

FATED TO BE FREE

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This year we're celebrating the bicentennial of Abraham Lincoln's birth, and so it is our task to honor him. But in view of the complexity of the man, we might wonder just which Lincoln we are supposed to honor. Shall we honor Lincoln the backwoods country cousin or Lincoln the Master of All His Surroundings? Lincoln the product of his times or Lincoln the statesman for all ages? The cautious politician or the visionary moral leader?

Consider just a few seemingly inconsistent aspects of this complex human being, further complicated by the way in which he lives on in the national memory:

Lincoln was, for most of his lifetime, regarded as uneducated. His formal schooling totaled less than a year. After he ascended to the national stage, many of his contemporaries labeled him a rube, an ignorant hayseed elevated far above his intellectual station. Lincoln himself had helped to promote this view; once when he was asked to describe his education, he did so in one word: *defective*.¹ And yet Lincoln educated himself to be a politician, to be a lawyer, to be a writer, to be what we today would call an intellectual. There were those who thought he was always the smartest person in the room, and almost always the best educated on the things that really mattered. Billy Herndon, his law partner of many years, called him "the superior of all, [who] governed by his intellectual superiority."² And, today, we see that the light of Lincoln's political and literary genius outshines by far anything his contemporaries have left visible.

Throughout his lifetime, Lincoln was considered among the homeliest of human beings. He made jokes about his own appearance. Once he told a story about a very homely man – he left the man unnamed but everyone knew he was talking about himself. A woman

¹ Lincoln's description was contained in an 1858 response to Charles Lanman, who requested information for his planned *Dictionary of Congress*. Ronald C. White, Jr., *Lincoln's Greatest Speech: The Second Inaugural* (New York: Simon & Schuster, 2002), at 67. Lincoln's response to Lanman, and two other short autobiographies he wrote in the months leading up to the 1860 presidential election, can be found online at <http://showcase.netins.net/web/creative/Lincoln/speeches/autobio.htm>.

² Quoted by Allen C. Guelzo at 2000 Abraham Lincoln Institute symposium, found online at www.lincoln-institute.org/ALI/symposia/2000.htm.

EXHIBIT D

encountered the man on a narrow trail, looked closely at him, and said: "*Well for the land's sake, you are the homeliest man I ever saw!*" The man answered, "*Yes, madam, but I can't help it,*" and she replied: "*No, I suppose not, but you might stay at home.*"³ And yet of critical importance in advancing his presidential hopes during the early months of 1860 was a famous photograph of him, looking dignified and thoughtful, projecting determination and grace, a photograph taken by Matthew Brady shortly before Lincoln's Cooper Union speech in New York City. (It also helped Lincoln's image that Brady retouched the photograph, softening some of the rough edges of his face,⁴ but still it *was* Lincoln's face in that photograph and *it won him votes.*) And, today, of all the statues of all the famous heroes and leaders encountered in Washington, D.C., and throughout the country, the statue that we most think of as embodying grace and dignity – and even beauty – is that of Abraham Lincoln, chiseled in marble and seated in the Memorial named for him.

Lincoln was, throughout his lifetime, dismissed as a mere "jury lawyer" or "case lawyer"⁵ – that is, as a lawyer who cared only for the narrow interests of his clients, unconcerned about broader issues of legal principle or policy, whose greatest talent lay in wooing simple backwoods juries. And yet – while we should disregard the foolish assumption that country juries are "simple" or especially easy to persuade – we should note that Lincoln had a thriving appellate practice: he argued a case in the United States Supreme Court and was counsel of record in four other high court cases,⁶ and he personally argued at least 178 cases before the Supreme Court of Illinois.⁷ And in the 1850's, after a few years' absence from the world of practical politics, he returned to that world because of his outrage over a matter of legal policy: the expansion of slavery into the federal territories. And in the Cooper Union address that launched his 1860 campaign he presented a sustained, eloquent, meticulously-researched argument of Constitutional law and policy. And, today, we know that the Civil War amendments to the United States Constitution that Lincoln made possible, though he did not live to see them, ushered in far-reaching and profound changes to the structure of our Constitutional order.

And, although this is hard to say, Lincoln, throughout most of his lifetime, shared many of the racist attitudes common to people of his time and social standing – not to the

³ Remarks to a gathering of newspaper editors at Decatur, Illinois, quoted in Walter B. Stevens (Michael Burlingame, ed.), *A Reporter's Lincoln* (Lincoln: University of Nebraska Press, 1998), at 39-40.

⁴ Harold Holzer, *Lincoln at Cooper Union: The Speech That Made Abraham Lincoln President* (New York: Simon & Schuster, 2004), at 94.

⁵ New York lawyer and diarist George Templeton Strong called Lincoln an "Illinois jury-lawyer". Excerpt from *The Diaries of George Templeton Strong*, December 30, 1862, contained in Harold Holzer, ed., *The Lincoln Anthology* (New York: Library of America, 2009), at 54. Lincoln's long-time law partner Billy Herndon called him "in every respect a case lawyer – never cramming himself on any question till he had a case in which the question was involved." Quoted in Mark E. Steiner, *An Honest Calling: The Law Practice of Abraham Lincoln* (DeKalb, Ill.: Northern Illinois University Press, 2006), at 40.

