



Lincoln Lore

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Interview with Frank Williams Regarding the Year 1863

SG: We should obviously start with January 1 and the signing of the Emancipation Proclamation. Was this Proclamation a legitimate use of presidential war powers? Was it constitutional? Were the words “upon military necessity” intended to justify Lincoln’s position as Commander in Chief?

FW: Both the Preliminary and Final Emancipation Proclamations were based primarily on the president’s war powers (as well as pressure from Congress to issue such a statement in the Second Confiscation Act) which are not clearly defined in the Constitution and over which we discuss and argue today. Lincoln, the lawyer in the White House, took, when he could, the shortest distance between two legal points and his rationale for justifying freedom “upon military necessity” is just such an example of his leadership, intellect and determination to win the war. During wartime, he opined, it is appropriate for one belligerent to seize the property of the other and slaves were property with the valuation of each next to their names in the tax assessors’ books. As commander-in-chief, he could take this “property” to deprive the enemy of their use. This he did in the final proclamation, sparing the slave border states and Confederate territory already captured by Federal forces. In addition to maintaining good relations with the border states, the President believed he had no authority to free slaves in these northern states as the institution was protected by the Constitution. This, and a concern over

an appeal that would reach the United States Supreme Court —still presided over by anti-administration Chief Justice Roger Taney, author of *Dred Scott*— were some of the reasons Abraham Lincoln pressed for a constitutional amendment ending slavery forever. But one should not forget Lincoln’s inherent hatred of slavery, “If slavery is not wrong, nothing is wrong,” he wrote in 1864. While the war power and “military necessity” were the sources for Lincoln’s actions, there were also the political, cultural, moral and legal reasons for making this, next to the Declaration of Independence, the most important policy change in the nation’s history.

SG: Jan 8 saw the beginning of construction for the first transcontinental railroad. Please explain the genesis of what appears to be Lincoln’s lifelong interest in such projects.

FW: The autodidact Abraham Lincoln was always interested in technology and his support of railroads generally and the transcontinental Union Pacific Railroad and Telegraph to the Pacific in particular was evidence of this. His first political platform in the *Sangamo Journal* in 1832 praised the railroad, but he tilted in favor of river improvements because of the respective costs. He rode the judicial circuit on horse so when the “cars” came he was a beneficiary. He represented railroad companies and also brought suit against them. The only president to hold a patent —for lifting boats over shoals— he continued to support internal improvements, including railroads, as advocated by his own Whig Party. During the Civil War, Lincoln enthused over new technology in weapons, vessels, telegraph and the creation of the U. S. Military Railroad to coordinate and move masses of men and material. The 1860 Republican Party platform urged building a railroad to the Pacific. When Congress chartered the Union Pacific Railroad

A meeting of the engines at the Golden Spike National Historic Site, Utah LC-HS503-2120



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ACPL:

Jo Burkhardt
Cheryl Ferverda
Jane Gastineau
Philip Sharpley
Curt Witcher

Friends of the
Lincoln Collection
Sara Gabbard, Editor
Post Office Address
Box 11083

Fort Wayne, Indiana 46855



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ANNOUNCEMENTS

The Lincolns: Five Generations of an American Family

A new exhibition at the Indiana State Museum

*Enclosed in this mailing is an admission voucher
for members of Friends of the Lincoln Collection
of Indiana which is valid between
February 9 and May 1, 2013*

*(See pages 23 and 24 for examples
of artifacts on display.)*

The Rolland Lecture Series Harold Holzer will speak on his new book, *1863: Lincoln's Pivotal Year*

May 23, 2013, 7:00 p.m.
at the Allen County Public Library,
Fort Wayne, Indiana

*(This book was sponsored by
Friends of the Lincoln Collection of Indiana.)*

*Invitations to this free event will be mailed to members
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The 2013 R. Gerald McMurtry Lecture James M. McPherson will speak at the Allen County Public Library Fort Wayne, Indiana

September 10, 2013, at 7:00 p.m.
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Company to build a line to the Pacific, the president signed the legislation, praising it to engineer and railroad promoter Grenville Dodge, "not only as a military necessity, but as a means of holding the Pacific Coast to the Union."

SG: Please comment on the "Siege of Vicksburg" and the importance of control over the Mississippi.

FW: Opening the Mississippi River and control by the Federal government was paramount for Commander-in-Chief Abraham Lincoln. This was not a new strategy, as former General-in-Chief Winfield Scott proposed such action in his Anaconda Plan drafted when the war began. Control of the river by the Union divided the Confederacy by cutting off crucial supplies of horses, salt, cattle, sugar, pigs and replacement troops from Arkansas, Texas and Louisiana. This action helped in the evolution of General Ulysses S. Grant and the President as military leaders. While both agreed strategically, they differed tactically. Lincoln believed that Grant should descend the river on the west side then cross the river and go south to join General Nathaniel Banks. Instead, Grant, after getting to the east side of the Mississippi with 24,000 men, in the largest amphibious operation up to that time, moved northeast to surround Jackson and envelop Vicksburg. The President, in an outstanding act of largess, wrote to Grant on July 13, 1863, after Lieutenant General John C. Pemberton's surrender, to say he believed Grant's actions were a mistake but, "I now wish to make the personal acknowledgement that you were right, and I was wrong." When the Confederate loss of Port Hudson followed a few days after the forty six day siege at Vicksburg, Lincoln commented that the Mississippi River "again goes unvexed to the sea." Coming as it did on July 3, it made for a sweet Union victory celebration on

July 4. That, with the victory at Gettysburg on July 4, gave a much needed boost for northern morale.

SG: The Battle of Gettysburg: It appears to me that major mistakes were made by both Union and Confederate commanders. Please describe the circumstances.

FW: General Robert E. Lee's second foray north resulted in first a skirmish north and west of Gettysburg and then the major battle that ensued. The location was neither Lee's choice nor Union General George Gordon Meade's. (Meade had assumed command of the Army of the Potomac only four days before the battle.) Fortunately, the leadership of Brigadier General John Buford, head of the Army of the Potomac cavalry and the first hero of the battle, insured that the Federal forces would occupy the high ground east and south of the town. His ability to detain advancing forces of the Army of Northern Virginia for almost a day was essential for Union forces to arrive and occupy the best terrain. Lee's men overran Buford's and other Union forces on July 1st, but Lee's men failed to follow up their success. Lee was not explicit in his order to General Richard S. Ewell to take Cemetery Hill, "if practicable." Ewell and others decided that such an attack was not possible. Lee, disappointed, decided to stay and continue the battle the next day – July 2 – against the advice of General James Longstreet who recommended a flanking attack designed to force a Union retreat. Lee disagreed and ordered a direct attack on July 2. The planned Confederate assault with three corps placed on the left, center and right of the Union line was not coordinated. Longstreet decided to wait for an Alabama brigade which delay, some say, was unnecessary and was a lost opportunity to route Meade before his forces could assemble.

Controversy also ensued with Union General Daniel Sickles who, despite an order from Meade to remain in his position, moved his III Corps on the Union left to the Emmitsburg Road isolating his corps from General Winfield Scott Hancock's in the center and exposing the Union left flank that should have been anchored on Little Round Top. Longstreet attacked before Meade's order to Sickles to withdraw could be implemented. But for the initiative of Brigadier General Gouverneur Warren (another hero of this battle) who called for reinforcements from any army units he could find, Little Round Top would have fallen. On the Federal right at Culp's Hill, a lone brigade of New Yorkers commanded by Rhode Islander General George S. Greene held the Confederates in check— a feat as critical and memorable as Colonel Strong Vincent's four regiments, including the 20th Maine, holding Little Round Top on the Union left. Repulsed on the left and right, Lee decided to attack the Union center on July 3. After an artillery duel for over an hour, Confederates numbering from 10,000 to 15,000 attacked Hancock's II Corps advancing over a mile on open fields. By the time Longstreet's corps reached the Union line the assault had been largely broken.

Confederate cavalry led by General J.E.B. Stuart was not with the Army of Northern Virginia when it first engaged the Union forces. The choice of the site for the battle was made without intelligence from Stuart. Stuart's cavalry did engage Union forces in the right rear of the Federal line on July 3 but was defeated and withdrew.

Both armies stayed in position during the rain on July 4. Lee's army of 75,000 suffered 28,000 casualties. Lee began his retreat that day with a wagon train nineteen miles long carrying thousands of wounded men.

Meade suffered 22,501 killed, wounded or captured. Lee could not re-cross the swollen Potomac River at Williamsport. Meade probed Lee's defenses. A council of war advised against his attacking the Confederate seven mile defensive arc. Meade overruled his generals and ordered an attack, but the Army of Northern Virginia crossed the river the night of July 13. Lincoln was furious that Meade failed to bag the Confederate army and hasten the end of the war. But Lincoln was not present to see the South's formidable defenses, the weather, terrain and the extent of Union losses in men and officers. In a letter to Meade, he never sent, Lincoln would state, "Again, my dear general, I do not believe you appreciate the magnitude of the misfortune involved in Lee's escape . . . It would be unreasonable to expect, and I do not expect you can effect much. Your golden opportunity is gone, and I am distressed immeasurably because of it."

SG: Some historians claim that the Gettysburg Address provided a new vision/direction for the United States. Is this true?

FW: While President Lincoln's Gettysburg declaration did nothing specific like the Emancipation Proclamation, it was transformative by making the Declaration of Independence the primary document for our country's vision of equality for all. "Four score and seven years ago . . ." dates to 1776, the year of our independence and not 1787 when the Constitution was drafted. Furthermore, the address at Gettysburg really shed the superiority of state sovereignty when it changed the terminology of speaking of the nation from plural states to a singular entity — "the United States are" to "the United States is." The President was discussing a new order when he used the word "nation" not "states, when he said ". . . this nation, under God shall have a new birth of

freedom — and that government of the people, by the people, and for the people shall not perish from the earth." Lincoln believed that the time had come when he should articulate to the country the meaning of the Civil War, and he used the dedication of the military cemetery at Gettysburg to do so. The Address was only 272 words and delivered in just over two minutes. Lincoln spoke for millions of Americans who were reaching for higher ideals for their nation and Union. It was more than fighting for simply restoration of the Union and adherence to the Constitution. This was all for a noble experiment to preserve a republican form of government as a single nation grounded in the Declaration of Independence that all men are created equal. The war would create a "new birth of freedom" that made it all worth fighting and dying for. This new Union cause was advanced by the Union dead who fought and died there, and who made the ultimate sacrifice.

