever it was necessary to do so.”). One commentator described the scene when Lincoln arrived in town when riding the circuit:

Upon arriving in a county seat, circuit riding lawyers set up ambulatory law offices on the sunny side of the courthouse or under a shady tree. Prospective clients approached Lincoln and asked him to write a legal document for a case. Local attorneys asked Lincoln to assist them with a case or make the arguments before a jury. Usually, Lincoln prepared five or six cases in a three or four-day term of court.

Lupton, supra note 8, at 36-37.
26 Dirck, supra note 7, at 45.
27 Dirck, supra note 7, at 45; Davis, supra note 7, at 62.
28 Dirck, supra note 7, at 45. One author has described travel in the Eighth Circuit during this time in the following manner:

The caravan could usually travel only about four miles an hour, because the roads were atrocious. Most were little more than trails, and when the heavy black loam of the Illinois prairie began to thaw in the spring, it became fathomless mud, dangerous not merely to carriages but to horseback riders as well.

town taverns, eat at common tables with other travelling attorneys, and often have to share beds with those same attorneys “because of the meager accommodations that were available.”²⁹

However, beyond work in the state courts of Illinois, Lincoln also had a significant federal practice. In fact, after Lincoln had practiced for several years and developed his reputation, out-of-state creditors began to seek him out to bring debt collection cases in federal court against Illinois residents.³⁰ Moreover, at this point in his legal career, other attorneys often sought out Lincoln for advice on the conducting of cases in federal court.³¹

In addition to handling numerous trials, Lincoln developed an extensive appellate practice. “In whole, work before the Illinois [Supreme Court] represented 10 percent of Lincoln’s legal work.”³² During the course of his partnership with Herndon, the firm “averaged fifteen cases per year on appeal to the Illinois Supreme Court,”³³ and Lincoln and his partners appeared in over four hundred (400) cases before the Illinois high court.³⁴ “Lincoln also was the attorney of record for at least six cases that were before the United States Supreme Court,” and he even argued one case before the Supreme Court in 1849 while he was a United States

²⁹ RIZER, supra note 10, at 29. Judge Davis, who was the presiding judge in the Eighth Circuit, described in letters to his wife the conditions at the accommodations available when traveling the Eighth Circuit in the following manner:

[T]here was mud in the winter and dust in the summer; taverns were overrun with mosquitoes, fleas, and bedbugs; the dining rooms were dirty and typically the ‘table [was] greasy—table cloth greasy—floor greasy and every thing else ditto’; the waitress was so filthy that he guessed ‘the dirt must be half an inch thick all over her.’ Worst of all was the food ‘hardly fit for the stomach of a horse.’

DONALD, supra note 28, at 147.

³⁰ Lupton, supra note 8, at 33 (“In federal court, Lincoln and Herndon’s litigation consisted mainly of debt collection by out-of-state creditors who sued Illinois residents. More than half of the creditors came from major metropolitan areas such as Boston, Cincinnati, New York, Philadelphia and St. Louis.”).

³¹ Id. (“Lincoln was considerably knowledgeable about federal law. Illinois attorneys who were not familiar with federal practice wrote Lincoln asking for advice in the federal court. Lincoln made additions and corrections on the pertinent documents and filed them for other lawyers.”).

³² RIZER, supra note 10, at 34.

³³ Lupton, supra note 8, at 32.

³⁴ Davis, supra note 7, at 62.
One commentator describes the Lincoln and Herndon partnership as having “one of the largest appellate practices in the state [of Illinois].” Lincoln was known as a “lawyer’s lawyer” because many lawyers picked Lincoln to handle the appeals of their cases. In fact, Lincoln’s involvement dealt solely with handling the appeal, and not as trial counsel, in close to half of the cases in which Lincoln appeared before the Illinois Supreme Court. Lincoln’s long-time partner William Herndon “claimed that when it came to appellate work, Lincoln was at his best because he had time to ponder the facts of a case and thoroughly prepare his arguments.”

By the time that Lincoln left the practice of law to run for the presidency in 1860, he had reached the top of the profession in Illinois. Lincoln’s success in the legal profession, as well as in his political endeavors, was built on his ability to think critically and logically, to persuade a decision-maker, to engage in extensive research of the issues involved in a particular situation, to write and speak in simple and clear language, and to work hard day-in and day-out.

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35 Rizer, supra note 10, at 35. See Kaplan, supra note 1, at 198-203, for an extensive discussion of the case that Lincoln argued before the United States Supreme Court while he was a congressman.

36 Rizer, supra note 10, at 34.

37 Mark E. Steiner, Does Lawyer Lincoln Matter? in Abraham Lincoln, Esq.: The Legal Career of America’s Greatest President 45, 49 (Roger Billings & Frank J. Williams eds., 2010) (“Lincoln’s being hired for appeals meant he was a ‘lawyer’s lawyer.’”); See also Holzer, supra note 10, at 10 (“Lincoln was also the professional to whom other attorney’s turned over their cases for appeal.”); Lupton, supra note 8, at 28 (stating that “Lincoln’s peers considered him a ‘lawyer’s lawyer’”).

38 Steiner, supra note 37, at 49 (“[Lincoln], or his partners, handled over four hundred appeals to the Illinois Supreme Court, and in nearly two hundred Lincoln had not tried the case in the circuit court but was hired for the appeal.”).

39 Rizer, supra note 10, at 34.

40 Lupton, supra note 8, at 33 (“During the 1850s, Lincoln was among the leaders of the bar in Illinois. East coast attorneys and potential clients sought him out requesting legal assistance.”); Rizer, supra note 10, at 39 (“By the time Lincoln left the legal field to run for the presidency, he was at the apex of the legal community in Illinois and was held in great esteem by the east coast elites because of his dominating trial record.”).

41 See Rizer, supra note 10, at 45 (“Lincoln’s long time partner, William Herndon, praised his partner’s ability to think critically, prepare a case, and persuade a decision maker.”); Holzer, supra note 10, at 8 (“[T]he law refined Lincoln’s speaking style, and sharpened his powers of reasoning.”); John A. Lupton, The Power of Lincoln’s Legal Words, in Abraham Lincoln, Esq.: The Legal Career of America’s Greatest President 119, 129 (Roger Billings & Frank J. Williams eds., 2010) (“The power of Lincoln’s written words as a lawyer helped to explain the law to juries and to summarize the facts in bills of exceptions.”); Lupton, supra note 8, at 19, 48 (noting that “[i]n
all of these skills, Lincoln’s abilities as a persuasive speaker may stand out the most. “[Lincoln] had the uncanny ability to win over a jury, a judge, and the audience in a courtroom.”\textsuperscript{42} In this respect, Lincoln provides an excellent example of a persuasive public speaker, and deconstructing his political speeches to better understand the techniques that he used can teach us much about how to speak and write persuasively in an effective manner. In fact, Arthur Rizer has stated that “[a]ll attorneys and persuasive speakers today, including salespeople, pastors, lobbyists, parents, teachers, and anybody else who spends their days convincing others they are right, can learn something from [Lincoln].”\textsuperscript{43}

Moreover, the skills that Lincoln developed as an attorney helped him to succeed as president.\textsuperscript{44} Harold Holzer contends that “[t]he fact is Lincoln’s life as a lawyer informed nearly every aspect of his future” as president.\textsuperscript{45} Brian Dirck notes that Lincoln’s law practice “shaped his use of language at various points throughout his political career, giving him a high degree of clarity and a judicious use of words.”\textsuperscript{46} Cullom Davis recognizes that Lincoln developed “certain writing and speaking habits” that he employed in both legal and political settings.\textsuperscript{47} These habits included: “simplicity and economy of language, empathy, illustrative anecdotes or analogies, calculated dramatic outbursts, a taste for verbal antitheses, and a talent for riveting

his courtroom appearances, Lincoln used logic, oratory, and his native intelligence to become a leading attorney in Illinois” and that among other characteristics “that contributed to his success and reputation” Lincoln possessed “restrained but effective verbal expression, a highly retentive mind, and a willingness to work very hard.”\textsuperscript{48}; cf. Foner, \textit{supra} note 3, at 65, 136-37 (discussing the extensive research that Lincoln engaged in prior to giving both his Peoria and Cooper Union speeches). \textit{See also} Rizer, \textit{supra} note 10, at 57 (“Herndon said of Lincoln’s research that if he ‘had occasion to learn or investigate any subject he was thorough and indefatigable in his search. He not only went to the root of the question, but dug up the root, and separated and analyzed every fiber of it.’”).

\textsuperscript{42} Rizer, \textit{supra} note 10, at 45.
\textsuperscript{43} Id. at xv.
\textsuperscript{44} Julie Oseid provides one specific example of this: “Lincoln’s First Inaugural was delivered by Lincoln, the lawyer, making a case to the jury, the people of the North and South.” Oseid, \textit{supra} note 7, at 35.
\textsuperscript{45} Holzer, \textit{supra} note 10, at 8.
\textsuperscript{46} Dirck, \textit{supra} note 7, at 152.
\textsuperscript{47} Davis, \textit{supra} note 7, at 72.
audience attention on fundamental issues of logic or equity.”

Furthermore, “[Lincoln] occasionally set up his political arguments concerning slavery, emancipation, and freedom as if they were the legal briefs in the moot court of American public opinion.”

Harold Holzer concludes, “Lincoln might have become a successful lawyer without becoming a politician. But it is doubtful that he would have become a successful politician without becoming a lawyer.”

III. OVERVIEW OF VARIOUS RHETORICAL TECHNIQUES

A basic explanation of some of the rhetorical techniques used by Lincoln in the speeches examined in this article will be helpful prior to analyzing those speeches. First, the article will discuss the three main concepts derived from classical rhetoric. Second, the article will explain generally some specific stylistic and legal argumentation techniques that Lincoln included in his speeches.

A. Main Concepts from Classical Rhetoric

The three main manners of persuading according to classical rhetoric are logos, pathos, and ethos. Logos involves persuading a reader or listener through the logical substance of the arguments presented. Michael Smith has stated that “[i]n the context of persuasive legal writing [and speaking], logos refers to persuasion through legal reasoning based on established legal authorities.”

48 Davis, supra note 7, at 72.
49 DIRCK, supra note 7, at 152.
50 Holzer, supra note 10, at 14.
52 SMITH, supra note 51, at 10, 11. See also ROBBINS-TISCIONE, supra note , at 101 (“Appeals to logos rely on logic or analytical reasoning.”).
53 SMITH, supra note 51, at 22.
Pathos concerns persuading through the emotion evoked through the writing or speech concerned.\textsuperscript{54} Pathos can be achieved in two main ways. The first manner involves arousing an emotional reaction in the reader or listener through the substance of the argument concerned.\textsuperscript{55} Smith terms this persuasion through emotional substance.\textsuperscript{56} In terms of persuasive writing and speaking, this entails mainly persuading “by appealing to the audience’s values and emotions.”\textsuperscript{57} The second method deals with the process of arousing a positive emotional reaction through the form or manner in which a document is written or in which a speech is given.\textsuperscript{58} This is called medium mood control.\textsuperscript{59} In the context of persuasive writing and speaking, medium mood control refers to “\textit{stylistic} strategies and techniques used by a writer [or speaker] to capture a reader’s [or listener’s] attention and put the reader [or listener] in a contented and receptive mood.”\textsuperscript{60} A few examples of stylistic strategies that can persuade a reader or listener are the use of metaphor and literary allusion.\textsuperscript{61}

Ethos involves a writer or speaker persuading by establishing credibility in the eyes of the reader.\textsuperscript{62} According to classic rhetoricians, three main qualities evidence credibility in the eyes of a reader or listener: intelligence, character and good will.\textsuperscript{63} A writer or speaker may demonstrate intelligence in several ways. For example, a writer or speaker that writes eloquently or uses plain and effective metaphors evidences intelligence, which can cause a reader or listener

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\textsuperscript{54} Smith, supra note 51, at 11; Robbins-Tiscione, supra note 51, at 101.
\textsuperscript{55} Smith, supra note 51, at 11.
\textsuperscript{56} Id.
\textsuperscript{57} Id. at 23.
\textsuperscript{58} Id. at 12.
\textsuperscript{59} Id.
\textsuperscript{60} Id. at 23-24.
\textsuperscript{61} Id. at 25.
\textsuperscript{62} Id. at 13. \textit{See also} Robbins-Tiscione, supra note 51, at 101 (“Appeals to \textit{ethos} are those aspects of the speaker’s character that lead the audience to believe she is credible.”).
\textsuperscript{63} Smith, supra note 51, at 125.
to trust more what the writer or speaker is advocating. Among the traits that writers and speakers can project in order to demonstrate that they are of good moral character include truthfulness, candor, respect, and professionalism. Good will “refers to how an advocate feels or is disposed toward others involved in the matter under discussion.” For instance, Michael Smith has stated that if a decision-maker believes “that an advocate is angry at, resentful of, or otherwise malevolent toward the decision-maker or an adverse party, the decision-maker will likely be skeptical about the advocate’s advice on the matter” because the decision-maker may believe that the advocate is “speaking not out of logic or a sense of justice, but out of spite and anger.”

