

Lecture

THE ABRAHAM LINCOLN LECTURE ON CONSTITUTIONAL LAW

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Abraham Lincoln is the United States' best lawyer president, and he is, along with George Washington, one of the two greatest presidents in American history. In his Lincoln–Douglas debates in 1858, Lincoln brilliantly pointed out all the many ways in which the U.S. Supreme Court's *Dred Scott v. Sandford* was wrongly decided, and he argued in almost every speech that that decision was repugnant and ought to be overruled. In doing this, Abraham Lincoln set a lawyerly standard for how to fight back against an unconstitutional ruling by the U.S. Supreme Court in the Lincoln–Douglas debates.

In his First Inaugural Address, President Lincoln made a constitutional case as to why the unilateral secession of the Southern states was unconstitutional. He pledged to win what he called the War of the Rebellion, and he lived just long enough to see that victory achieved. The U.S. Supreme Court ultimately wrote Lincoln's theory as to why unilateral Southern secession was unconstitutional into its case law in *Texas v. White*, which described the Union as being “an indestructible union of indestructible states.”¹ Abraham Lincoln's legal theory on the unconstitutionality of unilateral secession from his First Inaugural Address is now enshrined in U.S. Supreme Court case law.

President Lincoln's Emancipation Proclamation of January 1, 1863 freed 3 million of the 4 million African-Americans enslaved at that time in the United States earning him the well-deserved title of the Great Emancipator. In part as a result, free slaves and other free African-Americans constituted 20% of the Union Army, which crushed the

¹ 74 U.S. 700, 725 (1868).

Southern Rebellion. The contribution that the freed slaves made to crushing the War of the Rebellion is not as widely appreciated as it should be. The Emancipation Proclamation was a presidentially issued document, written with Lincoln's expertise as a lawyer, and it was not an act of Congress. It is, without a doubt, the greatest presidential Executive Order in American history. The Emancipation Proclamation changed the War of the Rebellion from being a War to Keep the Union Together into being a War to Free the Slaves. It is no accident that, in 1865, the Thirteenth Amendment abolishing slavery was enacted, even though Abraham Lincoln had by then been assassinated and could not see what he had wrought.

The Northwestern Pritzker School of Law is descended from a law school founded in 1859 as the Union College of Law of the Old University of Chicago, which cancelled classes for one week so its students could go to court for five days to watch the great lawyer Abraham Lincoln argue a case. Our faculty at that time recognized Lincoln's extraordinary talents as a lawyer. Lincoln's son, Robert Todd Lincoln, completed his study of law and received his law degree from the Old University of Chicago Law School in 1866, which in 1873 became affiliated with Northwestern University, and which in 1891 was absorbed into Northwestern University and came to be known as the Northwestern University School of Law. The school is known today as the Northwestern Pritzker School of Law.

I have endowed this lectureship in Constitutional Law, in Abraham Lincoln's name, because of his Northwestern ties, because he was a brilliant lawyer, and most important of all because he was the Great Emancipator who ended slavery and kept the Union together by crushing what he and I both call the War of the Rebellion. I admire him immensely, and I hope this gift will lead to Lincoln's lawyerly legacy being better appreciated.