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**“Our Ancient Faith”:  
A Translation of the Declaration of Independence**

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**USC Public Policy Research Paper No. 01-18**



**PUBLIC POLICY  
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**“OUR ANCIENT FAITH”:  
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INTRODUCTION .....	1
WE TOGETHER WOVE OUR TRUTHS .....	13
1. A SONG OF PRAISE .....	13
2. WE HOLD THESE TRUTHS .....	14
3. ALL MEN ARE CREATED EQUAL .....	15
4. SACRED HONOR .....	17
5. LINCOLN AT GETTYSBURG .....	18
6. TO A CANDID WORLD .....	21
7. IN PEACE, FRIENDS .....	22
8. LONG TRAIN .....	23
9. TO THE BETTER ANGELS .....	24
NOTES ON “WE TOGETHER WOVE OUR TRUTHS” .....	26
1. A SONG OF PRAISE .....	27
2. WE HOLD THESE TRUTHS .....	32
3. ALL MEN ARE CREATED EQUAL .....	43
4. SACRED HONOR .....	47
5. LINCOLN AT GETTYSBURG .....	52
6. TO A CANDID WORLD .....	57
7. IN PEACE, FRIENDS .....	61
8. LONG TRAIN .....	65
9. TO THE BETTER ANGELS .....	68
AFTERWORD .....	75
1. ....	75
2. ....	83

# **“OUR ANCIENT FAITH”: A TRANSLATION OF THE DECLARATION OF INDEPENDENCE\***

Ronald R. Garet\*\*

## **INTRODUCTION**

I offer here a translation, in verse, of the Declaration of Independence. The translation is attempted from both “internal” and ironic points of view which are not ultimately irreconcilable. The translation is crafted from the internal perspective of one who shares what I take to be our traditional belief – “my ancient faith,” as Lincoln called it<sup>1</sup> – “that all men are created equal; that they are endowed by their Creator with certain inalienable rights.”<sup>2</sup> The internal perspective affirms not only the belief itself but also the centrality of “the proposition that all men are created

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\* The poem, notes, and essay herein are © 2001 by Ronald R. Garet.

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<sup>1</sup> Speaking against the Kansas-Nebraska Act in 1854, Abraham Lincoln explained to his Illinois audience: “If the Negro is a man, why then my ancient faith teaches me that ‘all men are created equal;’ and that there can be no moral right in connection with one man’s making a slave of another.” October 16, 1854; in Roy Basler, ed. The Collected Works of Abraham Lincoln (1953) (hereinafter Collected Works), volume 2, p. 266.

<sup>2</sup> The several official texts of the Declaration differ from one another, primarily in spelling, capitalization, and punctuation. Julian P. Boyd, The Declaration of Independence: The Evolution of the Text as Shown in Facsimiles of Various Drafts by its Author, Thomas Jefferson (1945) [hereinafter Evolution of the Text], pp. 16-17. I will follow here the Declaration text established by Pauline Maier in Appendix C, pp. 236-241, of her American Scripture: Making the Declaration of Independence [hereinafter Maier], (1997). Quotations from the Declaration will be cited to page numbers in this text, hereinafter designated “Declaration App. C”. The Declaration consists of two opening paragraphs, followed by seventeen indictments (nineteen before Congressional editing) of George III, and three concluding paragraphs. I will cite to the two paragraphs with which the Declaration begins as “B1” and “B2” (“B” for “beginning”). The concluding paragraphs I designate “C1,” “C2,” and “C3” (“C” for “concluding”). I cite to the indictments as “I1,” “I2,” etc. Two of the last four indictments were deleted by Congress. The indictment paragraphs will be designated “I1” – “I16,” “I17x” (where the x indicates that the paragraph was deleted by Congress), “I18,” and “I19x”. In this format, the Declaration text cited above is Declaration App. C., p. 236, para. B2. Declaration App. C indicates which portions of the text are additions that Congress made to the drafting committee’s version. I will identify these additions, along with deletions that Congress made to the committee version, when they are relevant. Declaration App. C does not distinguish between language in the committee report that might have descended largely unchanged from Jefferson’s initial submission, and passages that probably reflect the editorial work of all or part of the committee. Where tracing the language to Jefferson or to the editorial work of the committee might matter, I follow Boyd’s reconstruction of Jefferson’s original text and of the modifications made at various stages by the committee (Evolution of the Text, pp. 16-31).

equal”<sup>3</sup> to any right engagement with the hard political and constitutional struggles that the people of the United States face in this and every age. The translation is ironic, and ironizing, because neither our political choices, nor our private conduct, nor even our very expressions of the “proposition” – including of course my expression of it in the present offering – live up to the faith itself. We do not receive the Declaration of Independence unless we receive it in joy – for all humankind is created equal, and endowed with rights to life, liberty, and the pursuit of happiness. We do not receive the Declaration of Independence unless we receive it with a chastened awareness of our endless capacity for self-deception and abuse. Frederick Douglass declared that the Fourth of July is “yours, not mine,” and insisted on treating it with “scorching irony.”<sup>4</sup> But the discipline of scorching irony should not be relaxed when we choose to call the Fourth and what it celebrates our own.

Douglass, Lincoln, and the Fourth of July (as civic celebration of independence) all are subsequent to the writing and Congressional adoption of the Declaration itself. Intellectual historians such as Garry Wills and John Patrick Diggins have produced remarkable and valuable results by demonstrating in subtle and diverse ways the differences between Lincoln’s Declaration and Jefferson’s.<sup>5</sup> It is also true that when he echoed Lincoln in the shadow of the slain president’s Memorial, and invoked “the magnificent words of the Constitution and the Declaration of Independence,”<sup>6</sup> Martin Luther King understood the Declaration differently than either Lincoln or Jefferson. But my translation relies on King and on Lincoln because what they affirmed belongs centrally to the joyous declaration that in spite of all we are indeed created equal, that our creation endows us with rights, and that our status as created and endowed with rights must touch any resolution of our fundamental constitutional conflicts. And my translation relies on Douglass because without his ironic voice we understate what is meant by “in spite of all.” I attempt here to make the Declaration not only as it was made at the

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<sup>3</sup> Abraham Lincoln, Address Delivered at the Dedication of the Cemetery at Gettysburg (Nov. 19, 1863) [hereinafter Gettysburg Address], in 7 Collected Works, *supra*. note 1, at 23.

<sup>4</sup> Frederick Douglass, “What to the Slave is the Fourth of July?: An Address Delivered in Rochester, New York (July 5, 1852), in 2 The Frederick Douglass Papers: Series One: Speeches, Debates, and Interviews 1847-54 (John Blassingame, ed., 1982) at pp. 368, 371.

<sup>5</sup> Garry Wills, Inventing America: Jefferson’s Declaration of Independence (1978) [hereinafter *Inventing America*], pp. xiv-xxiv; John Patrick Diggins, The Lost Soul of American Politics: Virtue, Self-Interest, and the Foundations of Liberalism (1984), pp. 298-305, 317-319; Diggins, On Hallowed Ground: Abraham Lincoln and the Foundations of American History (2000), pp. 8-14, 28-36, 41-48.

<sup>6</sup> Martin Luther King, Jr., “I Have a Dream,” in Clayborne Carson & Kris Shepard, eds. A Call to Conscience: The Landmark Speeches of Dr. Martin Luther King, Jr. (2001), pp. 81-87 [hereinafter *I Have a Dream*], at 82. King goes on to describe the Declaration as “a promise that all men, yes, black men as well as white men, would be guaranteed the ‘unalienable Rights of Life, Liberty, and the Pursuit of Happiness.’” *Id.*

moment of Revolution but also at the moment when Sally Hemings gave birth to children of Thomas Jefferson, and he denied those children, and the enslaved laborers of Monticello were auctioned at the master's death.<sup>7</sup> The Declaration I make here is unmade by the fact that Harriet Tubman had to steal human persons to freedom, and made again by her devotion and the risking of her life – just as it was unmade and made again on the fields of Gettysburg and in Lincoln's prophesy of "a new birth of freedom."<sup>8</sup> I attempt here to speak the Declaration revised at Seneca Falls, as "all men" becomes "all men and women."<sup>9</sup> Mine is the Declaration newly

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<sup>7</sup> Sally Hemings (1773-1835), enslaved at Monticello, bore up to seven children, of whom two died in infancy, and at least three (Thomas C. Woodson, Madison Hemings, and Eston Hemings Jefferson) survived to have children. DNA analysis of the Y chromosome of male-line descendents of Thomas Woodson and Eston Hemings Jefferson provided evidence that Thomas Jefferson was the biological father of Thomas Woodson. (The evidence was not conclusive, since it could not rule out the possibility that Thomas's father might have been someone else in the male line of Jefferson's father, grandfather, or paternal uncles.) The DNA assay did not provide evidence that Thomas Jefferson was the biological father of Eston Hemings Jefferson. Oral tradition among the descendents of Eston Hemings Jefferson, however, long has maintained that Thomas Jefferson was Eston's father. Exclusively male-line descendents of Madison Hemings could not be found, so the DNA assay shed no light on the identity of his biological father. During Jefferson's lifetime Jefferson either denied or evaded allegations that he was the father of one or more of Sally Hemings' children. Eugene A. Foster, et. al., "Jefferson Fathered Slave's Last Child," 396 *Nature* 27-28 (1998); Jan Ellen Lewis and Peter S. Onuf, eds. *Sally Hemings & Thomas Jefferson: History, Memory, and Civic Culture* (1999); "Forum: Thomas Jefferson and Sally Hemings Redux," 57 *William and Mary Quarterly*, 3d Series (2000) 121-210; Thomas Jefferson Memorial Foundation, "Report of the Research Committee on Thomas Jefferson and Sally Hemings," January 2000, and White McKenzie Wallenborn, M.D., "Minority Report," April 12, 1999, both at [www.monticello.org/plantation/hearings\\_report.html](http://www.monticello.org/plantation/hearings_report.html). A statistical analysis of the correlation between the dates of Jefferson's periods of residency at Monticello and the probably dates when Sally Hemings became pregnant with her children suggests that "Serious doubts about the existence and duration of the relationship and about Jefferson's paternity of Hemings' six children can no longer be reasonably entertained." Fraser D. Neiman, "Coincidence of Causal Connection? The Relationship between Thomas Jefferson's Visits to Monticello and Sally Hemings Conceptions," 57 *William and Mary Quarterly*, 3d Series (2000) 198, at p. 210. On Jefferson's views of race, slavery, and miscegenation, his treatment of the enslaved at Monticello, and the slave auction that followed Jefferson's death, see Paul Finkelman, "Jefferson and Slavery," in Peter S. Onuf, *Jeffersonian Legacies* (1993), pp. [ ]. Jefferson did not manumit Sally Hemings. Two of her children, Beverley and Harriet, left Monticello (late in Jefferson's life) and were not pursued. In his will, Jefferson provided that Madison and Eston Hemings be freed at his death, but required that they serve as apprentices until reached legal age. Peter Onuf, "Every Generation is an 'Independent Nation': Colonization, Miscegenation, and the Fate of Jefferson's Children," 57 *William and Mary Quarterly*, 3d Series (2000) 153, p. 155; Annette Gordon-Reed, "The Memories of a Few Negroes': Rescuing America's Future at Monticello," in Lewis and Onuf, *supra*, pp. 246-249.

<sup>8</sup> Lincoln, Gettysburg Address, 7 *Collected Works*, *supra* note 1, at 23.

<sup>9</sup> "We hold these truths to be self-evident; that all men and women are created equal; that they are endowed by their Creator with certain inalienable rights.... The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman.... He

translated into the Thirteenth Amendment and the Fourteenth Amendment, as “all men” becomes “all persons born.”<sup>10</sup> But mine is also the Declaration that in this newer canon soils itself in segregation and in the exploitation of workers.<sup>11</sup> I translate the Declaration as it comes down to us, the Declaration that is complicit in our evil and also the Declaration that denounces evil, points to higher possibilities, and appeals to “the better angels of our nature.”<sup>12</sup>

Still, Jefferson as principal author, and the horizon of his learning, define in several ways the boundaries, aims, and methods of the present translation. Jefferson’s understanding of life, and of the political situation and historical context of the American colonies, drew deeply from the Greek and Latin classics,<sup>13</sup> in ways that left their mark on his draft of the Declaration, and on the text that the drafting committee submitted to Congress, as well as on the ultimate version that Congress adopted. That mark is apparent in the current translation. Jefferson was not only a classicist but also an amateur philologist, interested in the descent of the English language from Anglo-Saxon.<sup>14</sup> In crafting the present translation, I have been conscious, because I believe that Jefferson too was conscious, of the range of

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has made her, if married, in the eye of the law, civilly dead.... In the covenant of marriage, she is compelled to promise obedience to her husband, he becoming, to all intents and purposes, her master.... He has usurped the prerogative of Jehovah himself, claiming it as his right to assign for her a sphere of action, when that action belongs to her conscience and her God.... Firmly relying upon the final triumph of the Right and the True, we do this day affix our signatures to this declaration.” Declaration of Sentiments, issued by A Convention to discuss the Social, Civil, and Religious Condition of Woman, Seneca Falls, New York, July 19-20, 1848. [cite and discuss the precepts of nature and creation included in the “Report” of the Convention] The myth of Persephone, developed in §3, ALL MEN ARE CREATED EQUAL, and revisited critically in §6, TO A CANDID WORLD, expresses the Seneca Declaration’s indictment of men for having made of marriage a form of death for women.

<sup>10</sup> See §6, TO A CANDID WORLD, and annotation thereto.

<sup>11</sup> See §8, LONG TRAIN, and annotations at notes 249-255, 257-259 *infra*.

<sup>12</sup> See §9, TO THE BETTER ANGELS, and annotation at note 264, *infra*.

<sup>13</sup> See text at notes 320-328, *infra*.

<sup>14</sup> See Jefferson, “An Essay on the Anglo-Saxon Language,” in Koch and Peden, eds. The Life and Selected Writings of Jefferson (1944), pp. 157-170. Jefferson’s analysis of “gavelkind” in his legal commonplace book illustrates his interest in tracing the derivation of words. “[T]he word *Gavail* or *Gavaltas* in the old Irish language signified any landed settlement, whether by inheritance or conquest. Taylor is certainly right in deriving the word *Gavelkind* (Clarke’s pref. to Hywel Dha’s laws) from *Gafael* i.e., *tenura* and *Cenedl*, i.e. *generatio*, i.e. *fundus gentilis, sive hereditarius*, and this agrees perfectly with the Irish *Gavail-Cinne*.” Gilbert Chinard, ed. The Commonplace Book of Thomas Jefferson (1926) [hereinafter *Legal Commonplace Book*], §848, pp. 327-328. Cf. *id.*, §874, pp. 356-357: “The word *Gafael* or *gavel* (according to Taylor) comes from the British verb *Gafaelu*, *tenure*, *tenere*, *prehendere*. *Gafael-Swyddoc*, in Welsh, is an officer of arrest from *Gafaelu*, to take or seize, and *Swyddog* an officer. *Gefael* is a pair of forceps or fire-tongs. He therefore considers *Gavel-Kind* land, as *Tenure* land.”

meanings and effects that can be achieved through the careful choice of Latinate or Germanic vocabularies that English makes possible. The notes to the translation comment on the philological issues, as they also tie classical allusions to their Jeffersonian sources. Jefferson was aware, for example, that words of Anglo-Saxon derivation make available to the English prose stylists an “army of monosyllables.”<sup>15</sup> Accordingly, I read the opening words of the Declaration’s second sentence, “we hold these truths,” as evincing a deliberate choice of Anglo-Saxon vocabulary to express a pagan Germanic metaphysics. Where possible, I supply supporting evidence for such readings, drawn from Jefferson’s vast writings and abundant letters. In his arguments against those who claimed that the Christianity is part of the common law, Jefferson drew on various sources to show that important elements of the common law date back to Anglo-Saxon sources that pre-date the conversion of the Saxons to Christianity.<sup>16</sup> Writings such as these offer some support for a reading of the Declaration’s Anglo-Saxon vocabulary that is as open to pagan as to Biblical associations.

Philology, for Jefferson, meant the recovery of ancient sources of modern languages. It was a cosmopolitan discipline, in that it revealed points of connection to a shared past. Not quite ten years after the Declaration was written, the cosmopolitan potential of philological study was substantially enhanced when, in 1786, Sir William Jones explained to his Calcutta audience how far Sanskrit words and grammar resembled those of Greek and Latin.<sup>17</sup> The hypothesis of a common tongue, Indo-European, from which all three of these classical languages, along with Anglo-Saxon and many others, ultimately descended, fits the main outlines of my translation of the Declaration. On the one hand, the local dialect (“created,” “nature’s god,” and so on) appears better-suited to express universalistic aspirations when the mythic idiom it presupposes turns out to be “eastern” as well as “western”. But on the other hand, the shared myth is not surprisingly “illiberal” in notable and disturbing ways. The language of cattle-raiding Aryan horsemen<sup>18</sup> belongs to “created equal” in potentially ironizing ways that just elude Jefferson’s learned grasp.

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<sup>15</sup> See text at note 78, *infra*.

<sup>16</sup> Legal Commonplace Book, *supra* note 14, §873, pp. 351-356, and §879, pp. 359-363; Jefferson to Major Cartwright, June 5, 1824, in F. D. Cartwright, ed. The Life and Correspondence of Major Cartwright, vol. 2 (1826), pp. 265-275. Jefferson denounces judges for their “repeated decisions that Christianity is a part of the common law. The proof of the contrary which you have adduced is incontrovertible; to wit, that the common law existed while the Anglo-Saxons were yet Pagans; at a time when they had never yet heard the name of Christ pronounced, or knew that such a character had ever existed.” *Id.*, pp. 271-272.

<sup>17</sup> Calvert Watkins, ed. The American Heritage Dictionary of Indo-European Roots (second ed., 2000) [hereinafter *Indo-European Roots*], p. vii.

<sup>18</sup> See annotation, “warlike horsemen,” text at note 274, *infra*.

The translation offered here also relies on evidence that builds bridges between Jefferson's erudition and sometimes idiosyncratic interests, and the wider cultural context and action frame of the Revolution. As an example: the semantic connection between "truth" and "tree,"<sup>19</sup> authorized in the first instance by Jefferson's philological concerns and his devotion to Anglo-Saxon, is borne out secondarily by other writings of Jefferson (such as his famous maxim about "the tree of Liberty")<sup>20</sup> and also by the ritual practice of the revolutionaries in meeting around "liberty trees" and developing an iconography of such trees in their songs and visual arts.<sup>21</sup> Similarly, a basis for understanding "nature's god" as a pagan goddess (not to the exclusion of the Biblical creator) is supplied not only by the semantic biographies of the Declaration's words and phrases but also by revolutionary representations of such goddesses in art, literature, and song.<sup>22</sup>

Because my Declaration, as I have said, is the Declaration that comes down to us (in joy and sorrow and shame) through the devotion of soldiers and the faith of the enslaved, and through the wisdom of Douglass and Lincoln and King, I also adopt readings that are best supported by evidence supplied by these subsequent generations. As an example: Jefferson's own philological interests coupled with his legal training and his close familiarity with the Book of Common Prayer all support a reading of "endowed" ("they are endowed by their creator with certain unalienable rights") to mean "provided with dowry or dower."<sup>23</sup> Such a reading coheres with similar readings of other Declaration passages. "We mutually pledge our lives, our fortunes, and our sacred honor" can be given a similarly nuptial interpretation, as troth-plighting or as the exchange of wedding vows.<sup>24</sup> But such a reading becomes much more interesting in the light of Lincoln's use of nuptial tropes to describe the Declaration and its place in the making of American identity and commitments.<sup>25</sup>

But I do not permit either Jefferson's understanding of marriage (or miscegenation), or Lincoln's understanding, to mark the outer limit of what it might mean to read "endowed" in terms of dowry or dower, "we mutually pledge" as spousal vows, or "our fathers brought forth upon this continent" as a hierogamy.<sup>26</sup> The action at Seneca Falls involves a reestimation or even a transvaluation of nuptial

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<sup>19</sup> See annotation, "truth... tree... Liberty tree," text at note 88, *infra*.

<sup>20</sup> See text at note 94, *infra*.

<sup>21</sup> See text at notes 89-91, *infra*.

<sup>22</sup> See text at notes 91-92, and note 92, *infra*.

<sup>23</sup> See text at notes 112-114, *infra*, and annotation, "endowried with the right to life," text at notes 148-154, *infra*.

<sup>24</sup> See text at notes 80-82, *infra*.

<sup>25</sup> See text at note 87, *infra*.

<sup>26</sup> See text at notes 75 and 178, *infra*.



tropes, in a world in which the institution of marriage and its associated legal structuring norms entrain a subordination that is as contrary to “created equal” in the proposition’s highest sense as it is logically consistent with “created equal” in the ironic sense. Nuptial meanings are powerfully ironized by Jefferson’s siring of Sally Hemings’s children.

No rendering of these semantic, cultural, and historical associations could maintain textual coherence if all leads and connections were pursued in all directions. Accordingly I have adopted, as an expedient and also as an experiment, a methodology of “mythical constructivism in political theory.” Though the possible narratives are many, I have chosen as a kind of clearinghouse or narrative hub the tale of Persephone, daughter of corn-goddess Demeter, kidnapped by Hades to be his “wife” in the underworld, but partially restored to life through Demeter’s agency. The semantic trails of words such as “created / creator” and “endowed,” the nuptial tropes of Jefferson and Lincoln, the hardy paganism (embarrassing to any exclusively evangelical reading) of the Declaration tradition, the fate of Sally Hemings and her children, the decisive agency of women troubling all patriarchal frames – such themes as these lead to and from the narrative hub of the Persephone / Demeter story. The narrative then organizes much of the material in my translation. (Supporting annotations, again, are found in the Notes that follow the translation. Further exposition and evidence are found in the Afterword which follows the Notes.)

Such an exercise in mythical constructivism supposes only that a narrative can in principle serve as a clearinghouse where what is to be affirmed and held in joy, and what is to be renounced and subjected to penitential self-scrutiny through the rigorous devices of irony, come together in a text – a “translation”. It is not supposed that any one narrative is uniquely well-suited to this work. Nor do I claim that Jefferson or the other authors and editors of the Declaration had Ceres in mind when they said “created” or spoke of “nature’s god.” Neither do I claim that Jefferson, especially Jefferson, had in mind Elohim, or the book of Genesis. Yet it has been commonplace in the tradition to understand the Declaration’s assertion of or argument for equal fundamental rights in terms of Biblical theology. John Ashcroft expressed one version of such an understanding in recent (and controversial) remarks.<sup>27</sup> Lincoln understood “created equal” in terms of a Biblical

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<sup>27</sup> “A slogan of the American Revolution... was the line, ‘We have no king but Jesus.’ Tax collectors came, asking for that which belonged to the king, and Colonists frequently said, ‘We have no king but Jesus.’ It found its way into the fundamental documents of this great country. You could quote the Declaration with me, ‘We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights.’” John Ashcroft, remarks at Bob Jones University’s commencement exercises, May 8, 1999; in “What John Ashcroft Said,” *The New York Times*, Sunday, January 14, 2001 [p. A12?]. See generally Garet, “Natural Law and Creation Stories,” in J. Roland Pennock and John W. Chapman, eds. *Nomos XXX: Religion, Morality, and the Law* (1988), pp. 218-262.

theology.<sup>28</sup> King so understood it;<sup>29</sup> so we should indeed understand it. But not exclusively so. When we read “nature’s god,” we who understand ourselves as internal to the Biblical traditions should pause and appreciate that however far those traditions already are touched by paganisms, our constitutional traditions are again touched and further marked by paganisms. Ishmael’s resolve commends itself to the Declaration’s translator. “I’ll try a pagan friend, thought I, since Christian kindness has proved but hollow courtesy.”<sup>30</sup> Jefferson, who admired the ethical teachings of Jesus but rejected as superstition the church’s traditional faith in Christ’s divinity,<sup>31</sup> and who felt more thoroughly at home in pagan naturalism than in Christian supernaturalism,<sup>32</sup> likewise could cede certain advantages to paganism. “This piratical warfare,” Jefferson said of the slave trade (in language struck from the Declaration of Independence by the editorial hand of Congress) “the opprobrium of *infidel* powers, is the warfare of the *Christian* king of Great Britain.”<sup>33</sup> Might “nature’s god,” known or knowable within the limits of pure paganism, refresh the perceptual and moral powers of the belated infidel? Any answer is speculative, because in the heritage of the Declaration neither Biblicism nor paganism is remotely pure. In the heritage of the Declaration, the office of these religious and mythical traditions is to fill out the content of abstractions, and to supply narratives and corresponding associations and dispositions to feel and to act. And sometimes, as in Jefferson’s passage about the slave trade, their office is to ironize one another.

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<sup>28</sup> See text at note 259, *infra*.

<sup>29</sup> As King nears the close of “I have a dream,” “all men” are renamed “all of God’s children.” *Supra* note 6, at 86-87.

<sup>30</sup> Herman Melville, *Moby Dick; or, The Whale*, chapter 10 [Great Books ed., p. 38]. Patrick Diggins, in an exceptionally valuable essay, argues that together Melville and Lincoln newly Christianize or re-Christianize American political thought. Diggins, *The Lost Soul of American Politics*, *supra* note 5, chapter 9, “Return of the Sacred to Political Thought: Herman Melville and Abraham Lincoln,” pp. 277-333.

<sup>31</sup> See note 347, *infra*. In 1803, in a letter to Dr. Benjamin Rush, Jefferson wrote a “Syllabus of an Estimate of the Merit of the Doctrines of Jesus compared with those of others,” in which he compared the ethics of Jesus favorably to the views of ancient philosophers and the religion of the Jews. Koch and Peden, eds. *The Life and Selected Writings of Jefferson* (1944), pp. 568-570. Much later, in 1820, Jefferson cut-and-pasted the Gospels to create “The Life and Morals of Jesus of Nazareth, Extracted textually from the Gospels in Greek, Latin, French & English.” In this palimpsest Jefferson literally cut out of the Gospels all references to Jesus as God or the Son of God, and all accounts of miracles, including the Resurrection. Jefferson included in his edition only the moral teachings of Jesus, which (as the earlier “Syllabus” shows) he had long admired. *The Jefferson Bible: The Life and Morals of Jesus of Nazareth* (1989), with introduction by F. Forrester Church and Afterword by Jaroslav Pelikan. In §6, TO A CANDID WORLD, the enslaved address their spirituals to Jefferson, “healing your torn testament.”

<sup>32</sup> See text at note 326, *infra*.

<sup>33</sup> Declaration App. C., p. 239, para. I19x.

When Lincoln says “my ancient faith,” one’s attention is first arrested by the description of “all men are created equal” as “my faith.” Is faith a religious metaphor for political conviction? Or is Biblical (or some other) faith metonymically related to “created equal” – one creation narrative supplying to another both meaning and motivation? Then one notices the adjective “ancient.” The Declaration’s natal year, and by some reckonings the country’s too, was just three quarters of a century removed in time when Lincoln spoke those words. Why “ancient”? Lincoln here indulges in the literary art of backgrounding – showing some present theme or practice as the extension of ancient backgrounds receding into distant shadows. In this respect, at least, Lincoln is of one mind with Jefferson, for both are practitioners of a Whig historiography that delights in displaying constitutional liberties as the fruits of truly ancient laws and cultures of the Saxons and of still more ancient civilizations.<sup>34</sup> Antiquity, in their hands, is a legitimating representational device.<sup>35</sup> My method of “mythic constructivism” is consistent with this representational device. Accordingly, I begin my translation with a Latin text, and proceed to an Anglo-Saxon hymn of praise to the creator. Bede’s Ecclesiastical History supplies these sources or their model.<sup>36</sup> As with the Persephone / Demeter narrative, Bede’s text permits me to juxtapose the political to the holy faith, to heighten the stakes for joy and for sorrow, and to carry out the work of translation in a way that preserves the sense of antiquity that both Jefferson and Lincoln highlighted in their political arguments.

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<sup>34</sup> H. Trevor Colbourn, The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution (1965). See also Wills, *Inventing America*, supra note 5, at 37-38, 366-367. But Jefferson also stressed that the living are not bound by the choices, opinions, or practices of the dead. “Our revolution... presented us an album, on which we were free to write what we pleased; we had no occasion to search into musty records, to hunt up royal parchments, or to investigate the laws and institutions of a semi-barbarous ancestry. We appealed to those of nature, and found them engraved in our hearts, yet we did not avail ourselves of all the advantages of our position.” Jefferson to Major Cartwright, supra note 16, p. 267. On the “laws... of nature... engraved in our hearts,” see note 64, infra.

<sup>35</sup> This recourse to antiquity (or purported antiquity) as a device for representing legitimacy is illustrated by mid-eighteenth century disputes between colonial Freemasons. When newer groups of Freemasons, generally comprising people of lower social rank, sought to legitimate themselves in the face of the more established and elitist lodges, they called themselves the “Antients.” Steven C. Bullock, Revolutionary Brotherhood: Freemasonry and the Transformation of the American Social Order, 1730-1840 (1996), pp. 86-90. Of course, the whole Masonic movement during the eighteenth century was characterized by an effort to call up (purportedly) ancient symbols and rituals, with both pagan and Christian antecedents. For these “mysteries” and their background, and for discussion of the role and influence of Freemasonry during the period of the Revolution, see generally Id.

<sup>36</sup> §1, A SONG OF PRAISE; see annotation, *quicquid ex divinis literis per interpretes disceret....*, text at notes 53-55, infra.