B. Specific Rhetorical Techniques

Some specific techniques help promote the three main concepts identified in classical rhetoric. A brief explanation of some of the rhetorical techniques identified in the three speeches analyzed in this article follows. The first category of techniques to be discussed is called rhetorical figures of speech. Then, the article will discuss creating a theme to further persuasive arguments, dealing affirmatively with an opponent’s arguments in persuasive writing and speech, dealing with adverse authority in persuasive writing and speech, and finally using literary references and allusion in persuasive writing and speech.

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64 Id. at 235.
65 Id. at 125-26.
66 Id. at 143.
67 Id.
1. Figures of Speech

Rhetorical figures of speech are “stylistic devices that help give writing eloquence” and create drama in the writing or speech concerned. The first figure of speech to be identified is repetition. Repeating certain terms or language in a speech or writing, according to Michael Smith, can be of “inestimable value when seeking to emphasize key points in an argument.” Moreover, repetition increases the likelihood that a reader or listener will remember the concept or term being repeated.

The second figure of speech to be considered is alliteration. Alliteration involves “the use of two or more words in close proximity to each other that begin with (or prominently contain) the same letter sound.” The use of alliteration makes the argument more pleasing to the listener or reader’s ear. Because of this, an idea or concept presented to the reader or listener “often stands out in the mind of a reader.”

The third rhetorical figure of speech to be discussed is metaphor. A metaphor involves an implicit figurative or symbolic comparison between two things by equating one thing to another or by discussing the things in close proximity to one another. The comparison involved is implicit rather than explicit. In other words, the writer or speaker does not use words

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68 Id. at 195.
69 Id. at 334.
70 See LAUREL CURRIE OATES & ANNE ENQUIST, THE LEGAL WRITING HANDBOOK 271 (5th ed. 2010) (“Just as listeners remember best the songs that get the most airtime, readers remember the facts that get the most words. Consequently, favorable facts should be given considerable ‘air time,’ while unfavorable ones should be given little or no ‘play.’”).
71 SMITH, supra note 51, at 316.
72 Id. at 315, 316 (defining euphony as a “term used to describe discussions that are pleasing to the ear” and stating that alliteration “contributes to the euphony of writing”).
73 Id. at 316.
74 Id. at 199-200.
such as “like” or “as” in comparing the things involved. Metaphors are effective manners of communication because they allow a reader or listener to understand one event in terms of another and relate what is being discussed to the universal experience of the reader or listener.

The fourth and final figure of speech to be examined is the use of rhetorical questions. A rhetorical question “is a question asked by a writer [or speaker]” with “no hope or expectation of an answer from the reader” or listener. The question is included for effect and “not to elicit an answer from the reader.”

Writers or speakers can use rhetorical questions for two different purposes. First, a writer or speaker can use a transitional rhetorical question “to set up an immediate answer or to transition to a new point of discussion.” Second, a writer or speaker can use a rhetorical question to make “a substantive point by stating it in the form of a self-answering question rather than as an assertive statement.” In this manner, the writer or speaker makes his or her point “obliquely rather than directly” in an assertive statement. A rhetorical question used in this way is called a substantive rhetorical question.

2. Theme

Providing an overall theme to a writing or speech and relating the advocate’s position to a larger societal goal can be an effective technique to persuade a reader or listener in the soundness

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75 Id. at 200. A writer or speaker uses a simile rather than a metaphor when he or she explicitly makes a figurative comparison by using terms such as “like” or “as.” Id.
77 SMITH, supra note 51, at 336.
78 Id.
79 Id.
80 Id. at 337.
81 Id.
82 Id.
of that position. Often times in persuasive legal writing an effective theme deals with how the result advocated for will further a particular social policy or laudable societal goal. Moreover, a good theme will convince a reader or listener why in a particular situation the policy supporting the advocate’s position is more important than competing or contrary policies. Ruth Anne Robbins and Brian Foley have discussed how to describe in litigation documents a particular conflict in traditional literary and narrative terms in order to make a reader or listener desire the particular result for which the writer or speaker advocates. Other legal writing experts discuss the importance of putting the conflict concerned in a favorable context and of describing the conflict from the point of view of the represented party. All of these techniques are effective manners of presenting a favorable theme for the outcome that the writer or speaker desires.

3. Dealing with an Opponent’s Arguments in an Affirmative Manner

A persuasive writer or speaker must in some manner deal with his or her opponent’s arguments in order to be an effective advocate. Leaving an opponent’s arguments unaddressed can lead a decision-maker to believe that those arguments are valid and cannot be answered. However, when addressing an opponent’s arguments or points, an advocate does not want to

83 MARY BETH BEAZLEY, A PRACTICAL GUIDE TO APPELLATE ADVOCACY 45, 265 (3d ed. 2010). In persuasive legal writing, “[a] theme is particularly important when arguing issues for which no mandatory authority governs the outcome, or when arguing to a court of last resort.” Id.
84 Id. at 45 (stating that “[g]ood themes are often policy based”).
85 See id. at 45 (“When courts must choose between two competing interpretations of law, they often do so by identifying (explicitly or implicitly) which of two competing policy arguments is more important in this situation.”).
87 E.g., OATES, supra note 70, at 269-270, 350-353; HELENE S. SHAPO, ET AL., WRITING AND ANALYSIS IN THE LAW 411 (5th ed. 2008).
88 SHAPO, supra note 87, at 467 (“Establishing your own argument requires rebutting opposing argument.”);
89 See RICHARD K. NEUMANN, JR., LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY, AND STYLE (6th ed. 2009) (“If you do not [deal with the difficulties in your case], the court will assume that you have no arguments worth making on the subject.”); SCALIA, supra note 88, at 16 (“[A]ny judge who thinks of these objections even before your opponent raises them will believe that you’ve overlooked the obvious problems with your argument.”).
make those arguments the focus of the overall presentation. Instead, an advocate usually can best address adverse arguments within the framework of the other positive and affirmative arguments that the advocate wishes to put forth on the topic concerned. Sometimes, an advocate can answer an opponent’s argument implicitly by simply presenting his or her answer without explicitly stating the opponent’s point. At other times, in order to be dealt with effectively, a writer or speaker will need to explicitly state his or her opponent’s argument. Nevertheless, when necessary, this usually should not be done at the beginning or end of a section of a writing or speech in order to avoid bringing too much attention and overemphasizing the point set out. Moreover, an advocate should be careful about the language used to respond to a contrary argument or point. Usually a writer or speaker will need to reword the response to an opponent’s argument or statement so that his or her position is stated in an affirmative manner rather than phrased simply as a denial of the opponent’s argument, which often will make the advocate appear defensive.

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90 See OATES, supra note 70, at 296 (“Your goal is to respond to or counter the other side’s arguments without giving them too much airtime.”); SHAPO, supra note 87, at 467 (“Yet you do not want to overemphasize those opposing arguments by setting them forth in all their untaurished glory and then scrambling to recoup your losses.”).
91 OATES, supra note 70, at 295 (“As a general rule, you set out your own arguments first, give your own arguments the most air time, and use language that strengthens your arguments and undermines the other side’s arguments.”); SHAPO, supra note 87, at 467 (“[M]ake your counter-argument affirmatively and as an integral part of your case, rather than as a separate section devoted only to counter-argument.”).
92 OATES, supra note 70, at 386 (“In responding to the other side’s arguments, avoid repeating the other side’s argument. Instead, respond to the argument.”); SHAPO, supra note 87, at 467 (“[A]dress the argument opposing counsel is likely to make implicitly rather than explicitly, by answering it as you present it.”).
93 SHAPO, supra note 87, at 468 (“[P]otential weaknesses in your theory of the case should not be discussed at the beginning of an issue or subissue or at the end of such a discussion. Deal with them in the middle of the argument concerning that point.”); SCALIA, supra note 88, at 15 (“It’s an age-old rule of advocacy that the first to argue must refute in the middle, not at the beginning or end. Refuting first puts you in a defensive posture; refuting last leaves the audience focused on your opponent’s arguments rather than your own.”). See also BEAZLEY, supra note 83, at 98 (“[A]dressing negative authorities almost never means that you should begin your argument by addressing negative authorities.”).
94 See OATES, supra note 70, at 295 (“[U]se language that strengthens your arguments and undermines the other side’s arguments.”); NEUMANN, supra note 89, at 325 (“You will win more easily if the court’s dominant impression is that you deserve to win, rather than that your adversary deserves to lose. A defensive tone can undermine an otherwise worthwhile argument.”).
4. Dealing with Adverse Authority

Similarly, an effective advocate must deal with existing authority that may suggest a result contrary to the one being sought. In fact, a legal advocate has a professional ethical obligation to disclose adverse authority in the controlling jurisdiction of which he or she is aware that is directly adverse to his or her position when the opposing side has failed to do so. One of the most common manners in which to deal with adverse authority is to distinguish it from the present circumstances and explain why it does not apply to the situation at hand. Another manner in which to deal with adverse authority, although disfavored unless absolutely necessary, is to explain why the authority should be overturned and not followed. An advocate might describe how the rule from the authority was unfounded and constructed on shaky footing when originally enacted. Alternatively, an advocate might discuss how the decision is no longer appropriate given current public policy. Even another strategy is for an advocate to demonstrate how the rule concerned is not working well. Nevertheless, in order to effectively persuade a decision-maker, an effective writer or speaker must find some manner of

95 SHAPO, supra note 87, at 469 (“Your brief will be taken more seriously if you go below the surface to rebut adverse authority with reasonable arguments. By doing so, you show the strength of your client’s position.”). See also NEUMANN, supra note 89, at 324 (“Adverse authority will not go away just because you ignore it: if the court does not find it, opposing counsel probably will.”).
97 NEUMANN, supra note 89, at 324 (“If adverse authority is precedent, consider distinguishing it, focusing on significant—and not merely coincidental—differences between the precedent and your case.”); SHAPO, supra note 87, at 469 (“The easiest way to overcome contrary authority is to distinguish the case on its facts.”).
98 See NEUMANN, supra note 89, at 324 (“In general, do not ask a court to overrule mandatory authority if you can win through distinguishing, reconciliation, or some other skill of precedent analysis. Judges simply prefer distinguishing and reconciling precedent to overruling it.”); SCALIA, supra note 88, at 19 (“If, for example, a leading case comes out differently from your desired result, don’t argue that it should be overruled if there is a reasonable basis for distinguishing it.”).
99 SHAPO, supra note 87, at 469 (“[An advocate can] ask a court to overturn a decision because it is no longer sound public policy.”)
100 See NEUMANN, supra note 89, at 324 (noting that “another approach is to attack the precedent head-on, challenging its validity on the grounds that it is poorly reasoned”).
101 SHAPO, supra note 87, at 469 (“Here you might look at persuasive precedents from other jurisdictions that have rules you believe are more indicative of current public policy.”).
102 Id. (“You could also demonstrate that, as a practical matter, a rule is not working well—it is too difficult to administer or too vague.”).
dealing with adverse authority that a decision-maker might believe controls the situation concerned.

5. Literary Reference or Allusion for Nonthematic Metaphoric Comparison

A piece of persuasive writing or a speech can refer to a particular work of literature for many purposes. However, one major use of a literary reference is for nonthematic metaphoric comparison. According to Michael Smith, in a nonthematic literary reference, the writer or speaker “makes reference to a literary work in an effort to draw a comparison between some person or event in his or her [situation] and a character or scene in the literary work.” However, the comparison “is not made to evoke the general theme of the literary work,” and in that way is nonthematic.

Moreover, a writer or speaker can use such nonthematic literary references to introduce a metaphor. When using a literary reference for nonthematic metaphoric comparison, the writer or speaker compares some aspect of his or her situation “to a character, scene or event from a literary work,” but the comparison is figurative or symbolic rather than literal. Such use of a literary reference can help “communicate the substance of an argument quickly and efficiently” because the reference should be familiar to the reader or listener and, therefore, taps into the reader or listener’s own prior experiences. Moreover, nonthematic metaphoric literary references further all three of the manners of persuasion from classic rhetoric. Such references

103 See generally Smith, supra note 51, at 251-307 (discussing the various uses of literary references).
104 Id. at 253.
105 Id.
106 Id.
107 Id.
108 Id.
109 Id. at 258.
110 See supra notes 51–67 and accompanying text (providing a brief overview of classic rhetoric).
advance the logos function by helping to communicate the substance of the writer or speaker’s argument. Additionally, depending on the particular manner in which they are used, a nonthematic metaphorical allusion to a literary work can enhance an argument’s emotional force, furthering the pathos function, by evoking the reader or listener’s feelings, either positive or negative, when reading the original work. Finally, such a literary reference can advance the ethos function by demonstrating the writer or speaker’s creativity and resourcefulness and that the writer or speaker is educated and well-read. In this manner, nonthematic literary references can be a powerful rhetorical technique.