SG: How was the Address received? By those attending? By newspaper reports?

FW: The reaction by all, the people present who could hear it (the audience interrupted the speech twice with applause), newspapers and Northerners was praiseworthy. Unfortunately, Ward Hill Lamon, Lincoln's friend and fellow lawyer who was then the U. S. Marshal for the District of Columbia and introduced the President at the Gettysburg dedication, contributed the legend that the Address was a failure with the President himself opining, "that speech won't scour."

Nonetheless, opposition and Democratic newspapers continued their denunciation of President Lincoln, administration policies and the Address— thinking the latter was a political speech in advance of the 1864 election. The *Chicago Times*

printed that the President "dared" to mock those who died at Gettysburg by misstating, "the cause for which they died, and libel the statesmen who founded the government [with his emphasizing the Declaration of Independence rather than the Constitution]." Many other Democratic papers either hid the Address in its editions or ignored it. On the other hand, the *Daily Republican* of Springfield, Massachusetts, called the speech, "a perfect gem; deep in feeling, compact in thought and expression, and tasteful and elegant in every word and comma."

Keynote speaker Edward Everett knew immediately that Lincoln had delivered a masterpiece of profound significance, writing to tell him so the next day, November 20, 1863, while requesting a copy which Lincoln obligingly sent.

SG: The first time that I read Edward Everett's "Other" Gettysburg Address, I was struck by his careful attention to details and his mastery of the English language. Has he been short-changed by historians, due to the overwhelming emphasis on Lincoln's shorter Address?

FW: With the triumphal and long term success of Abraham Lincoln's Address, many forget that he was only to deliver, according to the invitation from David Wills, who conceived the cemetery project, "a few appropriate remarks." The main speaker was Edward Everett, a great orator of the time, who had been President of Harvard College, former ambassador to the United Kingdom, a U.S. Senator and vice presidential candidate, with John Bell for president, for the Constitutional Union Party in the 1860 election — running against Lincoln. Everett spent a long time preparing his speech, poring over as many accounts of the battle as he could find and by reading Pericles' funeral oration.

Everett was charged with giving a history of the battle and this he did in an eloquent and moving two hour speech preceding the President's remarks. In fact, many newspapers gave his speech great attention with the full text appearing on the front page of many Republican newspapers and some Democratic issues as well. Everett was hurt by some criticism of his effort as an, "inaccurate account" (*New York Herald*), and *Harper's Weekly* found a lack of compassion in the speech. Yet, the final text, along with Lincoln's, appeared in print as a pamphlet for sale at home and abroad.

SG: Please comment on the "draft riots" in the North and reactions from the public at large and those already serving in the military.

FW: Conscription, or the draft, was the first in American history. Congress passed a Conscription Act on March 3, 1863 to replace an informal draft begun by the Secretary of War in 1862 to fill quotas for the President's call for troops. The 1863 law made all able-bodied men between 20 and 45 subject to the draft for up to 3 years of military service. A draftee could avoid service by providing a substitute or by paying \$300 as a commutation fee – accepted practices in the states' militia which antedated the draft. Many states asked the President to postpone the draft, and there were many adjustments of state quotas during the war.

During July 1863, the provost marshal in New York City began choosing draftees, and working class mobs, upset at the draft and the commutation fee that they could not afford, ("a rich man's war, and a poor man's fight") turned into a riot that lasted from July 13 to July 15. Most of them were Irish American men, and they terrorized the city by burning, looting and killing. African Americans and *New York Tribune* editor Horace

Greeley were prime targets. An orphanage for black children and the offices of the *Tribune* were burned. Troops, police and naval personnel helped end the riot with approximately 117 dead. Similar protests occurred in other cities like Boston with fierce resistance also seen in western Pennsylvania and Wisconsin.

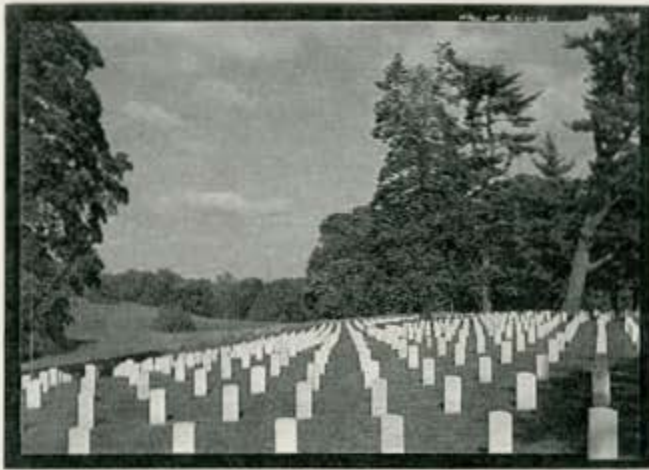
Some Pennsylvania judges were issuing writs of *habeas corpus* for the release of some draftees to Lincoln's dismay. He suspended the writ on September 15 to include draftees and draft resisters. Lincoln did recommend the end of the commutation fee of \$300 on June 8, 1864, and Congress did so. Substitution remained legal and the President himself paid for a "substitute" or "representative recruit."

SG: By the end of 1863, were the contributions of the US Colored Troops being recognized?

FW: President Lincoln inserted an endorsement for recruitment of African Americans in the final Emancipation Proclamation on January 1, 1863 but only for them to, ". . . be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service." There is no explicit authorization for arming them or for engaging in combat operations. The Preliminary Proclamation of September 22, 1862, does not even mention recruitment of African Americans for any purpose whatsoever. Yet, there were ultimately 166 black regiments of infantry, cavalry and artillery with over 190,000 enlisted men. U. S. Colored Troops participated in 41 major battles and 449 skirmishes. 37,000 died in service and sixteen were awarded the Medal of Honor, with many others performing outstanding acts of valor that contributed to the North's victory and end of the war.



1863 New York City Draft Riot
712009085000455



**Camp Nelson National Cemetery, KY
View to Section B,
Containing U.S.
Colored Troops.
LC-HALS KY-1-23**

Abraham Lincoln certainly recognized their true value by accepting African Americans as soldiers and sailors. His action helped to promote the concept of a more equal society and took away a valuable resource in labor and capital from the Confederacy. As Lincoln would argue, you could not ask a man to fight for his country and then tell him it was no longer his country.

The Union assault against the Confederate Mississippi River bastion of Port Hudson on May 27, 1863 (only a week after creation of the Bureau of Colored Troops) included the 1st Louisiana Native Guards (which would become the 73rd U.S. Colored Infantry) and the 3rd Louisiana Native Guards (later the 75th U.S. Colored Infantry). The conduct of these troops was extraordinary, and they fought with extreme heroism. The two regiments suffered over twenty per cent casualties. While Port Hudson would not fall to Union troops until July 9, the assault was widely reported in the Northern press and did mark a turning point in attitudes for the employment of black troops in combat. Despite being soft at first on such deployment, the *New York Times* reported on June 11 that, "It is no longer possible to doubt the bravery and steadiness of the colored race, when rightly led." Despite a disparity in pay between white and black soldiers, colored troops continued to fight with valor at

Milliken's Bend, Louisiana, above Vicksburg on June 7, 1863, with four newly formed and untrained regiments of contrabands armed with old muskets. Driving away the Confederate brigade, the four black regiments sustained 35 per cent casualties with some black soldiers and two of their white officers captured and murdered by Confederates. As with Port Hudson, this action was widely reported and praised in the North and throughout the Union army.

At Battery Wagner near Charleston, South Carolina on July 18, 1863, a second Union assault was led by the 54th Massachusetts (Colored) Infantry. After a forced march from James Island where they covered the retreat of a Connecticut regiment, the unit undertook an impossible task against a well engineered and fortified defensive position with artillery fire from Confederate batteries and rifle fire against them from three sides. Notwithstanding, the regiment gained a foothold but sustained 40 per cent casualties including its popular commanding officer, Colonel Robert Gould Shaw. When Union men, under flag of truce, attempted to recover his body, a Confederate replied, "We have buried him with his niggers!" Intended to insult, it became a rallying cry in the North.

SG: Please comment on the political and constitutional ramifications concerning the arrest of Clement L. Vallandigham.

FW: Former Ohio Congressman and one of the most famous opponents of the war and Lincoln administration, Clement L. Vallandigham, became the rallying point for all those who opposed the war policies of Abraham Lincoln. He was arrested and tried by military tribunal on May 7, 1863, for disobeying Department of the Ohio commander Major General Ambrose Burnside's General Order 38 "... declaring sympathy for the enemy." Such persons would be arrested and tried as spies or traitors. On May 1, Vallandigham (called "Valiant Val") spoke out against the war at a rally in Mount Vernon, Ohio. He was arrested on May 6, and the tribunal the next day convicted him of expressing treasonable sympathy for the enemy and sentenced him to prison for the duration of the war. He was allowed counsel, the right of cross examination and could subpoena witnesses.

[See page 7 for a letter which Vallandigham wrote from prison]



**Robert Gould Shaw
LN-1208**

Private
 In "Bastille" - Cincinnati, Ohio. May 17, 1863.
 Gov. Seymour,
 Albany, N. Y.
 My dear Sir: Many thanks for your letter to the meeting last night - thanks in the name of Constitutional liberty. The press & public meetings of the past ten days have done much to curiopol despotism to pause, let the good work go on. - The infamous conduct & doctrines of Judge Sewitt, create great indignation. The severity & degradation of the Judiciary are the most symptons of the times. We all ^{in the West} depend to a very great extent, on New York - ^{and you} - all eyes are turned to it that you are not kidnaped too. You know how to ^{prevent} it. We can & must

Clement L. Vallandigham to Horatio Seymour
 May 17, 1863 p1

NOTE that Vallandigham asserts that he is being held "In Bastille".



