

FOUR

Lincoln's Declaration

Of the three great documents in the history of the United States—the Declaration of Independence, the Constitution, and the Gettysburg Address—there is a closer affinity between the Declaration and the Gettysburg Address than there is between those two documents and the Constitution. I wish not only to call attention to this fact, but in the light of it to say why I think Abraham Lincoln is unique among the presidents of the United States.

In taking the oath of office, presidents, Lincoln among them, swear to uphold the Constitution of the United States. All the others do that willingly and without reservation, but not Lincoln. In my judgment, Lincoln is the only president who did that with some unspoken reservations, for he would have much preferred to pledge himself to uphold the principles of American government stated in the magnificent second paragraph of the Declaration of Independence. (He is also the only true genius, like Shakespeare and Mozart, among our presidents.)

Why do I make this claim for Lincoln's uniqueness? It partly rests upon the words of the Gettysburg Address: "this nation conceived in liberty"; and "dedicated to the proposition that all men are created equal." It partly rests on the extraordinary statement in the Gettysburg Address that this nation came into being four score and seven years ago—in

1776—when it is so obvious that the colonies which rebelled in 1776 and sought to dissolve the bonds that tied them to Great Britain finally became the United States after the Constitution was drafted in 1787, after it was ratified in 1788, and only when George Washington took the oath of office as its first president in 1789.

Lincoln knew all these historical facts. Why then did he date the birth of this nation—its sovereign statehood—in 1776? That birth date was not something taken for granted by Lincoln, nor perfunctory for him. In his years of argument against the extension of slavery to new territories, Lincoln repeatedly appealed to the Declaration of Independence. His opponents resorted to the Constitution, with its covert references to the institution of slavery, as decisive for issues of policy regarding the extension of slavery. In effect, they took the adoption of the Constitution as the juridical birth date of the nation. Even that is incorrect, for it was not merely with the adoption of the Constitution that this nation came into being, but rather with its beginning to function in 1789 when Washington occupied the presidency and Congress assembled.

What precedes is only part of the evidence for Lincoln's unique relation to the Declaration of Independence. There is much more evidence to cite. Consider his impromptu remarks in Independence Hall in Philadelphia on February 22, 1861, shortly before his inauguration.

I have never had a feeling politically that did not spring from the sentiments embodied in the Declaration of Independence. I have often pondered over the dangers which were incurred by the men who assembled here and adopted that Declaration of Independence—I have pondered over the toils that were endured by the officers and soldiers of the army, who achieved that Independence. I have often inquired of myself, what great principle or idea it was that kept this Confederacy so long together. It was not the mere matter of the separation of the colonies from the mother land; but something in that Decla-

ration giving liberty, not alone to the people of this country, but hope to the world for all future time. It was that which gave promise that in due time the weights should be lifted from the shoulders of all men, and that *all* should have an equal chance. This is the sentiment embodied in that Declaration of Independence.

Lincoln alone explicitly regarded the Declaration as the last great hope for all mankind and as a pledge to the future of all human beings. Consider his speech on the Dred Scott decision in 1857.

In those [early] days, our Declaration of Independence was held sacred by all and thought to include all; but now, to aid in making the bondage of the Negro universal and eternal, it is assailed and sneered at, and construed, and hawked at and torn, till, if its framers could rise from their graves, they could not at all recognize it.

Shortly after the Dred Scott decision, Lincoln learned from a speech by Stephen A. Douglas what Douglas thought the signers meant. Douglas said:

No man can vindicate the character, motives, and conduct of the signers of the Declaration of Independence except upon the hypothesis that they referred to the white race alone, and not to the African, when they declared all men to have been created equal; that they were speaking of British subjects on this continent being equal to British subjects born and residing in Great Britain.

I will quote here only a few paragraphs from Lincoln's response. He found Douglas's remarks ludicrous. He ridiculed them at length.

My good friends, read that carefully over some leisure hour, and ponder well upon it—see what a mere wreck—mangled ruin—it makes of our once glorious Declaration. . . . I had thought the Declaration promised something better than the condition of British subjects; but no, it only meant that we

should be *equal* to them in their own oppressed and *unequal* condition. . . . I had thought the Declaration contemplated the progressive improvement in the condition of all men everywhere; but no, it merely "was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British Crown, and dissolving their connection with the mother country." Why, that object having been effected some eighty years ago, the Declaration is of no practical use now—mere rubbish—old wadding left to rot on the battlefield after the victory is won.

Finally, let me add a long paragraph from Lincoln's speech in Springfield, Illinois, in 1857, after the Dred Scott decision.

Chief Justice Taney, in his opinion in the Dred Scott case, admits that the language of the Declaration is broad enough to include the whole human family, but he and Judge Douglas argue that the authors of that instrument did not intend to include Negroes by the fact that they did not at once actually place them on an equality with the whites. Now this grave argument comes to just nothing at all, by the other fact, that they did at once, *or ever afterwards*, actually place all white people on an equality with one or another. And this is the staple argument of both the Chief Justice and the Senator for doing this obvious violence to the plain, unmistakable language of the Declaration.