IV. ANALYZING THE THREE MAJOR SPEECHES OF CANDIDATE LINCOLN

Lincoln’s speeches were especially important to his rise as a prominent national figure. As Eric Foner has recognized, Lincoln “rose to prominence on the basis of oratory, not a record of public service.” Furthermore, unlike many politicians of today, “Lincoln wrote his speeches himself, . . . and because he preferred to speak from a written text, his writing style lives on through his speeches.” Moreover, the practice at the time was for presidential candidates to not campaign on their own behalf once officially nominated. Instead, speeches made by the candidate prior to his official nomination were “extensively circulated as campaign

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111 SMITH, supra note 51, at 259.
112 Id. at 260.
113 Id. at 261.
114 FONER, supra note 3, at 64.
115 Judith D. Fischer, Abraham Lincoln as a Legal Writer, 11 NEV. L.J. 82, 86 (2010). See also Kaplan, supra note 1, at 1 (“Since Lincoln, no president has written his own words and addressed his contemporary audience or posterity with equal and enduring effectiveness.”); HAROLD HOLZER, LINCOLN AT COOPER UNION: THE SPEECH THAT MADE ABRAHAM LINCOLN PRESIDENT 32 (2004) (“Lincoln wrote all of his speeches himself, pen to paper, word by word.”).
116 ADAM GOODHEART, 1861: THE CIVIL WAR AWAKENING 32 (2011) (“Following the precedent set by nearly every presidential nominee since Washington, [Lincoln] did not go out on the stump himself, which would have been unseemly.”); RICHARD CARWARDINE, LINCOLN: A LIFE OF PURPOSE AND POWER 114 (2006) (“Lincoln followed custom for the duration of the campaign, by avoiding any suggestion of personal involvement. He made no speeches, gave no public interviews, issued no letters or statements of public policy.”).
texts.”\textsuperscript{117} In fact, Lincoln wrote his Cooper Union address with the goal of it “not only play[ing] well” during its live recitation, but so that it also would “impress newspaper readers around the country.”\textsuperscript{118} The specific manner in which the speech appeared in print was so important to Lincoln that during his presidential campaign, Lincoln himself “prepared his Cooper Union speech for publication.”\textsuperscript{119} Therefore, the customs of the times with regard to presidential campaigns increased the importance of prior speeches of presidential candidates, and the texts of Lincoln’s previous, prominent speeches were an important component of his presidential campaign.

A. \textit{PEORIA, ILLINOIS SPEECH (October 16, 1854)}

1. Context and Significance of Speech

At the time of the Peoria speech in October of 1854, Lincoln had been campaigning for the re-election of United States Congressman Richard Yates and running himself for a seat in the Illinois legislature.\textsuperscript{120} The last political office that he had held was five years earlier as a United States Congressman, a position he occupied from 1847-1849.\textsuperscript{121} Earlier in the year, United States Senator Stephen Douglas of Illinois had steered the Kansas-Nebraska Act, which allowed settlers in these frontier areas to vote on whether or not to have slavery, to passage in Congress.\textsuperscript{122} This legislation repealed the agreement between “free” Northern states and slave-

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{117} CARWARDINE, supra note 116, at 117.
\item \textsuperscript{118} HOLZER, supra note 115, at 115.
\item \textsuperscript{119} CARWARDINE, supra note 116, at 117. Julie Oseid notes that Lincoln as president “wrote [his speeches] for the reader, knowing that [they] would be transcribed in newspapers across the country.” Oseid, supra note 7, at 36.
\item \textsuperscript{120} CARWARDINE, supra note 116, at 61; LEHRMAN, supra note 4, at 14.
\item \textsuperscript{121} RIZER, supra note 10, at 71, 72-73; Davis, supra note 7, at 67. See generally DONALD, supra note 28, at 119-141 (discussing Lincoln’s term in the United States House of Representatives).
\item \textsuperscript{122} FONER, supra note 3, at 63.
\end{itemize}
\end{footnotesize}
holding Southern states, arrived at through the Missouri Compromise of 1821, that slavery would not exist in new states north of Missouri.  

Lincoln began speaking out against the Kansas-Nebraska Act in August of 1854. However, the most famous representation of Lincoln’s arguments against the Act during this time period is the speech that he made at Peoria, Illinois on October 16, 1854. The speech was the longest of his political career consisting of seventeen thousand (17,000) words, taking over three (3) hours to give, and taking up forty-one (41) pages in Lincoln’s collected works. In the speech, Lincoln set out his basic argument that the Kansas-Nebraska Act departed from the founding fathers’ original intent, as set out in the Declaration of Independence, to prevent the spread of slavery.

Lincoln historian Douglas Wilson describes the speech as “the keystone of Lincoln’s political career.” Lincoln would return to the arguments and the themes set out in the Peoria speech repeatedly over the next six (6) years until he won the presidency in 1860. Moreover, Lincoln presented his arguments in the Peoria speech in such a brilliant manner that soon to be editor-and-chief of the Chicago Tribune Horace White described the speech as the “greatest”

123 FONER, supra note 3, at 63; LEHRMAN, supra note 4, at 8; RIZER, supra note 10, at 73.
124 CARWARDINE, supra note 4, at 60-61; FONER, supra note 4, at 65.
125 FONER, supra note, at 65.
128 WILSON, supra note 126, at 37.
129 See FONER, supra note 3, at 70 (“[T]he Peoria speech laid the foundation for [Lincoln’s] approach to the slavery question for the next six years.”); LEHRMAN, supra note 4, at 101 (stating that the Peoria “speech established the principles, the policies, and the arguments whereby he made his way on an improbable pilgrimage to the presidency”).

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ever delivered in Illinois, and half a century later, he proclaimed, “I feel under its spell to this day.”

2. Analysis of Speech

In the passages of the Peoria speech that this article will examine, Lincoln uses several persuasive techniques effectively. First, Lincoln presents his arguments against the Kansas-Nebraska Act and deals with Douglas’ arguments for the Kansas-Nebraska Act as well as adverse authority, in the form of the United States Constitution, in an affirmative manner. Second, Lincoln uses carefully chosen language designed to arouse the listener’s emotions in a favorable manner, serving the pathos function. Third, he uses repetition well for emphasis and to advance the logic of his argument, serving the logos function. Finally, in this speech, Lincoln uses metaphor in order to elucidate and “drive home” his arguments concerning the harmful effects of slavery.

Lincoln begins the speech by providing an extensive and detailed examination of how slavery had been treated in the development of new United States territories. He discusses the Northwest Ordinance of 1787, which prohibited the establishment of slavery in the territory formerly owned by Virginia and that eventually became Ohio, Indiana, Illinois, Michigan, and Wisconsin. Lincoln also talks about the Missouri Compromise of 1820, which allowed Missouri and states south of 36 degrees and 30 minutes north latitude, formed out of the territory received from France in the Louisiana Purchase, to have slavery, but prohibited slavery in any states formed out of the territory north of that line. He also examines the Compromise of 1850, which allowed California to become a “free” state, but allowed residents of the Utah and

130 FONER, supra note 3, at 70.
131 LINCOLN SPEECHES 1832-1858, supra note 127, at 308-09.
132 Id. at 310-11.
New Mexico territories to decide for themselves when they applied for statehood whether or not to allow slavery.\textsuperscript{133} Lincoln goes through this historical explanation to establish how the Kansas-Nebraska Act unmistakably repealed the Missouri Compromise of 1820.\textsuperscript{134}

Lincoln then goes on to explain why the Act’s repeal of the Missouri Compromise is wrong:

This \textit{declared} indifference, but as I must think, covert \textit{real} zeal for the spread of slavery, I can not but hate. I hate it because of the monstrous injustice of slavery itself. I hate it because it deprives our republican example of its just influence in the world—enables the enemies of free institutions, with plausibility, to taunt us as hypocrites—causes the real friends of freedom to doubt our sincerity, and especially because it forces so many really good men amongst ourselves into an open war with the very fundamental principles of civil liberty—criticizing the Declaration of Independence, and insisting that there is no right principle of action but \textit{self-interest}.\textsuperscript{135}

To start, one sees Lincoln dealing with an adverse argument on the part of Senator Stephen Douglas. In doing so, Lincoln re-characterizes Douglas’ argument that the Kansas-Nebraska Act is indifferent to whether the new territories allow slavery or not, and Lincoln asserts that instead the Act actually demonstrates a “\textit{real} zeal for the spread of slavery.”\textsuperscript{136}

Lincoln then uses very strong language to describe his feelings about this desire to spread slavery. He states twice in very short phrases that he “hates” it, explaining that he “hates” it because of the “monstrous injustice of slavery itself.”\textsuperscript{137} Presumably, Lincoln used such passionate terms to arouse the emotions of listeners, and subsequent readers, serving the pathos function. Lincoln then in an extremely long sentence goes on to list exactly what he “hates,”

\begin{itemize}
\item \textsuperscript{133} \textit{Id.} at 313-14.
\item \textsuperscript{134} \textit{Id.} at 315.
\item \textsuperscript{135} \textit{Id.} Lincoln often included italicized words in the written versions of his speeches. Therefore, this article is careful to indicate when its author has emphasized words through italics rather than Lincoln having done so originally.
\item \textsuperscript{136} \textit{Id.}
\item \textsuperscript{137} \textit{Id.}
\end{itemize}

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using that term again, about the institution of slavery itself. The repetition of the term “hate” serves to emphasize his stated points. However, it also introduces the substantive points that follow.

Lincoln’s main argument is set out first: slavery hurts the United States’ world influence. The subsequent points listed then serve to explain exactly how the existence of slavery in the United States hurts its world influence: (1) slavery gives credibility to the charges of “enemies of free institutions” that Americans are “hypocrites,” (2) slavery causes the friends of the United States “to doubt our sincerity,” and (3) slavery “forces . . . good men . . . into an open war with the very fundamental principles of civil liberty” as set out in the Declaration of Independence and “insisting that there is no right principle of action but self-interest.” Therefore, Lincoln’s use of the term “hate” and his repeating of it not only serves the pathos function, but also reinforces the logical of his arguments by capturing the reader’s attention and transitioning the reader into Lincoln’s substantive arguments as to the manner in which slavery hurts American interests.

Additionally, through his third point, Lincoln reinforces the main theme of the speech that the spread of slavery, if not the institution itself, goes against the principles set out in the Declaration of Independence. He also equates the support of slavery to a criticism of the Declaration of Independence and asserts that the only justification for slavery is self-interest. Consequently, the entire listing of ills caused by the existence of slavery serves the logos function by demonstrating in a concrete and specific fashion exactly how slavery hurts American interests.

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138 Id. The sentence, in fact, is eighty-one words long. Id.
139 Id.
140 Id.
In the next excerpt from the speech to be examined, Lincoln uses repetition and metaphor to advance the logic of his arguments against slavery:

The doctrine of self government [sic] 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 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 one man’s making a slave of another.141

In this excerpt, Lincoln again is dealing with one of Douglas’ arguments, specifically the argument that the Kansas-Nebraska Act is beneficial because it furthers “self-government,” by allowing territories to vote on whether or not to allow slavery. However, through this passage, Lincoln explains that while the concept of “self-government” is “right” as an abstract concept, when the concept is applied to the extension of slavery, in the form of the Kansas-Nebraska Act, it is not “just.”

Lincoln begins this explanation by contrasting the terms “right” and “just” in the first two sentences of the excerpt. He asserts that “self-government” is not only right, but is “absolutely and eternally right.”142 However, self-government “has no just application” as attempted by the Kansas-Nebraska Act.143 Or whether it has “just application depends on whether a negro is not or is a man.”144 Lincoln goes on then to demonstrate the logical fallacy of the argument that the Kansas-Nebraska Act promotes self-government by repeating and contrasting the terms “self-government” and “govern” and “governs” while also repeating and contrasting the terms

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141 Id. at 328.
142 Id.
143 Id.
144 Id.
“negro,” “man” and “white man.”\textsuperscript{145} As long as one considers “negros” to be “men,” then the expansion of slavery constitutes “despotism” rather than “self-government” because it allows the “white man” to “govern” “another man,” the “negro.”\textsuperscript{146} This repetition of the terms “negro,” “white man,” and “man” then culminates in Lincoln’s reference to the Declaration of Independence that “all \textit{men} are created equal” and statement that “there can be no moral right in \textit{one man’s} making a \textit{slave} of another.”\textsuperscript{147}

This last sentence also shows Lincoln effectively using metaphor and diction. He uses a metaphor that implicitly compares the Declaration of Independence to the Bible by referring to the Declaration as “my \textit{ancient faith [that] teaches me ‘all men are created equal.’}”\textsuperscript{148} He then furthers this metaphor by stating “there can be no \textit{moral right} in one man’s making a slave of another.”\textsuperscript{149} In this manner, Lincoln demonstrates the immorality of the institution of slavery itself.

This excerpt also shows Lincoln dealing implicitly with adverse authority. The adverse authority in this case is the United States Constitution. The United States Constitution made compromises concerning slavery that were awkward for Lincoln’s position on slavery. For example, the Constitution originally counted a slave as only three-fifths of a person for the purposes of figuring out how to apportion representation in the House of Representatives.\textsuperscript{150} The Constitution also required that runaway slaves be returned to their owners and that no state could enact laws that would free a runaway slave.\textsuperscript{151} Moreover, the Constitution did not allow the

\textsuperscript{145} \textit{Id.}
\textsuperscript{146} \textit{Id.}
\textsuperscript{147} \textit{Id. (emphasis added).}
\textsuperscript{148} \textit{Id. (emphasis added).}
\textsuperscript{149} \textit{Id. (emphasis added).}
\textsuperscript{150} U.S. \textit{Const.} art. I, § 2, cl. 3.
\textsuperscript{151} U.S. \textit{Const.} art. IV, § 2, cl. 3.