Clement Laird Vallandigham
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break down the conspiracy against our liberties. The purpose is - believe me - to prevent any presidential election in 1864, or to control it by force. I am still here "awaiting orders"! but calm & unmoved, "fearing not what men can do unto me". The ^{Democratic} party is now in thorough sympathy, East & West; & firmness & perseverance will save us. We can endure suffering if only deliverance to the country come at last. But your voice - the voice of America, will break my bonds.
 C. Vallandigham



Gettysburg Address
71200908500205

The President learned of his arrest from the newspapers. He and his cabinet, while regretting the arrest, told Burnside, a Rhode Islander, that it, "being done, all were for seeing you through with it." But, on May 19, Lincoln banished Vallandigham to the Confederacy. There were protest meetings throughout the North. The President decided to answer the charges against him generated from the meeting in Albany, New York, which was led by railroad magnate Erastus Corning on May 16. On June 12, Lincoln wrote that while he was "... thoroughly imbued with a reverence for the guaranteed rights of individuals" and, as a result, "... was slow to adopt the strong measures, which by degrees I have been forced to regard as being within the exceptions to the constitution, and as indispensable to the public Safety." An early arrest of Robert E. Lee and others who would serve the Confederate cause would have done much to prevent or shorten the war even though their acts were not overt acts of disloyalty, he suggested. "... Under cover of 'Liberty of speech' 'Liberty of the press' and 'Habeas

corpus'..." the Confederates would keep spies, guerrillas and others within Union lines to assist them in the war and against the Union. Defending preventive detention from disloyal speech, the President said, "Must I shoot a simple-minded soldier boy who deserts, while I must not touch a hair on the wily agitator who induces him to desert. . . . I think that in such a case, to silence the agitator, to save the boy, is not only constitutional, but, withal, a great mercy." Lincoln's secretaries John Nicolay and John Hay believed that "... few of the President's state papers . . . produced a stronger impression upon the public mind than this." Changing the sentence to banishment also reduced the chance of martyrdom for Vallandigham with some comic relief as well. Valiant Val went to Richmond, got through the blockade and then resided in Winsor, Ontario, from whence he ran for Governor of Ohio as the Democratic candidate, ultimately losing to John Brough. He would make his way back to the United States and help draft the disastrous peace platform adopted by the Democratic party for the 1864 presidential campaign.

The U.S. Circuit Court of Appeals upheld the process and conviction of Vallandigham. In February 1864, the U.S. Supreme Court declared in *ex parte Vallandigham* that it could not review military commission proceedings. However, the court did review military commission proceedings in 1866 when, in *ex parte Milligan*, it declared that martial law, including military commissions, could not be used whenever civilian courts were open and operating. As the review process changed, so did the law regarding opposition speeches. The First Amendment guaranteeing free speech would not be strengthened or defined liberally until almost a century later.

Ironically, Vallandigham viewed Abraham Lincoln's assassination as a

national disaster, "the worse public calamity which could have befallen the country."

SG: In your opinion, what were the results of the changes which were made in Union military leadership during 1863?

FW: By June 1863, Lincoln, as commander-in-chief, had arrived at the strategic conclusion that, "... Lee's Army, and not Richmond, is your true objective point," he admonished General Joseph Hooker. "Fight him when opportunity offers," Lincoln would say to him and to all other commanders until the end of the war.

After Gettysburg, Lincoln was obsessed "... by evidence that General Meade was "not seeking a collision with the enemy" and "the golden opportunity" to end the war was "gone." General Grant's ascendance after Vicksburg would lead to the creation of a successful command structure, not only for the Civil War, but for the future American military. Grant would become, in early 1864, general-in-chief; General Henry Halleck, chief-of-staff, and the President would remain, in fact, commander-in-chief.

The joining of Lincoln's and Grant's strategic thinking was evolving to the formation of this new command structure. Even Lincoln's orders to protect Washington were more offense than defense. He ordered troops to the capital to destroy the enemy that threatened it.

Frank J. Williams is the retired Chief Justice of the Supreme Court of Rhode Island and the author/editor of many books on Abraham Lincoln, including **Judging Lincoln**. A review of his new book, **The Mary Lincoln Enigma**, appears in this issue of Lincoln Lore.

LINCOLN'S TRICKY EMANCIPATION TACTICS

By Richard Striner

After his decision to issue an emancipation proclamation in July 1862, Abraham Lincoln faced a difficult political situation: white supremacy sentiment was strong in many parts of the north, and a Democratic victory at the polls in the midterm elections of 1862 might cost the Republicans control of Congress.

So from late July through mid-September he improvised a multi-faceted campaign intended to soften up public opinion and prepare northern voters for the epochal decree that was coming.

Some of the tactics that he used were straightforward and obvious. For instance, he wrote a number of letters — that he probably hoped would get leaked to the public — using military necessity as the basis for expanding both Union war aims and Union tactics. Striking at slavery would deal a major blow to the rebels: that was undeniable. In a letter to financier August Belmont, Lincoln wrote on July 31, 1862, that “broken eggs cannot be mended This government cannot much longer play a game in which it stakes all, and its enemies stake nothing They cannot experiment for ten years trying to destroy the government, and if they fail still come back into the Union unhurt.”¹

Some of his tactics were designed to overcome white supremacist objections to emancipation by means of a program of “colonization”: a program that would send emancipated slaves who wished to emigrate to some other part of the

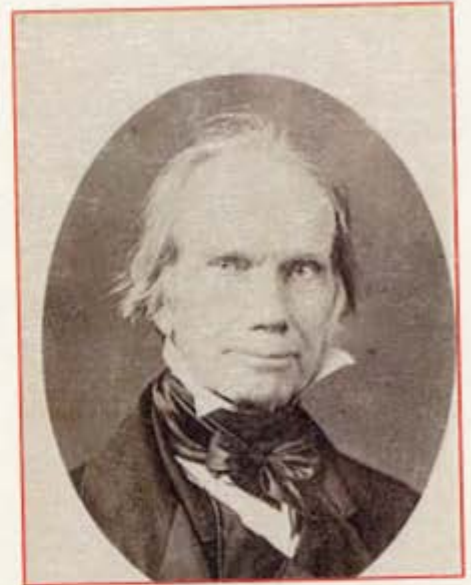
world. In 1816, a society to promote the idea had been founded: the American Colonization Society. For years, Henry Clay had served as the society’s president.

The colonization idea was highly controversial, and many people have understandably regarded Lincoln’s dalliance with colonization as indicative of “racism.” Both blacks and whites disagreed among themselves in regard to the concept. Some black leaders such as Frederick Douglass regarded it as racist. But others, like Henry Highland Garnet, favored emigration, since America seemed to be relentlessly oppressive toward blacks. Whites — both anti-slavery whites and pro-slavery whites — were also divided in regard to the merits of colonization.

Lincoln’s position on the matter was complex. He had always regarded the colonization idea as a voluntary proposition, which, over time, might overcome implacable racial hatreds through the simple expedient of allowing the races to go their separate ways in peace. But he never insisted on colonization as a forced “deportation” scheme.

On August 15, 1862, Lincoln had a long meeting at the White House with a delegation of five free blacks from the District of Columbia. A journalist recorded Lincoln’s words. “Your race,” he said, “are suffering, in my judgment, the greatest wrong inflicted on any people On this broad continent, not a single man of your race is made the equal of a single man of ours.” And this, Lincoln said, was “a fact, about which we all think and feel alike, I and you.”

But, Lincoln said, white supremacist hatred seemed so deep-seated that “I cannot alter it.” Consequently, he suggested that a venture in



Henry Clay OC-0496

emigration, if led by a group of blacks who refused to be subjected to indignity any longer, “might open a wide door for many to be made free” by reducing white resistance to emancipation. Lincoln suggested a location in Central America that he had been told was rich in coal deposits, which might give a colony a fast economic kick-start. “I shall,” Lincoln said, “if I get a sufficient number of you engaged, have provision made that you shall not be wronged.”²

Frederick Douglass reacted to this meeting by attributing to Lincoln a “pride of race,” which manifested itself in what Douglass took to be “contempt for negroes.”³ But the chairman of the black delegation that met with Lincoln, Edward M. Thomas, found Lincoln’s appeal so persuasive that he shifted from opposition to colonization to active support. By mid-September, five hundred blacks had signed up for Lincoln’s experiment and four thousand more were on the waiting list.⁴

Most importantly, Lincoln used various forms of deception to short-circuit racist opposition and to play



Horace Greeley
OC-0666

for time as he waited for the optimal moment to reveal his emancipation proclamation. Perhaps the most important deception occurred on August 22, 1862, in a public letter to Horace Greeley, editor of the *New York Tribune*. Greeley had editorialized in favor of emancipation. Lincoln, in lines that have become quite famous, answered that “my paramount object in this struggle *is* to save the Union, and is *not* either to save or destroy slavery. If I could save the Union without freeing *any* slave I would do it, and if I could save it by freeing *all* the slaves I would do it; and if I could save it by freeing some and leaving others alone I would also do that.”⁵

This statement was a brilliant deception for several reasons. Most of all it distracted attention from the cause of secession: it was Lincoln’s anti-slavery platform of 1860 that launched the wave of secessions, as one secessionist convention after another, beginning with South Carolina, had affirmed. There would have been no crisis of the Union without Lincoln’s anti-slavery program. Furthermore, Lincoln had secretly destroyed a compromise in December 1860 designed to stop

secession by permitting the extension of slavery. If all that Lincoln wanted to do was save the Union, it stood to reason that he would have supported this compromise (the “Crittenden compromise”).

But he killed it. “Entertain no proposition for a compromise in regard to the *extension* of slavery,” he wrote to one Republican. “The instant you do, they have us under again; all our labor is lost, and sooner or later must be done over . . . Have none of it. The tug has to come & better now than later.”⁶

Lincoln’s purpose in writing his letter to Greeley was clever: he was getting people used to the proposition that, to save the Union, he might have to free some slaves, and that his motivation in doing so was nothing more than simple patriotism and military pragmatism.