There are two great movements in the history of the United States. The first started with the War of Independence—the freedom of the American colonists from the despotic rule of the British Parliament. It is their achievement of political liberty that Lincoln had in mind when he spoke of this nation as being "conceived in liberty." But, unlike the French Revolution, equality and fraternity were not part of the social ideal at which our Founding Fathers aimed. Lincoln could not have said "conceived in liberty and equality," because he knew full well that the Constitution did not aim at nor provide for equality.

The phrase "we the people" with which the Preamble begins means only the few, not the many—not the blacks, not women, not the poor, all of whom were left without suffrage by the Constitution. If by liberty we understand the liberty of citizens with suffrage, citizens who are governed with their own consent and with a voice in their own government, then in all the decades before the Civil War and until the post-Civil War amendments, political liberty belonged only to the few, not the many, certainly not to all who were entitled to claim their right to it.

It is Lincoln in his devotion to the Declaration of Independence, not the Constitution of the United States, who ushers in the second movement in American history—the long, slow and as yet uncompleted march toward democracy.

Depending on the meaning we attach to the word "people," referring either to some small part of the population or to all, Lincoln's extraordinary formulation—government "of" the people, "by" the people, and "for" the people—defined constitutional government, which is either just or unjust, either a constitutional oligarchy (as ours was in the pre-Civil War decades) or a constitutional democracy (as ours has become with the Thirteenth, Fourteenth, Fifteenth, Nineteenth, and Twenty-fourth amendments, the last as recently as 1964).

In that remarkable formulation, the crucial adjective is "of"—generally misunderstood by almost everyone, among whom are many who should know better. Clearly, it does not mean that the people are the subjects of government, as the British people were subjects of the king, when they were government by the monarch. That meaning of the preposition "of" occurs when we say, the history "of the United States." The United States is then the *objective* reference of the adjective.

But in Lincoln's formulation, we have a very different meaning for "of," the genitive or possessive meaning, as when we say "the hat of my aunt"—in English or French—the

equivalent phrasing of which is "my aunt's hat." So, when we say "government of the people," we are saying that this government *belongs* to the people, they possess it; it comes *from them* and therefore *is theirs*.

The significance of this simple point cannot be overestimated. It means, first of all, that the people who are citizens (some or all) are the *constituents* of the government, as well as its *participants* through suffrage. As the Declaration says: it is government with their *consent*, *deriving* its just powers from that consent. They give it its authority, without which there can be no government that is not by force or might and without right.

It tells us more. It tells us that the government is not in Washington, D.C.—not in the White House, not in the Capitol and the buildings that surround it, not in the office buildings of the departments of government, not in the Supreme Court. All those buildings in Washington do not house *our* governors, but only officeholders, most of them transient, who are the administrators of *our* government.

When at a national election we put new persons into office and into those office buildings, we are not changing our government. We can do that only by amending the Constitution. We are only changing our government's administration. The old administration is out; the new administration is in.

Where then is the government of the United States? With us—with "we the people," the enfranchised citizens, wherever we are. Most of us do not recognize this. Most of us do not live and act as if we understood this. Most of us do not speak properly about our relation to the government of the United States—*the government which is our most precious possession*.

But Lincoln understood this, always and deeply, when he said over and over again, sincerely and not just as a rhetorical flourish, that he was a servant of the people. Indeed he was, as every president is; but most of them who think of them-

selves as good leaders of the people seldom conceive of their leadership as a *service* to the people.

I said earlier that the second movement in American history is the movement from liberty—liberty for the few—to equality and, with it, equal freedom for all. That march began, in Lincoln's words at Gettysburg, with "a new birth of freedom." As I said before, our Constitution with the six amendments mentioned above has approached becoming a democratic charter as recently as 1964. But it is not completely there as yet. What remains to be done?

To answer this question, I must expand one crucial phrase in the Declaration, the phrase that says "among these rights"—the "unalienable" rights that are inherent in human nature, the rights with which all human beings are endowed—"are life, liberty, and the pursuit of happiness."³

First of all, the words "among these" signify clearly that all the rights have not been explicitly named. Second, "the pursuit of happiness" must be correctly understood, not as meaning getting anything an individual wants and thus achieving contentment, but rather as meaning living a morally good life, a life enriched by all the real goods that any human being needs. [1]*

With these two points clear, that phrase in the Declaration can be expanded to say "among these rights are life, liberty, and anything else that human beings need"—need, not want—"in order to lead a decent human life."

What, in addition to life and liberty, does anyone need to lead a decent human life? The answer is a decent standard of living—that minimum of economic goods (not just money) needed by everyone: schooling, health care, clothing, housing, food, sleep, and so forth. Everyone has, in short, an unalienable, natural right to a decent livelihood, earned if they are

* Endnotes for this chapter are on page 228.

able to earn it and are given the opportunity to do so, or received as a welfare payment if they suffer mental or physical disabilities that prevent them from earning it, even if there were opportunity to do so.