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prohibition of the slave trade until the year 1808. However, Lincoln simply ignored the Constitution altogether in the text of the speech, and instead, looked past it to the principles of equality set out in the Declaration of Independence as the true touchstone of American values.

In the last excerpt from the Peoria speech to be examined, Lincoln again uses metaphor and repetition to underscore his arguments:

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. Let us turn slavery from its claims of “moral right,” back upon its existing legal rights, and its arguments of “necessity.” Let us return it to the position our fathers gave it; and there let it rest in peace. Let us re-adopt the Declaration of Independence, and with it, the practices, and policy, which harmonize with it. Let north and south—let all Americans—let all lovers of liberty everywhere—join in the great and good work. If we do this, we shall not only have saved the Union; but we shall have so saved it, as to make, and to keep it, forever worthy of the saving. We shall have so saved it, that the succeeding millions of free happy people, the world over, shall rise up, and call us blessed, to the latest generations.

Lincoln begins the passage by using a concrete metaphor comparing the republican ideals of the United States to a robe and stating that the robe “is soiled” by the institution of slavery and “trailed in the dust.” He calls for “us” to “repurify it” and “wash it white in the Spirit, if not the blood, of the Revolution.” This metaphor serves both to evoke emotion in listeners, and subsequent readers, through this vivid language and to clarify Lincoln’s points that the institution of slavery continues to taint the United States and that the country needs to return to its founding principles of equality, as set out in the Declaration of Independence.

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152 U.S. CONST. art. I, § 9, cl. 1.
153 LINCOLN SPEECHES 1832-1858, supra note 127, at 339-40.
154 Id. at 339.
155 Id. at 339-40.
Lincoln also repeats the term “let,” using it nine (9) times throughout this passage, for emphasis and to include and unify listeners in his call to end the expansion of slavery.\textsuperscript{156} This technique culminates in his call to: “Let north and south—let all Americans—let all lovers of liberty everywhere—join in the great and good work.”\textsuperscript{157} Lincoln also uses a death metaphor to further the theme of returning to the values embodied by the Declaration of Independence. He states, “Let us return [slavery] to the position our fathers gave it; and there let it rest in peace.”\textsuperscript{158}

Lincoln can also be seen in this part of the speech dealing with adverse authority, the Constitution, implicitly by calling listeners to “re-adopt the Declaration of Independence, and with it, the practices, and policy, which harmonize with it.”\textsuperscript{159} In this manner, Lincoln again uses the Declaration of Independence as the exemplar of American ideals and ignores the uncomfortable compromises, noted above, made between the “free” and slaveholder states in the Constitution. Lincoln also may have used the term “re-adopt” to imply that the United States had strayed in the Constitution from the egalitarian principles expressed in the Declaration of Independence, which ultimately injured American interests. Thus, only by going back and more closely adhering to the principles from the Declaration of Independence could the United States remedy the mistaken course it had taken by making the compromises concerning slavery contained in the Constitution.

Moreover, this use of the Declaration of Independence allowed Lincoln to present his opposition to the expansion of slavery as a conservative position because it appeared to simply

\textsuperscript{156} Id. This specific use of repetition, repeating the same word at the beginning of successive clauses or sentences, is termed anaphora. SMITH, supra note 51, at 334.
\textsuperscript{157} LINCOLN SPEECHES 1832-1858, supra note 127, at 340.
\textsuperscript{158} Id. (emphasis added).
\textsuperscript{159} Id.
call for a “return to the policy inaugurated by the revolutionary generation.” However, in reality, according to Eric Foner, Lincoln’s position was “a form of antislavery advocacy that marked a radical departure from national policies that for decades had fostered the spread of slavery.” Additionally, the anti-slavery credentials of many of the nation’s founders were not as strong as Lincoln implied and in fact were somewhat in doubt. Nevertheless, Lincoln finesses these inconsistencies by repeatedly referring back to the egalitarian language and principles presented in the Declaration of Independence.

Lincoln ends this passage by repeating and playing off the terms “saved” and “saving:”

If we do this, we shall not only have saved the Union; but we shall have so saved it, as to make, and keep it, forever worthy of the saving. We shall have so saved it, that the succeeding millions of free happy people, the world over, shall rise up, and call us blessed, to the latest generations.

This technique serves the pathos function of making his ending pleasing to the ear. However, the particular choice of the words “saved” and “saving” also advance the logic of Lincoln’s arguments by emphasizing that his countrymen should not only be concerned about saving the Union in terms of keeping the southern states from seceding, but also in saving the country from the evils of the institution of slavery. In fact, the last sentence presumably refers back to Lincoln’s listing of the manners in which slavery hurts the United States’ world influence in the first section of the speech examined because, according to Lincoln, once the blight of slavery is eliminated from the United States, this will restore the country to its proper influence, and people “the world over” will sing its praises.

160 FONER, supra note 3, at 72.
161 Id.
162 See Id. at 71 (“Many of the founders did profess antislavery ideas, but few did anything to implement them and some had no desire whatever to see slavery end.”). But see LEHRMAN, supra note 4, at 105 (“There was, during the Founding era, a common sense, admittedly not universal, that slavery must be restricted, both for high-minded and self-interested motives. Thus arose during this period the hope for the ultimate extinction of slavery in America.”).
163 LINCOLN SPEECHES 1832-1858, supra note 127, at 340 (emphasis added).
B. “HOUSE DIVIDED” SPEECH (JUNE 16, 1858)

1. Context and Significance of Speech

Despite his eloquence in describing the foibles of the Kansas-Nebraska Act, Lincoln would not serve in a political office in 1854 or shortly thereafter. Although elected to the Illinois legislature in the fall of 1854, Lincoln resigned so that he could be eligible to be the United States Senator for Illinois.164 However, that winter the Illinois legislature would elect anti-slavery Democrat Lyman Trumbull to that post.165 Nevertheless, following this defeat, Lincoln would play a key role in 1856 in the formation of the Republican Party in Illinois.166 Despite the organizing of the new party, though, and Lincoln’s extensive campaigning throughout the state for Republican presidential candidate John Fremont,167 a Democrat, James Buchanan, carried Illinois and was elected president in 1856.168

Moreover, a Supreme Court decision early the following year would further set back the efforts of antislavery activists. In March 1857, the United States Supreme Court issued the Dred Scott decision, which Chief Justice Roger Taney authored, in which the Court declared that

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164 CARWARDINE, supra note 116, at 63-64 (“Lincoln himself enjoyed a comfortable margin of victory, . . ., and then embarked explicitly on what he had surely intended all along, a campaign to become the next U.S. senator from Illinois. Amongst other things, this meant refusing his seat in the legislature—the elective body—to make himself an eligible candidate, . . ..”); FONER, supra note , at 74 (“In November 1854, when the voters of Illinois chose a legislature with an ‘anti-Nebraska’ majority, Lincoln resigned the seat to which he had been elected so that he could seek election to the Senate, which Illinois law barred members of the legislature from doing.”); Davis, supra note 7, at 68 (“Successful in his 1854 bid to return to the state legislature, Lincoln quickly resigned to qualify in the U.S. Senate contest that winter.”). 165 CARWARDINE, supra note 116, at 64; FONER, supra note 3, at 75-76.

166 CARWARDINE, supra note 116, at 66-68 (noting that in February 1856 Lincoln “played a leading role in drafting the declaration of principles and the resolutions” for a state gathering of antislavery journalists and describing Lincoln’s leading role in May 1856 at an Illinois state “anti-Nebraska convention”); FONER, supra note 3, at 78 (noting that Lincoln at a February 1856 meeting of antislavery editors “helped to draft resolutions that deftly covered both moderate and radical antislavery ground”).

167 FONER, supra note 3, at 81 (“Lincoln threw himself into the [1856 presidential] campaign, all but abandoning his law practice in the fall to deliver over 100 speeches for Fremont.”)

168 CARWARDINE, supra note 116, at 70; FONER, supra note 3, at 82.
African-Americans had no rights as citizens under the United States Constitution.169

Furthermore, the opinion asserted that “because the Constitution ‘distinctly and expressly affirmed’ the right to property in slaves, slaveholders could bring them into the federal territories.”170 The Court even stated in dicta that the Missouri Compromise had been unconstitutional.171 This led President Buchanan to announce “that slavery now existed in all the territories, ‘by virtue of the Constitution.’”172 Through what was known as the Lecompton Constitution, Buchanan then attempted to permit slavery in the territory of Kansas when it became a state, against the wishes of a majority of its residents.173 However, because the measure defied the principle of popular sovereignty, Senator Stephen Douglas’ justification for the enactment of the Kansas-Nebraska Act, Douglas opposed the legislation, and successfully helped its opponents to defeat the measure in Congress.174

This effort by Douglas to defeat the Lecompton Constitution led some Republicans, most prominently Horace Greeley, the editor of the New York Tribune, to suggest that Douglas not be opposed in his campaign in 1858 to be re-elected to the United States Senate seat for Illinois.175 Illinois Republicans, however, spurned such proposals and at a convention in June of 1858

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169 *Dred Scott v. Sanford*, 60 U.S. 393, 406 (1857) (“[T]he plaintiff in error could not be a citizen of the State of Missouri, within the meaning of the Constitution of the United States, and, consequently, was not entitled to sue in its courts.”). See also FONER, supra note 3, at 92; CARWARDINE, supra note 116, at 71.
170 FONER, supra note 3, at 92. See also *Dred Scott*, 60 U.S. at 451 (“[T]he right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every State that might desire it, for twenty years.”).
171 *Dred Scott*, 60 U.S. at 452 (“[I]t is the opinion of the court that the act of Congress which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line therein mentioned, is not warranted by the Constitution, and is therefore void: . . . .”).
172 FONER, supra note 3, at 98.
173 Id.
174 FONER, supra note 3, at 98; CARWARDINE, supra note 116, at 74.
175 CARWARDINE, supra note 116, at 74 (“Greeley began to contemplate giving anti-Lecompton Democrats a clear run in the fall elections, perhaps even welcoming them into the party.”); FONER, supra note 3, at 98 (“Horace Greeley, perhaps the most influential Republican journalist, whose New York Tribune circulated widely throughout the North, urged Illinois Republicans to support Douglas’s reelection to the Senate.”).
nominated Lincoln as their candidate for the Senate seat from Illinois. Before the popular
election of senators, it was unprecedented to nominate a person as the party candidate prior to the
meeting of the state legislature to elect the state’s United States senator. Therefore, when
Lincoln gave his “House Divided” speech, speaking at the end of the convention in order to
accept his nomination and launching his senatorial campaign, he “set out to demolish the idea
that Republicans could in good conscience support Douglas.” Lincoln linked Douglas to a
Southern conspiracy to extend slavery throughout the United States and contrasted this with
Lincoln’s unassailable credibility as an opponent of the extension of slavery. In fact, some of
Lincoln’s supporters feared that Lincoln was too effective in his speech and had opened himself
to charges that he was an anti-slavery radical.

2. Analysis of Speech

In the first excerpt from the speech to be examined, Lincoln can be seen using
alliteration, literary reference, metaphor, repetition and affirmatively dealing with an opponent’s
arguments all to his advantage to argue persuasively that he is the proper politician to prevent the
expansion of slavery:

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.

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176 CARWARDINE, supra note 116, at 75; FONER, supra note 3, at 99.
177 CARWARDINE, supra note 116, at 75 (“[W]hat they did, imposing on the state legislature a subordinate role in
selecting a U.S. senator by morally removing the freedom to choose, was practically unheard of.”); FONER, supra
note 3, at 99 (“In an unprecedented move, the delegates named Lincoln the party’s candidate for the U.S. Senate.
(Normally, such a decision awaited the convening of the next legislative session.”)).
178 FONER, supra note 3, at 99.
179 See infra Section IV. B. 2.
180 See WILSON, supra note 126, at 99 (“[M]any of his closest associates thought the image [of a “house divided”]
had been too successful and, having been turned into a rallying cry for the opposition, was responsible for the
Republican defeat.”); FONER, supra note 3, at 101 (“Some of Lincoln’s friends feared the speech would injure his
chances in central Illinois, enabling Democrats to portray him as a dangerous radical.”); LEHRMAN, supra note 4, at
198 (“Some of Mr. Lincoln’s supporters and opponents thought his [‘House Divided’] speech so radical that it
would doom his chances to win the Senate seat in Illinois.”).
We are now in 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.

Have we no tendency to the latter condition?

Let anyone who doubts, carefully contemplate that now almost complete legal combination—piece of machinery so to speak—compounded of the Nebraska doctrine, and the Dred Scott decision. Let him consider not only what work the machinery is adapted to do, and how well adapted; but also, let him study the history of its construction, and trace, if he can, or rather fail, if he can, to trace the evidences of design, and concert of action, among its chief bosses, from the beginning.¹⁸¹

Lincoln begins his speech by using alliteration effectively by repeating the “wh” sound in using the words “where,” “whither,” and “what”: “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.”¹⁸² In this sentence, Lincoln also sets out a clear roadmap of the topics that he will cover in his speech. This roadmap allows the reader to better recognize the points that Lincoln will make throughout the speech and the structure in which Lincoln makes those points. The alliteration that Lincoln uses strengthens this effect by making these points stand out.