Especially in Jefferson, the appropriation of antiquity was literate and indeed literary. The “faith” was ancient because it sent its roots into Homer and Virgil, Tacitus, the teachings of Jesus (though not the orthodox doctrines of the church), Shakespeare and Milton.<sup>37</sup> In my translation I amplify these echoes of the literary canon within “the proposition that all men are created equal.”<sup>38</sup> But as my translation does not stop with Jefferson, but encompasses the subsequent political history that claims him (and in claiming also condemns him), so I update the literary canon represented as “background” to “nature’s god” and “created equal.” Wordsworth and Bryant, for example, arrive on scene as “nature’s god” takes on new meanings in the generations following Jefferson, and loses other associations.<sup>39</sup> This modeling is not only substantive but formal. My verse translation adopts the epic line when recollections of the epic poets are appropriate to the “ancient faith,”<sup>40</sup> but the plan of the poem is that of Eliot’s “The Waste Land” – a poem in named and numbered sections, followed by explanatory Notes.<sup>41</sup> Both the plan and the aspiration, the poetic ambition to express in American idiom the contending modes

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<sup>37</sup> Homer: see notes [ ], *infra*. Virgil: see notes [ ], *infra*. (What proves the excellence of blank verse is that the taste lasts longer than that for rhyme. The fondness for the jingle leaves us with that for the rattles and baubles of childhood.... [A]s we advance in life these things fall off one by one, and I suspect we are left at last with only Homer and Virgil, perhaps with Homer alone.” “Thoughts on English Prosody,” in Merrill D. Peterson, ed. Thomas Jefferson: Writings (1984) [hereinafter *Thoughts on English Prosody*], pp. 594-617, at 619. Tacitus: Carl J. Richard, “A Dialogue with the Ancients: Thomas Jefferson and Classical Philosophy and History” [hereinafter “Dialogue with Ancients”], 9 Journal of the Early Republic 431 (1989), p. 442; Colbourn, *The Lamp of Experience*, *supra* note 54, at 26. The teachings of Jesus: see notes [ ], *infra*. Shakespeare: for passages from Shakespeare that Jefferson copied into his commonplace book, and discussion of Jefferson’s interest in Shakespeare, see Douglas Wilson, ed. Jefferson’s Literary Commonplace Book [hereinafter *Literary Commonplace Book*] (1989); see also notes [ ], *infra*. Milton: for passages from Milton that Jefferson copied into his commonplace book, and discussion of Jefferson’s interest in Milton, see *Literary Commonplace Book*. For Jefferson’s ideas about English poetry generally, with examples drawn from his reading, see “Thoughts on English Prosody,” *supra*.

<sup>38</sup> Lincoln, Gettysburg Address, 7 *Collected Works*, *supra* note 1, at 23.

<sup>39</sup> On the displacement of Jefferson’s materialist naturalism by the more spiritual naturalism of the American transcendentalists, see Paul K. Conkin, “The Religious Pilgrimage of Thomas Jefferson,” in Onuf, ed., *Jeffersonian Legacies*, *supra* note 7, pp. 42-43. On the place of Bryant in the present translation, see text at notes 49, 132, and 135-141, *infra*. On Wordsworth’s view of nature in relation to the Declaration, see Garet, “The Resolution of Independence,” 29 Houston L. Rev. 867 (1992); see also text at note 134, *infra*.

<sup>40</sup> “We may justly consider, therefore, verses of five feet as the longest the language sustains, and it is remarkable that not only this length, though the extreme, is generally the most esteemed, but that it is the only one which has dignity enough to support blank verse, that is, verse without rhyme. This is attempted in no other measure. It constitutes, therefore, the most precious part of our poetry.” Jefferson, “Thoughts on English Prosody,” *supra* note 37, at 618.

<sup>41</sup> T.S. Eliot, “The Waste Land” (1922), in Selected Poems (1930), pp. 49-74.

of joy and anguish united in a central symbol, owe much to Hart Crane's "The Bridge."<sup>42</sup> From the poets, as from Douglass and Lincoln and King, I receive the tradition. It did not die with Jefferson and Adams on Independence Day, 1826.

Though the literary form belongs to the way in which I apply my method of mythical constructivism, and also to the use of antiquity as a representational device, it does not fully explain my choice to render my translation in verse. "The proposition that all men are created equal," though literate in its sources, and first framed in Jefferson's erudite writing, is but an interval between oral moments.<sup>43</sup> Before creation narratives and abstract invocations of "nature's god" could be recruited to the purposes of liberal or republican politics, there was first a song of praise to god the creator,<sup>44</sup> and a blind bard, singer of tales. (That is why I begin

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<sup>42</sup> Crane's "The Bridge" (1930), includes eight named sections preceded by a "Proem". Hart Crane, *The Bridge* (1970), with commentaries by Waldo Frank and Thomas A. Vogler, pp. 1-76. The theme of "The Bridge" has been described as "a quest for a mythic vision, rather than the fixed, symbolic expression of a vision held in the poet's mind. The vision sought is one that will assure a hopeful future in the face of a sorry present; one that will be based on an intuition of a glorious past, and provide a bridge from that past to the hoped-for future in spite of the present." Id., intro. by Thomas Vogler, p. x. But another critic has pointed out that Crane's main effort was to reconceive this worthy past. Though "the great tradition, unbroken from Hermes Trismegistus and Moses, does not die," Crane knew that "[i]n a society transfigured by new scientific and economic forces, it too must be transfigured." Id., intro. by Waldo Frank, pp. xviii-xix. (To "translate" may be to transfigure, in the sense "to carry or convey to heaven without death." Concise Oxford English Dictionary, vol. 2, p. 3381.)

Crane chose Brooklyn Bridge for his "bridge from that past to the hoped-for future," the transformational unit of his myth. This artifact of American energy would be sung anew in words of praise and invocation:

And Thee, across the harbor, silver-paced  
As though the sun took step of thee, yet left  
Some motion ever unspent in thy stride,--  
Implicitly thy freedom staying thee! ....

O Sleepless as the river under thee,  
Vaulting the sea, the prairies' dreaming sod,  
Unto us lowliest sometime sweep, descend  
And of the curvship lend a myth to God.

Id., "Proem: To Brooklyn Bridge," pp. 1-2.

<sup>43</sup> Garet, "'Proclaim Liberty,'" 74 *So. Calif. L. Rev.* 145 (2000) [hereinafter "Proclaim Liberty"], 145-148; Jay Fliegelman, *Declaring Independence: Jefferson, Natural Language, and the Culture of Performance* (1993).

<sup>44</sup> "Make a joyful noise unto the Lord, all ye lands. Serve the Lord with gladness: come before his presence with singing. Know ye that the Lord he is God: it is he that hath made us, and not we ourselves; we are his people, and the sheep of his pasture. Enter into his gates with thanksgiving, and into his courts with praise: be thankful unto him, and bless his name. For the Lord is good; his mercy is everlasting; and his truth endureth to all generations." Psalm 100 (KJV). All English translations of Bible verses herein are from the King James Version.

with Caedmon's Hymn, the song of an illiterate Christian preserved in an increasingly literate milieu.) After the text of the Declaration was penned, edited, and disseminated, it became "our ancient faith" not because of writings but because of speeches. The transition from Jefferson to Douglass, Lincoln, and King is a transition not only in content but also in form. We are inspired by what Douglass said in Rochester, New York, in his Fourth of July speech;<sup>45</sup> by what Lincoln said at Gettysburg; by King's speeches, which are also part sermons – another mode of oral engagement and delivery. Moreover, the "ancient faith" was sung by enslaved people of African descent, whose masters prohibited them from acquiring tools of reading and writing and the dangerous literary canon. The voice of hope and the voice of woe in the spirituals, and in the songs that descend from them, belong more fundamentally than Homer or Virgil to "the proposition that all men are created equal." So Mahalia Jackson, readying the thousands gathered at the Lincoln Memorial to hear Martin Luther King speak, sings the spiritual "I Been 'Buked and I Been Scorned."<sup>46</sup> King, invoking "the magnificent words of the Constitution and the Declaration of Independence," concludes by looking forward, in the hopeful idiom of our civic anthem, "when we allow freedom ring, when we let it ring from every village and every hamlet," to "the old Negro spiritual" in the faith that one day "we... will be able to join hands and sing... Free at last! (Yes) Free at last!"<sup>47</sup>

I write in verse to express in reduced terms the complex lineage that relates oral performances and "the proposition's" literary history and fate. Caedmon is able to sing, in Anglo-Saxon, a song in praise of God the creator, because oral psalmic traditions handed down in the Biblical canon and also performed liturgically can be expressed anew within the conventions and techniques of a new language and a new prosody. African styles of shout and chant express and transform Biblical devotions

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<sup>45</sup> Douglass, "What to the Slave is the Fourth of July?", *supra* note 4.

<sup>46</sup> My translation recalls Mahalia Jackson's singing at the March on Washington for Jobs and Freedom; see annotation, "Mahalia," text at notes 294-295, *infra*. The choice of "I Been 'Buked and I've Been Scorned" was especially appropriate, as Jackson explained: "Here on these same marble steps Marion Anderson had sung in 1939 after being rebuked and barred from Constitution Hall by the Daughters of the American Revolution." Mahalia Jackson, with Evan McLeod Wylie, *Movin' On Up* (1966), p. 197. See also Carson & Kris Shepard, eds. *A Call to Conscience: The Landmark Speeches of Dr. Martin Luther King, Jr.*, *supra* note 6, at 75.

<sup>47</sup> "I Have a Dream," *supra* note 6, at 87. King begins his peroration by quoting the first stanza of "America": "My country, 'tis of thee (Yes), sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride (Yes), From every mountainside, let freedom ring!" *Id.*, p. 86; S. F. Smith, "America" (also known by its first line, "My Country, 'Tis of Thee") in *Breathes There the Man: Heroic Ballads & Poems of the English-Speaking Peoples* (Frank S. Meyer, ed., 1973) (1832). The first song that Marian Anderson sang at the Lincoln Memorial in 1939 was "My Country, 'Tis of Thee." Carson & Kris Shepard, eds. *A Call to Conscience: The Landmark Speeches of Dr. Martin Luther King, Jr.*, *supra* note 6, at 75.

in the plantation fields of America.<sup>48</sup> William Cullen Bryant, who had borrowed from English Romantics in the crafting of his transcendentalist poems, commits to antislavery, involves himself in the 1860 presidential contest by coming up on stage to introduce Lincoln at the Cooper Union in New York, and later tries his best to tug Lincoln to the emancipatory left.<sup>49</sup> Howard and Sue Bailey Thurman, visiting India as part of a delegation of African-Americans, meets Gandhi, and at his request sing for him the spiritual, “Were You There When They Crucified My Lord.” That song, Gandhi said, “gets to the root of the experience of the entire human race under the spread of the healing wings of suffering.”<sup>50</sup> Gandhi, overthrowing British empire in India as the American revolutionaries had overthrown British colonialism and formed the United States, revisits in the process India’s Vedic traditions and moderates the influence of the cattle-raiding horsemen.<sup>51</sup> King, studying at Crozer Theological Seminary, is inspired by a sermon about Gandhi, and studies convergently how best to hold to the way of the truth, in disobedience and in nonviolence,<sup>52</sup> and revisits in the process our Biblical traditions. King, learning in the school of civil rights, and Gandhi, struggling against caste and oppression in South Africa and India, find in their tradition’s central myths a firmer and a better ground for self-government. Mahalia Jackson sings to the multitudes to introduce King, and sings again at the slain leader’s funeral.

My translation begins with Caedmon’s song and ends with Mahalia’s. I write in verse because song defines the narrow gate through which our Declaration passes and must pass, as it comes down to us and to succeeding generations. One day, the protest against tyranny embodied in “the proposition” will speak adequately in the voice of the enslaved and of the outcaste. But only if we try our little voices when some greater spirit, muse or angel, urges: “sing me something.”

## **WE TOGETHER WOVE OUR TRUTHS**

### **1. A SONG OF PRAISE**

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<sup>48</sup> Eileen Southern, The Music of Black Americans: A History (1971), pp. 3-224; Albert Raboteau, Canaan Land: A Religious History of African Americans (2001) [hereinafter *Canaan Land*], pp. 44-47.

<sup>49</sup> David Herbert Donald, Lincoln (1995), pp. 237-9, 378.

<sup>50</sup> *Canaan Land*, supra note 48, pp. 106-107.

<sup>51</sup> M. K. Gandhi, Hind Swaraj and Other Writings (ed. Anthony J. Parel, 1997), xxxii-l.

<sup>52</sup> See annotations, “holding to the truth (saty~graha),” text at notes 96-100, *infra*, and “soul-force,” text at notes 105-107, *infra*.

*... quicquid ex divinis literis per interpretes diceret, hoc ipse post pusillum verbis poeticis... compositis, in sua, id est, Anglorum lingua proferret... [A]dstitit ei quidam per somnium, eumque salutans, ac suo appelans nomine: "Caedmon," inquit, canta mihi aliquid." At ille respondens, "Nescio," inquit, "cantare; nam et ideo de convivio egressus huc secessi, quia cantare non poteram." Rursum ille qui cum eo loquebatur, "Attamen," ait, "mihi cantare habes." "Quid," inquit, "debeo cantare?" At ille, "Canta," inquit, "principium creaturum." Quo accepto responso, statim ipse coepit cantare in laudem Dei Conditoris...*

*-- The Venerable Bede*

Sing me something.

I do not know how to sing.

But you must sing to me.

What should I sing?

Sing the beginning of the creatures!

I will sing in praise of God the Creator:

We hold these truths	in heart-runed words
our Maker shaped,	that all men
are created equal,	and so inscribed
with nature's law;	their nostrils open
to holy breath	the heaven-spirit;
so here in middle-earth	let every mouth
the sweet kiss taste	of human-kindness
and sing in wonder	word-enworlding
of life unlooked-for	without limit,
of liberty the birth	and blessing
of all children,	and the chase
of happiness,	that never horse
or hound would tire	but run until
no end improves	on such desire.

## **2. WE HOLD THESE TRUTHS**

We hold with hearts of freemen, hearts of oak;  
 in our tree we trust, our Liberty Tree.  
 Steadfast we hold the firm and living wood  
 that will be watered with the blood  
 of patriots and tyrants.



We are holding to the truth (*saty~graha*) –  
submitting facts, submitting not to tyranny,  
we reach with soul-force to a candid world.

Grasping these truths, we hold them  
to be evident. Of ourselves and in ourselves  
we see the truth.

Knowing these truths, we pledge our troth,  
we mutually plight the dangerous vow  
of revolution, hazarding for what is true  
our lives, our fortunes, and our sacred honor.

To have and to hold, these truths, forever,  
in sickness and in health, for richer, for poorer,  
beholding together, beloved by one another,  
coming to friendship in becoming free.

### **3. ALL MEN ARE CREATED EQUAL**

Nature's god, known in ancient days, and laws  
of nature gladly, sometimes grimly, sung  
by elders chanting in the sacred grove –  
we call upon you still, though not in temples  
gathered, nor in clearings hard-won from the woods.

With firmness in the right as you are firm,  
o soul and spirit of the freedom tree,  
let us build up the being that we are,  
this humankind; let us in government  
construct a better shrine, o nature's god,  
and bear in ours the likeness of your laws.

Amen. Nor shall omit to say "all men,"  
for we would compass all, and welcome all  
as nature does; for all are natural  
(by law, if not by statute naturalized).

All men pretend to wealth and rank in life,  
but death returns all to a common ground

and levels all alike, and makes all equal,  
commoner and king, poor and propertied.  
Yet equal doom of death will some men goad  
to lord it over others during life.  
Has nature nothing more to say to these  
than "this is vanity"? Enforced in life,  
is nature, or does its jurisdiction  
extend but to the grave and its domain?

As powers of the earth to their stations  
separate and equal are assigned,  
respecting each tellurian tie  
and title, so is the realm below  
made subject to one independent sovereign?  
Or is death's mandate ceded here above,  
and is life's writ respected after death?

Is not the barley and the wheat reborn,  
and must not in the turning of each year  
the mastery of death at last give way?  
Was not the one who seized Persephone,  
grim Hades, while in her mother's garden  
joyous she played, and blossoms tender plucked,  
Hades who took her for his bride below,  
made to restore her to Demeter?

In her rage and mourning for her daughter  
she thought not of us men, or of the grain  
in brown grass drying, dying in the fields  
of desolation; not for the people's  
sake, but for Persephone's, did seasons  
turn at last.

But as in her descent  
the goddess-daughter shares our mortal fate,  
if only for a time, and sleeps where men  
must sleep, and tasting our humility  
in death's kiss, betters our humanity;  
so in her restoration to the world  
above, she rolls the grain in amber waves  
in wind-blown fields of old Eleusis,

that we might once more raise up to our lips  
the cereal and bread by which we live.

This we know, and this the poets taught:  
that all things are with death and life ingrained –  
all growing things, although we among them  
who build our store in granaries and verse  
are the more creative and less certain  
to rise up from the dead by nature's law.

Come round then, as we must, to the limits  
of what we see, or grasp, or can be known,  
we will not forget, Ceres, nature's god,  
our corn mother, to rehearse and refresh  
elusive mysteries. Like your daughter  
we go to our wedding all unwilling,  
down to die; alike with her in dying,  
alike too, or so we hope, in dowry --  
We are not less than goddesses in death,  
nor less endowried with the right to life.

#### **4. SACRED HONOR**

*"Yet the men who framed this declaration were great men – high in  
literary acquirement – high in their sense of honor, and incapable of asserting  
principles inconsistent with those on which they were acting."*

*Taney, C.J., Dred Scott v. Sandford*

"There is a tide in the affairs of men,"  
a flood that Marcus Brutus said to take –  
but who took whom? I take it that those words,  
"the course of human events," mean that we  
pretended to the mastery of time.

Are they not "laws of nature" which impel  
us to dissolve, and to declare, and to  
assume?—and we assumed as best we could.  
Yet if nature makes it "necessary"  
that the tide should turn, does nature also  
turn the capstan? Give orders to the fleet?

We are the captains of our rise and fall.  
By lunar draw to our new world impelled,  
three small ships to these Indies made their way.  
That very tide expelled the Jews from Spain.  
Whose lives were “taken at the flood” – whose wealth  
and whose honor, whose suffering and hope?

“The laws of nature and of nature’s god” –  
these supplied the ground of separation.  
Not the God of Abraham, of Isaac,  
and of Jacob, nor the law of Moses.  
Not even, not quite, Elohim, who spoke  
holy words of world-poetic Being,  
and who made us in the likeness divine,  
and who breathed in us the wind of spirit,  
and gave us life, and law, and songs of praise,  
and set a bow of promise on the flood.

Nor yet the God of grace, to whose good words  
I took my pen-knife, littering the floor  
with miracles and snips of parables.  
But Taney and the others mistake me  
and my meaning; they harp on what I meant,  
as if I said “you must” or “you shall not.”

“We mutually pledge,” is what we said –  
the honor fell to us to write a vow,  
as when lovers share what is in their hearts,  
not caring much to be original.  
Who would restrain the reach of spousal words  
to youth’s impatient misunderstanding?  
Our little, heedless, almost boastful talk  
is now become more reverent as we  
entrust (how can we more?) our little boat.  
Faithful, we promised better than we knew.

## **5. LINCOLN AT GETTYSBURG**

Three score years and ten, the tally  
of our time on this our earth,

the fullness of a human life  
by common reckoning –

Still more ancient are our fatherland  
and faith. The Union is older than the man:  
older even than the law, our Constitution,  
by which we live. Our faith, in which  
we live, was plighted and engaged  
before we breathed, laid up in heaven  
before the law laid down.

Seven and four score, in days of yore  
our fathers took their liberties  
upon the body of the land  
and made it big with fruit, and grain,  
and child. As were th' Athenians sprung  
from soil on which a god had spilled his seed,  
so are we too, their remote inheritors,  
the last best hope of civic life,  
brought forth upon the continental clay.

Our father, with art in heaven,  
turned us on the wheel, and to the soil  
returns us when our given time is passed.  
We, once born, will die – and death  
replenishes the fertile soil of birth.

So we today inhume these bodies  
in the ground of Gettysburg,  
their blood and bones combining  
with the clay, to form a more fertile  
humus for the Tree of Liberty,  
for whose sake we are human called.

This name our fathers gave us  
when they sired our nation on the land –  
humankind, born to nature's god,  
created equal. "Conceived in liberty" –  
or so Hephaistos thought, whose  
seed, spilled on Athena's leg as she  
resisted him, became the *demos*;

likewise Jefferson, our father,  
fitly spoke these words,  
though maybe lusting after Sally;  
all too human, unimmaculate,  
our republican robe he soiled,  
confounding force with freedom.

Is it vanity to cherish birth  
when all around us lie the dead;  
their part to die, and ours to dedicate  
this ground, the bier of these brave men?

With bloody war ongoing, the slaughter  
of these soldiers is indeed unfinished work;  
how much more unfinished is mere breath,  
a nation's or a man's, or humankind?

There is no making sacred without sacrifice,  
in temples of marble or on holy ground.  
A priest recites the words of institution,  
of no effect if no life has been given  
and accepted, no offering, no suffering.

Though these words, then, recall  
what long ago was said when we were born,  
when our infant nation to the world  
was shown, let not these words  
distract us from our work of love,  
our great unfinished work, for which we live,  
for which we die, if we (like these)  
are not found wanting in devotion.

Death, returning to the soil our humankind  
from which it came, brings us to the brink  
of something new. First born upon the ground  
of liberty, but born to die, in faith  
we forward look, for second birth,  
for a better freedom, whose republic  
shall not perish from the earth.

## 6. TO A CANDID WORLD

Let facts be submitted to a candid world,  
but from less honest men and from a world  
less perfect – ours, say – a *Candide* world,  
that rapes the captive comfort woman rapes  
as much a woman can again be raped,  
let some word not set sail, but be kept moored,  
waiting better tides, in the heart's hush-harbor.

“Sing,” they said, “the Lord’s song of creation,”  
but never from my lips will holy words  
be torn and taken by the Master.  
If I forget thee, Africa, then seal  
the saving portal of orality.  
I will sing, but darkly; and I will be  
continent, as you, my dark continent,  
would have me be. And I will not submit.

And “Jefferson survives,” your dying words,  
John Adams, co-author of undying  
words, spoke what was not true, for on that day,  
Fourth of July, Independence Day,  
he too went to meet at last his Maker.

Were you likewise wrong, on that first Fourth,  
when you and he “created equal” said?  
All authors, saving only one, to err  
are bound. To error we are born, it is  
our birthright. And America was born  
on the Fourth of July, and Jefferson  
and Adams and Vivek~nanda died  
on the Fourth of July, and black men preached  
on the Fourth of July, and New York State  
abolished slavery, in point of law,  
on the Fourth of July; and in Canaan,  
not the Canaan of new hopes, but of New  
Hampshire, white rioters attacked a school  
on the Fourth of July, where little white  
children played with little black children,  
and yoking hope and schoolhouse to their oxen,

dragged them dying down into the swamp.

And you say "Jefferson survives"? Maybe  
he does, in our bodies born of Hagar,  
your bondswoman; and in our Gospel songs  
healing your torn Testament; yes, and in  
those words, "all persons born," hard-won from war  
and from the dead who consecrate the ground,  
in which we hear the echo of "all men"  
improved by singing "let my people go."

So steal me away, Araminta; be  
my Moses and my Muse; no freedom shall  
I sing, except you risk your own ten times  
and nine more for my sake; nor your equal  
may I dare call myself without your leave  
and love.

## **7. IN PEACE, FRIENDS**

The voice of justice and of common blood  
cried out from the birth-ground of our being;  
by the power of that voice we conjured  
you, our British brethren; but you were deaf  
when we invoked the word of ancestry.  
You turned away from us unbrotherly  
and spurned our love, our Philadelphia.

We appealed to our ties as common kin;  
spoke also in the name of humankind,  
and bonds of a remoter genesis;  
but our suit was cold, you were unkindly;  
greatness of soul, that ought to be thick blood  
between us, thinned to water in your veins.

Between the two ties, of shared nationhood  
and shared humanity, a middle term  
by ancient history is interposed.  
Names and speech expose the former union  
of peoples most diverse; Americans



were British, who before were Germanic,  
who before (so it is said) were Indo-  
European, cousin to the Aryans.

You Britons, like the citizens of Rome,  
claim to descend from the exiled Trojans;  
so the genealogy of moderns  
runs back to the bards; as you are named  
for Aeneas' friend, Felix Brutus,  
who on a wide shore established Britain.  
So it is said, though there is room for doubt.

Yet resemblances and memories, if  
too infirm to be the prop of science,  
supply keen weapons to the conjuror;  
as you, playing Brutus to our Caesar,  
stabbed last our agonizing affection,  
so again as Caesar to our Brutus,  
your tyrant hopes are blooded by our knife.

Keep lookout, though, for we should not become  
too martial'd by our myths. In a word we  
announce and denounce our separation;  
we cleave to you; we hold you, as we do  
mankind, enemies in war, in peace, friends.

## **& LONG TRAIN**

We come to terms with the powers of the earth,  
but close by the train is waiting.  
Time is come, all comfort gone, we are worth  
nothing. Death is tired of deals, and it is lord.  
Close by the train is waiting,  
the long train of abuses.  
I hear the call of "all aboard".

Barons on their fingers wear the golden bands.  
They will call on you by your name,  
you Eternals and Celestials, in your hands  
to take their spike, your deep down-driven wages.

I will call you by your name,  
the long train of abuses,  
a new order of the ages.

And did the law of nature and creation --  
behold the Maker and the Man! --  
construct this separate and equal station  
and stamp his ticket for the colored car?  
Hold the Maker and the Man,  
the long train of abuses;  
hurry him off to Manzanar.

Or when, in best honor draped, it comes around,  
slowed and creped, become a cortege,  
to return a martyr's body to the ground,  
it bears only the small thing that lived and died.  
Slowed, creped, become a cortege,  
the long train of abuses  
does not cross to the other side.

Still, there is life in giving life. We pretend,  
trying to be true manunkind,  
to a better cause, and to a further end.  
But whose love is better than the one who fails,  
trying to be true? Mankind,  
the long train of abuses  
salutes those lying on the rails.

## **9. TO THE BETTER ANGELS**

Consider how we came to settle here.  
We floated over in the *Ark*, and though  
the old world drown, with us came old evils,  
latent, unlisted in the manifest.  
The *Dove* brought us supplies, but not supply  
enough of peace. And some came in Friendship,  
a good ship, that, except her Spanish name  
was *Amistad*. God gave to whom what peace?  
Can they be friends who wage cruel war against  
human nature? What god gave whom what peace?

And Arethusa was a nymph before  
Alpheus, the river god, in his lust  
indifferent to her consent, chased her,  
and would have captured her but for the art  
of Artemis, who, changing her into  
a fountain, from the rapist hid her.  
This same fountain it was, Arethusa,  
who told Demeter of her daughter's fate –  
for in her passage underground, she had  
seen Kor' , captive, rule at Hades' side –  
and begged the goddess to restore to earth  
its harvest. And now we men have returned  
the favor, thanking her by giving ships  
her name: such as the brig *Arethusa*,  
that made the middle passage; no goddess  
hindered by concealing spells this all-too  
human crime.

Was nature's god the victim  
or the violator; where was native  
justice, where the ties of common kindred?  
The face of what divinity is stamped  
in us? Or has the stream of Alpheus,  
subterranean, indiscernible,  
that fed the spring of *devah* in the East,  
*deus*, more familiar in the West, or  
our *theos*, watering the green pastures  
of warlike horsemen striving for their share  
of praise and honor, even descended  
unto us?

Unseal then the poet's words,  
DEUS NOBIS HAEC OTIA FECIT.  
"God gave us this rest," gave us not ease  
to eat bread by the sweat of the oppressed.  
We find a better and more honest peace  
sharing more than is natural to ask,  
caring better than is strictly healthy;  
repairing wrongs, even very old wrongs,  
because our ancient faith, far older still,

repeals the statute of our natural  
limitations. And when peace is broken,  
we are called to be nurses of new peace,  
not in leisure, but in the loving work  
of binding up the nation's wounds, caring  
for the widow and the orphan, holding  
firmly to the truth.

We have been exiles,  
we have been refugees from civil war,  
we have been strangers, aliens; though  
we seem safe at any time we may be  
aliened again.

We have known malice  
toward everyone, including ourselves;  
we have met hurt with hurt, and that has hurt;  
we have spilled mankindness in our common  
blood. Who are we to grip tight to our wrongs?

Release us, Arethusa, and bathe us  
in the pure fountain of thy *caritas*.  
Return for us, Araminta, and be  
the better angel of our covenant.  
Marvelous militancy of the soul,  
always abide in us, witness to us  
our making, our unmaking, and our grace.  
Beloved, be unto us Mahalia,  
hallow our all-too-human nature in  
the *hall'1* of thy spiritual voice,  
singing:

God made this peace for us.  
As God made air and earth,  
evening, and the new day,  
and all holy living things,  
and humankind, dear hearts,  
God made this peace for us.

## NOTES ON “WE TOGETHER WOVE OUR TRUTHS”

## 1. A SONG OF PRAISE

***quicquid ex divinis literis per interpretes disceret....*** Jefferson's library included the Venerable Bede's eighth-century Historia Ecclesiastica Gentis Anglorum.<sup>53</sup> In the 24<sup>th</sup> chapter of book iv of his church history, Bede tells how brother Caedmon came to sing his Hymn to the Creator.