This was nonsense: there were other ways of saving the Union, not least of all the Democrats’ preferred method of negotiating with the Confederates on pro-slavery terms.

In September, Lincoln’s deceptions multiplied and thickened. On September 13, 1862, he played devil’s advocate when a group of Chicago abolitionists — clergymen — visited him; he used some arguments *against* emancipation to create the impression that he had no preference for the move. “What *good* would a proclamation of emancipation from me do,” he asked; “would my word free the slaves, when I cannot even enforce the Constitution in the rebel states?” Besides, he asked, if the slaves were set free, “What should we do with them? How can we feed and care for such a multitude?”

Still, Lincoln said, he was “raising no objections” to liberation “on legal or

constitutional grounds; for as commander-in-chief of the army and navy, in time of war, I suppose I have a right to take any measure which may best subdue the enemy.” In any case, he concluded, “I have not decided against a proclamation of liberty to the slaves . . . but hold the matter under advisement.”⁷

Nonsense: he had made the decision already and the document was waiting in his desk drawer. By using tricky tactics, criss-crossing his trail with deception, using the argument of military necessity, and invoking the possibility of colonization, Lincoln used every tactic he could think of to even up the odds and reduce white supremacist resistance as he waited for his moment to push the anti-slavery movement forward by a quantum leap.

Richard Striner is a professor at Washington College. His most recent book is **Lincoln and Race**.

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¹ Abraham Lincoln to August Belmont, July 31, 1862, *Collected Works of Abraham Lincoln*, ed. Roy P. Basler (New Brunswick, N.J.: Rutgers University Press, 1953), V, 350.

² Abraham Lincoln, “Address on Colonization to a Deputation of Negroes, August 14, 1862, *Ibid.*, 370-375.

³ Frederick Douglass, *Douglass’s Monthly*, September 1862, 707-708.

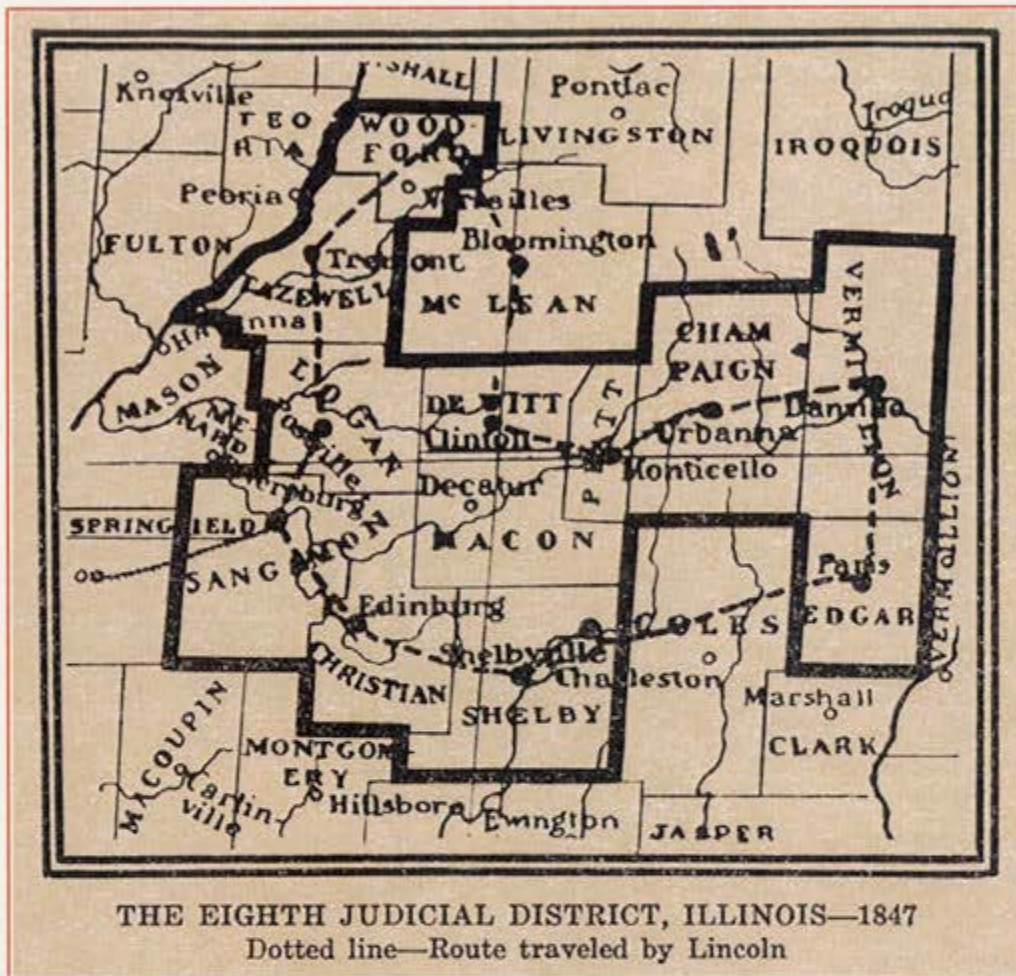
⁴ Michael Burlingame, *Abraham Lincoln: A Life* (Baltimore: Johns Hopkins University Press, 2008), II, 389-391.

⁵ Abraham Lincoln to Horace Greeley, August 22, 1862, *Collected Works*, V, 388-389.

⁶ Abraham Lincoln to William Kellogg, December 11, 1860, *Collected Works*, IV, 150.

⁷ Abraham Lincoln, “Reply to Emancipation Memorial Presented by Chicago Christians of All Denominations,” September 13, 1862, *Ibid.*, V, 420-425.

An interview with Guy Fraker regarding his book,
Lincoln's Ladder to the Presidency: The Eighth Judicial Circuit
 (Southern Illinois University Press, 2012).



Illinois 8th Judicial Circuit
 Lincoln Lore no 463

SG: Please describe the Eighth Judicial District in terms of size, number of counties, and location in the State of Illinois.

GF: The Illinois Legislature organized the trial courts of the state into circuits, each a combination of contiguous counties with the same judge and the same prosecutor known as the State's Attorney. Each circuit was united by legislatively-scheduled court sessions twice a year: spring and fall. The judge and prosecutor travelled from county to county on this schedule. The length of time in each county varied

depending on the size of the county and the resultant volume. As the state settled from south to north, population shifts caused the makeup of the circuit to vary over time. The Eighth was first formed in 1839 and was the center of Lincoln's law practice throughout his career. The sessions opened in August and March in Springfield, and lasted for approximately twelve weeks. At its largest from 1841 to 1847, the circuit contained fifteen counties and then fourteen counties from 1847-1853. It contained approximately 10,000 square miles, twice the size of

Connecticut. The trip around the Circuit was 400 to 500 miles. The distance varied as the primitive roads wandered. It was located in east central Illinois and ran from the Illinois River on the west to the Indiana line on the east. The Circuit Judge during most of Lincoln's practice was David Davis of Bloomington. He was first elected in 1848. Four years later Davis threatened to resign because of the demanding travel schedule. Lincoln came to the rescue, drafting a bill that he lobbied through the legislature reducing the size of the Circuit to

eight counties in 1853. It was further reduced to five in 1857. The social and political significance of the Eighth Judicial Circuit during the period of Lincoln's law practice has been obscured by the explosive growth of Chicago following the Civil War. In the 2010 census, these fourteen counties had a population of 1,090,000. Cook County had a population of 5,195,000. By contrast, in 1840, the population of the circuit's counties was 69,100, and the population of Cook County was 10,201. In 1850, 107,000 versus 43,400. Even by 1860 the population of the fourteen counties exceeded that of Cook County. The area was then the most vital in the state and contained talented lawyers. To say that Lincoln was one of the best lawyers on the circuit was to say that he was one of the best in the state.

SG: What were the major cities/towns?

GF: The major cities in the circuit included Springfield, Bloomington, Danville, and early in Lincoln's practice, Paris. The coming of the railroads elevated other cities to more important status, particularly Decatur. Springfield was the state's largest and most significant city during this period. It succeeded Vandalia as state capital in 1839 by virtue of legislation floor-managed by Lincoln. It is a measure of the intentional behavior he showed throughout his career as he began to expand his influence by locating the site of the capital in the county where he lived and practiced at the time of its selection. Springfield also had the only Federal court in the state before 1849. Due to the difficulty of travelers, lawyers from around the state gathered in Springfield throughout the entire term of the Illinois Supreme Court and the

legislators stayed in Springfield throughout the entire session. Springfield also dominated the Central Committees of both the Whig and Democratic Parties because residents there made easy contacts with political visitors from all over the state. It was the social and cultural center of the state as well. Lincoln's exceptional skill in identifying and establishing key relationships served him well by his residence in the state capital. Chicago's influence on the State of Illinois did not rival that of Springfield until after the Civil War.

Bloomington was the county seat of McLean County, the circuit's second largest throughout Lincoln's practice. The railroads came to Bloomington in 1853. The Illinois Central came down the middle of the state from the north, and the Chicago & Alton ran from the Mississippi River opposite St. Louis to Chicago. The railroads' arrival further enhanced Bloomington's growth. The city exemplifies the exchange of impact of the Circuit on Lincoln and Lincoln on the Circuit. It was the source of his strongest political support, voting for Lincoln legislative candidates in the Senate race of 1858 and the Presidential elections in 1860 and 1864. The city had more staunch Lincoln supporters than any other in the Circuit: Judge David Davis; attorney Leonard Swett; entrepreneurs and attorneys, Jesse Fell and Asahel Gridley. Ward Hill Lamon, Lincoln's longtime steadfast companion, became State's Attorney in 1856 and moved to Bloomington from Danville. The influential Bloomington newspaper, *The Pantagraph*, was always solidly behind Lincoln. Thanks in no small part to its excellent rail connections, Bloomington was the site of the 1856 anti-Nebraska Convention where the Republican Party of Illinois was

founded. He made his gripping "Lost Speech" at that Convention which firmly established his control of the party in Illinois. Lincoln had a substantial law practice in Bloomington, representing some of the city's most influential citizens. Lincoln's practice in Bloomington included arguably his most significant case, *Illinois Central Railroad v. McLean County, Illinois & Parke*, in which he successfully defended the state laws that exempted the railroad from local real estate taxation. His success in this case arguably saved the railroads from being taxed out of existence and earned him his largest fee, \$5,000, for which he had to sue in the Circuit Court of McLean County. Lincoln's impact on Bloomington included his representation of the first school board, forcing the City to fund the newly mandated school system in 1857. That same year he assisted in bringing Illinois State Normal University to its location just north of Bloomington, the first public university in the State of Illinois. He represented the city's first bank and had a hand in the organization and commencement of operation of the gas company which made Bloomington one of the earliest cities to have gas lighting.