⁶ www.papersofabrahamlincoln.org/narrative_overview.htm.

⁷ Albert A. Woldman, *Lawyer Lincoln* (New York: Carroll & Graf, 1936, rep. 1994), at 133-134.

same poisonous degree, but nevertheless some of his reported public comments are now painful to read. And when the Civil War began his announced intention was to fight to save the Union, not to free the slaves, and early in war he overruled two of his generals who issued emancipation orders. And yet, for all of that, Lincoln *was* the president who signed the Emancipation Proclamation, saying that he “*never, in [his] life, felt more certain that [he] was doing right, than [he did] in signing [that] paper*”⁸; and Frederick Douglass, the crusading abolitionist and escaped former slave, once said of him that “*he was the first great man that I talked with in the United States freely, who in no single instance reminded me of the difference between himself and myself, of the difference in color, and I thought that all the more remarkable because he came from a State where there were black laws.*”⁹ And, today, the Lincoln Memorial stands as a kind of National Temple of Civil Rights, where Marian Anderson sang and where Dr. King dreamed.

And Lincoln was a man of unorthodox religious views who broke away from his father’s strict frontier Calvinism, and who as a young politician had been accused of being a skeptic and infidel – a charge that he never completely denied.¹⁰ And yet Lincoln was a man of deep and abiding faith, a faith unique to him which was strengthened and which in turn strengthened him during the darkest days of the Civil War; a speaker who cited scripture like no president before or since; and a leader who during the war came to be referred to by many by the quasi-religious title of *Father Abraham*. And, today, we note the irony that this accused infidel and unbeliever was shot on Good Friday and thereafter came to be venerated almost as a secular saint.

We might think about these apparent contradictions, and realize after examination that they are not as contradictory as they may appear. We know that all real education is, in some sense, self-education, whether it happens in a Harvard lecture hall or in a cabin on the frontier. We know that real grace and beauty are internal qualities which, once we appreciate them, often shape our perceptions of outward appearances – and that a little photographic retouching doesn’t hurt, either. We know that the ability to resolve practical legal problems is not inconsistent with the desire to come as close to perfect justice as possible. We know that though one may be influenced by prevailing attitudes and beliefs one need not be imprisoned by them, and that it is possible to climb out of the pit of racism. And we know that religious views are often held most strongly by those who have arrived at them by private reflection rather than by passive acceptance of someone else’s creed.

There is, however, one apparent contradiction that is much harder to explain, assuming that any explanation is even possible. And that centers on Lincoln’s views on the inevitability of history.

⁸ Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln* (New York: Simon & Schuster, 2005), at 499.

⁹ Excerpt from Frederick Douglass, *Reminiscences of Abraham Lincoln by Distinguished Men of His Time* (1886), contained in Harold Holzer (ed.), *The Lincoln Anthology* (New York: Library of America, 2009), at 279.

¹⁰ Allen C. Guelzo, *Abraham Lincoln: Redeemer President* (Grand Rapids: Eerdmans, 2003), at 117.

Lincoln was a fatalist. Though he had abandoned the strict Calvinism of his father, he still firmly believed in something resembling predestination.¹¹ In a famous letter written during the Civil War, he said: “*I claim not to have controlled events, but confess plainly that events have controlled me.*”¹² And, truth be told, he believed not only that events controlled *him* but that events, or the ultimate Author of those events, controlled *everyone*. Nowhere is Lincoln’s fatalism more on display than in his Second Inaugural Address, delivered as the Civil War neared its end, in which he gave his theory of the origin and necessity of the war.¹³ Although he mentioned that human beings had decided either to make or to accept war, it is clear from early in his short speech that the cause was larger than the human actors and was, ultimately, incapable of being resisted, because, as he put it, “*The Almighty has His own purposes.*” Quoting Scripture, he said, “*Woe unto the world because of offenses! for it must needs be that offenses come, but woe to that man by whom the offense cometh.*” He went on to “*suppose that American Slavery is one of those offenses which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that he gives to both North and South this terrible war, as the woe due to those by whom the offense came...*” And Lincoln suggested that all of the nation’s fond hopes and fervent prayers for the war to end might be for nothing, “*if [as Lincoln said] God wills that [the war] continue, until all the wealth piled by the bond-man’s two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn with the sword...*” In Lincoln’s view, the Author of All Things had written not only what *had* happened but what *would* happen; war came because slavery came first, and the war would not end until slavery finally ended.

But here we find a curiosity within Lincoln’s thought. If you believe, as Lincoln did, that the Author of All Things has written the future already, then would you also, as Lincoln regularly did, call upon your audiences to take action? Fatalism frequently begets *inaction*, on the theory that if you can’t change anything, you might as well sit back, take your shoes off, and have a cold drink. But Lincoln never counseled passivity. He may have thought that the outcome of the Civil War had already been written and its last day had already been decreed, but no one worked harder than Lincoln to make sure the war ended sooner rather than later, and no one asked more of his audiences or of himself to bring the desired end into being. Almost all of Lincoln’s major speeches conclude with a call to action, express or implied. Even his Second Inaugural Address, that most fatalistic of American political speeches, ends with a call to action. It’s one that many of us know by heart, having been compelled by grade school teachers past to memorize it:

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the

¹¹ Allen C. Guelzo, *supra* note 9, at 119.