[W]hatsoever of the divine writings he learned by them that expounded them, he set if forth after a little time with poetical language, put together with very great sweetness and pricking of the heart, in his own, that is to say, the English tongue.... [T]here stood by him a certain man in a dream and bade him God speed, and calling him by his name said to him: "Caedmon, sing me something!" Whereupon he answering said: "I know not how to sing; for that too is the matter why I came out from the table to this place apart, because I could not sing." "But yet," quoth he again that spake with him, "thou hast to sing to me." "What," quoth he, "should I sing?" Whereupon the other said: "Sing the beginning of the creatures!" At which answer he began forthwith to sing in praise of God the Creator....<sup>54</sup>

Though Bede paraphrased Caedmon's Hymn in Latin, scribes sometimes supplied Caedmon's Old English in the margin of the Historia Ecclesiastica Gentis Anglorum; these copies of the hymn are among the earliest manuscripts attesting Old English poetry.<sup>55</sup> Though I do not know whether Jefferson had a particular interest in Caedmon, it is well-known that Jefferson was interested in the Old English (or "Anglo-Saxon") and that he urged that students be taught to read it.<sup>56</sup> He encouraged this study not only to foster a better appreciation of the English language and literature,<sup>57</sup> but also and perhaps primarily to stimulate a wider political recourse to Anglo-Saxon culture as an ancient source of English constitutionalism and the

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<sup>53</sup> Jefferson owned two editions: a 1644 edition, Latin with Old English translation, and a 1565 English translation. E. Millicent Sowerby, Catalogue of the Library of Thomas Jefferson (hereinafter Jefferson Library Catalogue), vol. 5 (1959), §133, pp. 129-130, and vol. 1 (1952), §21, p. 295.

<sup>54</sup> Bede, Ecclesiastical History of the English Nation, in Baedae Opera Historica, J. E. King trans. (1930), vol. 2, pp. 140-145 (Latin with English translation).

<sup>55</sup> John C. Pope, ed. Eight Old English Poems (3<sup>rd</sup> ed., prepared by R. D. Fulk, 2001), pp. 49-50, 53. Pope supplies two Old English versions of Caedmon's Hymn, id. at pp. 3-4, and a commentary, pp. 49-58.

<sup>56</sup> Thomas Jefferson, "An Essay on the Anglo-Saxon Language," in Julian P. Boyd, ed. The Papers of Thomas Jefferson, vol. 1 (1950) [hereinafter Papers, vol. 1], p. 158.

<sup>57</sup> "An Essay on the Anglo-Saxon Language," pp. 169-170.

inherent rights protected in the common law. Jefferson's view that the fundamental rights and liberties are both universal ("natural") and rooted in ancient Anglo-Saxon constitutionalism, is attested both early<sup>58</sup> and late in his career.<sup>59</sup> Near the end of his life, Jefferson expresses satisfaction that the author of a book on the English constitution "has deduced the constitution, inherited by the English nation, from its rightful root, the Anglo-Saxon."<sup>60</sup> He maintains that "the difference between the whig and tory of England is that the whig deduces his rights from the Anglo-Saxon source, the tory from the Norman," and notes with satisfaction that the curriculum of the University of Virginia includes Anglo-Saxon along with agriculture and "the rights of man".<sup>61</sup> But he does not look to antiquarianism, whether tory or whig, for the final foundation of those rights. "Our revolution commenced on more favourable ground. It presented us an album, on which we were free to write what we pleased; we had no occasion to search into musty records, to hunt up royal parchments, or to investigate the laws and institutions of a semi-barbarous ancestry. We appealed to those of nature, and found them engraved in our hearts...."<sup>62</sup> See *inscribed with nature's law*, below.

***we hold these truths.*** "We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."<sup>63</sup>

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<sup>58</sup> "Draft of Instructions to the Virginia Delegates in the Continental Congress" (July, 1774: manuscript of the text subsequently published in pamphlet form as A Summary View of the Rights of British America), in Boyd, Papers, vol. 1, pp. 121-137. Jefferson refers here to "universal law" and to rights "which nature has given to all men" (id., p. 121), but he also appeals to the customs, laws, and property regimes of "Our Saxon ancestors" (id., p. 132). Jefferson understood the latter to be consistent with and ultimately authorized by the former, but as a lawyer he also regarded historic traditions as precedents.

<sup>59</sup> In his sixties, Jefferson undertook to defend the Whig view of the Ancient Constitution against Hume's History of England; Literary Commonplace Book, supra n. 37, p. 168.

<sup>60</sup> Thomas Jefferson, letter to Major Cartwright, June 5, 1824 (reprinted in the Boston Daily Advertiser, 1824) ("Whether Christianity is a Part of the Common Law"), in F. D. Cartwright, ed. The Life and Correspondence of Major Cartwright, vol. 2 (1826), p. 265.

<sup>61</sup> Id., pp. 267, 274.

<sup>62</sup> Id., p. 267. See also Charles Miller, Jefferson and Nature: An Interpretation (1988), p. 165, reporting that in a letter written in 1812, Jefferson described "the ordinary doctrine that we brought with us from England the *common law rights*" as a "narrow notion... of men who felt their rights before they had thought of their explanation. The truth is, that we brought with us the *rights of men*." Emphasis in original.

<sup>63</sup> Declaration App. C., p. 236, para. B2. In his original draft, Jefferson described the truths as "sacred and undeniable," Evolution of the Text, supra note 2, at 22 (cf. the closing pledge of "sacred honor," Declaration App. C. p. 241, para. C3). This is consistent with the numinous quality that A SONG OF PRAISE seeks to associate with the divine creation. On the other hand, Jefferson originally wrote "from that equal creation;" the familiar language, "they are endowed by their Creator," was a product of discussions within the committee. Evolution of the Text, supra note 2, at 29. As submitted to Congress, the draft Declaration

***inscribed with nature's law.*** Romans 2: 14-15: though the Gentiles do not have the law (*ho nomos*), they do by nature (*physei*) what the law requires; the work of the law is written in their hearts (*to ergon tou nomou grapton en tais kardiais autōn*). In his "Notes on Locke," Jefferson quotes this central Pauline text, and identifies the law written in the heart with "the law of nature."<sup>64</sup> The metaphoric conception of law as written in the heart expresses its idea within the context of a literate culture. Caedmon, however, could neither read nor write; he composed and recited his poems orally.<sup>65</sup> Living within a monastic world in which written deposits of the faith were prominent, however, Caedmon must have formed some conception of the nature of writing; and so I have him express the Pauline idea of natural law in terms of "the old half-magical runic writing – confined to brief inscriptions – of the early Germanic peoples."<sup>66</sup> Nature's law is inscribed "in heart-runed words / our Maker shaped." (Similarly, though Homer is generally thought to have composed his epics orally, and his characters neither read nor write, there is one instance in the Iliad in which reference is made to "tokens, / murderous signs, scratched in a folded tablet.")<sup>67</sup> I envision Caedmon's Hymn as an expression, in song, of wonder at the Creation and praise for the Creator: a moment of orality within a tradition that we cannot help but approach primarily within literate media. But the enslaved Africans who with genius and amazing faith composed and sang spirituals renew the spirit of orality, which is never extinguished. And though the Declaration of Independence is a written text that thoroughly shows the kind of learning and influence that literate cultures make possible, it was meant from the start for oral performances,<sup>68</sup> and it has found new expression in the speeches, hymns, and sermons of Abraham Lincoln, Frederick Douglass, Martin Luther King, and others. So, in the sectional

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described the natural rights as "inherent and inalienable," which is consistent with A SONG OF PRAISE's interpretation of the natural rights as properties divinely shaped in the making of humankind. Congress struck "inherent and," adding the word "certain" ("certain inalienable rights"). Declaration App. C., p. 236, para. B2.

<sup>64</sup> Jefferson, "Notes on Locke and Shaftesbury," in *Papers*, vol. 1, pp. 549-550. (Jefferson, perhaps following Locke, misattributes the text to Romans 2:13.) The "law written in the heart" is also referenced elsewhere in the Christian Epistles (Hebrews 8:10, 16; 2 Corinthians 3:3); and also in the Hebrew Bible (Jeremiah 31:33; see also Proverbs 3:3, 7:3 compare Jeremiah 17:1, where sin, not law, is "graven" upon the heart "with a pen of iron, and with the point of a diamond.") Jefferson probably regarded the canonical Christian texts, referring to the law of God written in the heart, as consistent with classical Stoic teaching about natural law. Cf. C. S. Lewis, *The Discarded Image: An Introduction to Medieval and Renaissance Literature* (1964), p. 160.

<sup>65</sup> Pope, *Eight Old English Poems*, p. 50.

<sup>66</sup> *Id.*, p. 43.

<sup>67</sup> Iliad 6.198-199. Homer, *The Odyssey*, trans. Robert Fagles, intro. by Bernard Knox (1996), pp. 6, 20-21.

<sup>68</sup> See generally Fliegelman, *Declaring Independence*, supra note 43.

sequence of my poem, I present “all men are created equal” on the path from song to song, hymn to hymn, psalm to psalm. In §9, TO THE BETTER ANGELS, Mahalia Jackson renders the inscription, “God made this peace for us,” which is a writing with a literary source (Virgil), as a psalm sung in spiritual voice.

***nostrils open to holy breath.*** Genesis 2:7: “And the Lord God formed man (Hebrew *ha-Adam*) of the dust of the ground (*ha-adamah*), and breathed into his nostrils the breath of life; and man became a living soul.”

***the heaven-spirit.*** In this section of the poem, compounds like “heart-runed,” “heaven-spirit,” “middle-earth,” “human-kindness,” and “word-enworlding” are meant to recall the compounding that is one of the central devices of Old English poetry.<sup>69</sup> (I provide echoes of this oral device in the more “literate” pentameter sections: “world-poetic” in §4, SACRED HONOR, and “birth-ground” in §7, IN PEACE, FRIENDS.) A SONG OF PRAISE also makes some use of alliteration, and adopts the caesura that marks the separation of the half-lines in modern printed texts of Old English poems.<sup>70</sup> However, I have not otherwise attempted to adhere to the rigorous rules of Old English prosody.

***let every mouth / the sweet kiss taste.*** The Torah describes the transmission of the oral law at Sinai as “mouth-to-mouth,” descending from God to Moses. Numbers 12:8. *Pirkei Avot* then recounts how the oral law was taught by Moses to Joshua, and by him to the elders, and so on.<sup>71</sup> In drawing upon this tradition, my Caedmon is expressing a unity or continuity between his own orality and that of the transmission of the oral law. Such a self-understanding is not easily reconciled either with rabbinic or with orthodox Christian traditions. Of special importance here is the view of Jewish law that has been common to most versions of Christian natural law, from Paul (*supra*) through the medieval canonists, and including the influential natural rights theories of the seventeenth and eighteenth centuries. Where my Caedmon associates the equality of all humankind, and the wonders (he does not yet speak of “rights”) of life, liberty, and the pursuit of happiness, both with the law written in the heart and with the oral revelation at Sinai, most Christian treatments of natural law and natural rights instead celebrate what they take to be the emancipation of reason from the grip of what they describe as the primitive and particularistic requirements of Mosaic law.<sup>72</sup>

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<sup>69</sup> Pope, *Eight Old English Poems*, p. 45.

<sup>70</sup> *Id.*, pp. 130-131.

<sup>71</sup> “Moses received the Law from Sinai and committed it to Joshua, and Joshua to the elders, and the elders to the Prophets; and the Prophets committed it to the men of the Great Synagogue.” *Pirkei Avot* 1:1 (*The Mishnah*, 1933; Herbert Danby, trans.)

<sup>72</sup> Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625* (1997), pp. 66-68 (Decretists), 187-188 (Ockham), 226-227 (Jean Gerson), 239 (John Mair); Knud Haakonsen, *Natural Law and Moral Philosophy: From*



My Caedmon also conceives the “mouth-to-mouth” delivery of the oral law as an intimate and inspiring endowment of life: in fact, as a kiss, succeeding to God’s earlier creative act in breathing the spirit into the nostrils of humankind. He prays, “let every mouth / the sweet kiss taste of human-kindness.” These mystical associations to the kiss belong to very old traditions. Commentators on Song of Solomon (Song of Songs) 1:2, “Let him kiss me with the kisses of his mouth,” and more generally both kabbalists and renaissance humanists, understood the kiss as a profound image of the mystical union with God that is the highest end of mortal humankind.<sup>73</sup> The *mors osculi* or “kiss of death” has been celebrated as the rapture or bliss available to the mortal who is loved by God or a god (the conceit has been worked out both in Biblical and in pagan contexts, and above all in the confused domain where these contexts join).<sup>74</sup>

But there are dangers here. The context of Numbers 12:8 is that God rebukes Miriam; though she is a prophet, God does not make the divine revelation of the oral law through her, but only through Moses. Is the sweet, humanizing kiss of the law truly given to all? Subsequent sections of the poem express wariness about the adequacy (and the motivation) of images of intimacy as media for the conceptualization and critique of the subordination of women and the prophetic imagining of a more completely realized regime of co-humanity. The hierogamy, or divine-human marriage, provides a problematic narrative for the natural equality of humankind; the rapture by the beloved deity carries the connotation of rape.<sup>75</sup>

**the chase / of happiness.** Wills observes that in the eighteenth century, “pursuit” (as in “pursuit of happiness”) “had a ‘harder’ meaning than aspiration,” closer in sense to “chase”.<sup>76</sup>

**never horse / or hound would tire.** Cf. the spiritual, “Down in the Valley”: “We’ll run and never tire, / We’ll run and never tire, / We’ll run and never tire, / Jesus set poor sinners free.”<sup>77</sup>

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Grotius to the Scottish Enlightenment (1996), pp. 57-58 (Locke); Peter Gay, The Enlightenment, an Interpretation: The Rise of Modern Paganism (1976) [hereinafter The Enlightenment], p. 87 (*philosophes’* dim view of the Old Testament).

<sup>73</sup> Edgar Wind, Pagan Mysteries in the Renaissance (1958) [hereinafter Pagan Mysteries], pp. 13-131.

<sup>74</sup> Id.

<sup>75</sup> Donne’s “Batter my heart” is a familiar example of divine rapture imaged as divine rape – in this case, according to a recent interpretation, as “a same-sex rape fantasy”. Richard Rambuss, “Christ’s Ganymede,” 7 Yale Journal of Law & the Humanities 77 (1995), pp. 82-90.

<sup>76</sup> *Inventing America*, supra note 5, at 245.

<sup>77</sup> Sernett, p. 119.

## 2. WE HOLD THESE TRUTHS

**we hold.** For the text of the Declaration (its second sentence, which is the first sentence of the second paragraph), see text at note [ ], *supra*. Rhetorically, the force of the Declaration's second sentence is enhanced by the lexicon with which it operates. After the first sentence, which comprises the Declaration's first paragraph, strings together a polysyllabic and Latinate vocabulary ("necessary," "dissolve," "connected," "separate," "equal," "station," "nature," "entitle," "decent," "respect," "requires," etc.), the second sentence follows with a staccato sequence of monosyllabic words of Germanic origin: "we," "hold," "these," "truths". (Jefferson, in "Thoughts on English Prosody," noted that Anglo-Saxon puts at the poet's use "a whole army of monosyllables.")<sup>78</sup> In WE HOLD THESE TRUTHS, I make associations from within the "semantic biography"<sup>79</sup> of these words, and work within a verse form that is meant to appear plainspoken.

**truth... troth.** "True" is from OE *tr'owe*, firm, true; and "truth," with "troth" and "betroth," from OE *tr'owth*, faith, loyalty, truth.<sup>80</sup> The attitude of firmness<sup>81</sup> and the general association to pledging are borne out by the Declaration's concluding sentence: "And for the support of this declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."<sup>82</sup> The revolutionary vow is dangerous, hence the more specific sense in which the revolutionaries "plight" their troth. (See note, *to have and to hold*, below.)

Lincoln's appropriation of the Declaration typically gives more prominence to the pledging of faith than its eighteenth-century authors may have intended. (After all, if the truth is "self-evident," then how much commitment is necessary to "hold" it?) The nation is "dedicated" to the proposition that all men are created equal, just as the point of the ceremony at Gettysburg is "to dedicate a portion of [a battle-field] as the final resting place of those who here gave their lives that that nation might live," and through the sacrifice of the war dead we are "to be dedicated

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<sup>78</sup> "Thoughts on English Prosody," *supra* note 37, at p. 596.

<sup>79</sup> C. S. Lewis, *Studies in Words* (2<sup>nd</sup> ed., 1967) p. 2.

<sup>80</sup> Indo-European Roots, *supra* note 17, at pp. 16-17 (entry *deru*).

<sup>81</sup> One of the indictments of George III further specifies this virtue as the revolutionaries understood it: "he has dissolved Representative houses repeatedly for opposing *with manly firmness* his invasions on the rights of the people. Declaration App. C., p. 237, para. I5 (emphasis added). The draft submitted to Congress by the committee, after chastizing the British for failing to respond to the Americans as to close kin, determines that "manly spirit bids us to renounce forever these unfeeling brethren." Declaration App. C., p. 240, para. C2.

<sup>82</sup> Declaration App. C., p. 241, para. C3. The phrase, "with a firm reliance on the protection of divine providence," was added by Congress. *Id.*

here to the unfinished work” which the fallen have advanced.<sup>83</sup> Hence “we take increased devotion,” “we here highly resolve.”<sup>84</sup> In the Gettysburg Address, Lincoln calls “all men are created equal” a “proposition” rather than a “truth”.<sup>85</sup> Thus he means the devotion and sacrifice of the war dead, and the rededication of the living, to give effective content to the claim – his “ancient faith”<sup>86</sup> – that “we hold these truths”.

Is the disposition to be faithful and loyal and firm, which is present in the OE root, to be given a more specific association to marriage and the rituals of marital exchange? How far, when “we hold these truths,” are we plighting our troth in the specific sense of becoming “betrothed” to one another? The Declaration does not press any such association. (There is a hint of it, perhaps, in the use of the word “endow,” in “all men... are endowed by their creator with certain unalienable rights.” See note to §3, ALL MEN ARE CREATED EQUAL, *endowried with the right to life*.) But Lincoln does press it. In his First Inaugural Address, arguing that “the Union is perpetual” and cannot lawfully be broken, he asserts that:

The Union is much older than the Constitution. It was formed in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured and the faith of all the then thirteen states expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778.<sup>87</sup>

And, as §5, LINCOLN AT GETTYSBURG, stresses, Lincoln imaged the very origin of the “new nation” in terms of a sacred marriage or hierogamy. Elsewhere in WE TOGETHER WOVE OUR TRUTHS I elaborate on that mythical association. Here I am concerned with the status of “these truths,” and interpret them as earnest undertakings given meaning and effective motivation by an enabling tradition. We hold these truths; they are ours to have and to hold, forever, in sickness and in health, for richer, for poorer.

**truth... tree... Liberty Tree.** The dispositional reading of “truth,” which stresses the steadfastness of the believer who holds that truth, is brought out by the word “tree,” from OE *tr‘ow*, tree. “Tree,” like “truth” and “troth,” ultimately

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<sup>83</sup> Lincoln, Gettysburg Address, 7 Collected Works, *supra* note 1, at 23.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> Text at note 1, *supra*.

<sup>87</sup> Lincoln, “First Inaugural Address – Final Text” (March 4, 1861) [hereinafter “First Inaugural Address”] in Basler ed., Collected Works, vol. 4, pp. 262-271, at p. 265. Note that Lincoln treats the Articles, not the Declaration, as the event in which the states plighted their *perpetual* faith.

descend from Indo-European *deru*-, “to be firm, solid, steadfast; hence specialized senses ‘wood,’ ‘tree,’ and derivatives referring to objects made of wood.”<sup>88</sup> (We hear “tree” descendents of Indo-European *deru*- also in “dryad” and “deodar”.) Harvard’s model had been “Veritas” for many years before 1776, but Jefferson wisely choose to characterize the affirmations of the day as homely (firm, reliable, tree-like, strong-timbered, hopefully not “wooden”) “truths,” not as “verities.”

Though nothing internal to the text of the Declaration makes explicit the homophony, shared descent, and semantic association of “truth” and “tree,” the revolutionaries did things “outside the text” which should draw our attention to the connection between them. They met together and conspired under the “Liberty Tree” – trees, actually, in all of the colonies – which symbolized the Revolution, and which drew upon both pagan and Christian narratives and rituals.<sup>89</sup> In Boston, site of the first Liberty Tree, the Sons of Liberty commissioned Paul Revere to design a medallion, captioned “Liberty Tree” and bearing its image, for them to wear.<sup>90</sup> Thus the Liberty Tree served, and was understood to be, a ritual symbol not only of the Revolution but of liberty as its animating slogan. In 1775, Thomas Paine wrote his lyric, “Liberty Tree,” which was popular during the revolution. Its first stanza rehearses:

In a chariot of light from the regions of day,  
The Goddess of Liberty came;  
Ten thousand celestials directed the way,  
And thither conducted the dame,  
This tall budding branch, from the garden above,  
Where millions with millions agree;  
She bro’t in her hand, as a pledge of her love,  
The plant she call’d Liberty Tree.<sup>91</sup>

Notable here is Paine’s readiness to draw on pagan or quasi-pagan themes to stir the devotion of the revolutionaries. (Certainly Paine, an atheist, did not feel constrained

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<sup>88</sup> Indo-European Roots, *supra* note 17, at p. 16, entry *deru*-.

<sup>89</sup> Catherine L. Albanese, Sons of the Fathers: The Civil Religion of the American Revolution (1976) [hereinafter *Sons of Fathers*], pp. 50-79. For the European background to the ritual symbolism of trees, see James George Frazer, The Golden Bough: A Study in Magic and Religion (one-volume abridged edition, 1922) [hereinafter *The Golden Bough*], pp. 126-155; 184-186; 344-356; Mircea Eliade, Patterns in Comparative Religion (1958), pp. 265-294.

<sup>90</sup> *Sons of Fathers*, pp. 58, 61.

<sup>91</sup> Thomas Paine, “Liberty Tree” (first published in 1775), in Vera Brodsky Lawrence, Music for Patriots, Politicians, and Presidents: Harmonies and Discords of the First Hundred Years (1975), p. 62.

by Biblical cosmology; he represents Liberty as a Goddess<sup>92</sup> – and a light one too; it is hard to picture our Statue of Liberty descending through the skies – though he does, perhaps without knowing it, employ *merkabah* symbolism familiar from the Zohar and having its origin in Ezekiel. He set his lyrics to “Once the Gods of the Greeks,” an English tune, as if to emphasize rather than conceal his intention to draw on pagan rather than pious Christian sentiments. In other sections of the poem, I stress the pagan resonances within the reception-traditions of the Declaration.) It is worth noticing that the Liberty Tree is introduced as the earthly token “from the garden above,” hence fitting as “a pledge of [the Goddess of Liberty’s] love”.

Paine’s song was not the only one to employ the tree as a figure that expressed not only the substance or political ideal for which the revolutionaries fought (Liberty) but also the disposition of steadfastness toward that ideal (firmness in the truth). The song “Liberty,” widely published beginning in 1763, begins:

Hearts of oak are we still, for we’re sons of those men  
who always were ready,  
steady boys, steady,  
to fight for our freedom again and again.<sup>93</sup>

I interpret the “truths” of the Declaration as affirmations made steadfastly (steady, boys, steady; with hearts of oak) in a dangerous setting. The Truth and the Tree (of Liberty) were one, not only etymologically but in the phenomenology of risky pledging.

***watered with the blood of patriots and tyrants.*** Though Jefferson did not make any connection between Tree and Truth and Liberty within the Declaration’s text, later he made the notable observation, or prophecy: “The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural

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<sup>92</sup> For another poem written, during the Revolution, that gives central place to the goddess of liberty, and specifies her classical credentials, see St. George Tucker, “Liberty, A Poem; on the Independence of America,” quoted in Charles L. Cohen, “The ‘Liberty or Death’ Speech: A Note on Religion and Revolutionary Rhetoric,” 38 *William and Mary Quarterly*, 3d series, 702, at 711. In “Thoughts on English Prosody,” supra note 37 at p. 617, Jefferson quotes Joseph Addison, “A Letter from Italy” (1701), lines 119-126, in which the poet finds the Italian scenery charming and reminiscent of Roman antiquity, but wanting in the essential political relation that blesses Britain: “O liberty! thou goddess heav’nly bright / Profuse of bliss, and pregnant with delight... / Thou mak’st the gloomy face of nature gay / Giv’st beauty to the sun, and pleasure to the day.” For discussion of the “goddess of liberty” in American revolutionary culture, see *Sons of Fathers*, pp. 77-80. See also Afterword, infra, text at note 305 (draft Great Seal depicted goddesses of liberty and justice).

<sup>93</sup> [find source]

manure.”<sup>94</sup> This trope is taken up within the tradition, as by Lincoln at Gettysburg (though without any specifically arboreal reference).

***in our tree we trust.*** I mean here to keep within the limits of a hearty if pagan symbolism, and to eschew (as Jefferson might have wished) a conventional piety such as “in God we trust”. “Trust,” from Old Norse *traust*, confidence, firmness, ultimately descends from the same Indo-European root, *deru-*, as tree, truth, and troth.<sup>95</sup>

***holding to the truth (saty~graha).*** *Saty~graha*, the doctrine and discipline of Gandhi’s anti-subordinationist politics, which he developed in South Africa and later advanced as a leading element of the anti-colonial movement in India, translates from Gujarati into English as “holding to the truth” or “firmness in the truth”.<sup>96</sup> It is easy enough in our American revolutionary tradition to lay all of the stress on the content of the affirmation – natural rights and the proper function of government to secure those rights – and to lose sight of the way of affirmation itself, the potency (and riskiness, but concomitant reward) of insisting on the way of the truth. Similarly, *saty~graha* expresses an ideal of self-government that is both political and ethical; the will of the people is understood to be inadequate to the task of popular government unless persons rise in their capacity to govern the circumstances, needs, and passions of their lives.<sup>97</sup> If we look at the language of the Declaration philologically, and listen to the resonances of the language with an ear attuned not only to the expected Greek and Latin sources but also to possible connections via Indo-European to Sanskrit analogues, we can hear the striking declaration “we hold these truths” as something that ties us to Gandhi’s struggle.

Gandhi’s legal education in London (which exposed him to both common law and Roman law sources), and his wide reading, probably imparted to the concept of *saty~graha* a “western” liberal flavor, which it might not have had if Gandhi’s influences flowed entirely or more directly from the traditional Sanskrit corpus of

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<sup>94</sup> Jefferson, Letter to William Stevens Smith, Nov. 13, 1787, in Boyd, Papers, vol. 12, p. 356.

<sup>95</sup> Indo-European Roots, *supra* note 17, at p. 16.

<sup>96</sup> Mohandas K. Gandhi, *An Autobiography: The Story of My Experiments with Truth* (trans. Mahadev Desai, 1957), pp. 318-319; Heinrich Zimmer, *Philosophies of India* (Joseph Campbell, ed., 1969), pp. 169-172.

<sup>97</sup> On the complex of ideas relating self-restraint and soul growth to effective political self-government and the exercise of freedom, see the discussions of *saty~graha* and *swaraj* in Baljit Singh, “The Sources of Contemporary Political Thought in India – A Reappraisal,” 75 *Ethics* 57 (1964), at p. 61; Roland W. Scott, *Social Ethics in Modern Hinduism* (1953), ch. 4 (“Freedom by Saty~graha”), pp. 89-120.

Hindu sacred texts.<sup>98</sup> But we are also able to hear in our own “western” liberal text a perhaps surprisingly “eastern” spiritual affirmation and resolve.

The discipline of *ahimsa*, or non-violence, was essential to the program of *saty-graha*.<sup>99</sup> In *Hind Swaraj*, Gandhi explained: “*Saty-graha* or soul-force is called passive resistance in English. That word is applicable to a method by which men, enduring pain, secure their rights. Its purpose is the opposite of the purpose of using force of arms.... When something is not acceptable to me, I do not do that work. In so acting I use *saty-graha* or soul-force.”<sup>100</sup>

The American Revolutionaries, of course, employed armed struggle rather than *saty-graha* (taking the latter notion in its more strategic sense); correspondingly, the Revolutionaries probably did not understand the purpose of their struggle – the society that they sought to make possible, and the human lives enabled within that society – in terms of *saty-graha* in its more axiological sense. It fell principally to Martin Luther King, to introduce *saty-graha* in both senses as a strong current in American political life. (See *soul-force*, *infra*.) Much earlier, however, Howard and Sue Bailey Thurman, who came to India in 1935 with a YMCA delegation of African-Americans, met Gandhi. Thurman, whose career included tenures as Howard University chaplain and Dean of the Chapel at Boston University, thought that the spiritual significance and fate of the American civil rights struggle was bound up in some perhaps mystical way with Gandhi’s ethic of nonviolence. “It is a curious phenomenon,” Thurman wrote, “that the personality who has played a major part in the inspiration for nonviolent action is not Thoreau, or Whittier, or even Tolstoi, but a man from an entirely different culture and an entirely different faith: Mahatma Gandhi. One wonders deeply about the meaning of this fact.”<sup>101</sup> Gandhi may have felt a similar communion. After Gandhi and the Thurmans spoke together about the situations of African-Americans and India’s untouchables, he asked them to sing for him the spiritual, “Were You There When They Crucified My Lord.” That song, Gandhi said, “gets to the root of the experience of the entire human race under the spread of the healing wings of suffering.”<sup>102</sup> I have this episode in mind in §9, TO THE BETTER ANGELS, in the invocation, “Beloved, be unto us Mahalia, / hallow our all-too-human nature in / the *hall’l* of thy spiritual voice, / singing....”

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<sup>98</sup> On Gandhi’s western sources, see *Hind Swaraj*, *supra* note 51, pp. xxxii-xxvii; on his Indian and Hindu sources, see *id.*, pp. xlvii-l.

<sup>99</sup> Zimmer, *Philosophies of India*, p. 172.

<sup>100</sup> *Hind Swaraj*, *supra* note 51, p. 90 n. 178.

<sup>101</sup> Howard Thurman, *The Luminous Darkness* (1965), excerpted in Milton C. Sernett, ed. *African-American Religious History: A Documentary Witness* (second ed., 1999), pp. 548-554, at p. 551.