Danville, the county seat of Vermilion County, was an important city in Lincoln's political and legal careers, making major contributions to Lincoln's rise. It was located on the east side of the state, therefore being more accessible to early settlement than later-settled towns in the center of the state. The government land office, focal point of all the claims made for government lands in central Illinois, was in Danville, placed there in 1831. This office drew important settlers and entrepreneurs to the city. The lawyers enjoyed the McCormack

House, one of the Circuit's most comfortable, hospitable hotels. Lincoln was staying there during the court session in November of 1859 when he accepted the momentous invitation to speak in New York early in the following year. This letter was written on the stationery of the McCormack House. Lincoln's political support there was rooted in his relationship with Dr. William Fithian, an influential Whig legislator and perhaps the town's leading citizen. Fithian brought Lincoln to Danville in 1841 to handle a case for him, and Lincoln represented him throughout his career. Another resident of Danville who was important in the Lincoln story was attorney Oliver Davis called "Little Davis" by Lincoln to distinguish him from the judge. Davis's partner, Oscar Harmon, was another influential supporter of Lincoln, and his wife Elizabeth was a particularly close friend as well. Danville's support was a major force in Lincoln's advancement throughout his career. It was also very important in his law practice. His association with Ward Hill Lamon of Danville, announced in 1852, resulted in a larger volume of cases in Vermillion County than any county other than Sangamon and adjacent Tazewell. Lamon remained close to Lincoln until the president's assassination.

Paris was the county seat of Edgar County, also located on the eastern edge of the state, south of Danville. It was an important city early in the Lincoln circuit era, but that importance diminished as settlement moved south. When Lincoln began practicing law, the central part of the state (with the exception of Springfield) was still relatively unsettled and had a frontier ambiance. Edgar was the third largest county of the original counties in the circuit: a cultured city with an academy,

and a newspaper. In 1828 it had a stately brick home when the other towns farther west were just emerging from log cabins to frame construction. Lawyers from Terre Haute, Indiana, across the Wabash River came into Edgar County for court sessions, providing Lincoln early access to men who would one day become influential members of the 1860 Indiana delegation. Paris's blatant racism was like other counties on the southern edge of the circuit, and it taught Lincoln to moderate his expressed views on race and slavery.

The Lincoln family came to the sleepy village of Decatur in 1830. Lincoln spent his first year as an adult there, and even at that young age began to show the qualities that quickly thrust him into leadership in Illinois. The small town had little prospect of growth. Many of its leading citizens leave for the 1849 Gold Rush, and two of its prominent lawyers left and moved to Paris. This bleak future was transformed when the Illinois Central came from the north creating a boom in 1854. By 1856 the city was the location of an important railroad junction between the Illinois Central and the Great Western which ran east and west. In part because of the fine rail connections, it was the location of the important February, 1856, meeting of newspaper editors and Lincoln which met to plan the May anti-slavery convention in Bloomington. In May of 1860, the momentous Republican state convention was held in Decatur. The delegates voted to support Lincoln as a unit at the national convention in Chicago later that month. It was at that meeting in Decatur that Decatur attorney Richard J. Oglesby, created the "Railsplitter" image which was a key element in Lincoln's success. (Oglesby

was instrumental in procuring two split rails from the original Lincoln homestead in Macon County. These symbols were eventually taken to the Wigwam in Chicago to be displayed at the Republican Convention. The "Railsplitter" image was a key element in Lincoln's political success from that day forward.)

SG: What years did Abraham Lincoln ride the circuit? How often did he travel? Is there any truth to the statement that sometimes he traveled in order to be away from his wife?

GF: Lincoln traveled the circuit from its formation in 1839 until his nomination in May of 1860. His last circuit court appearance was in Bloomington in April of that year. Many lawyers rode portions of the circuit, but they generally traveled home on weekends. Lincoln was the only attorney other than Davis and the State's Attorney to ride the entire circuit, seldom going home on weekends. There were a number of reasons he rode the circuit. Unlike many of his contemporaries, he had no other source of income, so he needed the work provided by the other counties of the circuit. He simply loved life on the circuit. The camaraderie and the respect and admiration that he received out on the circuit encouraged and justified the effort. His hard early life prepared him for the rigors of the circuit because of his strength and indifference to the discomforts of the circuit-riding life. His time on the circuit gave him the solitude and quiet that allowed him time to read and think. It appears that the volatility of his relationship with Mary Todd Lincoln may be added to the list of reasons that he rode the circuit. Escape from that situation was another good reason to be gone for so long. In fairness to the high-strung

Mary, consider the pressure it put on her to run their home and raise four sons with her husband gone for weeks at a time – almost half the year.

Perhaps Mary's greatest contribution to Lincoln's advance may be that their relationship drove him away from home which gave him the time to build the network that was so crucial to his ultimate success.

SG: What particular circuit-riding activities and/or experiences lead you to refer to the subject as "Lincoln's Ladder to the Presidency"? Were these activities/experiences deliberately planned on his part?

GF: Lincoln was very intentional in his choice of profession and his use of that profession. It is not accidental that he associated with the top lawyers and most influential citizens in the towns around the circuit. Staying in the towns over the weekends allowed him to develop friendships and associations that would serve him well politically and professionally. It is clear that from the beginning he was constantly creating the network that later put him in the White House. It can't be said that he knew he would become President, but it is clear that he was always working to better himself and inch his way to high esteem. The circuit travel allowed him to network and build his base in this significant area of what was to be a key swing state in 1860. He could do so without appearing to be engaged in politics. This was particularly vital during the period when he said that he swore off politics (1848-1854). He was still able to build relationships in this significant area of what was proven to be a pivotal state in 1860.

SG: Did law partner William Herndon frequently ride with Lincoln, or did he stay in Springfield to "run the office"?

GF: Herndon seldom went out on the circuit. Their partnership was perfect for Lincoln. Herndon was under-rated as a lawyer because he was willing to play second fiddle to his more high-profile partner. He was a happily-married family man who was content to stay at home with his family. He handled cases in Sangamon and neighboring Christian and Menard Counties which allowed him to be home with his family and also to manage the office. It appears that the office was not the best managed in any event. Lincoln's choice of each of his partners affirmed his intentional nature. Stuart was a means to meet people and build a practice. Logan was a means to become a better lawyer. Herndon was humble and acknowledged Lincoln as the "rainmaker" and senior partner. Herndon was a highly competent attorney and exactly what Lincoln needed throughout his years of the partnership. Notwithstanding his flaws and idiosyncrasies, Herndon is one of the heroes of the Lincoln story.

SG: Did the attorneys sometimes travel by train, or was the travel all on horseback?

GF: The circuit experience was transformed by the coming of the railroads in central Illinois in 1853 and 1854. Up until then the horse was the mode of transportation around the circuit. Usually with the spring rains, the muddy roads required the lawyers to ride horseback. In the drier autumn, they took small buggies for circuit travel. Lincoln had such a carriage built in 1840. The railroads criss-crossed the circuit north, south, east, and west. Illinois had 110 miles

of railroad in 1850, and by 1860 had 2,860. The lawyers used the railroads exclusively, taking advantage of the increased mobility they created.

Lincoln used this mobility to great advantage in meeting the travel demanded by his law practice and political activity. His rebirth as a politician with the passage of the Kansas-Nebraska Act in 1854 coincided perfectly with the coming of the railroads. This illustrates one of the characteristics that made Lincoln the great man he was: the ability to adapt to and take advantage of change.

SG: We often hear stories of the trailside inns in which the judges and lawyers stayed. Please comment on the inns. Did Lincoln really recite poetry to the assembled attorneys?

GF: The country inns along the route ran from mediocre to terrible. Some of the inns in the county seats were of better quality. The lawyers slept two to three to a bed, sometimes eight men shared a room, some in the bed, some on the floor on straw under sheets or on quilts. The furniture was sparse, just a bed and sometimes a chair or two. The roofs leaked and the inns swarmed with flies, mosquitoes, fleas, and bed bugs. There were few towels or washcloths, and the sole method of washing was with cold, sometimes icy, water. The food was seldom good and was often greasy. Some would say it was just plain terrible. Lincoln once asked for more beverage, "If this is coffee, bring me more coffee, or if it is tea, bring me more tea." Whatever the quality of the food, it was generally served at a long table at which everyone sat - the judge, lawyers, court officials, witnesses, even bailed defendants. The visitors sat up late in the night swapping tales and jokes, at which Lincoln was the acknowledged

master. This is another part of the Lincoln legend that is so true, and it cannot be exaggerated. He was the best at reciting anecdotes including off-color jokes.

While he read poetry while riding across the endless miles of prairie, I know of no instance of Lincoln reading poetry out loud to the raucous assembly in the sessions in the dining area of the inns. Sometimes these sessions took place in Judge Davis's room for a select group of lawyers and townspeople favored by the judge's invitation. Occasionally the inns were so bad that Lincoln chose to stay with acquaintances in the towns. One example is the former neighbor from Springfield, the Lushbaugh family in Mount Pulaski, site of the particularly offensive Mount Pulaski House as graphically described by David Davis. The inns in the county seats themselves were generally better than the stops between towns, and as the towns evolved, the facilities continued to improve. Examples of fairly decent inns or hotels in the county seats were the Gere House in Urbana, the McCormack House in Danville, and the National House in Bloomington.