In my judgment, if Lincoln were alive in the twentieth century, he—unlike Judge Bork and other strict constructionists of our day—would have appealed to the Ninth Amendment's implicit reference to the unalienable rights enumerated in the Declaration as the basis not only for the Nineteenth and Twenty-fourth amendments, but also for further constitutional amendment still to come—the unalienable economic right that the Constitution does not yet secure. [2]

Let me make this completely clear by another statement of the same point. A society is politically democratic if it is one in which all are political haves and there are no political have-nots (no one disfranchised except infants, hospitalized mental incompetents, and incarcerated felons).

In such a society comprising all haves and no have-nots, some should have more power than others: citizens in public office should have more; citizens not in office, less. Apart from this, justice requires the equality of all haves. It also requires an inequality between the have-mores and the have-lesses that is based on their different political responsibilities and functions.

A society is economically socialist in exactly the same sense. It is a society in which all are haves—having a decent livelihood, by earning or receiving it—and in which some have more and some have less, justly so when that more or less is based on their differential contribution to the economic welfare of society, not on the personal greed that drives them to make more and more money, without increasing the wealth and economic welfare of society.

The ultimate ideal toward which we should aim is a socialist democracy, a society in which the rights of all to be *political and economic* haves is constitutionally ensured, and in which there are no unjustly deprived have-nots.

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Can this be done without further constitutional amendments? Possibly, but I doubt it; certainly not without explicit legislation. As Lincoln said: the government should do for the people what they cannot do for themselves, either individually or collectively, in their private associations.

It should be clear to everyone that it is very unlikely that socialism will come about solely through private initiative—the socialism that Theodore Roosevelt embraced in his great New Nationalism speech in 1910, when he said that human rights must take precedence over property rights. His Progressive Party Platform in 1912 contained many measures that Wilson's government adopted, such as inheritance taxes and graduated income taxes. Many more of his planks became legislative in Franklin Delano Roosevelt's New Deal in 1932 and thereafter.

Unfortunately, most Americans do not realize that the first Roosevelt aimed at, and the second Roosevelt succeeded in, socializing bourgeois capitalism in this country. Why are they so blind to this obvious fact? Because they, and most of the Western world, have failed to understand that socialism is an end to be aimed at, quite distinct from communism, which is totalitarian state capitalism. By abolishing the private ownership of the means of production, totalitarian communism is the wrong means for trying to achieve socialism as the end in view. The past five years has persuaded all of us, including Soviets, that *communism does not work at all as a means, or as the only means, for achieving socialism.*

The last great words of the Gettysburg Address ring in our ears as we contemplate what has happened in Eastern Europe in 1990: "that government of the people, by the people, for the people" (with truly universal suffrage and securing all human rights, economic as well as political; in short, socialist democracy) "shall not perish from the earth."

I cannot refrain from spending a moment more on a

prophecy I made in 1978. A dispute took place at the Aspen Institute that summer. Its participants were Anthony Quinton, Maurice Cranston, and me. The subject of the debate was the future of democracy. It focused on three specific questions:

1. Should democracy survive, be perfected, and spread globally?
2. Can it survive, be perfected, and spread globally?
3. Will it?

My affirmative reply to the third question was prophetic so far as Hungary, Poland, Czechoslovakia, Romania, and East Germany are concerned. [3] I think that in the next ten years, or certainly in the next century, the prophecy will also become true in the Soviet Union, in mainland China, and even in Albania and North Korea. *Why* do I think so? Because people deprived of their political liberty will not long endure their oppression without fighting for and achieving the freedom to which they are entitled, and because people deprived of a decent livelihood, a decent standard of living, will not long endure the hardships of their daily deprivations and their economic misery.

The future of the whole human race belongs to socialist democracies or, if you prefer to say it another way, to democratic socialism. Totalitarian communism, born in this century, is self-defeated, self-destroyed, as bourgeois capitalism destroyed itself after the First World War and in the subsequent Great Depression.

Finally, one word more about the Declaration. Toward the end of that magnificent second paragraph, Thomas Jefferson wrote that when a government fails to secure everything to which the people are entitled, it is their right—*it is their duty*—to overthrow it and replace it by a just government, one that does secure all their human rights.

There is no question about their rebellion being *justified* by the violation of their human rights, but why does Jefferson

also say that it is their duty—their *moral obligation*—to rebel?

The answer is: Because all human beings have a moral obligation to try to lead morally decent human lives. From that derives their obligation, their duty, to overthrow any government that frustrates or prevents them from doing so, and so fails to assist them in the pursuit of the happiness to which they are entitled.

ENDNOTES

1. I have fully explained why the text must be so understood (quite contrary to the popular and prevailing misunderstanding of it) in Chapters 8 and 9 of *We Hold These Truths* (New York, 1987).

2. Here is the wording of Article Nine: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

3. See my argument for Thesis III in Chapter Two.