<sup>102</sup> Canaan Land, pp. 106-107.

**submitting facts... candid world.** “The history of the present king of Great Britain, is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this let facts be submitted to a candid world.”<sup>103</sup> Jefferson’s original draft, before the revisions made by Congress, further stressed pledging on behalf of the truth: “... to a candid world for the truth of which we pledge a faith yet unsullied by falsehood.”<sup>104</sup>

**soul-force.** “We must not allow our creative protest to degenerate into physical violence. Again and again, we must rise to the majestic heights of meeting physical force with soul force.” Martin Luther King, “I Have a Dream.”<sup>105</sup> See note, *saty~graha*, supra. Though King recalls the Declaration of Independence in his speech – specifically treating it as “a promise that all men, yes, black men as well as white men, would be guaranteed the ‘unalienable Rights of Life, Liberty, and the Pursuit of Happiness,’” and echoing the theme of the Creator’s endowment by constantly referring to humankind as “all of God’s Children”<sup>106</sup> – he does not call the nation to a violent revolution. But the ideas of soul-force and of *saty~graha*, entering or re-entering American civic ideals through Gandhi and King, bring out the “metaphysical” or perfectionist side of holding-to-the-truth.<sup>107</sup>

**we mutually plight... our sacred honor.** See *truth/troth*, supra. The interpretation of “we hold these truths” as wedding vows, in light of “we mutually pledge” and of Lincoln’s understanding of decisive events of the Founding as troth-plighting, is developed further in the following note, *to have and to hold*.

**to have and to hold.** In the Anglican order of marriage, after bride and groom have answered “I will” to the questions put to them by the officiating priest, they take one another by the hand and recite the following vow (bride’s form here in square brackets):

I N. Take thee N. to my wedded wife [husbande], to have and to holde from this day forwarde, for better, for wurse, for richer, for poorer, in sickenes, and in health, to love and to cherishe [and to obey], till death us departe: accordyng to Goddes holy ordeinaunce: And thereto I plight thee [give thee] my trouth.<sup>108</sup>

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<sup>103</sup> Declaration App. C., p. 237, para. B2. This text is taken up in §6, TO A CANDID WORLD.

<sup>104</sup> Declaration App. C., p. 237, para. B2.

<sup>105</sup> in *A Call to Conscience*, p. 83.

<sup>106</sup> Id., p. 82.

<sup>107</sup> For discussion of Gandhi’s influence on King, and of respects in which King’s views on non-violence differed from Gandhi’s, see John J. Ansbro, *Martin Luther King, Jr: Nonviolent Strategies and Tactics for Social Change* (2000), pp. 3-7, 128-146.

<sup>108</sup> “The Forme of Solemnizacion of Matrimonie,” *1549 Book of Common Prayer*, [http://www.justus.anglican.org/resources/bcp/Marriage\\_1549.htm](http://www.justus.anglican.org/resources/bcp/Marriage_1549.htm).



This vow, quoted from the 1549 Prayer Book, would have been essentially unchanged (except for orthography) in subsequent editions with which Jefferson was familiar.<sup>109</sup> It remained unaltered in the 1789 Prayer Book that the American church adopted as it separated from its British parent.

In WE HOLD THESE TRUTHS, I do not dispel the ambiguity that inheres in the phrase “all men” – does it include all men and all women? In the Anglican order of marriage, the groom “plights” his troth, while the bride “gives” it. A clue to the source of this distinction may be found in the etymology of the verb “plight,” which descends from the Old English *plihtan*, and means “to cause or incur danger; to put at risk, to give in pledge.”<sup>110</sup> As at common law women were under disabilities that severely restricted their opportunities to put property at risk in a venture, so they could not “plight” their truth in marriage, but only give it. Similarly, in the ring-token portion of the order of marriage, the man provides to the woman a ring, but not vice-versa. Yet the order specifies that “the manne shall *geve* unto the womanne a ring, and other tokens of spousage.”<sup>111</sup> The man says: “With thys ring I thee wed: Thys golde and silver I thee *geve*: with my body I thee wurship: and withal my worldly Goodes I thee endowe.”<sup>112</sup> If the man “gives” the ring and the woman “gives” her truth, might not the woman also and equally “give” a ring, and thus “endow” her husband? But the logic of asymmetry is maintained throughout. The Curate explains that “this ring geven, and received, is a token and a pledge.”<sup>113</sup> Since the ring is a pledge, only the man can “give” it, as only the man can “plight” his troth.<sup>114</sup> So the language of giving and pledging replicates the well-known asymmetry that marks the exchange of promises. (The presiding Curate asks the man “Wilt thou love her, coumforte her, honor, and kepe her in sickenesse and in health,” but asks the woman “Wilt thou obey him, and serve him, love, honor, and kepe him in sickenes and in health?”)<sup>115</sup>

If the Declaration is read in light of these aspects of the Anglican order of marriage, then “we mutually pledge” is seen as less than fully mutual, in that men alone are qualified to “pledge” or “plight” – as, of course, only men participated in

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<sup>109</sup> Sanford, Thomas Jefferson and His Library, p. 129.

<sup>110</sup> Compact OED, p. 2209; entry *plight*(1), verb.

<sup>111</sup> [1549 BCP, emphasis added; confirm text and cite]

<sup>112</sup> [1549 BCP, emphasis added]

<sup>113</sup> [1549 BCP]

<sup>114</sup> At the conclusion of the performative portion of the service of marriage, and before the blessings and charges, the Curate carefully specifies that “N. and N. have consented together in holye wedlocke... and thereto have geven and pledged theyr trouth either to other....” [1549 BCP]

<sup>115</sup> [1549 BCP]

the Second Continental Congress and only men signed the Declaration. While “we” hold these truths, only men can “hold” them in the more specific sense of “plighting” them, putting their troth at risk. But in the same gendered idiom, “all men” who are “endowed by their creator” are strictly speaking “all women,” for in the ring-token ceremony it is the man who provides the ring to the woman and pronounces “withal my wordly Goodes I thee endowe”. To preserve the male and husband’s role of God the endower, humankind is cast in the role of the woman bride, receiver of the endowment. The order of marriage is very clear on this point, which is central to the traditional Christian understanding of marriage as a sacrament. The service opens: “Deerely beloved frendes, we are gathered together here in the syght of God, and in the face of his congregacion, to joyne together this man and this woman in holy matrimonie, which is an honorable estate instituted of God in paradise, in the time of mannes innocencie, signifying unto us the misticall union that is betwixte Christe and his Churche...”<sup>116</sup>

But the modeling of “all men” as the bride to Christ’s groom does not disturb the inegalitarian implications of modeling the language of rights upon the hierogamy and of expressing creaturely equality in conjugal and spousal terms. (The Christian conception of the church as the bride of Christ is in this respect analogous to the pagan theme with which Lincoln opens the Gettysburg Address; see §5, LINCOLN AT GETTYSBURG.) In his prayer, “Oh merciful Lord, and heavenly father, by whose gracious gifte mankind is increased...,” the Curate draws the asymmetrical implications of the sacramental model; the husband is to love his wife “as Christ did love his spouse the church, who gave himself for it,” while the wife is to be “faithful and obedient as Sara.”<sup>117</sup> Asymmetry is traced back to the anthropogony itself: “O God whiche by thy myghtye power hast made all thinges of naughte, whiche also after other thinges set in order diddeste appoint that out of man (created after thine

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<sup>116</sup> [1549 BCP] Note that the order of marriage describes marriage as “instituted of God in paradise,” while the Declaration states that “to secure these rights, governments are instituted among men.” Declaration App. C., p. 236, para. B2. The Declaration’s careful use of the passive voice enables it to maintain a prudent ambiguity on the vexed question, traditionally important in arguments about authority and the circumstances in which it might legitimately be resisted, of whether God created human government or put actual governments in place. (Similarly, where the order of marriage specifies that God instituted marriage “in paradise,” the Declaration only implies that governments are instituted *ab origine* – to secure the rights that are part of the creaturely endowment. The Declaration leaves open the interpretation, congenial to social contract theories, that governments are a belated development, a secondary expedient arranged to secure the primary rights.) But the Declaration goes on to stress human agency: “whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to *institute new government*, laying it’s foundation on such principles, and organising it’s powers in such form as to them shall seem most likely to effect their safety and happiness.” Declaration App. C., p. 236, para. B2 (emphasis added).

<sup>117</sup> [1549 BCP]

own image and similitude) woman should take her beginning....<sup>118</sup> But the prayer immediately proceeds to add, “and, knitting them together....”<sup>119</sup>

In its practical impact, this expression of marital reunion operated as a prohibition against divorce, against sundering what “matrimonie haddest made one.”<sup>120</sup> Its effect was to further bind women within the regime of coverture and unfreedom. But the traditional imaging of marriage as a “knitting together” also holds out a subversive promise of better mutuality. For “knitting together” is a second meaning of “plight,” or a second verb altogether but sharing the same spelling. Where plight(1), from the Old English *plihtan*, means (as has been seen) “to put at risk,” plight(2), from an Old French source, means “to fold, pleat; to intertwine or interweave into one combined texture.”<sup>121</sup> While risky pledging was seen as man’s work, hence only the man could “plight” his truth/troth, weaving and spinning, tying and knotting, could be the work of men and women both. Though we seldom say today that partners in life “plighted their troth,” we remember the idiom when we say that a couple “ties the knot.” But we might also say, of all who have troth-plighted, “they together wove their truth.”<sup>122</sup> I adopt this interpretation of “we hold these truths” and “we mutually pledge.”

**friendship / free; beloved.** Of the trio of unalienable rights with which we are “endowed by our creator,” the Declaration announces one – “liberty” -- in a word of Latinate origin. “Life” and “happiness” (though not “pursuit”), by contrast, have Germanic roots: the former via the OE *lǣf*, the latter via the Old Norse *happ*, meaning chance or good luck.<sup>123</sup> Jefferson’s choice of “liberty” rather than “freedom” to express the second unalienable right probably conformed to prevailing diction. It was consistent, for example, with the excerpt from Leviticus 25:10 on the Old Statehouse Bell (later called “the Liberty Bell”) in Philadelphia: “proclaim liberty

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<sup>118</sup> [1549 BCP] Here the prayer follows the third anthropogonic narrative in Genesis (creation of the first woman from the flesh of Adam) but suppresses the interpretation, open in the Hebrew Bible, that Adam already is humankind (plural) made in the image and likeness of plural Elohim.

<sup>119</sup> [1549 BCP]

<sup>120</sup> [1549 BCP]

<sup>121</sup> Compact OED, pp. 2209-2210.

<sup>122</sup> As when Malory says of Sir Gareth and Dame Lyonesse, “And then they troth-plight each other to love, and never to fail whiles their life lasteth.” Sir Thomas Malory, *Le Morte D’Arthur* (Janet Cowen ed., 1969), vol. 1, book vii, chap. 22, p. 272. Sidney Lanier, ed. *The Boy’s King Arthur* (1917), p. 105 n.1, supplies this annotation: “‘Troth,’ *truth*, and ‘plight,’ *wove*: ‘troth plight,’ *wove their truth together*.”

<sup>123</sup> Indo-European Roots, supra note 17, at p. 48, entry *leip-*, and p. 43, entry *kob-*. For discussion of the sources and meanings of the word “life,” see Lewis, *Studies in Words*, supra note 79, at pp. 269-305. For discussion of the sources and meaning of the word “happiness,” see *Inventing America*, supra note 5, at 249.

throughout all the land unto all the inhabitants thereof.”<sup>124</sup> But if “liberty” expresses the abstract right, “free” expresses the condition or state of enjoying that right. The Declaration condemns the King “for abolishing the free system of English laws,”<sup>125</sup> and finds him “unfit to be the ruler of a free people.”<sup>126</sup> Its concluding paragraph twice declares the colonies to be “free and independent states”.<sup>127</sup> In that light, it can be safely said that those who are “free,” and who have “life” and (pursue) “happiness,” enjoy the objects of “we hold these truths,” all expressed in words that come down from the Old English.

“Free” descends from Old English *fr‘o*, “free,” and from *fr‘on*, *freogan*, “to love, set free.”<sup>128</sup> The hypothesized Germanic source, *frija-*, “beloved, belonging to the loved ones, not in bondage, free,” is reflected in the name of the Norse goddess Frigg, whose day (as Jefferson noted in his Legal Commonplace Book) we remember in our word “Friday.”<sup>129</sup> A participial form, *frijand-*, “lover, friend,” is thought to lie

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<sup>124</sup> For discussion of this Leviticus text and its service in the oral (spoken, sung) tradition of American constitutionalism, see “Proclaim Liberty,” supra note 43. “Liberty” is much more commonly used than “freedom” in the KJV to translate words which in the Vulgate are forms of *libertas*. Typical NT examples include Romans 8:21 “the glorious liberty of the children of God” (*libertatem gloriae filiorum Dei*); Galatians 2:4, “our liberty which we have in Christ Jesus” (*libertatem nostram quam habemus in Christo Iesu*); James 1:25, “the perfect law of liberty” (*lege perfecta libertatis*). These texts were among those put forward by Christian theorists who associated the germinal idea of natural rights with the notion of “evangelical liberty” (see Tierney, supra note 72, p. 187). The KJV often uses “free” to describe release from bondage, as in these NT examples: Romans 8:2, “For the law of the Spirit of life in Christ Jesus hath made me free from the law of sin and death” (*lex enim Spiritus vitae in Christo Iesu liberavit me a lege peccati et mortis*); Corinthians 9:19, “For though I be free from all men” (*nam cum liber essem ex omnibus*).

<sup>125</sup> Declaration App. C., p. 238, para. I13.

<sup>126</sup> Declaration App. C., p. 240, para. C1. The draft submitted by the committee described the king as “unfit to be the ruler of a people who mean to be free.” *Id.* Before Congressional editing, the draft also blasted the king “for tyranny over a people fostered and fixed in principles of freedom.” *Id.*

<sup>127</sup> This language was taken from a resolution earlier proposed by Richard Henry Lee, and adopted on July 2: “That these United Colonies are, and of right ought to be, free and independent states....” *Inventing America*, supra note 5, at 326, 336; *Evolution of the Text*, supra note 2, at 41-45. Though the description of the colonies as “free and independent states” was included in the draft submitted by the committee (such states are said to have “full power” to enter into treaties and alliances, etc.), Congress gave it greater stress by including it the final paragraph’s performative opening (“We therefore... do... solemnly publish and declare, that these united colonies are and of right ought to be free and independent states....”) Declaration App. C., p. 241, para. C3.

<sup>128</sup> Indo-European Roots, supra note 17, at p. 69, entry *pri-*.

<sup>129</sup> *Id.* Legal Commonplace Book, supra note 14, §878 (pp. 357-359), at p. 359.

behind OE *fr̥ond*, *fr̥ond*, “friend.”<sup>130</sup> The suggested interpretation of freedom is that those who belong to the beloved, as friends, are free.

### 3. ALL MEN ARE CREATED EQUAL

**the sacred grove.** See note, *truth / tree / Liberty Tree*, above; see footnote 89, above. The Celts and Druids worshiped in a sacred glade or grove, and Diana was worshiped at the sacred grove of Nemi.<sup>131</sup> The opening lines recall William Cullen Bryant’s “A Forest Hymn”:

The Groves were God’s first temples. Ere man learned  
To hew the shaft, and lay the architrave,  
And spread the roof above them – ere he framed  
The lofty vault, to gather and roll back  
The sound of anthems; in the darkling wood,  
Amidst the cool and silence, he knelt down,  
And offered to the Mightiest solemn thanks  
And supplication.<sup>132</sup>

**with firmness in the right.** “With malice toward none, with charity for all,  
with firmness in the right as God gives us to see the right....”<sup>133</sup>

**let us build up the being that we are.** Wordsworth: “So build we up /  
The being that we are.”<sup>134</sup>

**and bear in ours the likeness of your laws.** This prayer recalls the closing  
lines of “A Forest Hymn”:

Be it ours to meditate,  
In these calm shades, thy milder majesty,  
And to the beautiful order of thy works  
Learn to conform the order of our lives.<sup>135</sup>

Bryant’s Transcendentalism expresses reverence for the work of the Creator,<sup>136</sup> and shows how the generation rising after that of the Founders might understand “the laws of nature and of nature’s god.”<sup>137</sup>

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<sup>130</sup> Indo-European Roots, supra note 17, at p. 69, entry *pri*.

<sup>131</sup> The Golden Bough, supra n. 89, pp. 127-128, 162-164.

<sup>132</sup> “A Forest Hymn,” lines 1-8.

<sup>133</sup> Lincoln, “Second Inaugural Address” (March 4, 1865) [hereinafter Second Inaugural Address], in Collected Works, vol. 7, pp. 332-333, at p. 333.

<sup>134</sup> Wordsworth, from Dove Cottage MS 16 (1798), in Stephen Gill, ed. The Oxford Authors: William Wordsworth (1984), Appendix (b), lines 57-58, p. 679.

<sup>135</sup> Id., lines 116-119.

**death... makes all equal.** Bryant's "Thanatopsis" shows that equality, in the realm of "nature's god," can be conceived as the shared mortal fate of all humankind.<sup>138</sup> The gay and the solemn, the youth and the aged, "all that breathe / will share thy destiny."<sup>139</sup> Further, this equal fate is a kind of dignity, because it is shared with the best.

Thou shalt lie down  
With patriarchs of the infant world – with kings,  
The powerful of the earth – the wise, the good,  
Fair forms, and hoary seers of ages past,  
All in one mighty sepulchre.<sup>140</sup>

In his career at the New York Evening Post, Bryant expressed his egalitarianism in a more political vein, by advocating abolition, and later by supporting Lincoln and saluting the Emancipation Address.<sup>141</sup>

**As powers of the earth to their stations / separate and equal are assigned.** Declaration of Independence: "When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's god entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."<sup>142</sup>

**each tellurian tie / and title.** Here the phrase "powers of the earth" is taken literally, as designating chthonic forces that carry legitimate political authority. Correspondingly, to hold "title" (or "a title") is to have a "tellurian" claim, one that has a solid "ground". (This treats "title," from Latin *titulus*, as sharing the root *tel-*, "ground, floor," with Latin *tellus*, "earth, the earth.")<sup>143</sup>

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<sup>136</sup> Id., lines 70-74: "My heart is awed within me when I think / Of the great miracle that still goes on, / In silence, round me – the perpetual work / Of thy creation, finished, yet renewed / Forever."

<sup>137</sup> See Garet, "Dancing to Music," 80 *Kentucky L. J.* 893 (1991-92), at pp. 932-934.

<sup>138</sup> See Afterword, text at note 325.

<sup>139</sup> Bryant, "Thanatopsis," lines 60-61.

<sup>140</sup> Id., lines 33-37.

<sup>141</sup> Donald, *Lincoln*, supra note 49, pp. 237-9, 378.

<sup>142</sup> Declaration App. C., p. 236, para. B1. The committee revised Jefferson's "equal and independent station" to read "separate and equal station." Evolution of the Text, supra note 2, at 29.

<sup>143</sup> Indo-European Roots, supra note 17, at p. 90, entry *tel-*.

**Persephone.** My reasons for placing the Declaration of Independence within the narrative orbit of the myth of Demeter and Persephone are given in the Afterword.

**in death's kiss.** See the discussion of the *mors osculi*, above, in note to §1, A SONG OF PRAISE, *let every mouth / the sweet kiss taste*.

**she rolls the grain in amber waves.** “Oh beautiful for spacious skies, / For amber waves of grain.”<sup>144</sup>

**in wind-blown fields of old Eleusis.** Eleusis was the site of the annual ritual reenactment of the story of Demeter and Persephone, with its aspiration to new life.<sup>145</sup> The restoration of Persephone, if only for a while, causes the crops to grow. Before her restoration, while Demeter wandered in sorrow, the earth was barren, “But afterwards, as spring-time waxed, it was soon to be waving with long ears of corn.”<sup>146</sup>

**Like your daughter / we go to our wedding all unwilling, / down to die.** “[I]s Kor‘ carried away to marriage, to death, or to both at once? Death is the aspect which predominates. To be carried off by Hades and to celebrate marriage with Hades become prominent metaphors for death, especially of girls. At bottom, the myth does not speak of a cycle either: things will never be the same as they were before the rape. What the myth finds is a double existence between the upper world and the underworld: a dimension of death is introduced into life, and a dimension of life is introduced into death.”<sup>147</sup>

**endowried with the right to life.** The Declaration affirms that “all men... are endowed by their creator with certain unalienable rights.” The sense of “endow” here is “to enrich or furnish with any ‘gift’, quality, or power of mind or body.”<sup>148</sup> But the OED has “to give a dowry to (a woman),” or, obsolete, “to provide dower for (a widow)” as the first meaning, and offers illustrations of this usage dating back to an Act of Parliament in the reign of Henry VIII.<sup>149</sup> The verb “endow” is used with similar meaning in the order of marriage in the roughly contemporary Book of Common Prayer (see note, [ ], above). Whether other equally early, or even earlier,

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<sup>144</sup> Katherine L. Bates and Samuel A. Ward, “America the Beautiful,” in Theresa Armitage et. al. eds., *Our Land of Song* (1952), p. 189. For discussion of this song as an expression of mutuality, see Garet, “Dancing to Music,” supra note 137, pp. 928-929.

<sup>145</sup> Walter Burkert, *Greek Religion* (1985) [hereinafter *Greek Religion*], pp. 285-290.

<sup>146</sup> Homeric Hymn to Demeter, lines 454-455; *The Homeric Hymns and Homerica with an English Translation* (1914), trans. Hugh G. Evelyn-White.

<sup>147</sup> *Greek Religion*, supra note 145, p. 161.

<sup>148</sup> OED, vol. 5, p. 234.

<sup>149</sup> Id.

uses of “endow” and “endowment” to mean “furnish with a gift, property or capacity” (the more general sense, or the sense of “endowment” better known to modern lawyers) grew by extension from “dowry” and “dower” is harder to determine.<sup>150</sup> A 1641 treatise quoted in the OED insists that “Indowment... signifies properly the giving or assuring of dower to a woman.”<sup>151</sup> English case law suggests not only that “endow” meant something like “to specify and supply dower,” but also that the husband’s duty at common law to “endow” his wife with dower is older than the groom’s pledge to the bride, in giving her the ring-token, “withal my worldly Goodes I thee endowe”.<sup>152</sup> It is clear, in any case, that “endow” and “endowment,” like “dowry” and “dower,” descend from the Latin verb *do, dare*, “give,” via intermediaries such as *dos, dotis* (dowry, dower).<sup>153</sup> And in classical Latin, a poet such as Ovid could describe a person’s qualities (her endowments of mind,

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<sup>150</sup> Because women taking vows of renunciation understood themselves as brides of Christ, some of the “endowments” of medieval religious orders were “dowries” given by the families of women entering those orders. Caroline Walker Bynum, Holy Feast and Holy Fast: The Religious Significance of Food to Medieval Women (1987), pp. 18-19. I am grateful to Charlie Whitebread for pointing out to me this connection between “dowry” and “endowment”.

<sup>151</sup> *Id.*, p. 235 (entry, *endowment*). Harry v. Harry Bridgman, J 56 (123 ER 1197), 1615: “a writ of dower brought by the said Grace, of the endowment of Richard Harry her husband”; Robins v. Crutchly, 2 Wilson King’s Bench 118, 95 ER 718 (1760): “Ann Robins widow... demandeth against Brooke Crutchley [et. al.]... as her dower of the endowment of the said John Robins heretofore her husband, by writ of our lord the King of dower whereof she hath nothing.” (I am grateful to Dan Klerman for his suggestions about research in English case law.)

<sup>152</sup> Lady Brooke v. Tomlinson, 1 Freeman 47 (89 ER 37), 1672: “The plaintiff brought a writ of dower, to be endowed of the moiety of the manor of Cooling and several other lands of the nature of gavelkind in Kent.” Chaplin v. Chaplin, 3 Peere Williams 365 (24 ER 1040), 1733: “the wife shall not be endowed, because the thing, out of which the dower is to arise, is not in being.” Sutton v. Sutton, 2 Peere Williams 700, 705 (24 ER 922, 924), 1732: “By the common law, where a husband had an inheritable estate, it was part of the marriage contract, that the wife should have her dower.... [W]hen the husband comes to the church-door to be married, after affiance or troth plighted between the husband and wife, he endows her.... [S]o that it should seem to be incumbent on the husband, if he could do it, to endow his wife, and to specify the dower upon the marriage, instead of which, the general words of endowing with all his worldly goods in the office of matrimony now in use, have come in....” On the giving of the ring-token in the Anglican order of marriage, see text at notes 111-113, *supra*.

<sup>153</sup> T. G. Tucker, Etymological Dictionary of Latin (1931), pp. 81-82 (entries *do, dos*). Lewis and Short, A Latin Dictionary, p. [ ], defines *dos, dotis* as “a marriage portion, dowry,” and by extension, “a gift, endowment, talent, property, quality.” OED, vol. 4, pp. 992-993 (*dower* as noun and verb), 1003 (*dowry*); vol. 5, p. 234 (*endow*), p. 235 (*endowment*). “The word portion, to be sure, may imply a fortune out of the father’s estate; but, on the other hand, it relates likewise to what the wife, brings with her in marriage, and answers to the word *dos* in Latin....” Wood v. Briant, 2 Atkyns 521, 523 (26 ER 713, 714), 1742. At common law, a writ of error *dotis* was one of several forms of action in dower. Shiply v. Shiply, 10 Modern 225, 226 (88 ER 703, 704), 1714.



character or body) as her “dower”.<sup>154</sup> I mirror this usage when I translate “endowed by their creator” as “endowried,” like Persephone, and through the intervention of Ceres, with a claim on life even in the face of mortality.

#### 4. SACRED HONOR

***Yet the men who framed this declaration were great men...*** In this passage from his opinion in the notorious Dred Scott case,<sup>155</sup> Chief Justice Taney seeks to defend one of the chief holdings in that decision: that descendents of those who were brought to this country as slaves are not state citizens able to assert the diversity jurisdiction of a federal court, nor are they “citizens of the United States,” or “persons” (protected by provisions such as those of the Fifth Amendment); nor are they among “the people” (protected by such provisions as the Second Amendment). This sweeping conclusion was resisted in two ways (both evident in the dissent of Justice Curtis). The historical facts and complex political arrangements could be laid out in much finer grain, so that at least some descendents of the slaves could hold at least some constitutional rights, even if not all of them could hold all rights. Or Taney’s position could be challenged by one equally sweeping but opposite in its tendency: that the enslaved and their descendents were among the “all men” who are created equal and endowed with rights to liberty. The Declaration’s moral universalism, if not self-executing or enforceable in a court of law (the Declaration might not, *ex proprio vigore*, enable the descendent of a slave to assert the diversity jurisdiction of a federal court), could at least exert hermeneutic pressure on the construction of constitutional clauses.

Taney heads off these arguments by insisting that if the authors of the Declaration had meant to include slaves or their descendents among the “all men” who are created equal, they would have acted accordingly and abolished slavery. That they did not so act entails that they did not regard the slaves or their descendents as “men... created equal.” It would not have been possible for the framers of the Declaration to so regard them, since they apparently did not act consistently with any such view. Thus: “the men who framed this declaration were great men – high in literary accomplishment – high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting.”

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<sup>154</sup> Ovid, *Metamorphoses*, book v, line 562 (“that rich dower [*dos*] of song”); *id.*, line 583 (“my dower [*dotē*] of charming form”). Both of these figurative uses of *dos*, *dotis*, which suggest how “dower” and “dowry” might have transferred and generalized their meanings in “endow” and “endowment,” occur in Ovid’s recounting of the tale of Ceres and Proserpina, the myth that forms the axis of ALL MEN ARE CREATED EQUAL. The nymph Arethusa, who speaks of “my dower of charming form,” returns in §9, TO THE BETTER ANGELS.

<sup>155</sup> Dred Scott v. Sandford, 60 U.S. (19 How.) 393, 410.

Taney, though perhaps not so “high in literary accomplishment” as Jefferson, may have known his Julius Caesar well enough to be chilled by the echoes of Mark Antony’s oration in his own eulogy to the authors of the Declaration.

The noble Brutus  
Hath told you Caesar was ambitious:  
If it were so, it were a grievous fault,  
And grievously hath Caesar answer’d it.  
Here, under leave of Brutus and the rest –  
For Brutus is an honourable man;  
So are they all, all honourable men....  
Yet Brutus says he was ambitious;  
And, sure, he is an honourable man.<sup>156</sup>

Whether Jefferson, Brutus to the British Caesar, was “incapable of asserting principles inconsistent with those on which [he was] acting” – a perennial question that has divided historians attentive to Jefferson’s views about slavery and his actions touching on slavery – becomes ever more acute, in light of the new evidence supporting the conclusion that Jefferson (who repeatedly expressed abhorrence for racial mixture) was the biological father of several of Sally Hemings’ children.<sup>157</sup>

***a tide in the affairs of men.*** Jefferson’s confidence that history is running in a direction that necessitates and justifies the American governments and people in asserting their independence is expressed in the lines with which he opens the Declaration: “When, in the course of human events, it becomes necessary....” Such confidence in history’s course, and in its call for present action, calls to mind Brutus’s words to Cassius in the fourth act of Julius Caesar. Brutus encourages himself and Cassius to persist, even as the conspiracy devolves into civil war:

Our legions are brim-full, our cause is ripe:  
The enemy increaseth every day;  
We, at the height, are ready to decline.  
There is a tide in the affairs of men  
Which, taken at the flood, leads on to fortune;  
Omitted, all the voyage of their life  
is bound in shallows and in miseries.  
On such a full sea we are now afloat;  
And we must take the current when it serves  
Or lose our ventures.<sup>158</sup>

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<sup>156</sup> Julius Caesar, Act III, scene 2, lines 82-88, 103-104.