SG: Please describe the relationship between Abraham Lincoln and David Davis

GF: Lincoln's relationship with David Davis reveals a little known side of Lincoln. Davis was probably as close to him as anyone. Davis is the most significant figure in Lincoln's professional and political career and yet Lincoln was slow to acknowledge and reward Davis's broad contribution to his advance.

Davis started practice in Bloomington in 1836, a year before Lincoln began in Springfield. He and Lincoln practiced together on the circuit until



David Davis LFA-0221

1848 when Davis was elected as the sole Circuit Judge of the Eighth Judicial Circuit. Lincoln was the only private practitioner to regularly travel the entire circuit during Davis's tenure. They spent countless hours together crossing the prairies, sharing a room in the uneven taverns with long evenings of discussions and fellowship. Davis frequently appointed Lincoln as substitute judge during brief periods when Davis was absent from the bench. The judge was a dignified, firm jurist with broad social skills. He probably knew more people than anyone on the circuit, and it was a real asset to be his friend. Davis and Lincoln planned the strategy prior to the Chicago Republican Convention in 1860. By custom, the candidates were not allowed to attend, so Davis was in sole control of the process. He led the Lincoln forces at that convention, mostly all circuit lawyers. He skillfully organized and assigned the team to work the delegations. They took the nomination out from under the

better-known rivals, particularly Seward whose men thought the nomination was a lock. All agreed that more than any other man, Davis was responsible for Lincoln's nomination.

Yet, when it came time to pass out the spoils after the election, Lincoln left Davis hanging for over a year. He was the third appointment to the United States Supreme Court made by Lincoln, and that was not until August 27, 1862. This was done under relentless pressure from the lawyers of the circuit. There are arguably explanations for the delay, but there is no explanation for Lincoln's treatment of Davis during this period. He never communicated either directly or indirectly with Davis about the matter. In September of 1866, Davis was interviewed by William Herndon. He described Lincoln as a cold and aloof person and said, "No strong emotional feelings for any person. . . he never thanked me for anything I did – never. . . asked my advice about anything – never took my advice."

On the afternoon of that tragic day of April 15, 1865, Robert Todd Lincoln telegraphed Davis to come to his aid in settling his father's affairs. Davis dropped everything and rushed to Washington and then served as the Administrator of Lincoln's estate through the probate process.

SG: In addition to Davis, which of the circuit-riding attorneys were most important in Lincoln's political future? Did any visit him at the White House? Give legal and/or political advice? What were their personal political leanings?

GF: It is difficult to rate the most important of the circuit lawyers because so many of them played significant roles in Lincoln's advancement. The one that comes to mind first is Leonard Swett, a Maine

native who practiced in Clinton first and then went to Bloomington in 1854. He practiced there until after the Civil War, at which time he moved to Chicago. Tall and bearing some resemblance to Lincoln, Swett was perhaps the best trial lawyer on the circuit. Until his marriage in 1856, he also traveled the entire circuit. Lawyer Henry Clay Whitney of Urbana called Swett, Davis and Lincoln "the great triumvirate of the circuit." Swett had many cases with and against Lincoln. His political support of Lincoln began with Lincoln's failed effort to gain election to the United States Senate in 1855. He joined Lincoln in the formation of the Republican Party at the Convention in Bloomington in 1856 and backed him strongly in 1858. In 1860 he was David Davis's chief lieutenant and played a major role in the nomination process at the convention. Both men travelled the country in 1861, first campaigning for Lincoln's election, then helping him organize his Cabinet. Swett traveled to Washington to advise Lincoln during his presidency. One response to a summons from the president was simply to listen to Lincoln read the preliminary draft of the Emancipation Proclamation. Here again Swett never received any offers of reward from Lincoln. The ever-loyal Swett never complained about this. Perhaps his own gracious explanation is the most plausible: "He had more horses than oats."

Although his support was early in Lincoln's career, recognition has to be given to John Todd Stuart, Lincoln's first law partner. The courtly, popular Stuart was a leader of the Whigs in the legislature when Lincoln was elected. His friendship and support opened many doors for the newly elected Lincoln in 1834. Stuart was also one of the most popular lawyers

on the circuit, so his partnership with the callow lawyer gave Lincoln instant contact and acquaintanceship with the lawyers and residents of central Illinois. In the late 1840s while riding the circuit, Stuart recalled that he and Lincoln agreed to disagree on the issue of slavery. Stuart became a Democrat working against Lincoln. He campaigned against the Republican Frémont in 1856 and became a Democrat backing Steven A. Douglas in 1858. He worked against Lincoln in the 1860 Presidential election and defeated Leonard Swett in the Congressional election of 1862, riding the anti-emancipation backlash against Lincoln. A measure of both men is that they remained friends throughout this time.

A third lawyer of importance in Lincoln's career was Samuel Parks of Logan County who consistently supported Lincoln through thick and thin. He began practice in Mount Pulaski and then moved with the county seat to the new town of Lincoln. After Lincoln's disappointing term in Congress, a caucus was held

to chose the Whig candidate for the next term. Lincoln only received two votes. Parks was one of the two and delegate William Herndon was not. Parks was elected to the legislature in 1854 in part to vote for Lincoln for the Senate in 1855. In 1856 he was a delegate to the first national Republican Convention in Philadelphia where Lincoln received 110 votes for the Vice Presidential nomination. In 1858 Parks campaigned vigorously for Lincoln around central Illinois. He was part of the Davis team in Chicago in 1860, his assignment being to corral the votes of his native state of Vermont. On the crucial second ballot, Vermont's ten votes moved from the favorite son, Senator Collamar, to Lincoln, an early nail in the coffin of the Seward candidacy. Lincoln appointed Parks to the Supreme Court of the Territory of Idaho in 1862.

There are as many as fifteen other circuit lawyers who made significant contributions to Lincoln's ascent. Space does not permit the telling of their stories.



Lincoln & Herndon Law Office 1860
published in *Leslie's Illustrated*, Dec. 22, 1860



Illinois State Capitol 1858

SG: Perhaps not a fair question, but please give details of your three favorite Lincoln courtroom stories.

GF: It is difficult to pick three in part because space does not allow description of some of the more complex and interesting cases. Lincoln's stories frequently were told to make a point. My favorite is because of my years arguing and listening to other lawyers argue to juries and judges. The validity of the message in this story applies to anyone who is required to make written or oral presentations. Judge Davis had heard enough of a verbose lawyer whose argument to him went on and on. Finally in exasperation, Davis interrupted him and summoned Lincoln to the bench from the back of the courtroom. He asked his friend to tell the offending lawyer the story of the long-winded preacher. Lincoln replied that he thought Davis wanted Lincoln to tell of the preacher whose sermons seemed to go on without end. Finally a member of his congregation got up the nerve to ask him why his sermons were so long. The preacher replied, "Oh, I know they're long, but once I get going I'm just too lazy to quit." The DeWitt

County case of *People v. Shurtleff* tried in Clinton in 1854 was one of Lincoln's more colorful cases.

Temperance was a major social issue in the 19th Century. The temperance movement was an early source of civil disobedience. Typically Lincoln took cases on both sides of the alcohol issue, declining to let his strong temperance views spill over into his law practice. The defendants

were nine women from Marion, now the town of DeWitt, who entered a legal tavern, Tanner's Grocery in that town, "knocking out the heads of some whiskey barrels" and destroying large amounts of whiskey. The women included Elizabeth Shurtleff, the wife of an early land owner in the area, and the owner and operator of the town's first mill and first inn. Her daughter, Catherine, took part in the incident, as did Rowena Herndon, sister-in-law of William Herndon, Lincoln's law partner. Other defendants included the 40-year-old Emily Lewis, a physician's wife. The zealous ladies were charged with criminal destruction of property. The trial was in May of 1854. An eye witness described Lincoln's closing argument. First he urged changing the name of the case to "The State Against Mr. Whiskey." He argued there were two laws higher than the statutes of the State of Illinois: the Law of Self Protection as in the Boston Tea Party and the "Moral Law or Law of God." Lincoln discussed his observations about liquor's destructive effect on individuals and society. This account by an eye-witness relates that many, including the judge, were bathed in tears. Apparently those so affected did not include the jurors who

returned a verdict against all nine women. Judge Davis levied a \$2 fine against each Defendant.

Lincoln was known for his equanimity in the courtroom, seldom showing anger. One notable exception is the Sangamon County case of *People v. Wright*. Throughout his career, Lincoln not only represented some of the leading citizens of the communities of the circuit, but he also represented those less prominent. In 1845 such a person, Rebecca Thomas, sought Lincoln's help to recover an exorbitant fee charged in a case seeking her pension rights as the widow of a Revolutionary War soldier, John Thomas, 15-20 years her senior. The Thomases had once lived in New Salem. The suit was against prominent Springfield resident and frequent Lincoln client, Erastus Wright, a pension agent, who had assisted Rebecca when she attained her pension and for which he had charged what Rebecca claimed was an excessive fee. She lost the case when she represented herself in the Justice of the Peace court, so she came to Lincoln who appealed to the circuit court for a new trial. Herndon recalled Lincoln's ire being raised by the behavior of Wright toward this Revolutionary War widow. Before the trial he told Herndon that he was going to "skin the Defendant." With impassioned reminders to the jury of Valley Forge and the other sacrifices of the noble soldiers of the Revolutionary War, he attacked the Defendant for his behavior with "fierce and invective" according to Herndon. Lincoln obtained a judgment for the widow and did not charge her.

Guy Fraker, author of *Lincoln's Ladder to the Presidency*, practices law in Bloomington, Illinois.