¹² Letter to Albert G. Hodges, April 4, 1864, contained in Don E. Fehrenbacher (ed.), *Abraham Lincoln: Speeches and Writings 1859 – 1865* (New York: Library of America, 1989), at 586.

¹³ The Second Inaugural is the best (and best known) of Lincoln’s expressions of his theology of history, but not the only one. Lincoln had previously given a similar explanation in his Meditation on the Divine Will, an unpublished writing from early September 1862 [Don E. Fehrenbacher (ed.), *Abraham Lincoln: Speeches and Writings 1859 – 1865* (New York: Library of America, 1989), at 359] as well as in his April 4, 1864, letter to Hodges, *supra* note 11.

nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan – to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.

How many things Lincoln asked of his audience, in such a short passage: *to strive, to finish, to bind up, to care for, to do, to achieve, to cherish*. The Almighty may have His own purposes, Lincoln seemed to be saying, but everybody else has a long to-do list.

We can never know how Lincoln might have attempted to reconcile the tension between his fatalism and his insistence on action. He may have believed that the Author of All Things had written a broad storyline of future history, leaving human actors free to choose whether and how to participate in enacting the story. Lincoln suggested something like this in the conclusion to his famous “House Divided” speech in 1858: *“The result is not doubtful. We shall not fail – if we stand firm, we shall not fail. Wise [counsels] may accelerate, or mistakes delay it, but sooner or later, the victory is sure to come.”* Of course, we can only speculate about a possible reconciliation between these two inconsistent tendencies. Had Lincoln lived to enjoy a peaceful retirement, he might have dealt with the issue in his memoirs. But on Friday, April 14, 1865, an actor took a derringer pistol into the presidential box at Ford’s Theater, and the rest is tragic history.

I suspect that there are many people here who are not fatalists, who believe that human beings generally act for reasons of their own – reasons that may be good or bad, known or unknown or even unknowable – and that the consequences of those human actions may be intended or unintended, but never foreordained. But we shouldn’t ignore the fact there can be power in fatalism. Lincoln came to believe that this nation had a destiny that depended upon success in the Civil War, a destiny that could not be denied and would not be defeated. He had faith that we were fated to be free – a contradictory expression, I know, but I believe a fair statement of what he thought – a faith that slaves were fated to be freed from their chains, that this nation was fated to be freed from the sin of slavery. And in that faith Lincoln found the power to act to ensure that what he viewed as destiny written by the Great Author of All Things actually came to pass in a reality achieved by human beings. And thus was a monstrous injustice eradicated from the land.

And if, today, we could identify another injustice that cries out for eradication – for example, genocide in Darfur (or anywhere), or the systematic mutilation of girls and young women – wouldn’t it be a source of strength to us to have faith that fate is on our side as we take action to wipe that injustice from the face of the earth? Eradicating injustice is not a task for the faint of heart, Lincoln might say today. It’s a job for visionary leaders *and* for crafty politicians, for regular churchgoers *and* for religious skeptics – and backwoods country cousins have a role, too – but all must hold firmly to the faith that sooner or later, the victory over injustice is sure to come.

If you’re still wondering which Abraham Lincoln to honor this year, let me offer a suggestion: that we concentrate not on a single facet of the personality or history of a complex man, but that, rather, we take note of his outlook on life, as he himself once summarized it. Lincoln’s 1860 Cooper Union address was famous in its day but until

recently it had faded from the national memory.¹⁴ Lincoln used that speech to introduce himself to a crowd of sophisticated New Yorkers. Many of them knew next to nothing about him, and if Lincoln wanted to advance his presidential hopes he needed to say something both memorable and unique. The speech did what it had to do, and more, far more than it had to do; in particular, the concluding line was magic. Though it may strike the modern ear as tame, that's our fault, not Lincoln's; there's nothing tame about it or its implications, and the audience certainly didn't think it was tame. In the lecture hall the speech, and especially the last line, created a sensation, and later, when the speech was printed in newspapers and pamphlets, Lincoln made sure that the final line was printed all in capital letters – something unusual for Lincoln,¹⁵ but he obviously wanted this line noticed and remembered. It was the statement of someone who was firmly convinced, beyond all reasonable doubt, that he was on the right side of history – the right side of destiny – the right side of fate – and that his audience should join him and act accordingly:

*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.*

¹⁴ Harold Holzer's *Lincoln at Cooper Union: The Speech That Made Abraham Lincoln President* (New York: Simon & Schuster, 2004), has done much to revive interest in the speech.

¹⁵ Lincoln was occasionally free with the use of *italics* to emphasize particular words or phrases, but not so with capitals; and this is the only time, to my knowledge, that he placed an entire line of one of his speeches or writings in capital letters.