<sup>157</sup> See note 7, *supra*.

<sup>158</sup> Shakespeare, Julius Caesar, Act IV, scene iii, lines 215-224.

In the event, Brutus' confidence proves misplaced, though in a larger view the cause of republicanism did require Caesar's overthrow.

The American revolutionaries recognized Britain and her king in Caesar, and themselves in the noble Romans who tried to rescue their republic from the tyrant.<sup>159</sup> Shakespeare's Julius Caesar must have influenced how this modeling proceeded. Jefferson, not surprisingly, was a reader and admirer of Shakespeare. He quotes from Julius Caesar in his essay, "Thoughts on English Prosody."<sup>160</sup> No doubt others among the revolutionaries also recalled the scenes, the action, and the rhetoric of this play, as they assumed roles of leadership in the great events of their time. Cassius's speech in Julius Caesar has been suggested as a possible source for Patrick Henry's famous "Liberty or death" oration.<sup>161</sup>

But the revolutionaries also deployed the Caesar/Brutus categories in mythic or structural ways, not always marked by the influence of specific literary sources. So with Patrick Henry's famous exclamation in his speech against the Stamp Act: "Tarquin and Caesar had each his Brutus, Charles the First his Cromwell, and George the Third...."<sup>162</sup> In Hamilton's code of names, wherein he gave to each of

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<sup>159</sup> "[T]hroughout his life Jefferson placed contemporary events and individuals in the context of ancient history and mythology." "A Dialogue with the Ancients," p. 445. Jefferson's interest in the lives of Caesar and of other ancient notables persisted to the end of his life; Douglas L. Wilson, "The American agricola: Jefferson's Agrarianism and the Classical Tradition," 80 The South Atlantic Quarterly 339, 345 (1981). On the other hand, Adams, a New Englander, criticized the Virginians for wanting "[t]o escape the tyranny of Caesar by perpetuating the simple and isolated lives of their fathers." Wilson, *supra* note 34, p. 344. But if Jefferson, rather typically in his circle, liked to adduce stories and historical notables from the age of Roman republicanism as didactic exemplars for his own time, he also made it clear that modern circumstances were different from those of old Rome and that the lessons of antiquity were of limited modern application. "Dialogue with Ancients," *supra* note 37, p. 452. "[W]hat could even Cicero, Cato, Brutus have done, had it been referred to them to establish a good government for their country? They had no ideas of government themselves but of their degenerate Senate, nor the people of liberty, but of the factious opposition of their tribunes." Jefferson to Adams, December 10, 1819, in Lester J. Cappon, ed. The Adams-Jefferson Letters: The Complete Correspondence between Thomas Jefferson and Abigail and John Adams (1959), vol. 2 (1812-1826), 548, at p. 549.

<sup>160</sup> "Thoughts on English Prosody," *supra* note 37, at p. 611. Jefferson quotes from Caesar words that Jefferson no doubt admired, since they express moral fortitude concerning human mortality: "Cowards die many times before their deaths; / The valiant never taste of death but once. / Of all the wonders that I yet have heard, / It seems to me most strange that men should fear; / Seeing that death, a necessary end, / Will come when it will come." Julius Caesar, Act II, scene 2, lines 32-37. Jefferson also quotes Act I, scene 2, lines 93-99: Cassius's argument to Brutus, in which Cassius declares, "I was born free as Caesar, so were you."

<sup>161</sup> Cohen, "The Liberty or Death Speech," *supra* note 92, at 702 n.2. Wills attributes the line to Voltaire; *Inventing America*, *supra* note 5, at 10.

<sup>162</sup> Henry's Stamp Act speech, May 30, 1765, as quoted in William Wirt Henry, Patrick Henry: Life, Correspondence and Speeches, vol. 1 (1891, reprinted 1969), p. 86. Jefferson

his contemporaries a pseudonym drawn from classical political history, John Adams was designated “Brutus”.<sup>163</sup> But the leading revolutionaries did not always agree on the correspondences comprising this typology. Jefferson claimed that Hamilton, his rival, had told him that “the greatest man that ever lived was Julius Caesar,” while Hamilton drew a comparison between Caesar and Jefferson.<sup>164</sup> The revolutionaries were enmeshed in a net of ancient names, and must at times have used them as signifiers without conscious literary effort and also without ironic self-awareness. Among the enslaved at Monticello was a Caesar; even Jupiter was hauled down from Olympus to serve the master.<sup>165</sup>

***the course of human events.*** The text of paragraph one of the Declaration is given at [ ], *supra*.

***that very tide.*** In 1492, Columbus set foot on the islands of [ ], which he thought part of the Indies; also in 1492, the Jews were expelled from Spain.

***the laws of nature and of nature’s god.*** The text of paragraph one of the Declaration is given at [ ], *supra*.

***the God of Abraham, of Isaac, / and of Jacob.*** This is God’s self-identification to Moses (e.g., Exodus 3:15-16); passages such as these are quoted by Jesus in the Christian Gospels (e.g., Matthew 22:31-32, Mark 12:26). Peter, speaking to the Jews, likewise invokes “the God of Abraham, and of Isaac, and of Jacob, the God of our fathers.” Acts 3:13.

***Elohim, who spoke / holy words of world-poetic Being.*** John 1:1-3: “In the beginning was the Word, and the Word was with God, and the Word was God. The same was in the beginning with God. All things were made by him; and without him was not any thing made that was made.” The traditional and orthodox Christian view is that the Word (Greek *logos*) is Christ, who preexisted creation and was the

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said: “I attended the debate at the door of the lobby of the House of Burgesses, and heard the splendid display of Mr. Henry’s talents as a popular orator. They were great indeed; such as I have never heard from any other man. He appeared to me to speak as Homer wrote.” Quoted *id.*, p. 83.

<sup>163</sup> Richard M. Gummere, The Colonial Mind and the Classical Tradition [hereinafter Colonial Mind] (1963), p. 13.

<sup>164</sup> “Dialogue with Ancients,” *supra* note 37, p. 448,

<sup>165</sup> Jefferson had a slave named Caesar. Lucia Stanton, “Jefferson through the Eyes of his Slaves,” 57 William and Mary Quarterly, 3d Series (2000) 139, at p. 148.; [another named Jupiter.] In this as in other respects maintaining a fine balance between pagan and Biblical antiquity, Jefferson also held Israel in slavery. (Israel Gillette Jefferson, a Monticello slave who late in life expressed his view that Jefferson was the father of Madison Hemings. Appendix F, “Review of Primary Documentary Evidence,” in Thomas Jefferson Memorial Foundation, “Report of the Research Committee on Thomas Jefferson and Sally Hemings,” *supra* note 7.)

very principle of creation.<sup>166</sup> Jefferson, consistently with his view of Jesus as a paragon of ethical teaching rather than as God or the Son of God, derided the traditional interpretation of the opening verses of the Gospel of John. In a letter to Adams, Jefferson quotes these verses in the Greek, and translates *logos* as “reason (or mind)”.<sup>167</sup> “[T]his text,” says Jefferson, “so plainly declaring the doctrine of Jesus that the world was created by the supreme, intelligent being, has been perverted by modern Christians to build up a second person of their tritheism by a mistranslation of the word *logos*.”<sup>168</sup>

The opening verses of John recall those of Genesis; in the Septuagint of the latter, the verb *poieō* (which we hear in our word “poet”) conveys the action of world-creation.<sup>169</sup> In the Hebrew of the opening verses of Genesis, God who creates is named Elohim.

***made us in the likeness divine.*** “And God said, Let us make man in our image, after our likeness....” Genesis 1:26.

***breathed in us the wind of spirit.*** See note to §1. A SONG OF PRAISE, *nostrils open to holy breath*, above.

***set a bow of promise on the flood.*** “And God said, This is the token of the covenant which I make between me and you and every living creature that *is* with you, for perpetual generations: I do set my bow in the cloud, and it shall be for a token of a covenant between me and the earth. And it shall come to pass, when I bring a cloud over the earth, that the bow shall be seen in the cloud: And I will remember my covenant, which is between me and you and every living creature of all flesh; and the waters shall no more become a flood to destroy all flesh.” Genesis 9:12-15

***to whose good words / I took my pen-knife.*** Jefferson made an edition of what he took to be the true and original Gospels by cutting out parts of the text that recounted miracles, or the Resurrection, or that identified Jesus as God or the Son of God. See the Afterword, below, at [ ].

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<sup>166</sup> “I believe... in one Lord Jesus Christ, the only-begotten Son of God, begotten of the Father before all worlds... begotten, not made, being of one substance with the Father; by whom all things were made....” Nicene Creed. (These elements of the creed are the same in substance among the Roman Catholic, Greek Orthodox, and traditional Protestant churches.) Philip Schaff, ed. *The Creeds of Christendom with a History and Critical Notes*, vol. 2 (1931), pp. 57-59.

<sup>167</sup> Jefferson to Adams, April 11, 1823, in Merrill D. Peterson, ed. *Thomas Jefferson: Writings* (1984), p. 1466, at p. 1468.

<sup>168</sup> Id.

<sup>169</sup> God *epoi' sen... ton ouranon kai t' n g' n*, “created the heavens and the earth,” Genesis 1:1. This text is discussed further in the Afterword, *infra*, in connection with the name of the goddess Ceres.

**We mutually pledge.** The text of the final paragraph of the Declaration is given at [ ], *supra*.

**a vow... spousal words.** See notes to §2, WE HOLD THESE TRUTHS, *truth...troth*, and *to have and to hold*, above.

**not caring much to be original.** To his political opponents, who complained that he had exaggerated his contributions to the Declaration, Jefferson responded: “I did not consider it as any part of my charge to invent new ideas altogether and to offer no sentiment which had ever been expressed before.”<sup>170</sup> “Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing,” wrote Jefferson, the Declaration “was intended to be an expression of the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, etc.”<sup>171</sup>

**we promised better than we knew.** The framers of the original Constitution and Bill of Rights, and also the authors of the Fourteenth Amendment, often are described as having created a more flexible and enduring charter than they could have imagined; hence, “they builded better than they knew.”<sup>172</sup> The source is Emerson, who in his poem, “The Problem,” says of Michelangelo, who “rounded Peter’s dome” (designed St. Peter’s Basilica), “he builded better than he knew.”<sup>173</sup> Martin Luther King understood “the magnificent words of the Constitution and the Declaration of Independence” as “a promise that all men, yes, black men as well as white men, would be guaranteed the ‘unalienable Rights of Life, Liberty, and the pursuit of Happiness.’”<sup>174</sup> In SACRED HONOR, Jefferson recognizes that, like wedding partners making vows to one another, the founders promised beyond the reach of their foresight or understanding.

## 5. LINCOLN AT GETTYSBURG

**three score years and ten.** Psalm 90:10: “The days of our years are threescore years and ten; and if by reason of strength they be fourscore years, yet is

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<sup>170</sup> Letter to Madison, quoted in *Evolution of the Text*, *supra* note 2, at 2.

<sup>171</sup> Letter to Richard Henry Lee, May 8, 1825, quoted *ibid*.

<sup>172</sup> E.g., James M. Beck, “The Preamble of the Constitution,” 14 *Georgetown L.J.* 217, 224 (1926) (authors of the Constitution); Howard Jay Graham, “‘Builded Better Than They Knew,’ part 1: The Framers, the Railroads, and the Fourteenth Amendment,” 17 *U. Pittsburgh L. Rev.* 537 (1956) (authors of Fourteenth Amendment).

<sup>173</sup> Ralph Waldo Emerson, “The Problem” (written c. 1839, first published 1840), line 23, in Joel Porte and Sandra Morris, eds. *Emerson’s Poetry and Prose* (2001), pp. 433-435.

<sup>174</sup> “I Have a Dream,” *supra* note 6, at 82.

their strength labour and sorrow; for it is soon cut off, and we fly away.” Lincoln opens the Gettysburg Address: “Fourscore and seven years ago our fathers brought forth upon this continent a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”<sup>175</sup>

**the Union is older than the man.** Lincoln’s conjugal image (the fathers brought forth upon the continent a new nation; there will be a new birth of freedom) recalls the spousal image he employs in his First Inaugural Address (“the faith of all the then thirteen States expressly plighted and engaged,” see note to §2, WE HOLD THESE TRUTHS, *truth... troth*, above). In the First Inaugural, Lincoln argues that the seceding states have no lawful power to break the Union. Though Lincoln denies that the Constitution admits of secession, he also argues that “The Union is much older than the Constitution;” it dates back to earlier commitments that are “matured” by later ones, including the 1776 faith-plighting.<sup>176</sup> That understanding here is expressed in Wordsworth’s voice. “The Child is father of the Man; / And I could wish my days to be / Bound each to each by natural piety.”<sup>177</sup> The Union, 87 years old, is not only older than the allotted human span; it also humanizes mortality, bringing it the faith that gives life (“our faith, in which / we live.”) In LINCOLN AT GETTYSBURG, Lincoln is applying to civic ends the Pauline maxim, “The just shall live by faith.” Romans 1:17, Galatians 3:1, Hebrews 10:38; cf. Habakkuk 2:4.

**our fathers took their liberties / upon the body of the land.** As Garry Wills has noted, the opening of the Gettysburg Address, “our fathers brought forth upon this continent a new nation, conceived in liberty,” describes a hierogamy, or sacred marriage.<sup>178</sup>

**as were th’Athenians sprung / from soil on which a god had spilled his seed.** The Athenians preserved the legend of their autochthonous origins in the form of stories about their first king, Erichthonios. Hephaistos split Zeus’s skull with an axe, releasing Athena into the world.<sup>179</sup> Then “Hephaistos, the violent obstetrician, demanded to deflower the virgin whom he had brought into the world and pursued her, spilling his semen on her thigh.”<sup>180</sup> Pseudo-Apollodorus recounts the tale: “Athena came to Hephaestus, desirous of fashioning arms. But he, being

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<sup>175</sup> Lincoln, Gettysburg Address, 7 Collected Works, *supra* note 1, at 23.

<sup>176</sup> “First Inaugural Address,” *supra* note 87, at p. 265.

<sup>177</sup> Epigraph to “Ode: Intimations of Immortality from Recollections of Early Childhood” (written 1802-1804; published 1807), in [Oxford collected poems, p. 587].

<sup>178</sup> *Inventing America*, *supra* note 5, at p. xv. For the theme of the hierogamy, typically seen as marriage of the sky god to an earth goddess, see Mircea Eliade, *Yoga: Immortality and Freedom* (1969), pp. 254-255 (Vedic sources); *The Golden Bough*, *supra* n. 89, pp. 164-166 (European sources). The celebration and reenactment of the hierogamy was central to the pagan mystery religions; *Pagan Mysteries*, *supra* note 73, p. 132.

<sup>179</sup> Jefferson confided to John Adams his belief that Mary’s virgin birth of Jesus and the birth of Athena from the brow of Zeus were equally extravagant myths. Letter to Adams, 1823, in Merrill D. Peterson, ed. *Thomas Jefferson: Writings* (1984), p. 1469.

<sup>180</sup> *Greek Religion*, *supra* note 145, pp. 142-143.

forsaken by Aphrodite, fell in love with Athena, and began to pursue her; but she fled. When he got near her with much ado (for he was lame), he attempted to embrace her; but she, being a chaste virgin, would not submit to him, and he dropped his seed on the leg of the goddess. In disgust, she wiped off the seed with wool and threw it on the ground; and as she fled and the seed fell on the ground, Erichthonius was produced.”<sup>181</sup> The Athenians celebrated the memory of their first kings, their chthonic origins, and their descent from Athena, in annual festivals at the Erichtheion, one of the principal temples on the Acropolis.<sup>182</sup>

***the last best hope of civic life.*** Closing his annual message to Congress, in December 1862, Lincoln said: “In *giving* freedom to the *slave*, we *assure* freedom to the *free* – honorable alike in what we give, and what we preserve. We shall nobly save, or meanly lose, the last best, hope of earth.”<sup>183</sup>

***Our father, with art in heaven.*** In the second anthropogonic narrative in Genesis, 2:6-7, Adonai Elohim fashions humankind (Hebrew *h~+~d~m*) from the dust of the ground, watered by a mist. So the Maker is an artist,<sup>184</sup> or at least an artisan. The play on words, God’s “art in heaven” (crafting humankind somewhat as a potter works with clay) recalls the words of the Lord’s Prayer, Matthew 6:9-13, “Our father which art in heaven, Hallowed be thy name” (6:9). This verse supplies the main association that many of Lincoln’s listeners at Gettysburg would have made to the verb “hallow,” in the affirmation, “But in a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground.”<sup>185</sup> Lincoln’s sequence, like Jefferson’s in the first two paragraphs of the Declaration, is from words of Latinate derivation (dedicate, consecrate) to a word of Old English origin (hallow).<sup>186</sup>

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<sup>181</sup> Library, 2.91; Apollodorus, The Library, trans. James George Frazer (2 vols., 1921) [vol., p. ]. (Jefferson owned three editions of Apollodorus’s Library; Jefferson Library Catalogue, vol. I (1952), pp. 6-7.) Augustine, De Civitate Dei (The City of God), book 18, ch. 12, also recounts this story (criticizing those who impute such crimes to the gods), and explains the etymology of the name Erichthonios in terms of the tale: *h’ eris* = strife, and *h’ chthŋn* = earth.

<sup>182</sup> Manolis Andronicos, The Acropolis (1997), pp. 14-15, 34. Homer refers to these festivals: *Iliad*, book ii, 546-541.

<sup>183</sup> Annual message to Congress, December 1, 1862, in Don Fehrenbacher, ed. Abraham Lincoln: Speeches and Writings, 1859-1865 (1989), p. 415. Emphasis in original.

<sup>184</sup> “The Creator would indeed have been a bungling artist, had he intended man for a social animal, without planting in him social dispositions.” Jefferson, quoted in *Inventing America*, supra note 5, at 187.

<sup>185</sup> Lincoln, Gettysburg Address, 7 *Collected Works*, supra note 1, at 23.

<sup>186</sup> Indo-European Roots, supra note 17, at p. 36, entry *kailo-*. Hallow comes from Old English *h~lgian*, to bless.



**inhume... humus... human.** Etymologically, and in the phenomenology of religion, “*homo*” and “human” are related to “humus,” the fertile earth.<sup>187</sup> “Human,” from Latin *humanus*, and Latin *humus*, earth (source of English humus, inhume, exhume, etc.) both are thought to descend from the Indo-European root *dhghem-*, earth.<sup>188</sup> So do the words “chthonic,” “autochthonous,” etc. (see above, note *as were th’Athenians sprung*) which descend from *dhghem-* via the Greek word *h’ chthÇn*, earth.<sup>189</sup> The understanding of humankind as born chthonically from the earth (as were the Athenians by their legend, *supra*, and the Americans by Lincoln’s mythologizing account of the origin of the American republic) is reinforced in English by the descent of “groom” (bridegroom) from *dhghem-* via Old English *guma*, “man.”<sup>190</sup> Thus, humankind (*guma*, *humanus*) is the earth-born (chthonic) fruit of the union of the sky-god (“our fathers”) and the soil (“brought forth upon this continent”); and to the soil (“this ground”) humankind returns in death.

**so Hephaistos thought.** See note, *as were th’Athenians sprung*, above.

**fitly spoke.** Drawing upon Proverbs 25:11, Lincoln described “the principle of ‘Liberty to all,’” expressed in the Declaration of Independence, as “the word ‘fitly spoken’ which has proved an ‘apple of gold’ to us. The Union, and the Constitution, are the picture of silver, subsequently framed around it.”<sup>191</sup>

**though maybe lusting after Sally.** See discussion of Jefferson’s relationship with Sally Hemings, *supra*.<sup>192</sup> Historians who regard Jefferson as the biological father of (some of) her children date the beginning of their sexual contact to 1787, when she accompanied him to France as a servant to his daughter.<sup>193</sup>

**our republican robe he soiled.** In 1854, appealing for a restoration of the Missouri Compromise (abrogated by the Kansas-Nebraska Act), Lincoln told his Illinois audience: “Our republican robe is soiled, and trailed in the dust. Let us

<sup>187</sup> Eliade, *Patterns in Comparative Religion*, §89, “Homo-Humus,” pp. 253-254.

<sup>188</sup> Indo-European Roots, *supra* note 17, at p. 20, entry *dhghem-*.

<sup>189</sup> See Augustine’s derivation of Erichthonios, *supra* note 131.

<sup>190</sup> Indo-European Roots, *supra* note 17, at p. 20, “Language and Culture Note”.

<sup>191</sup> Lincoln, “Fragment on the Constitution and the Union,” c. January, 1861, in Basler, *Collected Works*, vol. iv, pp. 168-169. Emphasis omitted. Proverbs 25:11: “A word fitly spoken is like apples of gold in pictures of silver.”

<sup>192</sup> Note 7, *supra*.

<sup>193</sup> Fawn M. Brodie, *Thomas Jefferson: An Intimate History* (1974), pp. 228-245. For a summary of the documentary evidence concerning Sally Hemings’ life, see “Report of the Research Committee on Thomas Jefferson and Sally Hemings,” *supra* note 7, Appendix H.

repurify it. Let us turn and wash it white, in the spirit, if not the blood, of the Revolution.”<sup>194</sup>

**birth... bier.** As with the word “human” (see note, *inhume... humus... human*, above), the shared descent of the polar words “birth” (e.g., “new birth of freedom”) and “bier” illustrates the mythic narrative that describes humankind as coming from the ground and returning to the ground. “Bier,” from Old English and Old French sources, and “birth,” from “a source akin to Old Norse *burdhr*, birth” are thought to descend from an Indo-European root, *bher-*, “to carry; also, to bear children.”<sup>195</sup>

**our great unfinished work.** “It is for us, the living, rather to be dedicated here to the unfinished work that they have thus far so nobly carried on. [*Applause*] It is rather for us to be here dedicated to the great task remaining before us....”<sup>196</sup>

**for second birth.** “[W]e here highly resolve that the dead shall not have died in vain [*Applause*], that the nation shall, under God, have a new birth of freedom....”<sup>197</sup> The second birth, to eternal life, is a traditional Christian theme. 1 Peter 1:22-23: “Seeing ye have purified your souls in obeying the truth through the Spirit unto unfeigned love of the brethren, see that ye love one another with a pure heart fervently: Being born again, not of corruptible seed, but of incorruptible, by the word of God, which liveth and abideth for ever.” Cf. John 3:3,7.

**shall not perish from the earth.** “...and that the government of the people, by the people, and for the people, shall not perish from the earth.” [*Long continued applause*]<sup>198</sup>

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<sup>194</sup> Speech at Peoria, Illinois, October 16, 1854, in Basler, *Collected Works*, vol. 2 (1953), pp. 247-283, at p. 276. Lincoln continues: “Let us turn slavery from its claims of ‘moral right,’ back upon its existing legal rights, and its arguments of ‘necessity.’ Let us return it to the position our fathers gave it; and there let it rest in peace. Let us re-adopt the Declaration of Independence, and with it, the practices, and the policy, which harmonize with it.” Id. Taken with his many other statements about slavery and the Declaration, this means: The policy that best harmonizes with the Declaration is one which divests slavery of any special protection (beyond the general limitations, such as restricted federal authority, built into the Constitution) that puts it beyond the reach of the political process.

<sup>195</sup> Indo-European Roots, *supra* note 17, at p. 10, entry *bher*-1. The word “bring” (as in, “brought forth upon this continent”) also descends from this source.

<sup>196</sup> Lincoln, Gettysburg Address, 7 *Collected Works*, *supra* note 1, at 23.

<sup>197</sup> Id.

<sup>198</sup> Id. [version from Wills, Lincoln at Gettysburg]

## 6. TO A CANDID WORLD

**let facts be submitted to a candid world.** Declaration of Independence (this line immediately precedes the list of indictments of George III).<sup>199</sup>

**a *Candide* world.** Voltaire, *Candide, or Optimism* (1759).<sup>200</sup>

**rapes / as much a woman can again be raped.** Did the fair Cunegonde die of shame and chagrin at seeing Candide “‘kicked out of the beautiful castle by her father?’ ‘No,’ said Pangloss, ‘she was disemboweled by Bulgar soldiers after having been raped as much as a woman can be.’”<sup>201</sup>

**hush-harbor.** The enslaved gathered for religious meetings in shelters, sometimes called “hush harbors.” In these arbors made of branches and sticks, they could pray, worship, and sing, without being seen or heard by the master.<sup>202</sup>

**If I forget thee, Africa.** [from ‘Proclaim Liberty’]

**Jefferson survives.** Adams’ last words were “Thomas Jefferson survives,” but both Jefferson and Adams died on July 4, 1826.<sup>203</sup>

**Vivek~nanda.** Swami Vivek~nanda<sup>204</sup> (*viveka* = discriminating insight, ~*nanda* = bliss, joy), disciple of R~makrishna and one of the leading figures of the “Hindu Renaissance,” brought Hinduism to the attention of many Americans and Europeans (as, for example, when he spoke at the World Parliament of Religions, Chicago, 1893). He taught that all faiths are paths to leading to the One and to Truth, and that “Man is by nature free (*mukta*), his liberation is permanently with him.”<sup>205</sup> Though he felt that India had much to learn from the west, he also insisted that “through the confounding din of all these discordant sounds, she hears, in low yet unmistakable accents, the cries of her ancient gods....”<sup>206</sup> Unlike Gandhi,

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<sup>199</sup> See supra, text at notes 103-104.

<sup>200</sup> Of the *philosophes*, Voltaire did not win Jefferson’s particular admiration, though Jefferson did excerpt, in his Commonplace book, many passages from several of Voltaire’s writings. Legal Commonplace Book, supra note 14, at pp. 48-49.

<sup>201</sup> Voltaire, *Candide*, trans. Lowell Bair (1962), p. 19.

<sup>202</sup> Canaan Land, supra note 48, at p. 43; Sernett, *African-American Religious History*, p. 63.

<sup>203</sup> David McCullough, *John Adams* (2001), p. 646. Adams and Jefferson died on July 4, 1826, the golden anniversary of the Declaration of Independence. Jefferson predeceased Adams by a few hours. Id.

<sup>204</sup> R. C. Zaehner, *Hinduism* (1962), pp. 166-169; Singh, “Sources of Contemporary Political Thought in India,” pp. 59-61.

<sup>205</sup> Id., p. 168.

<sup>206</sup> Vivek~nanda, quoted in Singh, “Sources of Contemporary Political Thought in India,” p. 60.

Vivek~nanda defended the caste structure of Indian society.<sup>207</sup> Vivek~nanda died on July 4, 1902.<sup>208</sup>

**black men preached.** Before Frederick Douglass gave his famous oration (see note, *If I forget thee, Africa*, supra), Peter Williams, pastor of St. Philip's Episcopal Church, New York, spoke out (on July 4, 1830) against the colonization movement.<sup>209</sup>

**New York State / abolished slavery.** July 4, 1827.<sup>210</sup>

**in Canaan....** Henry Highland Garnet, who with his family escaped slavery in Maryland, later became a Presbyterian minister and a leading exponent of slave resistance. His family lived for a time in New Hope, Pennsylvania. Enraged by his enrollment in a school in Canaan, New Hampshire, some local whites attacked the schoolhouse and dragged it into a swamp.<sup>211</sup>

**where little white / children played with little black children.** "I have a dream that one day... little black boys and little black girls will be able to join hands with little white boys and white girls as sisters and brothers."<sup>212</sup>

**Hagar, / your bondswoman.** Downplaying the family traditions of Sally Hemings' descendents, most academic historians until recently rejected claims that Jefferson sired some or all of her children. In her 1974 psycho-biography, however, Fawn Brodie found evidence that Jefferson, while in Paris, took Sally as his "concubine". Among this evidence is a letter, dated April 24, 1788, in which Jefferson reported to his friend Maria Cosway how he was powerfully affected by Van Werff's painting of Sarah delivering Hagar to Abraham. Jefferson describes the painting as "delicious," and confesses that "I would have agreed to have been Abraham though the consequence would have been that I should have been dead five or six thousand years." After all, Jefferson continues, "I am but a son of nature, loving what I see and feel, without being able to give a reason, nor caring much whether there be one."<sup>213</sup>

Jefferson's understanding of Abraham's motives, or his own account of himself (standing in Abraham's place) as a "son of nature," typifies his departure from orthodox Biblical traditions. Sarah gave to Abraham her Egyptian

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<sup>207</sup> Singh, "Sources of Contemporary Political Thought in India," pp. 60-61.

<sup>208</sup> Id., p. 169.

<sup>209</sup> Canaan Land, p. 27.

<sup>210</sup> Id., p. 34.

<sup>211</sup> Id., pp. 31-32.

<sup>212</sup> "I Have a Dream," supra note 6, at 85.

<sup>213</sup> Brodie, Thomas Jefferson: An Intimate History, supra note 193, pp. 230-231.

bondswoman as his concubine, not to satisfy his “natural” if non-rational romantic loves, but to make it possible for him to beget the nation that God promised to him when God called him out of the land of Haran.<sup>214</sup> God is here, as elsewhere in Biblical narrative, not “nature’s God” but the God of history, calling people toward a redemptive historical destiny. If Jefferson did (even unconsciously) understand himself as a kind of Abraham,<sup>215</sup> and Sally as an approved substitute for his own wife Martha, who was dead and to whom (it is sometimes thought) Jefferson made a promise never to remarry, this analogy would owe more to Jefferson’s own proto-Romantic naturalism than to Biblical traditions. In fact, Jefferson’s failure to respect the sphere of Sally’s free and equal human personhood, including the limits that the master-slave relationship imposed on any interpretation of her response as love or consent, is the result in part of his fundamental misconception of Biblical ethics and of the Biblical account of the divine-human relationship.