The Mary Lincoln Enigma

Edited by Frank Williams and Michael Burkheimer, reviewed by Sara Gabbard,
(Southern Illinois University Press, 2012)

This book will become an essential part of the attempt to understand/explain Mary Todd Lincoln, an "enigma" if ever there was one. The list of contributors is impressive in its breadth and scope, in chronological "chapter order": Stephen Berry; Brian Dirck; Richard Lawrence Miller; Kenneth J. Winkle; Douglas L. Wilson; Wayne C. Temple; Donna McCreary; James S. Brust, M.D.; Jason Emerson; Richard W. Etulain; Harold Holzer; and Catherine Clinton. Editors Williams and Burkheimer contributed chapters, and Williams also provided the Introduction. The fact that these distinguished scholars frequently voice different interpretations of this unusual woman simply emphasizes history's difficulty in consigning her to preconceived categories.

In his Introduction, Frank Williams summed up Mary's enigmatic reputation: "History's portrait of Mary Lincoln is rarely flattering, yet behind it lies the intelligent and resourceful woman, often foolish,

sometimes courageous, unquestionably devoted, who recognized the potential in an uncultured backwoods lawyer. Her refusal to live her life on any but her own terms seems very modern; for that alone, her life deserves our attention." (2)

"There's Something about Mary"

Stephen Berry gives an "up close and personal" look at both the Todd family and Lexington, Kentucky. Perhaps his description of Mary's father tells it all: "Robert Todd believed childrearing, like childbearing, was natural only to women. What he wanted from his progeny was pleasant, episodic contact. They should be presentable in public, peaceable in private, and a delightfully rare diversion from civic affairs." (17)

A concluding point makes the sad statement from Elizabeth Edwards' comment on her sister: "...she had much to bear though she don't bear it well." The author believes that all studies of Mary Todd Lincoln should begin with that statement in order to "scrape away layers of controversy to get at the human complexities" that make this story "so sadly compelling." (32)

"Mary Lincoln, Race and Slavery"

Brian Dirck traces Mary's exposure to slavery, not only in her daily relationship to household slaves but also in the general climate of Lexington itself, given the presence of slave auctions and holding pens into which the slaves were herded. In an insightful comparison of Mary's views to those of Henry Clay,

Dirck asserts: "Clay both benefited from and squirmed uncomfortably in the presence of slavery. So did Mary." There was a certain ambiguity in people who had "that same mixture of self-interest, moral guilt and white supremacy." (39) We shouldn't hold the opinion that Kentuckians were 100% in favor of the peculiar institution because "the state never lacked for doubters concerning the efficiency and morality of slavery." (40)

In the White House, Mary's most significant relationship with an African American was with Elizabeth Keckly, whom Dirck describes as "seamstress, fashion advisor, and eventually close confidant." (53) In a significant action after the assassination, Mary gave her husband's favorite walking stick to Frederick Douglass. According to the author, "It was a fitting little statement about Mary Lincoln, as well: a quiet behind-the-scenes gesture of respect and consideration for a black man who,



Elizabeth Keckly 1860s
#3189



Mary Todd Lincoln 1863
LFA-0078

in her Kentucky youth, would hardly have merited a passing glance from the aristocratic Mary Todd of Lexington." (56)

"Life at Eighth and Jackson"

In the first three sentences of his chapter, Richard Lawrence Miller establishes a premise which differs from some of our most commonly-held views of this historic marriage: "Abraham Lincoln's home life has been described as horrific. Actually, however, family life for him was a diversion from cares, not a cause of them. Activity at Eighth and Jackson was sometimes chaotic but generally happy." (60)

While Mary sometimes fretted about her husband's table manners and his preference for casual apparel, the home life which Miller portrays sounds tranquil and inviting, including board games after supper and husband and wife reading aloud to each other. The Lincolns were recognized as a gracious couple, and they occasionally hosted dinner parties. There are countless quotations from those who knew the Lincolns and thought each partner to be completely in love with the other.

Despite stories of her profligate spending, Miller reports that, at least in Springfield, Abraham was the big spender and Mary was "flinty." It appears that Mrs. Lincoln was very careful with her spending while her husband was expanding his law practice.

Miller brings the reality of the life of a circuit riding lawyer in a chart on page 71 in which he notes the number of days Lincoln was gone from home during a six year stretch from 1850 to 1855. The annual average was 144 days—and this was before the major portion of his travel for political purposes.

The author doesn't doubt that there were temper tantrums in the marriage, including a rather unpleasant confrontation in which Lincoln shoved his wife into a door. When speaking of such incidents,

Miller states that some were probably true, but "they were rare exceptions to the predominant evidence describing pleasant home life." (76)

"An Unladylike Profession": Mary Lincoln's Preparation for Greatness

Kenneth J. Winkle traces the negative public reaction to Mary Lincoln, starting with William Herndon's famous lectures in 1865 and 1866 in which he stated: "Abraham Lincoln loved Ann Rutledge with all his soul, mind and strength." (84) This single statement has colored the public's view of the marriage since shortly after the assassination.

The chapter's title reflects society's view of the role of women in mid nineteenth century America. Men and women were consigned to "separate spheres" of duty, but the concept of "Whig womanhood" encouraged "female civic duty," which allowed women to "testify to the virtue of their party's candidates and their programs." (89)

Given her father's political instincts and contacts, it is not surprising that Mary was fascinated with issues of the day. Winkle states that Abraham Lincoln was clearly supportive of Mary's participation: "For his part, Lincoln was clearly attracted to the political side of Mary Lincoln's disposition." (97) A recognized expert on the Lincolns as a couple, the author explores the broken engagement, the attitude of Mary's family, the Shields' duel, Mary's untypical journeys to Washington during her husband's term in Congress, and her ambitions for her spouse.

"William H. Herndon and Mary Todd Lincoln"

"That Herndon hated Mary Lincoln is currently a widely shared belief that has become axiomatic and is rarely questioned" (113), but this is the very mindset which, in Douglas L. Wilson's opinion, needs to be re-examined. The story of Mrs. Lincoln

and William Herndon, Mr. Lincoln's law partner and friend, has been skewed and exaggerated over time; in this chapter, Wilson attempts to set the record straight. Wilson believes, unlike popular opinion suggests, that Mary Lincoln and William Herndon were not lifelong enemies, and, while he acknowledges that hatred between the two did exist, he believes this to be the result of Herndon's testimonies regarding the Lincoln's life and marriage which were viewed, contrary to Herndon's intentions, as disrespectful and malicious. These testimonies were not given until late 1866, and Wilson pinpoints the root of Mary Lincoln's hatred to this time, when Herndon first spoke of Abraham Lincoln's early and intense love for Ann Rutledge prior to meeting Mary and concluded that Mr. Lincoln had not loved a woman in the same way since. Wilson also speaks of Abraham Lincoln's unhappiness in his later life making Mary resentful, and probably rightly so, "for simple subtraction would bring any listener or reader curious about the beginning of Lincoln's unhappiness to 1842, the date of her marriage" (p.122).

In Herndon's defense, Wilson points out that many of Lincoln's acquaintances seemed under the impression that Lincoln was less than satisfied with his home life. He also outlines Herndon's reasoning for giving his testimonies about Lincoln's discontent in his marriage as a "necessary truth" that should "be first reported sympathetically by their friends in order to forestall and offset the inevitable construction that would be put on these same circumstances by their critics and enemies" (p.124). All things said and done, Wilson's depiction of the Mary Lincoln and William Herndon relationship is much more complicated than simple hatred. Herndon's opinion of Mary Lincoln was "complicated and heavily qualified, conceding to her many good qualities and valuable contributions" (p.134) but also

admitting that he viewed her as “soured... gross... material... avaricio us... insolent” (p.131) in her later life. And, while Mary stated at one point shortly after her husband’s death that Herndon was “cherished with the sincerest regards, by my son & myself” for the “love & reverence” (p.118) he clearly had for her husband, in later years, after Herndon’s publication of various lectures and letters, Mary’s respect for Herndon turned into what is now safely assumed to be hatred as she refers to him as “a dirty dog” who has become a “ruined man” (p.122). If the two hated each other from the get-go, they did a particularly convincing job of hiding it, and, as Wilson suggests, lifelong hatred does not seem a proper description of what seems to have been a mutual respect turned sour due to conflicting agendas and differing opinions of what, in fact, qualifies as a “necessary truth”.

“I Am So Fond of Sightseeing”

Wayne C. Temple gives a unique account of the life of “just Mary.” Void of much detail about her husband and his political affairs past the acknowledgement that he was or was not present with her and that the events happened, Wayne Temple provides us with Mary Lincoln’s life history via her travel log. Beginning with her trips to Springfield, Illinois, to visit her family in 1835 and ending with her grievous commute from the White House to Chicago, Illinois, following the assassination of the husband, Temple outlines every twist and turn taken by Mary in her travel life including detailed descriptions of her fashion choices, her many extravagant purchases, her companions, and her lodging choices. Temple also includes details of her correspondence with her husband as well as others during her many long absences from the White House and away from President Lincoln, one of which lasted “for seventy-one days” (p. 168).

Temple’s account of Mary Lincoln’s travels gives unique insight about her personality and preferences and sheds light onto her relationships, her temperament, and her priorities. All this is done quite unexpectedly and comes as a pleasant surprise in the midst of what, at first glance, seemed to be a simple and superficial account of Mary Lincoln’s love for sightseeing.

“Fashion Plate or Trendsetter?”

Donna McCreary addresses a topic which has been overlooked by some and over-emphasized by others.