¹⁸¹ LINCOLN SPEECHES 1832-1858, supra note 127, at 426.
¹⁸² Id.
Lincoln then attacks one of Senator Douglas’ primary arguments for enacting the Kansas-Nebraska Act: that passage of the Act would quiet disputes concerning the institution of slavery. Lincoln states, “We are in the fifth year, since a policy was initiated with the avowed object, and confident promise, of putting an end to slavery agitation.”\footnote{Id.} In this manner, Lincoln emphasizes that almost five years has passed since Congress enacted the Act. However, over that amount of time, the Act had not achieved the goal of quieting “slavery agitation,” but in fact, had the opposite effect: “Under the operation of that policy, that agitation has not only, not ceased, but has constantly augmented.”\footnote{Id.} After this, Lincoln describes what he believes will be the result of the increased agitation over the issue of slavery: “In my opinion it will not cease, until a crisis shall have been reached, and passed.”\footnote{Id.}

Next, Lincoln provides an excellent example of using a literary reference effectively for nonthematic metaphoric comparison.\footnote{See supra section III. B. 5. (explaining the use of literary references for nonthematic metaphoric comparison).} Lincoln demonstrates the deleterious effect on the nation of the countervailing forces simultaneously attempting to constrict and expand the institution of slavery. Lincoln quotes from the Bible in order to make his point in an especially memorable manner: “A house divided against itself cannot stand.”\footnote{LINCOLN SPEECHES 1832-1858, supra note 127, at 426.} In the passage from the Bible which Lincoln quotes, Jesus is answering the Pharisees who charged that Jesus had used the power of the devil in order to heal a possessed person.\footnote{Matthew 12:24-12:8 (King James). The exact quote from which Lincoln borrowed is: “Every kingdom divided against itself is brought to desolation; and every city or house divided against itself shall not stand.” Matthew 12:25.} Jesus states that if in saving the person concerned the devil cast himself out he would be “divided against himself” and “how shall then his kingdom stand?”\footnote{Matthew 12:26.} Lincoln, however, doesn’t necessarily use the biblical quote to
refer to this specific theme. Instead, Lincoln uses the reference to emphasize how the United States is “divided” between the opponents of slavery and the advocates of slavery and how this is harmful for the nation. Therefore, Lincoln uses the quote to introduce the section of the speech where Lincoln talks about the dichotomy between these two groups and their differing goals. He also emphasizes the consequences of this struggle between these offsetting forces by going on to talk about how the United States government “cannot endure, permanently half slave and half free.”

Lincoln also uses the biblical quote to introduce the metaphor of the United States dealing with the slavery issue as being a “house divided.” However, in Lincoln’s view, the United States ultimately will “cease to be divided.” In the end, either the opponents of slavery will do away with the institution or the advocates of slavery will succeed in having it pervade all states. Therefore, in Lincoln’s words, the United States “will become all one thing, or all the other.” In this manner, Lincoln uses the biblical reference to introduce in an especially memorable manner his discussion of the battle between the supporters and opponents of slavery.

Lincoln then goes on to emphasize the two contrasting potential outcomes and the opposing goals of the opponents of slavery and the advocates of slavery: “Either the opponents of slavery will arrest the further spread of it, and place it where . . . it is in the course of ultimate extinction; or its advocates will push it forward, till it shall become alike lawful in all States, old as well as new—North as well as South.” Lincoln uses some vivid and effective terms in this passage when describing the desired result of each group. First, he talks of the opponents of

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190 LINCOLN SPEECHES 1832-1858, supra note 127, at 426.
191 Id.
192 Id.
193 Id.
194 Id.
slavery “arresting the further spread of it.”^{195} By using the words “arrest” and “spread” in this clause, Lincoln evokes the image of halting the outbreak of a contagious disease. Second, he discusses opponents of slavery putting it on “the course of ultimate extinction.”^{196} While Lincoln was not the first person to use this language,^{197} the terms are well chosen because they make clear the goal of the opponents of slavery.

Third, Lincoln uses vivid imagery to demonstrate the active efforts of the advocates of slavery to spread the institution when he talks of such advocates “pushing” it forward. Thus, slavery advocates are taking affirmative and intentional steps to expand slavery in the United States. Finally, Lincoln emphasizes the desired final result of slavery advocates by not stopping at stating simply that slavery will exist in “all the States,” but by using repetition for emphasis and restating the result two more times: slavery will exist in “old [states] as well as new—North as well as South.”^{198} This imagery combines to provide the impression of slavery spreading unchecked in every direction throughout the United States.

Following this, Lincoln asks, “Have we no tendency to the latter condition?” With this rhetorical question, Lincoln transitions into his extension discussion of the actions of the advocates of slavery to bring about the expansion of slavery throughout the entire United States. Lincoln begins this discussion with a simile comparing these efforts to “machinery” set up to expand slavery: “Let anyone who doubts, carefully contemplate that now almost complete legal combination—piece of machinery so to speak—compounded of the Nebraska doctrine, and the

^{195} Id.
^{196} Id.
^{197} Foner, supra note 3, at 101 (“Henry Clay, as Lincoln well knew, had used the words ‘ultimate extinction’ as had such Republicans as David Wilmot, Salmon P. Chase, and Senator Solomon Foot of Vermont.”).
^{198} Lincoln Speeches 1832-1858, supra note 127, at 426.
Lincoln then uses this comparison to set out a clear roadmap of what exactly he will be discussing in this section of the speech:

Let him consider not only what work the machinery is adapted to do, and how well adapted; but also, let him study the history, of its construction, and trace, if he can, or rather fail, if he can, to trace the evidences of design, and concert of action, among its chief bosses, from the beginning.

In referring to “the evidences of design, and concert of action” between the machine’s “chief bosses,” Lincoln begins presenting the support for his argument that a conspiracy to nationalize slavery existed between Senator Stephen Douglas, who steered the Kansas-Nebraska Act through Congress to eventual passage, Chief Justice Roger Taney, who authored the Dred Scott decision, and Presidents Franklin Pierce and James Buchanan. After this, Lincoln focuses on the history of the “machine” that advocates of slavery had constructed. He goes on to explain how the Kansas-Nebraska Act worked in concert with the Supreme Court’s Dred Scott decision to further the expansion of slavery, and how both President Pierce in his outgoing speech and President Buchanan in his inaugural address, before the Court issued Dred Scott, advised the public to adhere to and abide by the upcoming decision by the Supreme Court.

In the next passage to be discussed, Lincoln sets up an effective metaphor to demonstrate the evidence that he saw of the conspiracy between these actors. Lincoln begins by examining a statement by Douglas that the Kansas-Nebraska Act would allow settlers in these territories to be “perfectly free” to decide on their own whether to allow slavery or not “subject only to the

199 Id.
200 Id.
201 Id. at 427-30. See also FONER, supra note 3, at 100 (“In the remainder of the speech, Lincoln spelled out the “tendency” toward the nationalization of slavery. He accused Douglas of participating in a broad conspiracy involving Presidents Pierce and Buchanan and Chief Justice Taney, to make slavery legal throughout the United States.”).
202 LINCOLN SPEECHES 1832-1858, supra note 127, at 427-428.

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Constitution”\textsuperscript{203} and how this statement later left room for the Supreme Court in the \textit{Dred Scott} opinion to conclude that settlers in fact did not have the right to decide this:

This shows exactly where we now \textit{are}; and \textit{partially} also, whither we are tending.

It will throw additional light on the latter, to go back, and run the mind over the string of historical facts already stated. Several things will \textit{now} appear less \textit{dark} and \textit{mysterious} than they did \textit{when} they were transpiring. The people were to be left “perfectly free” “subject only to the Constitution.” What the \textit{Constitution} had to do with it, outsiders could not \textit{then see}. Plainly enough \textit{now}, it was an exactly fitted \textit{niche}, for the \textit{Dred Scott} decision to afterwards come in, and declare the \textit{perfect freedom} of the people, to be just no freedom at all.\textsuperscript{204}

In this passage, Lincoln uses repetition and plays on the term “perfect freedom” by concluding that the Supreme Court in the \textit{Dred Scott} decision decided that this meant “no freedom at all.”

Furthermore, by discussing how Douglas’ statement created “an exactly fitted \textit{niche},” Lincoln sets up the use of a very effective metaphor comparing the plan to expand slavery in the United States to a “plan or draft” to build a house. The purpose of this metaphor is to explain why although Lincoln cannot “know” that a conspiracy existed, he can still “believe” this conspiracy existed:

We can not [sic] absolutely \textit{know} that all these exact adaptations are the result of preconcert. But when we see a lot of framed timbers, different portions of which we know have been gotten out at different times and places and by different workmen—Stephen, Franklin, Roger and James, for instance—and when we see these timbers joined together, and see they exactly make the frame of a house or a mill, all the tenons and mortices exactly fitting, and all the lengths and proportions of the different pieces exactly adapted to their respective places, and not a piece too many or too few—not omitting even scaffolding—or, if a single piece be lacking, we can see the place in the frame exactly fitted and prepared to yet bring such piece in—in \textit{such} a case, we find it impossible to not \textit{believe} that Stephen and Franklin and Roger and James all understood one another from the beginning, and all worked upon a common \textit{plan or draft} drawn up before the first lick was struck.\textsuperscript{205}

\textsuperscript{203} \textsc{Lehrman, supra} note \textsc{4}, at 126-27 (setting out Douglas’ argument on this point).
\textsuperscript{204} \textsc{Lincoln Speeches 1832-1858, supra} note 127, at 430.
\textsuperscript{205} \textit{Id.} at 431.
Thus, by using this house building metaphor, Lincoln drives home his argument in a vivid manner that a conspiracy existed between Douglas, Pierce, Taney and Buchanan, referred to in the passage as “Stephen, Franklin, Roger and James,” to expand slavery throughout the United States.\textsuperscript{206} This metaphor also furthers the “house divided” theme set out by Lincoln at the outset by using the metaphor of the planning of the building of a “house” to compare to the existing evidence of a conspiracy between Douglas, Pierce, Taney and Buchanan to expand slavery. Moreover, Lincoln later in the speech goes on to assert that the “single piece . . . lacking” and to be brought in is “another Supreme Court decision, declaring that the Constitution of the United States does not permit a state to exclude slavery from its limits.”\textsuperscript{207}

Then, having used the majority of the speech to demonstrate how Stephen Douglas had in the past worked in concert with the advocates of slavery and why Stephen Douglas could not be trusted to combat the expansion of slavery in the future, Lincoln closes the speech by explaining why Lincoln can be trusted to do this work:

But clearly, he is not now with us—he does not pretend to be—he does not promise to ever be.

Our cause, then, must be entrusted to, and conducted by its own undoubted friends—those whose hands are free, whose hearts are in the work—who do care for the result.

Two years ago the Republicans of the nation mustered over thirteen hundred thousand strong.

We did this under the single impulse of resistance to a common danger, with every external circumstance against us.

\textsuperscript{206} \textsc{Carwardine, supra note 116}, at 77 (“Through the combined energies of Douglas, Pierce, Taney, and Buchanan (‘Stephen, Franklin, Roger and James’), the Nebraska doctrine and the \textit{Dred Scott} decision had forced open all the territories to slavery.”).

\textsuperscript{207} \textsc{Lincoln Speeches 1832-1858, supra} note 127, at 432 (“Put that and that together, and we have another little niche, which we may, ere long, see filled with another Supreme Court decision, declaring that the Constitution of the United States does not permit a state to exclude slavery from its limits.”).
Of strange, discordant, and even, hostile elements, we gathered from the four winds, and formed and fought the battle through, under the constant hot fire of a disciplined, proud and pampered enemy.

Did we brave all then, to falter now?—now—when that same enemy is wavering, dissevered and belligerent?

The result is not doubtful. We shall not fail—if we stand firm, we shall not fail.

Wise councils may accelerate or mistakes delay it, but, sooner or later the victory is sure to come. 208

Lincoln starts by using alliteration by repeating the “p” sound to emphasize that Douglas is not “with” the opponents of slavery. Lincoln states that Douglas does not “pretend” to be a part of the cause and does not “promise to ever be.” In this manner, Lincoln sets up the contrast with his own qualifications as an anti-slavery politician.

Lincoln then uses alliteration to emphasize who should be chosen to take on the important work of combating the expansion of slavery, repeating the terms “whose” and “who” and stating that the cause “must be entrusted to its own undoubted friends—those whose hands are free, whose hearts are in the work—who do care for the result.” 209 In this last phrase by emphasizing that the task must be taken on by those “who do care for the result,” Lincoln plays on the statement by Douglas that he did not care whether slavery was allowed or not in the Kansas-Nebraska territory. 210

Furthermore, throughout this passage, Lincoln also uses the terms “us,” “our” and “we” to describe the anti-slavery movement presumably to emphasize his membership in this movement and his credentials as an opponent of slavery: “But clearly, he is not now with us . . . .