In *TO A CANDID WORLD*, Brodie’s interpretation of Jefferson’s inadvertent but revealing reference to his own relationship with Sally in terms of Abraham’s with Hagar is subjected to a transvaluation that belongs to the history of African-American reappropriation of Biblical narrative. On the one hand, African-Americans early identified with the Israelites who were held in captivity but who were promised deliverance and who achieved it through the grace of God and the agency of Moses. In this frame, the African diaspora is modeled as the exile of Israel, and America is Egypt (or Babylon).<sup>216</sup> But on the other hand, Egypt itself was African; and the enslaved in America sometimes could undermine smug white accounts of racial identity by reclaiming the high civilization of ancient Egypt for their own tradition. So the enslaved might understand themselves as Israel, descended from Abraham through Sarah’s son Isaac, while at the same time identifying with Hagar, Sarah’s Egyptian bondswoman.<sup>217</sup>

In the Biblical account, Hagar’s son by Abraham is Ishmael, whose descendents came to be identified with the Arabs, Semitic cousins of the Israelites. The descendents of Sally Hemings, then – or perhaps those among the descendents who have regarded themselves as black – might think of themselves as Israelites, and

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<sup>214</sup> Genesis 11:30, 12:1-2.

<sup>215</sup> Jefferson probably knew the story of Abraham, Sarah, and Hagar, if not from his general Biblical reading, then from the research he conducted, as part of a 1770 lawsuit in which he served as counsel, on Biblical accounts of marriage. Rhys Isaac, “Monticello Stories Old and New,” in Lewis and Onuf, eds. Sally Hemings and Thomas Jefferson, *supra* note 7 at 122.

<sup>216</sup> “Proclaim Liberty,” *supra* note 43, at p. 159; Canaan Land, *supra* note 48, at pp. 35, 40-41.

<sup>217</sup> African-Americans sometimes have traced the lineage of Africans to Keturah, a concubine of Abraham, Genesis 25:1-4; 1Chronicles 32-33; Sernett, p. 17.

of Sally as a kind of liberator, “bringing children out of Egypt,”<sup>218</sup> but also identify with Hagar and her descendents. Thus if Jefferson saw Sally as Hagar, her children might invest her with the sacred significance of both Hagar and Sarah.

Among the enslaved at Monticello was a man named Israel (Isaac’s name after he wrestles with the angel) Jefferson. As an old man, Israel told an Ohio journalist that Sally Hemings was Jefferson’s “concubine.”<sup>219</sup> Sally’s own given name probably was Sarah.<sup>220</sup>

***your torn Testament.*** Jefferson’s cut-and-pasted version of the Gospels (see note 51, *supra*).

***those words, “all persons born”.*** The Fourteenth Amendment, which has exerted a transformative influence upon the nation, as perhaps the most lasting monument to the Civil War dead and to the enslaved, begins (in §1) by overturning one of the principal holdings of the Dred Scott decision. “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside.” The Due Process and Equal Protection clauses, which immediately follow the citizenship clause in §1 of the Fourteenth Amendment, can be seen as implementing this universalistic principle, descended, as it were, from the Fifth Amendment (“No person shall....”) by the Declaration of Independence (“all men are....”) But §2 of the Fourteenth Amendment immediately compromises this universalism by specifically protecting the franchise of males.

***steal me away, Araminta.*** The spiritual “Steal Away” was one of many songs that combined explicit Biblical and theological expressions with implicit or coded references to slavery and to plans and prospects for deliverance.<sup>221</sup> Araminta was an alternate name of Harriet Tubman, “the Moses of her people,” who (after escaping slavery herself) returned to the South nineteen times and escorted more than 300 slaves to freedom along the “underground railroad”.<sup>222</sup>

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<sup>218</sup> Lucia Stanton and Dianne Swann-Wright, “Bonds of Memory: Identity and the Hemings Family,” in Lewis and Onuf, ed., *Sally Hemings and Thomas Jefferson*, *supra* note 7 at 178.

<sup>219</sup> Statement of Israel Jefferson, 1873, quoted in Appendix F, “The Hemings-Jefferson Controversy: A Review of the Documentary Evidence,” to “Report of the Research Committee on Thomas Jefferson and Sally Hemings,” *supra* note 7.

<sup>220</sup> Appendix H, “Sally Hemings and Her Children: Information from Documentary Sources,” to “Report of the Research Committee on Thomas Jefferson and Sally Hemings,” *supra* note 7.

<sup>221</sup> Canaan Land, p. 46.

<sup>222</sup> Earl Conrad, General Harriet Tubman (1990), pp. 4-5 (Araminta), 47 (Moses), 42 (nineteen returns to slave states).

## 7. IN PEACE, FRIENDS

***the voice of justice and of common blood / cried out from the birth-ground of our being.*** The Declaration stresses, though less so than the draft as submitted by the committee, the ties of kinship between the Americans and the British, and the efforts made by the former to petition the latter as kindred and as friends. “Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here, we have appealed to their native justice & magnanimity, and we have conjured them by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections & correspondence. They too have been deaf to the voice of justice and of consanguinity.”<sup>223</sup> “The voice of justice and of common blood” echoes this last sentence,<sup>224</sup> and also recalls an earlier struggle between two “brethren”. After Cain kills Abel, God asks Cain, “What hast thou done? the voice of thy brother's blood crieth unto me from the ground.” Genesis 4:10.

***we conjured / you.*** The draft of the Declaration submitted by the committee to Congress read, “we appealed to their native justice & magnanimity, as well as to the ties of our common kindred, to disavow these usurpations....” Congress changed this to, “we have appealed to their native justice & magnanimity, and we have conjured them by the ties of our common kindred, to disavow these usurpations....”<sup>225</sup>

***you were deaf.*** See text of Declaration at note, *the voice of justice and of common blood*, above.

***our love, our Philadelphia.*** Like “their creator” and “nature’s god,” “Philadelphia” (name of the city where the Continental Congresses met) carries the mixed, ambiguous legacy of pagan antiquity and Biblical tradition. Though the first Philadelphia, a Hellenistic town in Asia Minor, was named after one of the Ptolemies, it was absorbed into Christian iconography as one of the seven churches, Revelation 1:11, to which John addresses “the Revelation of Jesus Christ,” Revelation 1:1. (Revelation 3:7: “And to the angel of the church in Philadelphia write; These things saith he that is holy, he that is true....”) As a Biblical place-name, then, “Philadelphia” carried apocalyptic connotations, and suggested esoteric

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<sup>223</sup> Declaration App. C., p. 240, para. C2.

<sup>224</sup> The draft that the committee submitted to Congress admonished the British for sending to America “not only soldiers of our common blood, but Scotch and foreign mercenaries to invade and destroy us.” Declaration App. C., p. 240, para. C2.

<sup>225</sup> Declaration App. C., p. 240, para. C2.

knowledge. To the seven churches corresponded seven seals: “And I saw in the right hand of him that sat on the throne a book written within and on the backside, sealed with seven seals. And I saw a strong angel proclaiming with a loud voice, Who is worthy to open the book, and to loose the seals thereof?” Revelation 5:1-2. Breaking the seals means opening the Revelation; this is the referent of the lines, “Unseal then the poet’s words, / *Deus nobis haec otia fecit*,” in §9, TO THE BETTER ANGELS. The Afterword (below) discusses the seals (including Jefferson’s proposed Great Seal of the United States) that are “unsealed” in WE TOGETHER WOVE THESE TRUTHS.

The name “Philadelphia” carried esoteric connotations at the time of the Revolution, though (since I rely on more than two centuries of subsequent history to ironize “all men are created equal”) these connotations cannot be the same as those I suggest in my poem. Among the revolutionary leaders, including those who signed the Declaration and participated in the crafting of the Constitution, were initiated members of a secret sect called the “Philadelphians.”<sup>226</sup> Other framers and founders were Freemasons; names like “Philadelphia,” like some Masonic images, could represent outward and material realities in a straightforward way, while also harboring esoteric connotations.<sup>227</sup>

But, as is typical of Christian tradition, esoteric meanings only “unsealed” to the saints are combined in “Philadelphia” with a simple and more homespun moral standard. For “Philadelphia” means “brotherly love,” and no doubt this was the meaning that commended the name to William Penn and to the Quaker founders of Pennsylvania.<sup>228</sup> Translated “brotherly love,” Philadelphia embodies the same ambiguity as “all men...,” and is ironized by the same failings in our universalistic conceptions and aspirations. But the Greek root *phil-* (as in the verb *phileō*, love; or in the noun *h’ philia*, friendship or affection), could be affixed as readily to *h’ adelph’*, “sister,” as to *ho adelphos*, “brother.” Sophocles has his chorus say that Ismene “loves her sister” Antigone – in Greek, *philadelphia*.<sup>229</sup> Yet even if sibling-love is properly generalized across the domain of brothers and sisters, it is not the same as benevolence, the love of all humankind simply as humankind: *h’ philanthrōpía*, or *h’*

<sup>226</sup> Sons of the Fathers, supra n. 39, at p. [? And other sources?]

<sup>227</sup> Sons of the Fathers, supra note 39, pp. 122-142 (“laws of nature and of nature’s god” seen both pragmatically and esoterically in terms of God as architect and builder); see also notes 256 and 306, infra.

<sup>228</sup> Jean R. Soderlund, ed. *William Penn and the Founding of Pennsylvania: A Documentary History* (1983), p. 89 n.4.

<sup>229</sup> Sophocles, Antigone, line 527. Hugh Lloyd-Jones, ed. and trans., *Sophocles: Antigone. The Women of Trachis. Philoctetes. Oedipus at Colonus* (1994), pp. 50-51 (Greek and English on facing pages). Lloyd-Jones translates *philadelphia* as “love for her sister.” Id., p. 51. Elizabeth Wyckoff, trans. *Antigone*, in David Grene and Richmond Lattimore, eds. *Sophocles I* (1954), p. 177, gives “loves her sister.”



*agap*‘ (the latter word, with its theological overtones, is more often used than the former in the New Testament). See note, *caritas*, to §9, TO THE BETTER ANGELS, below.

***you were unkindly.*** As C. S. Lewis showed in an exceptionally valuable work of philological scholarship, English “kind,” following in this respect its Old English ancestors, has much the same range of meaning and use as Latin *natura*.<sup>230</sup> Thus, to say of someone or something that it is “unkindly” is to say that it is not acting according to its kind; it is unnatural.<sup>231</sup> In the Latin semantics, things are natural according to their birth. “[N]atura shares a common base with *nasci* (to be born); with the noun *natus* (birth); with *natio* (not only a race or nation but the name of the birth goddess)...”<sup>232</sup> The semantics of the English word “kind” have followed suit, to the extent that “kind” or “kindly” have indicated gentle or noble birth.<sup>233</sup> Those who come from a good lineage, *genus*, are *generosus*, generous; they are “kind”. Those who share ancestry are “kind” or kindred.<sup>234</sup>

The Declaration refers to “human events,” and says “all men are created equal,” but it also expresses “a decent respect to the opinions of mankind.”<sup>235</sup> The British act “unkindly” in the widest sense when they do not adhere to “the laws of nature and of nature’s god” that govern those who share human birth, and are “deaf to the voice of justice,” “their native justice.”<sup>236</sup> They act “unkindly” in a narrower sense when they ignore “the ties of our common kindred,” and are “deaf to the voice... of consanguinity.”<sup>237</sup>

***greatness of soul.*** “Greatness of soul” is the literal meaning of “magnanimity,” to which the Declaration refers: “we have appealed to their native justice & magnanimity, and we have conjured them by the ties of our common kindred.”<sup>238</sup> Magnanimity expresses greatness of soul through acts of generosity or

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<sup>230</sup> Lewis, *Studies in Words*, supra n. 79, at p. 26.

<sup>231</sup> Id., pp. 28-30.

<sup>232</sup> Id., p. 25.

<sup>233</sup> Id., pp. 30-31.

<sup>234</sup> Id., pp. 26-27.

<sup>235</sup> “[A] decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.” Declaration App. C., p. 236, para. B1. Similarly, “[A]ll experience hath shewn that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.” Declaration App. C., p. 236, para B2. “[We] hold them, as we hold the rest of mankind, enemies in war, in peace friends.” Declaration App. C., p. 241, para. C2.

<sup>236</sup> Declaration App. C., p. 240, para. C2.

<sup>237</sup> Id.

<sup>238</sup> Id.

kindness, which perhaps exceed the call of justice (on the wider scale) and of shared national lineage (on the narrower scale). Thus, magnanimity suggests not only *philadelphia*, sibling-love (see note, *our love, our Philadelphia*, above) but *h' philanthrōpía*, love of humankind. The rigorous demands of that ampler love are exemplified by the one who was called (to his embarrassment) Mah-tma, "great-soul," *mahat-tman*.<sup>239</sup> In *WE TOGETHER WOVE OUR TRUTHS*, Gandhi teaches us the deeper meanings of our conceptions and commitments; "we hold these truths" becomes firmness-in-the-truth, *saty-graha*. See notes [complete, to *satyagraha*, soul-force, etc.]

***Aeneas' friend, Felix Brutus, / who on a wide shore established Britain.*** A popular if crude way of understanding European identities and cultures in relation to antiquity was to trace the founding of the nations and peoples to various ancient heroes, especially those who fled Troy at its fall. "When noble Romulus came to Rome forthwith, he built that city with grat pride, first of all, and named it from his own name, as it is now called; Ticius came to Tuscany and began settlements; Langobard in Lombardy set up homes; and far across the French Sea Felix Brutus joyfully established Britain on many a wide shore...."<sup>240</sup>

***there is room for doubt.*** Jefferson, in this respect characteristic of the debunking mentality of the philosophes, mocked the folk-etymologies and folk-histories that gave rise to mythic narratives such as those described in the previous note.<sup>241</sup> Moreover, anything but an admirer of the British, Jefferson resisted any correlation between Britain and ancient Greece, Rome, or Troy, seeing in the island nation rather "a nation of merchants... [a] modern Carthage!"<sup>242</sup>

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<sup>239</sup> Zimmer, p. 40 (etymology of *Mah-tma*); [... Gandhi was embarrassed by the label, find source.]

<sup>240</sup> *Sir Gawain and the Green Knight*, i, lines 1-10; see also the conclusion of *Sir Gawain*, iv [lines ]. *Beowulf and Sir Gawain and the Green Knight: Poems of Two Great Eras with Certain Contemporary Pieces*, trans. Gordon Hall Gerould (1929), pp. 133, 199. "Everyone 'knew' we were descended from the Trojans – as we all 'know' how Alfred burned the cakes and Nelson put the telescope to his blind eye." Lewis, *Discarded Image*, supra note 64, p. 181.

<sup>241</sup> [Find this passage!] Cf. the passage from Simon Pelloutier, *Histoire des Celtes*, that Jefferson excerpted in his *Legal Commonplace Book*, supra note 14, §707, p. 175. Jefferson likewise dismissed the "deduction of the origin of our Indians from the fugitive Trojans." Quoted in Gummere, p. 23. But in sending out Lewis and Clark to follow the Missouri into the mysterious West, Jefferson entertained the possibility that some of the remoter tribes of the Great Plains might be Old World nations. "Jefferson and Lewis had talked at length about these tribes, on the basis of near-complete ignorance. They speculated that the lost tribe of Israel could be out there on the Plains, but it was more likely, in their minds, that the Mandans were a wandering tribe of Welshmen." Stephen E. Ambrose, *Undaunted Courage: Meriwether Lewis, Thomas Jefferson, and the Opening of the American West* (1996), p. 154; see also id., p. 285.

<sup>242</sup> Quoted in "A Dialogue with Ancients," supra note 37, pp. 445-446.

**playing Brutus to our Caesar.** See note, *a tide in the affairs of men*, to §4, SACRED HONOR, above.

**stabbed last our agonizing affection.** In the committee's originally more extensive and sentimental paragraph blasting the British for failing to respond with brotherly affection, the British sins of omission and commission are described as having "given the last stab to agonizing affection."<sup>243</sup> This dramatic characterization suggests a reversal of roles assigned within the Caesar / Brutus code. Where the revolutionaries understood themselves to be Brutus against the tyrant Caesar George III, here it is the British who give "the last stab" to American friendship. In Shakespeare's play, Caesar dies when he recognizes Brutus, whom he thinks his friend, among the assailants: "*Et tu, Brutus!* Then fall Caesar."<sup>244</sup>

**in a word we / announce and denounce our separation.** "We must therefore acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends."<sup>245</sup> Here "denounce" is used to mean "pronounce" (the "necessity" does more than "announce" the separation; it actually enforces or performs it), but the word retains the contrary sense "repudiate, condemn".<sup>246</sup> It is as if our "agonizing affection," having received the "last stab," still is not done to death; it clings to friendship by "denouncing" separation. "We... hold" the British, we do not let them go.

**we cleave to you.** The Biblical "cleave" (Genesis 2:24, "Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh," cf. Matthew 19:5) shares the peculiar ambiguity of "denounce" (see previous note).

**enemies in war, in peace, friends.** The Declaration text is given in note, *in a word we / announce and denounce our separation*, above.

## 8. LONG TRAIN

**close by the train is waiting.** This line, and the language and understanding of the human situation expressed in the first stanza, belong to Primo Levi's account of Chaim Rumkowski, administrator of the Lodz ghetto, who ultimately died in the gas chambers. "Like Rumkowski, we too are so dazzled by power and prestige as to forget our essential fragility. Willingly or not we come to terms with power,

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<sup>243</sup> Declaration App. C., p. 240, para. C2.

<sup>244</sup> Julius Caesar, Act III, scene i, line 77.

<sup>245</sup> Declaration App. C., p. 241, para. C2.

<sup>246</sup> The first definition of "denounce" in the OED is "to proclaim, announce, declare;" the fifth and sixth definitions are "to inform against... accuse," and "to utter denunciations against". Compact OED, vol. 1, pp. 686-687.

forgetting that we are all in the ghetto, that the ghetto is walled in, that outside the ghetto reign the lords of death, and that close by the train is waiting.”<sup>247</sup>

***the long train of abuses.*** “[A]ll experience hath shown that mankind are more disposed to suffer, when evils are sufferable, than to right themselves by abolishing the forms to which they were accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, & to provide new guards for their future security.”<sup>248</sup> In the eighteenth century, of course, the “long train” could not have meant a railroad train. In *LONG TRAIN*, which is written in rhyme and with a pattern of repetition meant to recall (but not to imitate) the prosody of sung blues, I interpret the “long train of abuses” as the train that figures so prominently in American folk and rhythm & blues music.

***barons on their fingers wear the golden bands.*** The point of union between the two segments of the transcontinental railroad was called the “marriage point.” “The Last Spike,” of solid gold, and inscribed with the names of Leland Stanford and the other officers of the Central Pacific Railroad, ceremonially marked the joining of the segments. To this spike was affixed a golden nugget, which subsequently was melted and made into rings for Stanford, President Grant, and others. These rings bore the inscription “The Mountain Wedding, May 10, 1869.”<sup>249</sup>

***Eternals and Celestials.*** The Chinese laborers who built the Central Pacific Railroad often were called “Celestials” by non-Chinese Americans.<sup>250</sup> But, beginning in the 1850’s, white Californians who resented the Chinese immigrants increasingly called them “coolies”.<sup>251</sup> Central Pacific applied a discriminatory wage scale, paying Chinese laborers less than other comparable workers.<sup>252</sup> As the transcontinental railroad neared completion, widespread public hatred of the “Celestials” matched in intensity (and sometimes in ideological idiom) the racism already directed against the enslaved (now newly emancipated) Africans.<sup>253</sup> The “Celestials” were given a

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<sup>247</sup> Primo Levi, *The Drowned and the Saved*, trans. Raymond Rosenthal (1988), p. 69.

<sup>248</sup> Declaration App. C., p. 236, para. C2.

<sup>249</sup> David Howard Bain, *Empire Express: Building the First Transcontinental Railroad* (1999), pp. 652, 651.

<sup>250</sup> Id., p. 222. On the role of Chinese workers in building the Central Pacific, see Terry E. Boswell, “A Split Labor Market Analysis of Discrimination Against Chinese Immigrants, 1850-1882,” 51 *American Sociological Review* 352 (1986), p. 361.

<sup>251</sup> Boswell, “A Split Labor Market Analysis,” p. 358.

<sup>252</sup> Bain, *Empire Express*, p. 208; Boswell, “A Split Labor Market Analysis,” pp. 355-363.

<sup>253</sup> See generally John Hayakawa Torok, “Reconstruction and Racial Nativism: Chinese Immigrants and the Debates on the Thirteenth, Fourteenth, and Fifteenth Amendments and Civil Rights Laws,” 3 *Asian Law Journal* 55 (1996).

mocking name that suggested they were citizens of heaven, when they were less-than-equal citizens here below.<sup>254</sup> In this they mirror Blake's mythic "Eternals," inchoate and demiurgic beings who for all their cosmic divinity are of less stature than fully realized human persons.<sup>255</sup>

**a new order of the ages.** On the Great Seal of the United States is the inscription, *novus ordo seclorum*, which, like *deus nobis haec otia fecit* (see annotation to §9, TO THE BETTER ANGELS) was borrowed from Virgil's Eclogues.<sup>256</sup>

**behold the Maker and the Man.** John 19:5, "Then came Jesus forth, wearing the crown of thorns, and the purple robe. And Pilate saith unto them, Behold the man!" (Vulgate, *ecce homo*.)

**this separate and equal station.** The opening sentence of the Declaration states that "the laws of nature and of nature's god" entitle the American people to a "separate and equal station" "among the powers of the earth."<sup>257</sup> LONG TRAIN reads "separate and equal station" ironically in the light of *Plessy v. Ferguson*, which upheld Louisiana's Jim Crow regulations requiring railroads to "provide equal but separate accommodations for the white and colored races."<sup>258</sup> As "the long train of abuses" is a railroad train, so here the "separate and equal station" is a railroad station segregated by race. The "man," *ecce homo* (see previous note), is Jesus; the "maker" is Christ the *logos* (see note [ ], above); and Jesus Christ is made to sit in the "colored car". His ticket is "stamped" for humiliation and abuse, recalling Lincoln's interpretation of the *imago dei* doctrine and of the worldview of the authors of the Declaration: "In their enlightened belief, nothing stamped with the divine image and

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<sup>254</sup> The subordinated "celestials" no longer bear the "Goddess Liberty" down from heaven; see Paine, "Liberty Tree," *supra* note 91.

<sup>255</sup> Blake, "The First Book of Urizen," (1794), in Geoffrey Keynes, ed. *Blake: Complete Writings* (1966), pp. 222-237.

<sup>256</sup> The text of the blazon of the reverse of the Great Seal, proposing the design adopted by Congress, reads: "A Pyramid unfinished. In the Zenith an Eye in a triangle surrounded with a glory proper. Over the Eye these words "*Annuit Coeptis*". On the base of the pyramid the numerical letters MDCCLXXVI & underneath the following motto: "*novus ordo seclorum*". Richard S. Patterson and Richardson Dougall, *The Eagle and the Shield: A History of the Great Seal of the United States* (1976) [hereinafter *History of the Great Seal*], p. 84. Charles Thomson, author of the proposal, supplied the following "remarks and explanation": "Reverse... The date underneath is that of the Declaration of Independence and the words under it signify the beginning of the New American Era, which commences from that date." *Id.*, p. 85. *Novus ordo seclorum* (which in recent State Department publications is translated "a new order of the ages," *Id.* p. 90) probably alludes to Virgil's Fourth Eclogue, line 5: *Magnus ab integro seclorum nascitur ordo*. (*Annuit Coeptis* also derives from Virgil: *Aeneid*, ix.625, *Juppiter omnipotens, audacibus annue coeptis*.) *Id.*, pp. 89-90.

<sup>257</sup> Declaration App. C., p. 236, para. C1.

<sup>258</sup> *Plessy v. Ferguson*, 163 U.S. 537, 540 (1896).

likeness was sent into the world to be trodden on, and degraded, and imbruted by his fellows.”<sup>259</sup>

**Manzanar.** Manzanar was one of the internment camps to which Japanese-Americans were taken during World War II by order of the federal government.<sup>260</sup>

**become a cortege.** The special funeral train carrying the body of Abraham Lincoln left Washington D.C. on April 21, 1865, and arrived in Springfield, Illinois, on May 3.<sup>261</sup>

**manunkind.** I take this designation from e. e. cummings’ poem, “Pity this busy monster, manunkind / not.”<sup>262</sup>

## 9. TO THE BETTER ANGELS

**to the better angels.** Having made the arguments and employed the images referenced in prior notes,<sup>263</sup> Lincoln ends his First Inaugural Address:

I am loth to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection. The mystic chords of memory, stretching from every battle-field, and patriot grave, to every living heart and hearthstone, all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.<sup>264</sup>

Lincoln’s characterization, “not enemies, but friends,” and the reference to the “bonds of affection,” echo the Declaration of Independence.<sup>265</sup> In addressing this section “to the better angels,” I am echoing the salutation of the seven messages to the angels of the seven churches; see note [ ], above.

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<sup>259</sup> Lincoln, Speech at Lewistown (August 21, 1858), in *Collected Works*, vol. 2, p. 546.

<sup>260</sup> For an internee’s account of the railroad journey to the internment camp at which she and her family were confined, see “Mary Tsukamoto,” in John Tateishi, *And Justice for All: An Oral History of the Japanese American Detention Camps* [date], pp. 3-15, at p. 12.

<sup>261</sup> For an account with photographs, see Lonnie Bunch III et. al., *The American Presidency: A Glorious Burden* (2000), pp. 130-131.

<sup>262</sup> In Stephen Whicher and Lars Ahnebrink, eds. *Twelve American Poets* (1961), pp. 165-166.

<sup>263</sup> See text at notes 87 and 176, above.

<sup>264</sup> “First Inaugural Address,” *supra* note 87, at p. 271.

<sup>265</sup> “Bonds of affection” recalls the Declaration’s “tyes of our common kindred” and “last stab to agonizing affection” (Declaration App. C, para. C2, p. 240; latter passage struck by Congress); “not enemies, but friends” recalls the Declaration’s “enemies in war, in peace, friends” (Declaration App. C., para. C2, p. 241).

**we floated over in the Ark.** The Ark brought settlers to Maryland.<sup>266</sup>

**the Dove brought us supplies.** The Dove supplied Maryland settlers.<sup>267</sup>  
From the Ark, Noah sent the dove to see if the waters had receded. Genesis 8:8-12.<sup>268</sup>

**God gave to whom what peace?** This line, and also “What god gave whom what peace?,” pose questions about the motto, *Deus nobis haec otia fecit*, that George Mason derived from Virgil’s *Eclogues* and proposed to accompany a depiction of Ceres (holding a cornucopia and an ear of wheat) on his suggested Great Seal for the Commonwealth of Virginia. The Afterword discusses this seal design, together with others suggested for the infant United States.<sup>269</sup> TO THE BETTER ANGELS explores the adequacy of “created equal,” the corn goddess with her symbolism of earth’s fruit, and the Virgilian motto, in relation to one another. Mason’s pictorial design does not reveal that Virginia’s abundant harvests result from the coerced and expropriated labor of the enslaved.

**who wage cruel war against / human nature.** The draft submitted to Congress by the committee capped its nineteen indictments of George III with an indictment of the slave trade. The charge begins: “He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people, who never offended him, captivating and carrying them into slavery in another hemisphere, or incur miserable death in their transportation thither. This piratical warfare, the opprobrium of *infidel* powers, is the warfare of the *Christian* king of Great Britain.”<sup>270</sup> Congress deleted the entire paragraph (which includes, in addition to the quoted portion, an attack on the king for exciting the enslaved to rise up in rebellion against their masters).

**Arethusa was a nymph.** The story of how the nymph Arethusa fled from Alpheus, and was changed into a fountain by Artemis, is told by Ovid, as is the episode in which Arethusa told Demeter of Persephone’s fate.<sup>271</sup>

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<sup>266</sup> [check and cite]

<sup>267</sup> [check and cite]

<sup>268</sup> The Gospels describe the Holy Spirit descending as a dove upon Jesus. Matthew 3:16, Mark 1:10, Luke 3:22, John 1:32.

<sup>269</sup> See text at note 337, *infra* (George Mason’s design for the Great Seal of the Commonwealth of Virginia), and text at notes 300-307, *infra* (designs proposed for the Great Seal of the United States).

<sup>270</sup> Declaration App. C, p. 239, para. 119x.

<sup>271</sup> *Metamorphoses*, v.572-641, 487-508. Ovid tells Arethusa’s role in the story of Demeter and Persephone rather differently in *Fasti*, iv.423-ff, which relates that the reason why Persephone was not superintended when captured by Hades was that Demeter and other goddesses were attending a banquet to which Arethusa had invited them.