There is no doubt that Mary Lincoln’s attitudes about fashion were influenced by mid-nineteenth century culture and her place in it. “Mary Lincoln was known to have enjoyed fine horses, a good joke, and an exquisite wardrobe. Mary was raised as a member of the social plane where ladies were concerned about the width of their ribbons, the length of their skirts, and the latest Parisian fashions.” (186)

Criticisms of the First Lady’s spending habits are well known. From the standpoint of her attire, we don’t often hear about the frequency with which custom dictated that she wear mourning clothes. McCreary concludes that Mary Todd Lincoln “did not create new standards of fashions but rather was the perfect model for what was fashionable. As a member of the aristocratic Todd family, and then the wife of the president of the United States, Mary had a social station to maintain, which included an obligation to dress impeccably.” (216)

“The Reports of the Lincolns’ Political Partnership Have Been Greatly Exaggerated”

The title of this chapter makes Michael Burkheimer’s goal in writing it blatantly clear—to disprove the idea that the marriage between Abraham Lincoln and Mary Todd Lincoln was, in fact, a political partnership. To summarize

Burkheimer’s argument against this idea in a single sentence: the fact that Mary Todd Lincoln had strong opinions and often voiced them does not mean Mr. Lincoln ever let those opinions influence his own decisions. The author states, “Lincoln seemed to listen to all this [Mary’s political input] in a somewhat patronizing way but never acted on her advice” (p.229). Burkheimer quotes many well-known authorities who have documented the life of Mary Lincoln including Daniel Mark Epstein and David Herbert Donald as having spoken of a “political partnership” existing between Mr. and Mrs. Lincoln (p.221), but he gives much in the way of evidence to refute these statements. He focuses on the idea that, while it is true that Mary was politically ambitious from an early age, so was Abraham, and “one’s ambition was not dependent on that of the other” (p.224). Abraham had accomplished a great deal career-wise before even having met Mary, and it could be argued that his association with Mary actually hindered his success since “as late as 1860, he was running as the ‘Rail-splitter’” (p.224) and his association with aristocrats may have been somewhat off-putting and contradictive to his supporters.

Burkheimer also brings up accusations that Mary Lincoln commonly took bribes in exchange for money and or favors she could provide due to her relationship with the president. He also includes other allegations against Mary, all of which are not characteristic of what one would consider a “political partnership”.

Overall, Burkheimer’s chapter is a strong and convincing argument supporting the idea that “the kernel of truth of the Lincolns’ mutual ambition is being expanded far more than the evidence warrants” (p.232). Right or wrong, Burkheimer provides an interesting and unique perspective on the life and relationship of the Lincoln couple.

"A Psychiatrist Looks at Mary Lincoln"

Did Mary Lincoln have a psychiatric disease requiring treatment, and if so, what does this mean for her legacy? These are the questions addressed by Psychiatrist James Brust in this chapter as he attempts to provide a "proper psychiatric perspective" (p.237) of the Mary Lincoln story.

Dr. Brust begins by stating his opinion that "Mary Lincoln had a significant psychiatric illness, most likely bipolar disorder" (p.237) which he knows cannot actually be proven since he cannot conduct interviews with her or her close acquaintances but which he believes is the most appropriate and probable diagnosis based on the records we do have. Brust then begins to outline the history of mental illness and the extreme stigmas attached to psychiatric conditions throughout history and even still today in order to put into perspective the controversy created when Robert Lincoln put his mother into an asylum which actually helped her and in which her condition improved but that left her thus "branded as 'mad' or 'insane'" (p.230).

Brust gives his reasoning behind both his diagnosis of bipolar disorder and his rejection of those offered by others, including tabes dorsalis, migraines, etc. According to Brust, "we have evidence of depression, mania, and psychosis, of a relapsing-remitting course, and even on a regular cycle. All of this is consistent with bipolar disorder" (p.249). He talks about her delusions and hallucinations as well as her manic sprees of irresponsible spending and her habit of going for days on end sitting alone in a dark room during her "self-described cycle" (p. 249). Brust also looks into Mary's family history, providing support for "an inheritable biological component to Mary Lincoln's mental illness" (p.249).

This chapter is an attempted medical diagnosis based on saved medical records and surviving testimonies from Mary Lincoln and her close friends and family regarding her behaviors. Brust admits that it might all be in vain since no one will ever be able to prove anything regarding the matter. However, he believes it an important attempt to "explain much of her behavior in a way that does not leave her personally blameworthy" (p.251).

"I Miss Bob, So Much": Mary Lincoln's Relationship with Her Oldest Son

Jason Emerson sets the stage for this exceptional relationship in his first paragraph. "Quite simply, Mary's relationship with Robert was one of the closest and most important of her entire life. It went beyond the typical mother-son experience and into nearly unparalleled areas of triumph and tragedy, death and murder, fame and infamy, and, ultimately, arrest and insanity." (259)

Mary's obsession with the health and safety of her children was perhaps due in part to the circuit-

riding schedule of their father. Abraham's frequent and lengthy absences from Springfield resulted in the reality that she was "a single parent most of the time." (261) Robert helped fill the void created by his absent father, and was "not only the oldest son but acted as his mother's social and intellectual companion, and also in many ways her protector." (262)

The quotation for the title of this chapter is taken from a comment Mary made in 1859, when Robert left for school in the East. Mother and son did manage to make several trips together during her time in the White House.

The sad story of Mary's life after the assassination, including the legal action taken to have her institutionalized, is well known. Jason Emerson gives a balanced account of these episodes and concludes, "Robert Lincoln had spent his entire adult life trying to protect his mother from the selfish motives of untrustworthy people. He warned her about questionable business investments, shady Spiritualist mediums, and general unsavory companions." (274)



Robert Todd Lincoln 1865
LFA-0572

"Mary Lincoln among the Novelists": Fictional Interpretations of the First Lady

Richard Etulain maintains that, even if there are factual mistakes, historical fiction about Mary Lincoln "still illuminates her life, suggests reasons for her controversial actions, and supplies imaginative, cathartic lessons for understanding our own lives." (281) Etulain has conducted thorough research on the subject and has concluded that, although she appears in several novels about her husband, fewer than ten novels have been written specifically about Mary. He gives a helpful summary of several of these novels, with a special focus on Irving Stone's well-known *Love Is Eternal*. Etulain opines that Stone's novel serves as a dividing point between earlier fiction about Mary and his own approach, which focuses on the 1840s and 1850s and includes "lengthy discussions of slavery in the South, Northern antislavery attitudes, Whig and Republican politics, and the rapidly evolving social scene of Springfield." (289)

The author gives a fascinating evolution of fiction which focuses on Mary Todd Lincoln. "The first novels were rather sentimental, stereotypical portraits... by and large, unanalytical, admitting to her downside but stressing even more her positive contributions as wife, mother, social planner, and political advisor to her husband." Again, Irving Stone broke new ground by avoiding the "cloying sentimentalism of the earlier fiction, replacing it with wide-angle contextual historical research." (299)

"I Look Too Stern" Mary Lincoln and Her Image in the Graphic Arts

An expert on the use of imagery to convey the story of the Lincolns, Harold Holzer believes that Mary Lincoln "occasionally proved herself nearly as skillful a manipulator of her public image as her husband." (306) While her husband was usually pleased with the efforts of

photographers and artists, "Mary tended to be more opinionated, not only about pictures of herself, but also those of her husband." (307)

Perhaps Mary believed that manipulation of her image might serve to offset the frequently critical comments which plagued her in the White House.

The chapter contains over 30 illustrations to illuminate Holzer's text. Of particular interest are separate daguerreotypes of Abraham and Mary Lincoln taken in Springfield by an itinerant photographer in Springfield (c. 1846). Mary at the time determined that the couple would never be photographed together. The author repeats the theory that the purpose of this separation was because Mary thought that, given the "height disparities" the two would look ridiculous together. Harold Holzer presents another and more fascinating reason: "Mary wanted her own separate image, her own independent identity." (311)

Also given prominent attention are the photographs and paintings of the Lincoln family and of the assassination. Holzer explains the importance of these images to both past and present generations. He has chosen the perfect image to end the chapter, William H. Mumlers "Mary Lincoln with the 'Spirits' of Tad and Abraham Lincoln." (c. 1871-1875) I loved his concluding sentence: "At long last, albeit in an obvious and pathetic fake, Mary and Abraham Lincoln had finally posed together.

"The Compelling Mrs. Lincoln"

Catherine Clinton has authored the Epilogue and concludes that Mary Lincoln's "ability to generate debate seems a renewable energy source." (349) She recognizes that there are competing camps in the study of Mary Lincoln and opines that perhaps those who treat her memory in a negative fashion do so in order to "enhance her husband's status." (349)

Clinton agrees that the book's contributors do not all view Mary Lincoln from the same vantage point, but perhaps that is as it should be. "We [historians] puzzle the how, where, and who, fascinated by the matters of when and why they continue to haunt us. Few figures within nineteenth-century America have been so haunting as the enigmatic Mary Lincoln." (360)

I was fascinated by Clinton's conclusion about the use of Mary's name. She was "known throughout much of the twentieth century by both her maiden and married names, as if Todd and Lincoln were conjoined or hyphenated. Image my surprise to discover that no known autograph or signature used this form—that she had always preferred Mary Lincoln or Mrs. Lincoln (unless employing a pseudonym as she often did—a favorite from her White House days: "Mrs. Clarke").

Reviewer's conclusion:

I am aware of the controversy and differing opinions which shadowed Mary Todd Lincoln throughout her life and are still being debated today. My continued response to the speculation has always been to ask one question: Without Mary, would Abraham Lincoln have become the man and the president we honor today? Without detracting from his magnificent legacy, is it possible to answer that his wife played a vital role in his life and that she deserves to be recognized for her role in that legacy?

Items on display at the
Indiana State Museum
exhibition

**The Lincolns:
Five Generations of
an American Family**



Page from the Abraham Lincoln Sum Book, 1824-1826. Courtesy of the Lilly Library, Indiana University, Bloomington, Indiana A018



Land grant, to Captain Abram Lincoln, Jefferson County, KY. March 4, 1780. Lincoln Financial Foundation Collection A002



Meissen porcelain figurine belonging to Mary Todd, c. 1835. Image Courtesy of the Kentucky Historical Society A026



Willie and Tad Lincoln, c. 1860. Cased quarter-plate ambrotypes.
Lincoln Financial Foundation Collection A051



Tea Service from the Lincolns' coffee/tea/hot chocolate set,
c. 1860. Courtesy of the Abraham Lincoln Library
and Museum of Lincoln Memorial University
A038 MTL



Corner cabinet made by Thomas
Lincoln, c. 1818. From the Collection
of David Lutz
A014