208 Id. at 434.
209 Id. (emphasis added).
210 Id. at 428 (“I do not understand [Douglas’] declaration that he cares not whether slavery be voted down or voted up, to be intended by him other than as an apt definition of the policy he would impress upon the public mind . . . .”).
Our cause, then, must be entrusted to . . . . We did this under the single impulse of resistance to a common danger, with every external circumstance against us.”211

Lincoln then uses carefully chosen language to describe how “every external element” was against the Republican Party in the past election. He talks of how the party “gathered” “[o]f strange, discordant, and even, hostile elements” and how it battled “a disciplined, proud and pampered enemy.”212 This choice of words furthers the pathos function by increasing the drama of the events described as he sets out the obstacles that the Republican Party overcame in the last election. Lincoln then again uses alliteration to his advantage by repeating the “f” sound when describing how the different components of the Republican Party “gathered from the four winds, and formed and fought the battle through, under the constant hot fire of a disciplined, proud and pampered enemy.”213 The use of alliteration here furthers the dramatic nature of this passage and allows Lincoln to describe the past battles of Lincoln and his fellow Republicans in elegant language.

Lincoln uses the next sentence to contrast the state of their enemy before—when it was “disciplined, proud and pampered”—to how it is now—“wavering, dissevered and belligerent” and states that the opponents of slavery should not then “falter now.”214 Lincoln then uses repetition to emphasize his confidence that the opponents of slavery will succeed if they take proper measures, repeating twice that they will not fail: “The result is not doubtful. We shall not fail—if we stand firm, we shall not fail.”215 He then ends the passage restating his confidence in

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211 Id. at 434 (emphasis added).
212 Id.
213 Id. (emphasis added).
214 Id.
215 Id.
their ultimate victory: “Wise councils may accelerate or mistakes delay it, but, sooner or later the victory is sure to come.”216 In this manner, Lincoln ends the speech in dramatic fashion.

C. ADDRESS AT COOPER UNION,217 NEW YORK, NEW YORK (FEBRUARY 27, 1860)

1. Context and Significance of Speech

The primary goal of Lincoln’s address at Cooper Union in New York City was to raise his national prominence and potentially thrust Lincoln into the discussion as a potential Republican presidential nominee.218 Several people opposed to having New York Senator William Seward obtain the nomination had organized the event.219 Lincoln spent much of his time prior to the address doing extensive research on “the public statements, votes in Congress,

216 Id.
217 Some confusion apparently exists as to the proper title of this speech because it is commonly referred to both as the Address at Cooper Institute as well as the Address at Cooper Union. However, Harold Holzer explains that the school where Lincoln spoke officially “was—and remains—Cooper Union.” HOLZER, supra note 115, at 6. Holzer goes on to clarify that:

[A] few months before the school opened its doors to students, a so-called “People’s Institute” established itself to organize public programs there for the further enlightenment of both its enrollees and the general public.

Thereafter, Lincoln and nearly all of his contemporaries, including journalists, began referring to the school itself as “Cooper Institute” or “Cooper’s Institute.” To most Americans of Lincoln’s day, his 1860 speech thus became known at the “Cooper Institute” address. . . .

Abraham Lincoln, however, lectured not for the “Institute” group, but for an independent political organization that rented the building’s Great Hall for the evening. Therefore, it is proper to say that he spoke at Cooper Union, not Cooper Institute.

Id.
218 See FONER, supra note 3, at 136 (“Early in 1860, the opportunity to lecture in New York City offered the chance to enhance [Lincoln’s] national standing.”); CARWARDINE, supra note 116, at 97 (stating that “[f]rom the closing months of 1859 to the gathering of the Republican convention Lincoln actively worked to make himself better known” and that the address at Cooper Union was “[m]ore influential still in projecting Lincoln to a wider audience”).
219 FONER, supra note 3, at 136 (“The invitation had been arranged by a group of New York Republicans hostile to William H. Seward, the frontrunner for the party’s nomination.”); CARWARDINE, supra note 116, at 97-98 (stating that an organizing committee consisting of “local party leaders hostile to Seward, turned Lincoln’s engagement into one of a series of lectures by prominent out-of-state Republicans and designed to reach beyond the party faithful”).
and writings of the men who had framed the Constitution." Ultimately, Lincoln provided a serious, at times almost scholarly, speech that discussed the framers’ views on the ability of Congress to control slavery in federal territories, answered charges that Republicans were radicals whose stances ultimately would destroy the Union, and explained the need for Republicans to stand firm in the face of such accusations. According to Eric Foner, Lincoln used the occasion “to strike blows against” two potential presidential challengers, Seward and Douglas, “as well as Chief Justice Taney, and to demonstrate to a demanding eastern audience his command of the slavery question, commitment to Republican principles, and availability as a candidate should Seward falter.” Lincoln spoke to an almost capacity crowd in a hall designed to seat one thousand eight hundred (1,800) people.

The speech proved to be a resounding success. Horace Greeley, one of the organizers of the address and editor of the New York Tribune, stated afterwards that the speech was “one of the happiest most convincing political arguments ever made in this city.” Moreover, the New York Times “extolled [Lincoln’s] ability ‘to elucidate and convince . . . to delight and electrify,’” and the New York Post noted that while in its opinion much of the content of the speech was not new, its substance was “most logically and convincingly stated in the speech—and it is wonderful how much a truth gains by a certain mastery of clear and impressive

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220 FONER, supra note 3, at 136.
221 Id.
222 Id. But see HOLZER, supra note 115, at 105 (“Although as much as a fourth of the hall’s eighteen hundred seats remained unfilled, co-organizer Henry C. Bowen seemed ‘astonished to see a crowded house.’”).
223 LEHRMAN, supra note 4, at 214 (noting that after Lincoln’s address at Cooper Union “he was recognized as a national Republican leader and a dark horse presidential contender”); WILSON, supra note 126, at 43 (“The speech had been a great success in the hall and was fulsomely praised in the New York papers.”).
224 WILSON, supra note 126, at 43; FONER, supra note 3, at 138.
225 CARWARDINE, supra note 116, at 98.
statement.” Soon after Lincoln gave it, the speech appeared in its entirety in all four New York City newspapers, as well as others, and was published in pamphlet form.

2. Analysis of Speech

In the Cooper Union address, one sees Lincoln using theme to further his arguments on slavery, using extensive research to advance those arguments, dealing directly with adverse legal authority, and continuing to use metaphor and repetition and alliteration effectively. Lincoln begins his speech by seizing on a sentence from a speech by Senator Stephen Douglas in the fall of 1859, recounted in the New York Times, stating that: “Our fathers, when they framed the Government under which we live, understood this question just as well, and even better, than we do now.” The “question” about which Douglas spoke was whether the federal government could regulate slavery in federal territories. Creating a recurring theme, Lincoln goes on to repeat segments of this language throughout this section. In this portion of the speech, Lincoln, using the product of exhaustive research, examines the legislative votes of “our fathers who framed the Government under which we live” bearing on the issue of whether the federal government had the authority to control slavery in federal territories.

As discussed above, Lincoln in his Peoria speech avoided direct references to the Constitution and instead looked to the Declaration of Independence as the touchstone for the

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226 Wilson, supra note 126, at 43.
227 Foner, supra note 1, at 138; Carwardine, supra note 1, at 98.
228 Abraham Lincoln, Speeches and Writings 1859-1865 111 (Libr. of Am. 1989) (hereinafter “Lincoln Speeches 1859-1865”).
229 Id. at 111-12. See also Holzer, supra note 115, at 120 (“The ‘question,’ of course, is the extension of slavery.”). As Harold Holzer notes, “Lincoln will utter this exact phrase no fewer than fifteen times in his speech, and one can only imagine how he delights his audience each time he renews the refrain.” Holzer, supra note 1, at 122.
230 Lincoln Speeches 1859-1865, supra note 228, at 112-18.

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values of America’s founders.\textsuperscript{232} Contrastingly, in his Cooper Union address, Lincoln examines the views of the signers of the Constitution directly by first assuming that the “fathers” Douglas spoke of were signers of the Constitution. Thus, Lincoln presents the legislative votes of the signers of the Constitution who had voted on the prohibition of slavery in the Northwest Territory in 1784, when the measure did not pass, and in 1787, when the measure did pass, and a measure in 1789 to enforce the prohibition.\textsuperscript{233} Lincoln also notes that as president George Washington, a signer of the Constitution, signed the latter bill into law.\textsuperscript{234} Lincoln additionally considers the votes of signers of the Constitution on the laws organizing the Mississippi, Louisiana, and Missouri territories, all of which prohibited slavery in some respect.\textsuperscript{235} After this exhaustive examination of the voting history of the signers of the Constitution on measures dealing with the authority of the federal government to control slavery in federal territories, Lincoln concludes that out of twenty-three (23) of such “fathers” who voted on such legislation, twenty-one (21) voted to approve prohibiting slavery in a federal territory.\textsuperscript{236} In this manner, these “fathers” demonstrated their belief that “no proper division of local from federal authority, nor any part of the Constitution, forbade the Federal Government to control slavery in the federal territories.”\textsuperscript{237}

Second, Lincoln assumes instead that the “fathers” of “the Government under which we live” were “members of the first Congress which sat under the Constitution” who voted on the

\textsuperscript{232} \textit{Supra} notes 150–160 and accompanying text.
\textsuperscript{233} \textit{LINCOLN SPEECHES 1859-1865, supra} note 228, at 112-113.
\textsuperscript{234} \textit{Id.} at 113.
\textsuperscript{235} \textit{Id.} at 114-15. \textit{See also} \textit{HOLZER, supra} note 115, at 126-27 (noting that the legislation organizing the Mississippi Territory “authorized restrictions on the importation of new slaves” and that the legislation dealing with the Louisiana Territory contained “similar restrictions”).
\textsuperscript{236} \textit{LINCOLN SPEECHES 1859-1865, supra} note 228, at 117. Lincoln also notes that this twenty-one of the “fathers” constituted a “clear majority” of the “thirty-nine fathers who framed the original Constitution.” \textit{Id.}
\textsuperscript{237} \textit{Id.}
original ten amendments to the Constitution, also known as the Bill of Rights. Lincoln makes this assumption due to the members of the United States Supreme Court in the *Dred Scott* case “plant[ing] themselves upon the fifth amendment” to the Constitution and “Senator Douglas and his peculiar adherents plant[ing] themselves upon the tenth amendment.” Lincoln notes that at the same legislative session that the original Constitutional amendments were voted upon, Congress passed the Northwest Ordinance of 1787, which prohibited slavery in the territory concerned. Consequently, Lincoln asks, “Is it not a little presumptuous in any one at this day to affirm that the two things which Congress deliberately framed, and carried to maturity at the same time, are absolutely inconsistent with each other?” In this manner, Lincoln concludes with a substantive rhetorical question emphasizing the point to which he has been leading. Therefore, in the first section of the speech, Lincoln builds piece-by-piece and block-by-block the wall of his argument that the founders believed Congress had the authority to prohibit slavery in federal territories using his exhaustive research on these legislative votes as the bricks and the mortar.

However, Lincoln culminates this thorough, and almost scholarly, assessment by engaging in a bit of hyperbole for emphasis and to drive home his ultimate point:

> It is surely safe to assume that the thirty-nine framers of the original Constitution, and the seventy-six members of the Congress which framed the amendments thereto, taken together, do certainly include those who may be fairly called “our fathers who framed the Government under which we live.” And so assuming, I defy any man to show that any one of them ever, in his whole life, declared that, in his understanding, any proper division of local from federal authority, or any part of the Constitution, forbade the

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238 Id. at 117-118.
239 Id. at 117. The Fifth Amendment of the United States Constitution prohibits the federal government from “depr[iving]” a “person” of “property, without due process of law.” U.S. CONST. amend. V. Furthermore, the Tenth Amendment states that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.” U.S. CONST. amend. X.
240 LINCOLN SPEECHES 1859-1865, supra note 228, at 117-118.
241 Id. at 118.
Federal Government to control as to slavery in the federal territories. I go a step further. I defy any one to show that any living man in the whole world ever did, prior to the beginning of the present century, (and I might almost say prior to the beginning of the last half of the present century,) declare in his understanding, any proper division of local from federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the federal territories. To those who now so declare, I give, not only “our fathers who framed the Government under which we live,” but with them, all other living men within the century in which it was framed, among whom to search, and they shall not be able to find the evidence of a single man agreeing with them.\textsuperscript{242}

Hyperbole and exaggeration is discouraged generally in legal discourse.\textsuperscript{243} Lincoln’s use of exaggeration is effective here, though, specifically because it comes after Lincoln has carefully set out in minute detail the evidence proving his point. Therefore, the hyperbole emphasizes exactly how thoroughly Lincoln has proven his argument.