**the brig *Arethusa*, / that made the middle passage.** In 1821, the brig “*Arathusa*” brought captive Africans (including one “Sally”) to a nation that had banned the slave trade in 1808.<sup>272</sup>

**native justice... common kindred.** See note [ ], above.

**the face of what divinity is stamped / in us?** See note [ ], above.

**the spring of *devah*... *deus*... *theos*.** The hypothesis of a common Indo-European root to Sanskrit, Latin, and Greek, fits some features of the religious language of India and the West.<sup>273</sup>

**warlike horsemen.** “The vocabulary of Indo-European enshrines a spiritual world in which value structures, social divisions, and also religious ideas may be discerned. Evident is the patriarchal organization, the central position of the father within the extended family; agriculture is known, but pasturage, cattle and horses are much more important. This leads one to imagine warlike nomads or semi-nomads living on the periphery of the unfolding high civilizations in which they could then assert themselves as masters.”<sup>274</sup>

***Deus nobis haec otia fecit.*** George Mason included this motto, accompanying (with other figures) an image of Ceres, in his proposed Great Seal for the Commonwealth of Virginia (see note, *God gave to whom what peace?*, above, and the Afterword.<sup>275</sup> The motto, from Virgil’s first Eclogue, means “a god gave us this peace.”<sup>276</sup> “Peace,” in the pastoral context of the Eclogues and of the Seal’s image of harvest abundance, means the ease assured by the earth’s plentiful yield.<sup>277</sup> The line is spoken by a shepherd, Tityrus, who is at ease because the emperor Octavian, in Rome, has granted him “Freedom (*libertas*), who, though late, yet cast her eyes upon me in my sloth, when my beard began to whiten as it fell beneath my scissors.”<sup>278</sup>

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<sup>272</sup> For a listing of the *Arathusa* and of many other ships that made the middle passage, see <http://www.afrigenas.com/slavedata/Roll.2.1821.html>.

<sup>273</sup> Greek Religion, *supra* note 145, p. 17: “A word for the light heavenly gods is formed from the same root, Old Indic *devah*, Latin *deus*; in Greek, however, this word is displaced by the word *theos*.”

<sup>274</sup> Id.

<sup>275</sup> See text at note 337, *infra*.

<sup>276</sup> Virgil, Eclogues, I, 6. For Latin text and English translations of the Eclogues, see H. Rushton Fairclough, trans. (G. P. Goold, rev.) *Virgil: Eclogues, Georgics, Aeneid I-IV* (1999), vol. 1, pp. 24-25 (“it is a god who gave us this peace”); Wendell Clausen, *A Commentary on Virgil, Eclogues* (1994), pp. 3, 30 (“a god made this peace for me”); David Ferry, trans., *The Eclogues of Virgil* (1999), pp. 2-3 (“a god gave me this peace”). In the text, subsequent quotations from the Eclogues are from the Fairclough/Goold translation.

<sup>277</sup> “*Otia* is a poetic plural, no doubt recalling... pastoral ease.” Clausen, *id.*, p. 39.

<sup>278</sup> Virgil, Eclogue I.27-28, pp. 26-27.



To read the Virginia Seal's maxim with what Frederick Douglass called "scorching irony"<sup>279</sup> is to appreciate that while Virgil's Tityrus expresses the sweet pastoral rest of one who has been released belatedly from slavery, Mason's Virginia was a land in which the harvest of plenty (imaged in the cornucopia) was produced by the labor of the enslaved. Tityrus is asked by his friend, Meliboeus, "who is this god of yours?"<sup>280</sup> Though Tityrus answers indirectly, it becomes apparent that the "god" who has given him the "peace" or "rest" of freedom is the emperor.<sup>281</sup>

John Ashcroft's picture of the American revolutionaries as evangelical Christians resisting the pretensions of Caesar and insisting "we have no king but Jesus"<sup>282</sup> is clouded by Mason's Virgilian echo of a freed slave giving pagan thanks to a deified emperor. But the neo-pagan "republican" self-understanding of the revolutionaries also is embarrassed by this very un-republican imaging of freedom as an imperial boon.

TO THE BETTER ANGELS goes on to stress the circumstances of exile and alienage that always haunt the human situation and call into question every claim to ultimate security. This theme too is powerfully adumbrated in Virgil's first Eclogue. Though Octavian is to Tityrus a "god," the immediate setting of the poem is the exile of many people from their lands, which have been confiscated by the emperor and given as a reward to his troops.<sup>283</sup> So the Eclogues begin with Meliboeus asking Tityrus how he can lie at pastoral ease while "we are leaving our country's bounds and sweet fields. We are outcasts from our country...."<sup>284</sup> Tityrus answers "a god gave me [or 'us'] this peace" – but the "god" who gave Tityrus his freedom brought exile to Meliboeus. ("What god gave whom what peace?")

I do not claim that Mason made any conscious association between, on the one hand, the image of Ceres and the Virgilian motto "*deus nobis haec otia fecit*," and, on the other hand, the substance and justification of natural rights. Though Jefferson, in writing the principal draft of the Declaration, was aware of Mason's draft of the Virginia Bill of Rights, I do not claim that Jefferson made such

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<sup>279</sup> "What to the slave is the Fourth of July?" p. 369.

<sup>280</sup> Virgil Eclogue I.18.

<sup>281</sup> Id., I.40-45. For identification of the "god" with Octavian, see Clausen, pp. 31-32; Ferry, p. 92. By contrast with the Virginia Seal's allusion to the First Eclogue, the Great Seal of the United States' borrowing from the Fourth Eclogue (see note 256, *supra*) is relatively easy to harmonize between pagan and Christian meanings, since the Fourth Eclogue has traditionally been viewed in Christian culture as a prophesy of the birth of Christ.

<sup>282</sup> See note 27, *supra*.

<sup>283</sup> Clausen, p. 30 n.4.

<sup>284</sup> Virgil, Eclogue I.3-4.

associations either; it should be noted, however, that he was a close reader of Virgil and a collector of Virgil's poetry.<sup>285</sup>

***gave us not ease / to eat bread by the sweat of the oppressed.*** In the conflict between the northern and southern parties to the Civil War, "Both read the same Bible, and pray to the same God; and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in writing their bread from the sweat of other men's faces; but let us judge not that we be not judged."<sup>286</sup> Here Lincoln gives greater theological depth to his critique of slavery. Where he had once stressed that slavery violates the dignity of human persons made in God's image (see note [ ]), now, impressed by the massive and almost inexplicable suffering involved in the war, Lincoln argues that slavery violates the terms on which God rested the changed circumstances of fallen humankind: "In the sweat of thy face shalt thou eat bread, till thou return unto the ground; for out of it wast thou taken: for dust thou art, and unto dust shalt thou return." Genesis 3:19. But Lincoln frames this lapsarian argument within a plea for forbearance and a warning: "Judge not, that ye be not judged." Matthew 7:1.

***nurses of new peace.*** Our word "nurse" means both tending to the ill and breast-feeding infants. The former meaning attaches in obvious ways to the duties of the "peace" which supervenes after intervals of war (see following note, *binding up the nation's wounds*). But both meanings also belong to the ancient effort to understand as "peace" a permanent feature, an aspiration and a discipline, of the human situation. So Gandhi, seeking in personal reform and moral resolve "zones of peace" that might incline the world toward justice and against violence, rallied his people to serve as nurses during wartime, and devoted himself to nursing (often with homeopathic remedies) his own family members through their illnesses.<sup>287</sup> Ceres is depicted both as nurse and as the guardian and nursing of peace.<sup>288</sup>

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<sup>285</sup> Jefferson owned many editions of the Eclogues; Jefferson Library Catalogue §§18-21, vol. 4, pp. 419-421. He copied several passages from Virgil into his literary commonplace book (see Literary Commonplace Book, supra n. 37, at §84, p. 63; §§165-166, pp. 81-82), including two lines from the third Eclogue (§§163-164, p. 81).

<sup>286</sup> "Second Inaugural Address," supra note 133, at p. 333.

<sup>287</sup> Gandhi, Autobiography, p. xvii (forward by Sissela Bok); pp. 28-31, 175, 202-203, 246-248, 269-271, 306-307, 324-325 (Gandhi's love of nursing; his care of his children and other members of his family during their illnesses); pp. 214-216, 313-314, 346-348 (his efforts to organize ambulance corps during wartime).

<sup>288</sup> Searching for her lost daughter, Ceres comes to Eleusis, where, invited into the cottage of a poor family, she nurses to health their sickly infant son, and almost gives him immortality but for the anxious intervention of his mother. Ovid, Fasti, iv.507-560; Homeric Hymn to Demeter (Athanasakis trans.), 141-264, pp. 5-9 ("I shall be a good nurse to a new-born child, holding him in my arms...", lines 141-142. Ovid concludes, elsewhere in the Fasti, "Peace is the nurse of Ceres, and Ceres is the foster-child of peace" (*pax Cererem nutrit, pacis alumna Ceres*); i,704 (James George Frazer, trans., p. 53).

***binding up the nation's wounds, caring / for the widow and the orphan.*** “With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and for his orphan – to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.”<sup>289</sup> Care for the widow and orphan, and of the stranger (see following note), is a Biblical imperative: e.g., Deuteronomy 24:19: “When thou cuttest down thine harvest in thy field, and hast forgot a sheaf in the field, thou shalt not go again to fetch it: it shall be for the stranger, for the fatherless, and for the widow: that the LORD thy God may bless thee in all the work of thine hands.”

***we have been strangers.*** Leviticus 19:34: “But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the LORD your God.”

***we have known malice / toward everyone.*** See text of the closing sentence of Lincoln's Second Inaugural Address, at note *binding up the nation's wounds*, above.

***our common blood.*** See note [ ], above.

***caritas.*** Though “the ties of our common kindred”<sup>290</sup> support, or should support, the friendship whose highest form is “philadelphia” or sibling-love, nature endows “all men” with a moral standing that is not dependent upon kinship. Viewed forensically, this more universal status is a standing to enter just claims (or to forgo entering these claims) and to participate as a maker and sharer in the common good of the community. But as the disposition to give kindred what is due them is animated by affection (“philadelphia”), so the disposition toward more universal justice may be forwarded by *philanthrōpía*, loving regard for humankind as such. (See note, *our love, our Philadelphia*, to [ ], above.) Though the term “neighbor” would seem to denote a person in a specially proximate more relation, the Bible uses that word, in the maxim “thou shalt love thy neighbour as thyself,” to designate the fitting object of morally adequate human love of humankind.<sup>291</sup> Both in the Septuagint and in the Greek New Testament, the verb translated “thou shalt love” is *agapáseis*. The verb *agapēō*, and the corresponding noun *agapē*, often are taken to designate a loving regard not motivated by special features (such as kinship or

<sup>289</sup> “Second Inaugural Address,” supra note 133, at p. 333.

<sup>290</sup> Declaration App. C., p. 240, para. C2; see text at notes 223-225, 237-238, supra.

<sup>291</sup> In Leviticus 19:18, the maxim's domain may be limited to “the children of thy people,” but “thy people” too may be used in an expansive and metaphorical way, as Leviticus 19:34 clarifies: “But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt....” The domain of “thy neighbour” in Matthew 22:39 is unrestricted.

physical beauty) of the love-object.<sup>292</sup> The Vulgate often employs the Latin verb *diligo* (sometimes *amo*), words easily at home in mundane loves, to translate *agape*. Similarly, *dilectio* and *amor* sometimes translate the noun *agapē*, but in the New Testament it is commonly rendered as *caritas*. So Corinthians 13:13: “And now abideth faith, hope, charity (*agapē*, *caritas*), these three; but the greatest of these is charity (*agapē*, *caritas*).” “Charity” clearly has taken on a more specific and perhaps more limited meaning (noncompulsory donations to the needy) – as has “philanthropy,” from *philanthropia* – but in its Biblical form *caritas* means self-giving love of humankind as correlate and witness to the love of God. Lincoln relies upon these theological associations when he urges the nation to act “with malice toward none, with charity for all” (see note, *with firmness in the right*, to [ ], above).

**Araminta.** See note [ ], above.

**the better angel of our covenant.** See *to the better angels*, above.

**marvelous militancy of the soul.** “Again and again, we must rise to the majestic heights of meeting physical force with soul force. The marvelous new militancy which has engulfed the Negro community must not lead us to a distrust of all white people....” Martin Luther King, “I Have a Dream”.<sup>293</sup>

**Mahalia.** Mahalia Jackson, at Martin Luther King’s request, sang the spiritual “I Been ‘Buked and I Been Scorned” to the throng gathered in Washington in 1963.<sup>294</sup> “I had scarcely sat down and caught my breath when Martin Luther King was on his feet delivering a speech that was to make him famous.”<sup>295</sup>

**hall’l.** Hebrew: song of praise, psalm (cf. “hallelujah”); more specifically, Psalms 113-118, which are read at the major festivals.<sup>296</sup> Mahalia Jackson said that “In the old Hebrew of the Bible my name, Mahalia, means ‘Blessed by the Lord,’ and truly, it seemed to me, I had been blessed.”<sup>297</sup> “Mahalia” might derive from hall’l.<sup>298</sup>

<sup>292</sup> [Cite to Outka, Nygren, or the Anchor annotation to Matthew].

<sup>293</sup> “I Have a Dream,” supra note 6, at 83.

<sup>294</sup> Mahalia Jackson, with Evan McLeod Wylie, *Movin’ On Up* (1966), pp. 197-198. Jules Schwerin, *Got to Tell It: Mahalia Jackson, Queen of Gospel* (1992), pp. 144-145. The crowd wanted to hear more, so she sang “How I Got Over.” Id. She sang “Precious Lord, Take My Hand” at King’s funeral. *Movin’ On Up*, p. 215.

<sup>295</sup> *Movin’ On Up*, p. 199.

<sup>296</sup> R. Alcalay, *The Complete Hebrew-English Dictionary* (1996), vol. 1, p. 534.

<sup>297</sup> *Movin’ On Up*, p. 170.

<sup>298</sup> Leaving behind the sphere of possible derivations of her name, is it wrong to hear in “maha-” an echo of greatness: of the “mahat-” in “Mahatma” (see text at note 239, above), or the “mahar-” in the acronymic names of the sages (*moreinu* = our teacher, *harav* = the rabbi)?

***God made air and earth, / evening, and the new day.*** In the creation narratives of the book of Genesis, God created the earth, 1:1; the firmament, 1:6, “and the evening and the morning were the second day,” 1:8; living things, 1:12, 1:20-25, 2:19; humankind, 1:26-27 (first narrative), 2:6-7 (second narrative); 2:18, 21-23 (third narrative).

***all holy living things.*** William Blake: “Arise, you little glancing wings & sing your infant joy! / Arise & drink your bliss! / For every thing that lives is holy; for the source of life / Descends to be a weeping babe; / For the Earthworm renews the moisture of the sandy plain.”<sup>299</sup>

## AFTERWORD

### 1.

On July 4, 1776 – the same day it adopted the Declaration of Independence – the Second Continental Congress asked John Adams, Benjamin Franklin, and Thomas Jefferson (three members of the committee that had drafted the Declaration) to design a Great Seal for the United States.<sup>300</sup> The committee agreed readily on a Biblical motif for the Seal’s obverse side: “Pharaoh sitting in an open Chariot a Crown on his head and a Sword in his hand passing through the divided Waters of the Red Sea in pursuit of the Israelites: Rays from a Pillar of Fire in the Cloud, expressive of the divine Presence and Comman[d] beaming on Moses who stands on the Shore and extending his hand over the Sea causes it to overwhe[lm] Pharaoh.”<sup>301</sup>

<sup>299</sup> Blake, “Vala or the Four Zoas,” Night the second, lines 364-368, in Keynes, ed. *Complete Writings*, p. 289.

<sup>300</sup> For a recent account of the drafting, editing, and adoption of the Declaration, see *American Scripture*, supra note 2. On adoption, see *Id.*, p. 150. The other two members of the Declaration’s drafting committee were Roger Sherman and Robert B. Livingston. John Adams, relating the Seal to the Declaration and both to the revolutionary faith, wrote on July 9, 1776, to Samuel Chase, “As soon as an American Seal is prepared, I conjecture the Declaration will be subscribed by all the members, which will give you the opportunity you wish for of transmitting your name among the votaries of independence.” Quoted in *Inventing America*, supra note 5, at 342. The Great Seal committee and the various designs suggested by its members are described in *History of the Great Seal*, supra note 256, at pp. 6-31.

<sup>301</sup> “Report of the Committee,” in Julian Boyd, ed. *The Papers of Thomas Jefferson*, vol. 1, 1760-1776 [hereinafter *Papers*, vol. 1] (1950), p. 496; *History of the Great Seal*, supra note 256, at p. 26, cf. p. 16 (Jefferson’s reworking of Franklin’s suggestion). The designs for the Great Seal are also discussed in Fliegelman, *Declaring Independence*, supra note 43, at pp. 162-163; *Colonial Mind*, supra note 163, pp. 14-15. Cf. Exodus 13: 21-22, “And the LORD went before them by day in a pillar of a cloud, to lead them the way; and by night in a pillar

But the design of the recto was more perplexing – perhaps to Adams, Franklin, and Jefferson, certainly to us. Adams suggested “the choice of Hercules,” a motif familiar from Renaissance art,<sup>302</sup> which would depict “The hero resting on his club. Virtue pointing to her rugged mountain on one hand, and persuading him to ascend. Sloth, glancing at her flowery paths of pleasure, wantonly reclining on the ground, displaying the charms of both her eloquence and person, to reduce him into vice.”<sup>303</sup> Jefferson also drew on the conventional treasury of classical themes, borrowing a story from Aesop to suggest that “A proper device (instead of arms) for the American states would be the Father presenting the bundle of rods to his sons.”<sup>304</sup> But ultimately the committee did agree on “arms” for the recto, described

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of fire, to give them light; to go by day and night: He took not away the pillar of the cloud by day, nor the pillar of fire by night, from before the people.” These verses in Exodus make it clear that God (named here with the Tetragrammaton, which the KJV translates “the LORD”) guided the people both in the pillar of fire and in the pillar of cloud, and not simply in the form of “Rays from a Pillar of Fire in the Cloud.” Pharaoh in his chariot pursues the Israelites: Exodus 14:6-8. Moses, following God’s instruction, stretches out his hand over the sea, and God overthrows the Egyptians: Exodus 26-28.

<sup>302</sup> See Pagan Mysteries, *supra* note 73, p. 168ff. Adams proposed his design “as engraved by Gribelin, in some editions of Lord Shaftesbury’s works,” Papers, vol. 1, p. 497. (Jefferson, too, was a reader of Shaftesbury. Jefferson, “Notes on Locke and Shaftesbury,” Papers, vol. 1, pp. 544-550; Lee Quinby, “Thomas Jefferson: The Virtue of Aesthetics and the Aesthetics of Virtue,” 87 *The American Historical Review* 333 (1982), pp. 340, 355-356.) The Labors of Hercules, including the hero’s choice between pleasure and virtue, often were seen in the Renaissance as a Christian allegory; see note 309, *infra*.

<sup>303</sup> Papers, vol. 1, p. 497; cf. History of the Great Seal, *supra* note 256, at p. 15. A slightly different text, from another source, is given in Colonial Mind, *supra* note 163, p. 15; see also Fliegelman, *Declaring Independence*, *supra* note 43, at p. 32. For the text of Xenophon from which Adams learned of “the choice of Hercules,” and for discussion of Adams’ special affection for the story, see Mayer Reinhold, ed. *The Classick Pages: Classical Reading of Eighteenth-Century Americans* [hereinafter *Classick Pages*] (1975), pp. 65-68; see also Mayer Reinhold, *Classica Americana: The Greek and Roman Heritage in the United States* (1984), pp. 153-154. Benjamin West, the expatriate American painter, painted his “The Choice of Hercules” in 1764. Mayer Reinhold, “The Classics and the Quest for Virute in Eighteenth Century America,” in Susan Ford Wiltshire, ed. *The Usefulness of Classical Learning in the Eighteenth Century* (1977), p. 6, at p. 24 n. 98. Franklin, likewise taken with Hercules, suggested the following for a medal to commemorate entente with France: “a representation of the infant Hercules in the cradle, strangling two serpents (Burgoyne and Cornwallis!), with Minerva sitting by as his nurse, equipped with spear and helmet,” Colonial Mind, *supra* note 163, p. 129. Later, the scene of Hercules strangling the two serpents was sculpted by Horatio Greenough on one of the relief panels on the throne of his seated “George Washington,” an imposing statue commissioned by Congress in 1832. Martin Snyder, “The Icon of Antiquity,” in Wiltshire, *id.*, p. 27, at pp. 34-35.

<sup>304</sup> Papers, vol. 1, p. 495; History of the Great Seal, *supra* note 256, at p. 29. Jefferson’s source is “The Father and His Sons,” in Aesop’s Fables. (A father shows his quarreling sons that if they stand together, they are like a bundle of sticks, too strong to be broken.) Franklin also drew frequently upon Aesop in his almanacs; Colonial Mind, *supra* note 163, p. 6. For the Aesopic sources available to the American revolutionaries, see “Classick Pages,” *supra* note 303, at pp. 31-33.

thus: “the Goddess of Liberty in a corselet of Armour” and “the Goddess Justice bearing a Sword in her right hand, and in her left a Balance,” both goddesses supporting a shield that bore emblems of six European countries and escutcheons of the thirteen states, along with a Crest, “The Eye of Providence in a radiant Triangle whose Glory extends over the Shield and beyond the Figures,” and a Motto, “*e pluribus unum*”.<sup>305</sup>

Congress tabled the committee’s report, ultimately selecting for the Great Seal a different design (which preserved, however, the Motto and the Crest,<sup>306</sup> as popular images of blind justice preserve the committee’s suggested depiction of the Goddess of Justice).<sup>307</sup> Though Congress did not adopt Adams’, Franklin’s, and Jefferson’s design for the Seal, and accepted (with some editorial changes) their draft Declaration of Independence, the imagery of the Seal defines a horizon for interpreting the Declaration’s famous language about fundamental rights and their basis in nature and creation. An easy, almost cozy juxtaposition of the pagan and the Biblical, characterizes both the visual symbol, the Seal, which the Congress rejected, and the textual symbol, the Declaration, that it adopted.

More precisely, the public reception of the Declaration as a textual symbol of our civic commitments – during the Revolution, but more prominently in antebellum debates over slavery and women’s rights, and on into the twentieth-century civil rights movements – relied on pagan mythologies and Biblical cosmologies and narratives which are “present” in the Declaration’s text in vague or germinal ways. The juxtaposition and cross-referencing of pagan and Biblical themes, whether in pictorial designs, stories, philosophical argument, or the semantic load of the lexicon itself, could go largely unremarked-upon because it was, against the background of

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<sup>305</sup> “Report of the Committee,” in Julian Boyd, ed. The Papers of Thomas Jefferson, vol. 1, 1760-1776 (1950), p. 496.

<sup>306</sup> On final adoption of the Great Seal, see note 256, *supra*. Thomson’s “remarks and explanation” give the following account: “The pyramid signifies Strength and Duration: The Eye over it & the Motto allude to the many signal interpositions of providence in favour of the American cause.” *Id.*, p. 85. The image of the eye in the triangle was a familiar figure in Freemasonry; W. Kirk MacNulty, Freemasonry: A Journey through Ritual and Symbol (1991), p. 88. Freemasonry, which was very popular among the Revolutionaries, illustrates one route that the easy co-existence of pagan and Biblical themes could take in late eighteenth century American society. Albanese, pp. 129-136. But the supervising eye of Providence, the pyramid (and other Egyptian designs popular in the colonial eighteenth century), the eagle and shield on the Arms, were common motifs that did not necessarily have a uniquely Masonic source. History of the Great Shield, *supra* note 256, pp. 529-532.

<sup>307</sup> *Id.*, p. 497. The familiar image of Justice as a robed woman, holding sword in right hand and scales in left, is discussed and illustrated in Judith Resnik and Denny Curtis, “Images of Justice,” 96 Yale L.J. 1727 (1987), 1731-1732. This iconography is ancient, *id.*, at 1741 n.32-33, and by no means originated with the committee’s Great Seal proposal.

the Renaissance, quite unremarkable.<sup>308</sup> Pagan and Biblical themes could be presented in contiguity with one another (as on the two sides of the Seal designs),<sup>309</sup> or the gods of Greece and Rome could be depicted in Biblical or Christian costume,<sup>310</sup> or the leading characters of Biblical narrative could be shown with the conventional iconography of the pagan deities.<sup>311</sup> There was no limit to the imaginative reappropriation of pagan narratives to express Christian pieties. Jean Seznec has observed that “the fable of Perseus decapitating the Gorgon and rising into the air with the help of his winged sandals” could be read allegorically, “as a symbol of Christ triumphant over the Prince of this World and rising toward His Father.”<sup>312</sup> He reminds us that “Humanism is a stream into which flow all the waters of the past, mingling the most diverse forms and ideas, fusing Christian allegory with the ancient symbols of the barbarian religions.”<sup>313</sup> The humanism of our American civic tradition, which affirms that “all men are created equal” and which also appeals to “the laws of nature and of nature’s god,” is well-described in these terms.

Of course, associations commonplace within the Catholic and Renaissance culture of Europe were by no means automatically drawn within the largely Protestant and Enlightenment context of late eighteenth-century America. Or, as Peter Gay concluded in his study of the *philosophes*, the Christian and the pagan pasts could be played off against one another, the better to promote intellectual freedom.<sup>314</sup> The portion of classical antiquity that many Enlightenment intellectuals most prized was the achievement of the historians and the Stoic and Epicurean philosophers who had “wrested thought from myth”.<sup>315</sup> But in the face of hard intellectual questions – what are the fundamental rights and duties, and what are

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<sup>308</sup> On the Renaissance inheritance of classically-trained American revolutionaries such as Jefferson, see Louis B. Wright, “Thomas Jefferson and the Classics,” 87 Proceedings of the American Philosophical Society (1943) p. 223.

<sup>309</sup> In the façade of the 15<sup>th</sup> century Colleoni Chapel at Bergamo, for example, the bas-reliefs alternately depict Biblical themes – the creation of Adam and Eve, their sin and loss of Eden, Abraham’s preparation to sacrifice his son, Isaac – and pagan mythological motifs – the labors of Hercules, including his combats with Antaeus, the Cretan bull, the Nemean lion, and the Lernaean Hydra. Jean Seznec, The Survival of the Pagan Gods: the Mythological Tradition and Its Place in Renaissance Humanism and Art (1953) [hereinafter Pagan Gods], p. 30.

<sup>310</sup> In Renaissance iconography, Jupiter might wear a monk’s tonsure, Mercury a bishop’s miter. *Id.*, p. 212.

<sup>311</sup> The Virgin “might easily be taken for a priestess of Vesta;” Christ could be depicted as Orpheus, or Eve as Venus. *Id.*, pp. 212-213.

<sup>312</sup> *Id.*, p. 223.

<sup>313</sup> *Id.*, p. 121.

<sup>314</sup> The Enlightenment, *supra* note 72, at p. xi.

<sup>315</sup> *Id.*, p. 119.



their basis, and why do they justify revolution? – myth might serve not only as mind’s matrix but also as its indispensable stimulus, releasing “a counterplay of imagination and thought by which each becomes an irritant to the other, and both may grow through the irksome contact.”<sup>316</sup>

The commingling of pagan and Biblical themes in the eighteenth-century Enlightenment culture of American Revolutionary intellectualism was indebted, then, to an older humanist tradition, even as it self-consciously looked beyond tradition and served the aspiration to a new freedom in relation to the past. As the co-presence of pagan and Biblical motifs antedated the revolutionary culture and at times was employed within that culture almost unconsciously,<sup>317</sup> so it supplied to future generations a hermeneutic with which those generations heard resonances, in a text such as the Declaration of Independence, that are finally inconsistent with Enlightenment premises. The Founding Fathers, whose children typically regard themselves as epigones, passed down a legacy of dual erudition on which the children have drawn to make the Declaration in every age their own.

In so doing, the Fathers sealed the fate of their own specific political ideas.<sup>318</sup> It is well-known that Lincoln’s understanding of the Declaration – more mystical than Jefferson’s, or Adam’s, or Franklin’s, and ultimately more irreconcilable with continued legal protection for slavery – departs in significant respects from the eighteenth-century framework of ideas within which the Declaration was drafted and adopted.<sup>319</sup> But Lincoln turns the pagan and the Biblical topoi of the eighteenth century context to good account in his interpretation. The proposition that “all men are created equal and endowed by their creator with certain unalienable rights” is inspiring, and has been from the start. Lincoln made it more inspiring. Frederick

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<sup>316</sup> Pagan Mysteries, *supra* note 73, p. 32.

<sup>317</sup> Not only the best-educated revolutionary intellectuals, but also a wider segment of the local elites, mixed pagan and Biblical motifs during the Revolutionary period. For the case of the Freemasons, see Bullock, *Revolutionary Brotherhood*, *supra* note 55.

<sup>318</sup> I have not attempted to work out how the “unsealed” Declaration (the translation offered here) bears upon the main scholarly debates about Jefferson’s political theory and conception of natural rights. These interpretive debates have been intertwined closely with arguments about the relative influence of Jefferson’s many intellectual sources in the writing of the Declaration of Independence. See Wills, *Inventing America*, *supra* note 5; Maier, *American Scripture*, *supra* note 2; Morton White, *The Philosophy of the American Revolution* (1978); Carl Becker, *The Declaration of Independence: A Study in the History of Political Ideas* (1922). I hope in a separate essay to address one dimension of these complex controversies: the question of whether the Declaration ought to be understood as making the existence of rights depend upon the existence of God, together with the related question of whether “created equal” and “endowed by their creator” should be read as making any claim about God’s reason or will. For discussion of how those questions were raised in natural law theories that formed part of the seventeenth- and eighteenth-century background, see Charles Edwards, “The Law of Nature in the Thought of Hugo Grotius,” 32 *The Journal of Politics* 784-807 (1970); Charles J. Reid, Jr., “The Canonistic Contribution to the Western Rights Tradition: An Historical Inquiry,” 33 *Boston College L. Rev.* 37 (1991); Tierney, *The Idea of Natural Rights*, *supra* note 72.

<sup>319</sup> See note 5, *supra*.

Douglass and others among the enslaved read it ironically and with genius – redirecting attention from Genesis (“created equal” in one of its Biblical meanings) to Exodus, and turning the iconography of the draft Seal on its head. The Revolutionaries thought that they were the new Israelites, and Britain’s King the Pharaoh vainly pursuing them across the sea to freedom; but the civil society of slaveholders and those who tolerated slaveholders stood revealed in Douglass’s ironic reading as the new Egypt (or Babylon). Black slaves, not American revolutionaries, were the new Israelites, and the source and guarantee of their ultimate freedom lay not just in their status as created by God and thus invested with the worth of the creature, but more specifically in the Biblical promise that the God of Creation is also the God of the exile and the slave, the God who acts in history to bring redemption.