Lincoln goes on to use this evidence of the views of America’s “fathers” on the ability of the federal government to control slavery in federal territories to combat charges by Southerners that Republicans are radicals:

But you say you are conservative—eminently conservative—while we are revolutionary, destructive, or something of the sort. What is conservatism? Is it not adherence to the old and the tried, against the new and untried? We stick to, contend for, the identical policy on the point in controversy which was adopted by “our fathers who framed the Government under which we live;” while you with one accord reject, and scout, and spit upon that old policy, and insist upon substituting something new. True, you disagree among yourselves as to what that substitute shall be. You are divided on new propositions and plans, but you are unanimous in rejecting and denouncing the old policy of the fathers. . . . [B]ut never a man among you in favor of federal prohibition of slavery in federal territories, according to the practice of “our fathers who framed the Government under which we live.” Not one of all your various plans can show a precedent or an advocate in the century within which our Government originated. Consider, then, whether your claim of conservatism for yourselves, and your charge of destructiveness against us, are based on the most clear and stable foundations.\textsuperscript{244}

\textsuperscript{242} Id. at 118-19.
\textsuperscript{243} See Smith, supra note 51, at 328-29 (“Although hyperbole is commonly used in everyday speech, it is not recommended in persuasive legal writing. Lawyers are required to be precise, credible, and professional. The exaggeration of hyperbole is inconsistent with these traits.”)
\textsuperscript{244} LINCOLN SPEECHES 1859-1865, supra note 228, at 122.
Lincoln starts this excerpt by choosing his terms carefully, contrasting Southerners’ description of themselves as “conservative—eminently conservative” with charges that Republicans are “revolutionary” and “destructive.”  But Lincoln turns this charge on its head by explaining that Republicans “stick to, contend for the identical old policy on the point in controversy” that the nation’s “fathers” held. Meanwhile, using particularly vivid language and a little alliteration, repeating the “s” sound, Lincoln states that Southerners “reject, and scout, and spit upon that old policy, and insist upon substituting something new.” Therefore, by establishing that America’s founding “fathers” endorsed federal regulation of slavery through their voting histories, Lincoln can now present Republicans as being conservative and Southerners as being radicals.

Lincoln leads into these points by using rhetorical questions, one transitional and the other substantive, in order to create drama and for emphasis by asking “What is conservatism?” and then setting out his definition of “conservatism” in a question. Furthermore, Lincoln ends this segment of the speech by noting that none of the “various plans” put forth by advocates of the Southern position “can show a precedent or an advocate in the century within which our Government originated.” Lincoln then again contrasts Southern claims of conservatism and charges of radicalism against Republicans by stating that Southerners should “[c]onsider, . . . , whether your claim of conservatism for yourselves, and your charge of destructiveness against us, are based on the most clear and stable foundation.” In this manner, Lincoln uses descriptive language and rhetorical questions to reinforce and emphasize the logical substance of

245 Id.
246 Id.
247 Id.
248 See HOLZER, supra note 115, at 131 (discussing how Lincoln established that “[t]he Republicans, not the Democrats, are the true heirs to America’s fathers”).
249 LINCOLN SPEECHES 1859-1865, supra note 228, at 122.
250 Id.
his arguments that Southern positions on slavery were not based on the views of America’s founding “fathers.”

This speech also shows Lincoln dealing effectively with adverse authority, by explicitly condemning the *Dred Scott* decision:

Perhaps you will say the Supreme Court has decided the disputed Constitutional question in your favor. Not quite so. But waiving the lawyer’s distinction between dictum and decision, the Court have [sic] decided the question for you in a sort of way. The Court have [sic] substantially said, it is your Constitutional right to take slaves into the federal territories, and to hold them there as property. When I say the decision was made in a sort of way, I meant it was made in a divided Court, by a bare majority of the Judges, and they not quite agreeing with one another in the reasons for making it; that it is so made as that its avowed supporters disagree with one another about its meaning, and that it was mainly based upon a mistaken statement of fact—the statement in the opinion that “the right of property in a slave is distinctly and expressly affirmed in the Constitution.”

Lincoln begins discrediting the Court’s statement in *Dred Scott* concerning the right to take slaves into federal territory by implying that the court’s statement was dicta, stating “Not quite so” to the proposition that the opinion decided the issue and going on to waive “the lawyer’s distinction between dictum and decision.” He then goes on to assail the authoritativeness of that statement in the decision due to a lack of cohesion in the views of the United States Supreme Court justices on the point, noting the decision “was made in a divided Court, by a bare majority of Judges, and they not quite agreeing with one another in the reasons for making it,” and also highlighting the lack of unity in supporters of the decision in explaining exactly what the Court meant by the statement.

However, Lincoln’s most damning criticism of the decision is “that it was mainly based upon a mistaken statement of fact—. . . that ‘the right of property in a slave is distinctly and

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251 *Id.* at 126.
252 *Id.*
253 *Id.*
expressly affirmed in the Constitution." 254 In this manner, Lincoln directly attacks the basis for the majority’s decision in *Dred Scott* and begins to demonstrate why the Court decided the case wrongly. To establish why the Court was mistaken in the statement that the Constitution “distinctly and expressly” affirms “the right of property in a slave,” Lincoln starts by defining the terms “distinctly” and “expressly:” “‘[D]istinctly,’ that is, not mingled with anything else—‘expressly,’ that is, in words meaning just that, without aid of any inference, and susceptible of no other meaning.” 255 He goes on then to explain exactly how the right of property in a slave is neither distinctly nor expressly set out in the Constitution:

[N]either the word “slave” nor “slavery” is to be found in the Constitution, nor the word “property” even, in any connection with language alluding to the things slave, or slavery, and that wherever in that instrument the slave is alluded to, he is called a “person;” —and wherever his master’s legal right in relation to him is alluded to, it is spoken of as “service or labor which may be due,” —as a debt payable in service or labor. Also, it should be open to show, by contemporaneous history, that this mode of alluding to slaves and slavery, instead of speaking of them, was employed on purpose to exclude from the Constitution the idea that there could be property in man.

To show all this, is easy and certain. 256

Therefore, by thoroughly reviewing the text of the Constitution itself, revealing its vague references to slavery, and noting the absence of the use of the term “property” in combination with references to slavery, Lincoln invalidates the Court’s statement that the Constitution “distinctly and expressly” affirms “the right of property in a slave.” Moreover, Lincoln emphasizes the lack of authority in the Constitution for the Court’s assertion by ending the section stating, “To show all this, is easy and certain.” Again, this use of the Constitution here as support for Lincoln’s arguments against the spread of slavery is interesting when in several of his

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254 *Id.*
255 *Id.*
256 *Id.* at 127.
prior speeches, namely the Peoria speech, he chose to ignore the Constitution and to look instead to the Declaration of Independence.

Thus, having disproved the distinct and express right to property in a slave in the Constitution, Lincoln goes on to assail the threats of the Southern states to secede unless such a right is affirmed and the people of the South’s refusal to accept a Republican president:

Under all of these circumstances, do you really feel yourselves justified to break up this Government, unless such a court decision as yours is, shall be at once submitted to as a conclusive and final rule of political action? But you will not abide the election of a Republican President! In that supposed event, you say, you will destroy the Union; and then, you say, the great crime of having destroyed it will be upon us! That is cool. A highwayman holds a pistol to my ear, and mutters through his teeth, “Stand and deliver, or I shall kill you, and then you will be the murderer.”

To be sure, what the robber demanded of me—my money—was my own; and I had a clear right to keep it; but it was no more my own than my vote is my own; and the threat of death to me, to extort my money, and the threat of destruction to the Union, to extort my vote, can scarcely be distinguished in principle.257

Once more, at the beginning of this passage, Lincoln uses a substantive rhetorical question to create drama and for emphasis. Here he uses the rhetorical question to emphasize how unjustified he feels the people of the South are in threatening to succeed if the Northern states do not ensure their right to keep slaves as property.

This passage also shows Lincoln again using metaphor effectively comparing the South’s threats to secede upon the election of a Republican president to an armed highwayman’s threat to kill a traveler unless the traveler gives up his or her money.258 Moreover, Lincoln compares the assertion that such secession would be the fault of the states of the North to the highwayman stating that the victim will be the murderer in the event the traveler does not give up his or her

257 Id. at 127-28.
258 Id. at 127.
money and is shot and killed. After describing this vivid metaphor, Lincoln mixes in simile and expressly compares the highwayman’s threat to kill the traveler in order to steal the traveler’s money to the South’s attempt to extort the votes of residents of the Northern states by threatening to secede. In this manner, Lincoln graphically illustrates the effect of the Southern states’ threat to secede if the residents of the states of the North did not acquiesce in the election of a president looked upon favorably by the Southern populace.

Lincoln then ends his speech in a particularly vehement and emotional manner, calling for Republicans to stand their ground and hold steady in the fight:

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.

Lincoln uses dramatic language to list the contrary forces facing Republicans and keeping them “from [doing their] duty.” Lincoln first emphasizes that Republicans should not be “slandered from our duty by false accusations,” such as that they are radicals and responsible for breaking up the Union. Second, he notes that Republicans should not be “frightened by menaces of destruction to the Government” through the threatened secession of the Southern states. Finally, Republicans should not be impeded by threats “of dungeons to ourselves,” referring possibly to the threat of being jailed through Southern sedition laws that outlawed statements disapproving of slavery as well as the call for national sedition laws with the same

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259 Id.
260 Id. at 127-28.
261 Id. at 130. The original text of the speech used all capital letters in the last sentence. See HOLZER, supra note 115, at 143 (“The capitalization of the last sentence was Lincoln’s idea—at least he sanctioned it in reprints.”).
262 LINCOLN SPEECHES 1859-1865, supra note 228, at 130.
263 Id.
264 Id.
effect. Lincoln then finishes by playing off the saying that “might makes right,” but he reverses the saying by calling on Republicans to “HAVE FAITH THAT RIGHT MAKES MIGHT,” stressing that because the Republicans are “right” on the issue of the expansion of slavery they eventually will win on that issue. Lincoln follows up this clever play on words with some alliteration by calling on Republicans to “DARE TO DO OUR DUTY AS WE UNDERSTAND IT.” In this manner, Lincoln, through careful word choices, use of alliteration, and by returning to several of the themes set out in his speech, ends in a manner that stirs the emotions of listeners and inspires them to take action for Lincoln’s cause.

V. LESSONS FOR ATTORNEYS IN LINCOLN’S SPEECHES

These three speeches demonstrate several techniques, manners of argumentation, and practices that attorneys would be well advised to emulate in their persuasive writing and speaking. Each of these strengthened the logos function by advancing the substantive logic of Lincoln’s arguments as to why slavery should not expand within the United States. Moreover, several of them also advanced the pathos function and stirred the emotions readers or listeners of Lincoln’s speeches. Some additionally served the ethos function and established Lincoln’s credibility with the readers or listeners of speeches. Attorneys who are able to master these techniques and practices similarly will benefit in their interactions, both written and oral, with judges and juries.

265 Id.
266 Id.
267 Id.
268 RIZER, supra note 10, at 80 (stating that in the last paragraph of the Cooper Union speech “Lincoln’s message was delivered in a way that both stirred emotion and immediately got the audience’s minds agreeing with his message” and that “Lincoln often used such language in the end of his addresses and closing arguments with the goal of raising the audience or jury into action for his cause”).
A. Use Plain and Descriptive Language

Examples of Lincoln using plain and easily understood language are replete throughout the three speeches examined in this article. Use of language that was easy for readers and listeners to access was essential to Lincoln effectively communicating his ideas. However, Lincoln also chose to include especially vivid and descriptive terms in several parts of these speeches. For example, in his “House Divided” speech, Lincoln describes slavery opponents as “arrest[ing] the further spread of it” and placing slavery “in the course of ultimate extinction” and slavery advocates “pushing” slavery forward until it expands into all states.269 Additionally, Lincoln ends his Cooper Union address stating that Republicans should not be “slandered from our duty by false accusations, nor frightened by menaces of destruction to the Government nor dungeons to ourselves” and having faith that “RIGHT MAKES MIGHT.”270 Such vivid and descriptive language helped Lincoln to “paint a picture” in the minds of listeners or readers of his speeches, to communicate his arguments effectively, and to arouse the emotions of listeners and eventual readers.

Similarly, attorneys should follow Lincoln’s example and use vivid and descriptive language in their briefs and at oral argument as one manner of effectively communicating their arguments. When an attorney pays attention to diction and describes arguments with concrete and vivid language, this helps to effectively communicate the attorney’s legal arguments and “paints a picture” in the mind of readers and listeners. Such careful use of language serves the logos function by more effectively communicating the concepts discussed to readers and listeners while particularly vivid language can also stir the emotions of readers and listeners and thus advance the ethos of the passage concerned. Furthermore, when a writer or speaker

269 Supra notes 194–98 and accompanying text.
270 Supra notes 261–66 and accompanying text.
demonstrates the ability to choose the particular word that will communicate the exact meaning he or she intends, this evinces intelligence and builds credibility with the reader or listener serving the ethos function.

B. Use Repetition

Throughout the three speeches, one can see Lincoln using repetition to emphasize and clarify his substantive points. One example of this is the repeating of the term “hate” in the Peoria speech to introduce the damage to American interests caused by slavery.\textsuperscript{271} Another example of this in the Peoria speech is the repetition of the terms “self-government,” “governs,” and “govern” when describing the effect of the Kansas-Nebraska Act.\textsuperscript{272} By repeating these terms while discussing the effect of whether one considers a “negro” to be a man or not, Lincoln demonstrates how the Kansas-Nebraska Act furthered despotism rather than self-government.\textsuperscript{273} Moreover, in the “House Divided” speech, at one point early in the speech Lincoln repeats the ultimate effect of slavery advocates “pushing” slavery “forward” until it exists lawfully “in all States, old as well as new—North as well as South” rather than stopping just at stating that advocates of slavery would expand it into all states.\textsuperscript{274} Such repetition furthers the logos function by emphasizing the substantive points being made and also making it easier for the reader or listener to understand the exact argument being made, be it in a political speech, a written brief, or an oral argument.