Though Bible themes supplied a conventional idiom for the Declaration’s argument, the Enlightenment Biblicism represented (at one extreme) by Jefferson had to be overcome in order for the Biblical promise of “created equal” to be realized. Jefferson’s theological method, his way of “reading” the Bible for the ethical teachings of Jesus, was both too narrow and too smug to foster, and in fact would not allow, the imaginative and inspired exegesis of Frederick Douglass. The Biblicism of the eighteenth century text and context has been transformed, in the work of Douglass and of Martin Luther King, into a Biblical theology at once more politically adequate (in its capacity to make good on natural law and natural rights) and more theologically orthodox than anything Jefferson himself understood when he borrowed the conventional creationism of his latitudinarian intellectual age to affirm that “all men” are “endowed by their creator with certain unalienable rights”.

As the latent worth of the Declaration as effective symbol of our civic commitments became more fully manifested, not only the Biblicism but also the paganism of the eighteenth-century background had to be transformed in profound methodological ways. The paganism of the Enlightenment framework that Jefferson and others brought to the work of declaring fundamental rights offered, first, the challenge as well as the consolation of a deliberate and sustained attention to the nature of death and its meaning. Many of the passages from the ancients that Jefferson copied into his literary commonplace book exhibit the interest that he took, as a young man, in classical admonitions to approach death with disillusioned awareness and firm ethical resolve. He drew upon the ancients when he had to deal with death in his own family, and among his closest friends.<sup>320</sup> From Cicero, for example, he drew the maxim that though sorrow is certain, the one for whom death holds no terrors may nonetheless approach life not only with endurance but also

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<sup>320</sup> Classical inscriptions that Jefferson chose for his burying ground at Monticello are discussed in *Literary Commonplace Book*, supra n. 37, p. 9. From poems attributed to Anacreon, Jefferson drew his own epitaph. *Id.*, p. 130.

with a prospect of happiness.<sup>321</sup> From the Iliad of Homer, Jefferson copied these lines (in their Greek original): “a man’s life cannot come back again, it cannot be lifted / nor captured again by force, once it has crossed the teeth’s barrier.”<sup>322</sup> But Jefferson did not completely reject all forms of an afterlife.<sup>323</sup> Renewal was in prospect; Jefferson also copied the more pleasant forecast, from Horace (in the Latin original): “The snow has fled; already the grass is returning to the fields and the foliage to the trees.”<sup>324</sup> Nor were such reflections on death of a wholly personal nature, devoid of political significance. From Horace Jefferson also copied, “Pale death with foot impartial knocks at the poor man’s cottage and at princes’ palaces.”<sup>325</sup> From Epicureanism, and from Stoicism so far as he understood it to be consistent with the philosophy of the Epicureans, Jefferson drew a view of death that counseled that life is to be approached with fortitude and with the conviction that all are equal in death. In §3, ALL MEN ARE CREATED EQUAL, I have drawn a connection between this ancient (and by no means specifically Christian) view of death, and republican egalitarianism.

As Carl Richard has shown, Jefferson also found, in the ancients, a system of metaphysical materialism agreeable to his own philosophy of science and consistent with his peculiar view of Christian ethics.<sup>326</sup> In ancient political history (especially as interpreted by the Whigs) he found exemplars of republican government, and precedents for the freedom of colonies.<sup>327</sup> More broadly, Jefferson’s education in the classics supplied him an all-purpose sense of his own identity and place within the events of his age.<sup>328</sup> In drawing upon the classics, Jefferson’s leading ideas almost always were the critical, demythologizing, debunking aims common to the *philosophes* of the Enlightenment. Jefferson’s “paganism,” in that sense, was at the furthest possible remove (except for their common distaste for orthodox Christianity) from our contemporary “pagans” who want to live among a re-enchanted world of nature-

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<sup>321</sup> “Dialogue with Ancients,” supra note 37, at p. 434.

<sup>322</sup> Literary Commonplace Book, supra n. 37, p. 79; Iliad 9.408-9; translation by Richard Lattimore, The Iliad of Homer (1951).

<sup>323</sup> “Dialogue with Ancients,” supra note 37, at p. 439.

<sup>324</sup> Literary Commonplace Book, supra n. 37, p. 82; Horace, Odes 4. 7. 1-2; translation by C. E. Burnett, The Odes and Epodes (1914).

<sup>325</sup> Literary Commonplace Book, supra n. 37, p. 82; Horace, Odes 1. 4. 13-14; same translation. Jefferson also copied passages expressing this view – that death is the great equalizer, and that this equality in death offers a teaching in right living – from poems by Edward Young and Alexander Pope. Literary Commonplace Book, Id., pp. 134, 139.

<sup>326</sup> “Dialogue with Ancients,” supra note 37, at pp. 454-455.

<sup>327</sup> Id; Legal Commonplace Book, supra note 14, at p. 23.

<sup>328</sup> “Dialogue with Ancients,” supra note 37, pp. 454-455. It is also well-known that classical architecture influenced Jefferson’s ideals of design. [Miller?]; Snyder, “The Icon of Antiquity,” pp. 32-34.

spirits. Yet the mythological element in Jefferson's classics could not be extracted completely without reducing the ancient texts to incoherence. And though Jefferson took his scissors to the Gospels, extracting from them the offending supernaturalism, he did not do the same to Homer, Virgil, Ovid, or Horace. The gods and goddesses are not silenced, in Jefferson, though their voice is muted. Later Americans, coming to Jefferson through the medium of transcendentalism and romanticism, would amplify their voice and be rapt with a more supernatural sense of "nature's god".

Men like Jefferson were educated in the integrated classical corpus,<sup>329</sup> not only of philosophy and history but also of these disciplines in their complex connections to tragedy and epic, to Greek religion, mythology, and cosmology, both in themselves and as appropriated by the Romans. So (like Adams suggesting "the choice of Hercules") they could adduce pagan mythology to their purposes,<sup>330</sup> more readily than we could today, and with less sense of strain either against their Biblical faith (such as it was) or their scientific or philosophical commitments.<sup>331</sup> Jefferson could call the Marquis de Lafayette the Atlas of the French Revolution, describe the American revolutionaries as "argonauts," and (drawing upon the Aeneid) name Samuel Adams "the Palinurus of the American Revolution."<sup>332</sup> But such allusions, which came easily from the inner thesaurus of the educated of the age, by no means suggest that Jefferson, or others among his classically trained peers, felt an inner spiritual affinity with those who, in ancient Greece or Rome, heard the singing of the bards, beheld the plays of the tragedians, participated in civil and temple cults, or entered into the mystery religions. As they read their Plutarch (so Richard Gummere has helpfully said), they no doubt shared his maxim, "May I therefore succeed in purifying Fable, making her submit to Reason and take on the semblance of History!"<sup>333</sup> But the generations that followed, and who looked again to "nature's god" to illuminate the idea of equal human rights as central to the mission and tradition of the republic, were more concerned to renew the experience and meaning of the sacred.

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<sup>329</sup> See *Colonial Mind*, supra note 163; David S. Wiesen, "Ancient History and Early American Education," in Wiltshire, *Usefulness of Classical Learning*, supra n. 303, pp. 53-69.

<sup>330</sup> E.g., Adams, again, described the Boston Tea Party as "an oblation to Neptune". *Inventing America*, supra note 5, at 29.

<sup>331</sup> Thus Franklin, writing to solicit contributions to a new hospital, could combine an appeal to Biblical ethics, in the quotation "I was sick, and ye visited me," (Matthew 25:36) with a quotation from Cicero, and a Latin couplet offering the Stoic consolation that good deeds survive death. *Colonial Mind*, supra note 163, pp. 17-18.

<sup>332</sup> "Dialogue with Ancients," supra note 37, pp. 445, 447. The description of early colonial explorers as "Argonauts" was familiar to the educated; *Colonial Mind*, supra note 163 p. 21, 23-25. Palinurus was Aeneas's pilot; see Virgil, *Aeneid*, iii. 202, 513, 562; v. 827-871.

<sup>333</sup> *Colonial Mind*, supra note 163, pp. 20-21, quoting Plutarch, *Theseus*, I, 3.

Though the Biblicism of Jefferson licensed a later and quite different Biblicism, and the paganism of Jefferson invited a later and opposing paganism, there also took place a basic transformation in the terms of the pagan-Biblical relation. Jefferson, characteristic of his age in this, could move easily back and forth between the two (as did the Great Seal draft) without strain and without any need for setting relations of priority between them. But as the later Biblicism returned closer to orthodoxy, this easy harmony could not persist. The gods and goddesses of the ancient world would not be banished from the received meanings and resonances of the Declaration, but would linger there, much as the reader of C. S. Lewis's *Narnia Chronicles* encounters satyrs, centaurs, fauns, dryads, nereids, or old Silenus on every page of his very Christian allegory. The pagan deities and spirits continue to refresh the imagination and bring joy, but not the highest joy. As Lewis asserts a theological control over his handling of the pagan figures who populate his stories, so would the reviving orthodoxy of the oral and intellectual traditions that receive and transmit the Biblical meanings of "created equal" exert increasing influence over the pagan idiom.

When Jefferson, Adams, and Franklin designed their proposed Seal, and saw symbolic meaning, for their revolutionary times, in "Rays from a Pillar of Fire in the Cloud, expressive of the divine Presence and Comman[d], beaming on Moses," no doubt they looked first to the divine Light, its rays expressing in convenient idiom their own aspirations to enlightenment. But they did not forget the Cloud; and their successors understood that what conceals or obscures may nonetheless be an essential medium of revelation.<sup>334</sup> Even today, as we receive our revolutionary tradition, and apply it to the uncertain and contested questions of our time, and teach it to yet more remote inheritors, we can say, with John Donne: "For as well the Pillar of *Cloud*, as that of *Fire*, did the Office of directing."<sup>335</sup>

## 2.

George Mason is well-known as the author of a draft of the Virginia Bill of Rights that Jefferson had before him as a model when he worked upon the Declaration of Independence, and that also shaped the language of a number of other state constitutions.<sup>336</sup> But Mason also designed Virginia's Great Seal: "*Virtus*,

<sup>334</sup> Wind makes this valuable point, while warning that however far the humanistic traditions have gone to confuse obscurity with profundity, the scholar still must "strive for clarity". *Pagan Mysteries*, supra note 73, at pp. 22-23.

<sup>335</sup> John Donne, quoted in Id., p. 23. On Renaissance aspirations to a state of "unknowing," a highest wisdom aware that God resides and illumines from within clouds, see Id., pp. 65, 108. For rabbinic midrashim on Exodus 13:21-22 (see note 2, supra), which address the puzzle of why God would guide not only from within fire but also within cloud, see James L. Kugel, *The Bible As It Was* (1997), pp. 333-337.

<sup>336</sup> The first two paragraphs of Mason's draft for the Virginia Bill of Rights read:

That all men are born equally free and independent and have certain inherent natural Rights, of which they can not, by any compact, deprive or

the Genius of the Commonwealth, treading on Tyranny... In the exergon, the word *Virginia* over the head of *Virtus*, and underneath the words *Sic Semper Tyrannis*. On one side of her Ceres, with a cornucopia in one hand and an ear of wheat in the other. On the other side *Aeternitatis*, with the globe and the phoenix. In the exergon these words: DEUS NOBIS HAEC OTIA FECIT.”<sup>337</sup>

Roman Ceres (Greek Demeter) was the goddess of the growth of grain.<sup>338</sup> It is in that capacity, as the source and protector of the granary, the wealth and life-sustenance of the community, that she is depicted on the Great Seal of the Old Dominion. We hear her name in our word “cereal,” but it also belongs in the family of “create,” “creation,” “creator,” and so on. When we give thanks to our Creator, or say that all men are created equal, and endowed by their creator with certain unalienable rights, we are linguistically closer to the goddess Ceres than to the Biblical maker of all things. According to the opening cosmogonic narrative of Genesis, “In the beginning God created the heaven and the earth.”<sup>339</sup> In Hebrew, the maker<sup>340</sup> is *Elohim*, who *bara hashamayim v’et haaretz*. In the Greek of the Septuagint, the maker is *ho theos*, who *epoi’sen... ton ouranon kai t’n g’n*. It is in the Vulgate that *Deus*, the maker, *creavit caelum et terram*.<sup>341</sup> The Latin verb *creo, creare* – “to cause to grow”<sup>342</sup> – was hypostatized in the form of Ceres long before it was recruited to translate the shaping and transforming of the world by the maker, *ho poi’t’s* (inter alia, “the poet”). Ceres, as shown on the Seal, helps us understand “our creator” as “nature’s god,” the source that moves growing things to grow. The Latin, coming late to the scene of mythology and philosophy, reveals these meanings even as it conceals other meanings enabled by the Hebrew and the Greek.

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divest their posterity; among which are the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety. That power is, by God and nature, vested in, and consequently derived from the people; that magistrates are their trustees and servants, and at all times amenable to them.

Evolution of the Text, supra note 2, at facsimile i (unpaginated). For the influence of Mason’s draft on the Declaration of Independence and on the state constitutions, see Evolution of the Text, supra note 2, at 104, 133-134, 165-167.

<sup>337</sup> K. M. Rowland, *The Life of George Mason* (1892), vol. 1, pp. 264-266, quoted in Colonial Mind, supra note 163, p. 14. The source, in Virgil, of “*deus nobis haec otia fecit*,” is discussed in the annotation to that line in §9, TO THE BETTER ANGELS, above.

<sup>338</sup> Greek Religion, supra note 145, pp. 159-161.

<sup>339</sup> Genesis 1:1.

<sup>340</sup> God is named differently in subsequent creation narratives; see text at notes 169 and 184, supra.

<sup>341</sup> Genesis 1:1.

<sup>342</sup> Indo-European Roots, supra note 17, entry *ker-*(3), p. 40. Lewis and Short, A Latin Dictionary, p. [ ], defines *creo, creare* as “to bring forth, produce, make, create, beget.”

Lucretius, in De Rerum Natura, observed “how hard it is to make clear in Latin verses the dark discoveries of the Greeks, especially as many points must be dealt with in new terms on account of the poverty of the language and the novelty of the questions.”<sup>343</sup> Gibbon, Jefferson’s contemporary, extended Lucretius’s linguistic lament to the realm of theology.

The Latins had received the rays of divine knowledge through the dark and doubtful medium of a translation. The poverty and stubbornness of their native tongue was not always capable of affording just equivalents for the Greek terms, for the technical words of the Platonic philosophy, which had been consecrated, by the Gospel or by the church, to express the mysteries of the Christian faith, and a verbal defect might introduce into the Latin theology a long train of error or perplexity.<sup>344</sup>

So the orthodox teaching of the Christian church, as embodied in the Nicene Creed, secures the divinity of Christ by insisting that Christ was not inferior to the Father, as a creation is to its creator. Instead, Christ is “begotten of the Father before all worlds” – he is “begotten, not made” (*genn‘thenta, ou poi‘thenta*, in the Greek).<sup>345</sup> But the Latin verb *creare*, the Vulgate’s word for God’s action in “creation,” is unsuited to the distinction, because (as C. S. Lewis notes) it is “freely used of sexual generation.”<sup>346</sup> So the Latin text of the Nicene Creed has it that Christ is *genitum, non factum*.

The divinity of Christ, asserted in the creeds and elaborated conceptually by the orthodox doctrine of the Trinity, was firmly and quite clearly rejected by Jefferson.<sup>347</sup> So he could not model the equality of “men” on the equality of the

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<sup>343</sup> Book I, lines 136f.

<sup>344</sup> Gibbon, The Decline and Fall of the Roman Empire, vol. 1, p. 313.

<sup>345</sup> Creeds of Christendom, pp. 57-59

<sup>346</sup> Lewis, Discarded Image, supra note 64, pp. 66-67.

<sup>347</sup> Jesus was not “a member of the Godhead, or in direct communication with it,” but “[h]is moral doctrines, relating to kindred and friends, were more pure and perfect than those of the most correct of the philosophers, and greatly more so than the Jews; and they went far beyond both in inculcating universal philanthropy, not only to kindred and friends, to neighbors and countrymen, but to all mankind, gathering all into one family, under the bonds of love, charity, peace, common wants and common aids.” Jefferson, “Syllabus of an Estimate of the Merit of the Doctrines of Jesus, compared with those of others,” included in Jefferson’s letter to Dr. Benjamin Rush, April 21, 1803, in Koch and Peden, eds. The Life and Selected Writings of Jefferson (1944), p. 568, at p. 570. Jefferson rejected as “tritheism” the traditional interpretation of the *logos* as Christ’s preexistent participation in the Creation. Jefferson to Adams, April 11, 1823, in Merrill D. Peterson, ed. Thomas Jefferson: Writings (1984), p. 1466, at p. 1468 (and see text at note 168, supra). See Paul A. Conkin, “The Religious Pilgrimage of Thomas Jefferson,” in Peter S. Onuf, ed. Jeffersonian Legacies (1993), p. 32-36 (Jefferson held not only that Jesus was neither divine nor divinely inspired, but also that he was not an instrument of human redemption.) See also Jaroslav Pelikan, “Jefferson and His Contemporaries,” in The Jefferson Bible: The Life and Morals of Jesus of Nazareth (1989), pp. 149-167; Charles B. Sanford, Thomas Jefferson and His Library: A Study of His Literary Interests and of the Religious Attitudes Revealed by Relevant Titles in His Library (1977), pp. 119-120.

three “persons” of the Trinity. Indeed, Jefferson understood Jesus to be a mortal man, by no means God, or God’s equal. The “semantic biography”<sup>348</sup> of the word “creator,” which points to Ceres even as it seems to name Elohim, and which preserves sexual and generative meanings that obscure the contrast to Christ’s special status as “begotten,” enables the phrases “created equal” and “endowed by their creator” to express Jefferson’s views quite precisely. We are created, in short, by “nature’s god,” and not by the God of Israel, or by Christ as Word. America is imaged in the abundance of Ceres, the harvest represented on Virginia’s Seal; we owe our existence, as do the “amber waves of grain,”<sup>349</sup> to the god who directs the growth of all things. “God shed his nature on thee,” but not his grace.

But Ceres has deeper and more disturbing meanings, rooted in the classical literary sources and implicated in ancient ritual. As grows the grain, so does humankind regenerate; this analogy inheres in Latin *creare*. As the goddess of growth is *Ceres*, and the product of *creation* in the soil is *cereal*,<sup>350</sup> so the product of sexual regeneration among us is a boy (lad, stripling), Greek *ho koros* (or *kouros*), or a maiden (daughter), Greek *h’ kor’* -- all of these words descending from a common root.<sup>351</sup> Ceres, too, had her *kor’*, and loved her with a mother’s love for her daughter – Persephone (Roman Proserpina), whose fate it was to be stolen away by Hades.<sup>352</sup> The grain grows, but annually it also dies. We human beings likewise die – but do we “return” (only) in the form of our children, or are we reborn after death?

This problem was addressed not only in the language of myth but also in the action of ritual.<sup>353</sup> Demeter (Ceres), searching in anguish for her lost *kor’*, ceases in her grief to renew the crops. Famine threatens humankind. While seeking Persephone, Demeter stops at Eleusis, in Attica, where, disturbed in her effort to bring immortality to the king’s infant son, she nonetheless orders the construction of a temple, and reveals the Eleusinian mysteries thereafter celebrated each year. After learning that Hades has captured Persephone to be his “bride,” Demeter enlists the aid of Zeus to restore her daughter. To this end Zeus sends the messenger of the Gods, Hermes, to recover her from Hades. But Hades has arranged for Persephone to eat a few pomegranate seeds while in the underworld; thus she is forever bound to

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<sup>348</sup> Pagan Mysteries, *supra* note 73, p. 22.

<sup>349</sup> Cf. Demeter’s work, as described in the *Homeric Hymn to Demeter*, lines 445f: “[A]s spring-time waxed, it was soon to be waving with long ears of corn....”

<sup>350</sup> Latin *cerealis* meant “pertaining to Ceres, devoted to her,” and by metonymic extension, “pertaining to the cultivation of land, grain, or agriculture.” Latin *cerealia* was the festival of Ceres. Lewis and Short, *A Latin Dictionary*, p. [ ].

<sup>351</sup> Indo-European Roots, *supra* note 17, at p. 40.

<sup>352</sup> The chief sources for the story of Demeter and Persephone include the *Homeric Hymn to Demeter*, and Ovid, *Metamorphoses*, book v, lines 341-570.

<sup>353</sup> Greek Religion, *supra* note 145, pp. 285-290 (Eleusinian mysteries).



him. Still, by the intervention of Zeus, a compromise is worked out, whereby Persephone each year spends four months in the underworld with Hades, eight months on earth with her mother. With the return of the daughter to the world of the living, the fields once again grow their grain, whose harvest fills the common granary and assures the maintenance of human life.

We have seen that Jefferson looked to the writers of classical antiquity for an understanding of how to live uprightly in the face death – of grief for lost family and friends, and of one’s own inevitable dying. The Eleusinian mysteries, and their corresponding mythic narratives, no doubt helped many in antiquity to come to terms with mortality, even as they served more “practical” ends inherent in the civic festivals and temple cults. Nor is the pagan revelation about death entirely alien from the Biblical. The Gospel of John, in any event, is not far from the spirit of the Eleusinian mysteries, when it supplies Jesus’ teaching, “Verily, verily, I say unto you, Except a corn of wheat fall into the ground and die, it abideth alone: but if it die, it bringeth forth much fruit.”<sup>354</sup>

But metaphysical speculations about death, however bound up with shared traditions and civil ceremonies, need have no inner affinity with republican politics. But ancient myths, later read with a Stoic stress on death’s equal fate for all, could take on new associations within the eighteenth-century politics of natural rights. The equality that comes in death – commoners and kings subject alike to its rule – could be reconceived and recruited in service of the idea that certain rights are held equally and inalienably by all. Where the Christian or Jew could read “created equal” to mean equally invested with the dignity of creation in the image and likeness of God,<sup>355</sup> the pagan could understand that death itself is dignified when shared by the daughter of a goddess.

What is more, as there is a kind of equality in death; and as there is also a form of equal dignity in the god’s sharing in our mortal fate, if only for a while, and for our sakes; so there is a further and more political expression of equal worth in common access to the ritual means of enlightenment and restoration. Such ready access was available to all the Greeks at Eleusis.<sup>356</sup>

A Christian, identifying Christ with the *logos*, the Word of creation, could by process of substitution go on to say that God, who had created us, also died for us, and in tasting human death ennobled or restored human life. Persephone offers a counterpart to this view, but within the limits set when the creator is conceived strictly as “nature’s god”. Nature’s god, in the form of the goddess’s daughter, annually shares our ultimate fate in death, and in so doing not only dignifies our mortal fate (we share it with the *kor’*) but preserves our very lives (by assuring the fruitfulness of the harvest). The worth of the human soul, figuring in a humanistic

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<sup>354</sup> John 12:24; see Greek Religion, *supra* note 145, p. 290.

<sup>355</sup> Genesis 1:26; see generally Garet, “Natural Law and Creation Stories,” *supra* note 27, at pp. 242-254.

<sup>356</sup> “Every year the Athenians observe the festival for the Mother and the Maiden, and any Athenian or other Hellene who wishes is initiated.” Herodotus, *Histories*, 8.65:4.

account of equal human rights, could be worked out in a Biblical or in a pagan idiom; or, under the canopy of “created equal,” in a language open to both interpretations.

The story of Persephone could survive, even flourish, within a Christian culture. It could be allegorized along familiar lines. So, in the fourteenth century, in the hands of a Christian moralizer of Ovid’s tales, “Ceres looking for Proserpina is the Church seeking to recover the souls of the faithful who have strayed from the fold. Her two torches are the Old and New Testaments; the child who insults her and whom she transforms into a lizard is the Synagogue.”<sup>357</sup> Though Jefferson might have liked the part about the lizard,<sup>358</sup> no doubt he would have preferred the overall tone of Ovid’s account of the myth to its rendition in the hands of such Christian moralists. His introduction to the story probably would have been through Homer and Ovid,<sup>359</sup> and also through its appearances in the later literary canon. In his “Thoughts on English Prosody,” he quotes a quatrain of Alexander Pope:

He sung and hell consented  
To hear the poet’s prayer  
Stern Proserpine relented  
And gave him back the fair –

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<sup>357</sup> Pagan Gods, supra note 309, p. 93. Demeter/Ceres, searching for her daughter, “had two torches, / Kindled in Etna’s fires, and went, unresting, / Through all the frosty dark.” Ovid, *Metamorphoses*, trans. Rolfe Humphries (1955), book 5, lines 439-471, p. 121. Cf. Homeric Hymn to Demeter, lines 45-65. Angry at “a hard-faced youngster, / A loutish county boy,” the goddess throws her drink at him, turning him into “a harmless creature, Like a lizard, only smaller.” Ovid, id.

<sup>358</sup> Jefferson admired the Jews for holding firmly to the faith in one God (unlike Christians, who had lapsed into a superstitious and incoherent tritheism). Jefferson, “Syllabus of an Estimate of the Merit of the Doctrines of Jesus, compared with those of others,” included in Jefferson’s letter to Dr. Benjamin Rush, April 21, 1803, in Koch and Peden, eds. *The Life and Selected Writings of Jefferson* (1944), p. 568, at p. 569. But in most other respects he found Judaism abhorrent. Jews’ ideas of God “were degrading and injurious.” Id. “Their Ethics were not only imperfect, but often irreconcilable with the sound dictates of reason and morality, as they respect intercourse with those around us; and repulsive and anti-social, as respecting other nations. They needed reformation, therefore, in an eminent degree.” Id.

<sup>359</sup> For Jefferson’s interest in, and collection of Homer, see Literary Book, pp. 165-166. The attribution of the Hymns to Homer was traditional, and they were sometimes included in bound volumes of Homer’s works. Several of the editions of Homer owned by Jefferson included the Homeric Hymns: Jefferson Library Catalogue §8 and §10, vol. 4, pp. 415-416. For Jefferson’s familiarity with and collection of Ovid, see Literary Book, p. 176. Jefferson owned many editions of Ovid’s writings, including the collected works and editions of the *Metamorphoses*; Jefferson Library Catalogue §§35-37, vol. 4, p. 449; see also id., pp. 450-451, 470-472. On the influence and popularity of Homer and Ovid in Jefferson’s time, see Reinhold, *Classica Americana*, supra note 303, p. 26; “Classick Pages,” supra note 303, at pp. 130-131, 136-137; Colonial Mind, supra note 163, at pp. 9, 25-26.

which nests it within the similar (and equally familiar) tale of Orpheus going to the underworld for his lost love, the nymph Eurydice.<sup>360</sup> The question is not whether Jefferson knew the tale of Persephone but whether, as against the more familiar efforts to give “created equal” an evangelical reading, a pagan reading illuminates the notion of “nature’s god” and the sense in which we can be said to be “endowed by our creator” with rights.

The evangelical and the pagan readings share, as I have said, the theme of substitutional suffering, of a divine death that enhances the dignity of human life. The pagan reading, however, works out this theme more explicitly in terms of sexual violence. Persephone’s fate, and the action of the narrative, are shadowed by the rapist Hades. Matrilineal line and love are sundered, though not absolutely destroyed, by the intervening violence of the lords of death.<sup>361</sup> Therefore any reading of “nature’s god” as corn-mother Ceres must understand in a haunted and ironic way the nuptial “endowment” with life. The Muse, Calliope, sang thus to Athena:

Ceres was the first to turn the glebe with the hooked plowshare; she  
first gave corn and kindly sustenance to the world; she first gave laws.  
All things are the gift of Ceres; she must be the object of my song.  
Would that I could worthily sing of her; surely the goddess is worthy  
of my song.<sup>362</sup>

As surely as the goddess is worthy of the Muse’s song and of the verse of any poet, so with warmer love shall we sing of a better kindliness, of a sustenance that does not fail, and of a gift that is not taken back by death. Muse or angel, what laws and what grace, what plowshare turning these American soils planted in cotton and tobacco, brings life and hope to the enslaved? Beloved, be unto us Mahalia, teach us to sing a song worthy of that god.

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<sup>360</sup> Alexander Pope, “Ode on St. Cecilia’s Day,” lines [ ], quoted in Jefferson, “Thoughts on English Prosody,” *supra* note 37, at p. 608. See also discussion of Jefferson’s interest in Pope, *Literary Book*, pp. 177-179. Jefferson’s contemporaries knew Pope’s translation’s of Homer; Id; “Classick Pages,” *supra* note 303, pp. 130-131.

<sup>361</sup> There are yet older myths of goddesses descending into the underworld. In “Sumerian Feminism,” *New York Review of Books*, October 13, 1983, Harold Bloom criticizes the editors and translators of a new edition of one of the oldest of these myths – the story of the goddess Inanna – for presenting her as a feminist heroine and substituting a familiar and comforting modern ideology for the Sumerian poetry’s hard, provoking, and ultimately more valuable examination of the realities of death. Bloom finds that story, its Sumerian spirit unmodified, “touches a limit that contemporary feminism idealizes and evades, as does every other popular mythology of our moment.” But perhaps by stressing the centrality of rape to the action of the myth of Demeter and Persephone, we are actually better able to question the adequacy of a consoling theology of death that might be implicit in the “popular mythology,” if not of our own moment, then of Jefferson’s.

<sup>362</sup> Ovid, *Metamorphoses*, v.341-344, trans. Frank Justus Miller, vol. 1 (1977), pp. 262-263.