\textsuperscript{271} Supra note 137.
\textsuperscript{272} Supra notes 141–45 and accompanying text.
\textsuperscript{273} Supra note 146 and accompanying text.
\textsuperscript{274} Supra note 198 and accompanying text.
C. Use Metaphors

Attorneys have excellent examples in Lincoln’s speeches of metaphors used to advance the logic of a writer or speaker’s arguments. For example in the Peoria speech, Lincoln implicitly compares the Declaration of Independence to the Bible by referring to the Declaration as “my ancient faith.” In that same speech, Lincoln refers to the soiling of America’s “republican robe” by slavery. Both metaphors further the logic of Lincoln’s arguments on slavery. The first metaphor furthers Lincoln’s attempt to get listeners to look past the Constitution to the Declaration of Independence as the touchstone of American values. The second metaphor provides a vivid image for listeners of the damage done by slavery to American interests. These vivid metaphors also evoke particular emotions on the part of listeners and readers favorable to Lincoln’s arguments by connecting the Declaration of Independence to the holy Bible and America’s republican values to an elegant robe, thus serving the pathos function.

In the “House Divided Speech,” Lincoln provides us with an excellent example of a nonthematic metaphoric literary allusion. Lincoln very early in the speech uses the biblical reference “A house divided against itself cannot stand” to introduce the metaphor of the United States as a “house divided against itself” on the slavery issue. Not only does this literary reference and metaphor make the speech especially memorable, but it also allows Lincoln to introduce in a very effective manner his argument that eventually slavery either would cease to exist altogether in the United States or would expand into every state in the Union. Later in the speech, Lincoln uses the metaphor of the plan by the “chief bosses” to expand slavery throughout America.

275 Supra note 148 and accompanying text.
276 Supra note 154.
277 Supra notes 186–91 and accompanying text.

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the United States as being similar to the plan or draft for the building of a house.\textsuperscript{278} In this manner, Lincoln effectively illustrated his “evidence” of a conspiracy between Presidents Pierce and Buchanan, Chief Justice Taney, and Senator Douglas to expand slavery throughout the United States.

Again, in his Cooper Union address, Lincoln effectively uses a metaphor to compare the Southern states’ threat to secede from the Union upon election of a Republican president to a highway robber’s threat to kill a traveler unless handed money.\textsuperscript{279} Moreover, Lincoln coupled this metaphor with a simile to compare assertions by Southerners that the North would be responsible for the secession of the Southern states upon the election of a Republican president to the highway robber blaming the traveler for his or her own death.\textsuperscript{280}

Lincoln’s use of metaphors in these three speeches demonstrates the power of metaphors to elucidate the substantive points that an attorney is making. The above examples show how a metaphor can effectively relate an argument to the reader or listener’s common experience so that they better understand the topic being discussed. Attorneys can better communicate the substance of their arguments if they can relate them to the common knowledge of readers and listeners through the use of metaphors. The effective use of metaphor also demonstrates intelligence which will cause readers and listeners to trust the writer or speaker and to more readily accept the information he or she is conveying.

\textit{D. Include the Logical Building Blocks for Your Arguments}

Throughout the three speeches examined in this article, one can see Lincoln supporting his arguments concerning slavery in a step-by-step and systematic manner. In this way, Lincoln

\textsuperscript{278} \textit{Supra} notes 205–07 and accompanying text.

\textsuperscript{279} \textit{Supra} notes 258–59 and accompanying text.

\textsuperscript{280} \textit{Supra} note 260 and accompanying text.

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explicitly presents the listener or reader with the logical “building blocks” for his arguments against the expansion of slavery in the United States. Perhaps the most exemplary two instances of this occur in the Cooper Union address. First, at the beginning of the address, Lincoln presents the votes of the signers of the Constitution and members of the first United States Congress on legislation prohibiting slavery in federal territories. Moreover, Lincoln goes into extensive detail about what each piece of legislation concerned in order to demonstrate almost irrefutably that the overwhelming majority of America’s “founding fathers” believed that Congress had the ability to regulate slavery in federal territories.281

Second, later on in the Cooper Union address, Lincoln challenges the Supreme Court’s assertion in the Dred Scott decision that “the right to property in a slave is distinctly and expressly affirmed in the Constitution.”282 In disproving this assertion, Lincoln recounts each reference in the Constitution to slavery, the exact language used to refer to slavery, how each reference to slavery is vague, and how none of these references is made in conjunction with the use of the term “property.”283 In this manner, Lincoln step-by-step and point by specific point discredits the statement by the majority in the Dred Scott case. Similarly, attorneys are well served in their court briefs and at oral argument by expressly setting out the logical steps in their analysis that support their arguments, which not only advances the logos of the arguments concerned but also helps to build credibility with readers and listeners, thus serving the ethos function.

281 LINCOLN SPEECHES 1859-1865, supra note 228, at 112-114.
282 Supra notes 254–56 and accompanying text.
283 Supra note 256 and accompanying text.

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E. Engage in Thorough Legal Research

In parts of the speeches examined, one also can see evidence of Lincoln having engaged in exhaustive research in order to support his arguments on slavery. In fact, some historians have noted the extensive research that Lincoln undertook before drafting important speeches. For example, prior to his giving any version of the Peoria speech in the fall of 1854, Eric Foner has recounted a Democratic journalist who commented that “Lincoln had been ‘nosing around for weeks in the state library.’” In doing so, Lincoln “consulted the founders’ statements about slavery, previous congressional debates, Douglas’ own speeches, and even census returns.” At the beginning of the Peoria speech, one sees the product of this research as Lincoln recounts the history of the regulation of slavery in new territories.

Perhaps even a better example of the product of exhaustive research, though, is Lincoln’s relating in the Cooper Union address of the legislative record of the signers of the Constitution and the members of the first Congress on legislation bearing on the ability of the federal government to regulate slavery in federal territories. Only by extensively researching the congressional record could Lincoln have produced such evidence. Eric Foner has explained that prior to traveling to New York to give this address “Lincoln spent much of the time . . . in the Illinois State Library in Springfield, where he exhaustively researched public statements, votes in Congress, and writings of men who had framed the Constitution.” Furthermore, these portions of Lincoln’s speeches demonstrate how important thorough research often is to an attorney’s efforts to provide his or her legal arguments in a step-by-step, systematic, and detailed manner.

\footnote{284}{Foner, supra note 3, at 65.}
\footnote{285}{Id.}
\footnote{286}{Supra notes 131–134 and accompanying text.}
\footnote{287}{Foner, supra note 3, at 136-37.}
F. Possess the Ability to Deal with Adverse Arguments and Authority Both Implicitly and “Head-On”

These three speeches by Lincoln also provide excellent examples of manners in which to deal effectively with adverse arguments and authority. In the Peoria speech, one sees Lincoln deftly dealing with Senator Douglas’ argument that the Kansas-Nebraska act was disinterested as to whether slavery spread and that, therefore, it furthered self-government. Lincoln re-characterizes this argument showing instead how the Kansas-Nebraska act furthered a zeal for the spread of slavery and advanced despotism rather than self-government.\footnote{288 Supra note 136 and accompanying text.}

In this speech, Lincoln also provides an excellent example of dealing with adverse authority implicitly. Lincoln deals implicitly with the Constitution and some of the compromises made in that document to accommodate slavery by looking past it. Instead, Lincoln directs listeners and readers to the principles and concepts presented in the Declaration of Independence as the true touchstone of American values.\footnote{289 Supra notes 150–160 and accompanying text.}

Contrastingly, in the Cooper Union speech, Lincoln provides a good example of attacking adverse authority “head-on” and criticizing the basis for its initial creation. In this speech, Lincoln addresses the \textit{Dred Scott} decision first by attacking its authoritativeness. He implies that the portion of the opinion indicating that the federal government could not regulate slavery in federal territories was dicta.\footnote{290 Supra note 252 and accompanying text.} He also notes that a divided court decided the case “by a bare majority” and that there was a lack of cohesion on the part of the justices who joined the majority opinion on the exact justification for the decision as well as outside supporters of the decision.\footnote{291 Supra note 253 and accompanying text.}
Secondly, Lincoln goes on to explicitly demonstrate how there was no basis for the majority’s assertion that the Constitution “distinctly and expressly” affirmed “the right of property in a slave” by pointing out that the term “slavery” is never expressly set out in the Constitution and that this was done purposely in order “to exclude from the Constitution the idea that there could be property in a man.”\textsuperscript{292} Moreover, Lincoln mentions that in the spots in which the Constitution makes oblique references to slavery, the word “property” is not included.\textsuperscript{293} In this manner, Lincoln effectively discredited the \textit{Dred Scott} decision, although, at the time, he was powerless to have it formally superseded or overruled. Thus, Lincoln’s speeches provide attorneys with great examples of how to attack adverse arguments and authority both implicitly and directly.

\textbf{G. Create a Theme}

In each of the speeches examined in this article, Lincoln creates themes that advance his arguments on slavery. Throughout the Peoria Speech, Lincoln, by careful use of diction and metaphors, presents the \textit{Declaration of Independence} and its egalitarian principles as the touchstone of American values concerning civil liberty. In the “House Divided” speech, Lincoln, again through diction and metaphor, presents the themes of the destructive effects of the battle between supporters and opponents of slavery on the United States and the evidence of the conspiracy of the “chief [political] bosses” supporting slavery to “push” it forward until it exists in every state in the Union. Finally, the Cooper Union address shows Lincoln using Senator Douglas’ own language, stating that “Our fathers when they framed the Government under which we live, understood this question just as well, and even better, than we do now,” against Douglas by repeating similar language throughout the first part of the speech. Meanwhile, in

\footnotesize{\textsuperscript{292} \textit{LINCOLN SPEECHES 1859-1865}, \textit{supra} note 228, at 127. \textit{See also supra} notes 254–256 and accompanying text. \textsuperscript{293} \textit{LINCOLN SPEECHES 1859-1865}, \textit{supra} note 228, at 127.}
that address, Lincoln demonstrates definitively through a systematic and step-by-step examination of the legislative votes of America’s founding fathers that they well recognized that the federal government could prohibit slavery in its territories. Attorneys would be well served in their court briefs to emulate Lincoln in this regard and create themes that will aid them in convincing courts to take action in favor of their clients. In fact, use of many of the other techniques mentioned above – descriptive language, repetition, metaphor, systematic analysis and exhaustive research – all can aid attorneys’ efforts in putting forth a compelling theme.

H. Take Your Audience into Account

While Lincoln displays the recurring use of several persuasive techniques in each of these speeches, as noted above, his strategic choices of how much to emphasize certain techniques can be explained, at least in part, by the primary audience for his speeches. Lincoln’s differing emphasis of certain techniques in his “House Divided” speech versus his Cooper Union address perhaps best demonstrates Lincoln’s ability to account for the preferences of an audience. Lincoln made the “House Divided” speech before the Illinois party faithful at the Republican Convention of 1858 and with the intended purpose of proving his “bona fides” as a tried and true opponent of the expansion of slavery. Therefore, there is an element to the speech of “firing up the troops” for the coming election battle, and Lincoln emphasizes the pathos function in many parts of the speech. This helps to explain Lincoln’s use of uncompromising language throughout the speech, his fiery rhetoric at the end of the speech, and also the use of the “house divided” metaphor at the beginning of the speech to display how the differing visions held by slavery’s opponents and slavery’s supporters for the future of America would play out to their logical conclusions.
Lincoln’s audience, however, for his Cooper Union address was the eastern political elite. A group perhaps more sophisticated than Lincoln’s Illinois supporters, but definitely more skeptical of Lincoln and his abilities. Therefore, in that speech, Lincoln wanted to demonstrate that he had a strong command of the slavery issue and also to show that he should be taken seriously as a national candidate for the presidency. Consequently, the tone of the speech is largely scholarly, and Lincoln, especially at the beginning of the speech, emphasizes the logos function by demonstrating in minute detail how the legislative voting histories of the founding fathers indicated that the overwhelming majority of them believed that the federal government could regulate slavery in federal territories. This speech also shows Lincoln dismantling the main premise of the Dred Scott decision with a step-by-step, bit-by-bit, detailed analysis showing that the United States Constitution most definitely did not set out the right to property in a slave “distinctly and expressly.” In this manner, Lincoln displayed his intellectual acumen to his sophisticated eastern audience and built credibility with that audience. In fact, Lincoln was so successful in this regard that he ultimately secured the Republican presidential nomination. Similarly, attorneys need to consider the preferences of their audience when making tactical decisions about which persuasive techniques to use and when to use them in their writings and at oral argument, and Lincoln’s speeches provide excellent examples of how to do this effectively.

VI. CONCLUSION

Through his activities during his legal career, Lincoln refined his persuasive writing and speaking skills. These skills allowed him to do an effective job of persuading listeners, and eventual readers, of his political speeches about the correctness of his position on the slavery

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294 See HOLZER, supra note 115, at 128 (stating that the Cooper Union address “was clearly organized as a lecture by a ‘professor’ who had mastered his history and was spilling over with facts and figures to buttress his position on founding principles”).

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issue, which ultimately propelled Lincoln into the presidency. The careful analysis of the three speeches discussed in this article demonstrates several rhetorical techniques that Lincoln used adeptly. The skillful use of these techniques by attorneys today in their court briefs and at oral argument can only serve to enhance the persuasiveness of their legal arguments and improve their chances of succeeding on behalf of clients in their legal representations.