

# Transparency, Opacity, and Openness in Narrative

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In the past decade there has been a dramatic surge of interest in the concept of “narrative.” Narrative has not only provided literary criticism, philosophical ethics, law, theology, and biblical studies with new tools for argument and interpretation,<sup>1</sup> it has also provoked a radical rethinking of modern presuppositions about the nature of these areas of inquiry.<sup>2</sup> Although I view the turn to narrative as an extraordinarily important and positive development, I would like to discuss a problem that arises in recent narrative theory.

## I. Introduction: The Turn to Narrative

One of the most striking features of early modern and Enlightenment thought is its wholesale assault on traditional understandings and uses of narrative. In philosophy, as Alasdair MacIntyre has argued persuasively, the arrival of modernity was signaled by the breakdown or rejection of earlier traditions and forms of argument that drew their meaning from a vision of human life as embedded in narratives. The great moralists of the Enlightenment tried—and failed—to find some means of establishing moral principles that would be valid universally and quite apart from location in specific narratives.<sup>3</sup> At the same time, Enlightenment jurists were engaged in abstracting from existing constitutional arrangements and legal systems those elements that were free of particularity and applicable to all societies, a process that often led them to reject completely traditional legal approaches to interpreting texts and events.<sup>4</sup> Montesquieu, for example, “saw through” the actual details of the English constitution to the essence of a just political order; his greatest book, *The Spirit of Laws*, is not

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1. See, e.g., Frank Kermode, *The Genesis of Secrecy: On the Interpretation of Narrative* (Cambridge, Mass., 1979) (literary criticism); Alasdair MacIntyre, *After Virtue*, 2d ed. (Notre Dame, Ind., 1984) (ethics); Robert M. Cover, *The Supreme Court 1982 Term—Foreward: Nomos and Narrative*, 97 *Harv. L. Rev.* 4 (1983) (law); James William McClendon, Jr., *Ethics: Systematic Theology* (Nashville, 1986); 39 *Semeia* 1–145 (1987) (symposium issue on “Orality, Auality and Biblical Narrative”).
2. Maurice Wiles, *Scriptural Authority and Theological Construction: The Limitations of Narrative Interpretation*, in *Scriptural Authority and Narrative Interpretation*, ed. Garrett Green, 42, 45–46 (Philadelphia, 1987) [hereinafter Green].
3. See MacIntyre, *supra* note 1.
4. See H. Jefferson Powell, *The Original Understanding of Original Intent*, 98 *Harv. L. Rev.* 885, 891–94 (1985) (discussing eighteenth-century criticism of traditional legal interpretation).

concerned in the end with any particular legal system but with *l'esprit* of all laws. Literary interpretation developed along similar lines: texts were treated as windows to something else.<sup>5</sup> In theology, the characteristic intellectual move was to search for some kind of rational truth embedded in the obscurities of a discarded dogmatic system. This was true not only of radical reductionists such as the Deists but also of superficially more conservative scholars. Friedrich Schleiermacher, for example, was happy to continue to use virtually the whole of the traditional doctrinal formulations by treating them as “transparent” to the inner spiritual realities that made up the truth of Christianity.<sup>6</sup> Biblical scholars, using the same critical tools historians were employing to “get behind” traditional sources to reach historical “fact,” began to dissect the Judaic and Christian scriptures. Biblical documents were no longer read for their surface or narrative meaning; rather, they were treated as sources from which historical critics could mine information about what “actually” had happened in Bronze Age Palestine or first-century Galilee. The critic “saw through” texts rendered increasingly transparent by ever more sophisticated scientific techniques. The perhaps inevitable result was what Hans Frei has called “the eclipse of biblical narrative”—the essential disappearance of the stories by which the Jewish and Christian communities had constituted and nurtured their religious identities.<sup>7</sup>

The eclipse of narrative in many areas of Western life and thought did not proceed evenly or without provoking serious resistance. As time went on, however, even those most concerned to reject modernity on behalf of tradition became ever more modern, ever less traditional. The self-appointed defenders of the Bible, for example, adopted (entirely, and entirely without noticing) their opponents’ understanding of scriptural narrative as transparent to historical truth. The only difference between the fundamentalist and the historical critic became the fundamentalist’s insistence that there is a one-to-one correspondence between the details of text and the underlying realities, which were—the fundamentalist and the critic agreed—what “really” mattered.

Contemporary “narrativists” cannot be accused of a similar failure to escape the presumptions of modernity. Unlike the Enlightenment philosophers, for whom any specific moral tradition was only the more or less distorting container of genuine extratraditional moral truth, ethicists such as MacIntyre<sup>8</sup> and Hauerwas<sup>9</sup> insist that the only possible location for moral discourse is within and through the particularities of a specific tradition and its narrative construals of the world. Similarly, those who employ narrative

5. For early examples, see Samuel Johnson’s *Lives of the Most Eminent English Poets* (London, 1777) or the phenomenon of the “Browning Societies” in the nineteenth century.
6. See Friedrich Schleiermacher, *On Religion: Addresses in Response to Cultured Critics*, trans. Terrence N. Tice (Richmond, 1969), and *The Christian Faith*, trans. H. R. MacKintosh & J. S. Stewart (Edinburgh, 1928).
7. See Hans W. Frei, *The Eclipse of Biblical Narrative* (New Haven, 1974).
8. See MacIntyre, *supra* note 1, and *Whose Justice? Which Rationality?* (Notre Dame, 1988).
9. See, e.g., Stanley Hauerwas, *Christian Existence Today* (Durham, N.C., 1988), and *A Community of Character* (Notre Dame, Ind., 1981).

in the study of literature and scripture decline to treat the text as a “window” providing access to what is truly significant and instead regard the text as a “mirror” that creates meaning by the interaction of text and reader.<sup>10</sup> The object of reading, they insist, is to understand and react to the narrative that one is in fact reading, rather than to mine it for information about something else. Although the arguments of recent narrativist scholars have value, problems arise from treating a text such as the Bible as wholly “opaque,” as incapable of referring to anything beyond itself (or beyond the interactions between itself and its readers).

## II. Culpepper’s *Anatomy of the Fourth Gospel*

Alan Culpepper’s study of the literary design of the Gospel of John is a remarkable example of the narrative approach in biblical studies. In writing the book, Culpepper saw himself as engaged in an enterprise both academically novel (ix, 3) and theologically crucial (235–37). The effect of two hundred years of historical-critical work, Culpepper correctly notes, has been to drive a wedge between scriptural narratives and their claim to truthfulness and authority. The assumption of the critics—and of modern men and women generally—has been that what is true (and therefore authoritative) in Scripture is that which is historically verifiable by the canons of historical criticism. It is no longer the scriptural stories themselves that matter; what counts are the bits and pieces that can be used in the scholar’s reconstruction of the world of the past. The Torah dissolves into J, E, D, and P, the Synoptic Gospels into pericopae, the biblical Lord into a more or less shadowy first-century faith healer. The effect on *John* has been especially acute, because most historical critics have found in the portions of *John* that do not duplicate material in the other gospels relatively little material that is reliable evidence of the historical Jesus.

For many modern readers the question is how they can accept the gospel’s artful invitation that God was in Christ revealing himself to the world when they cannot accept as historically plausible its characterization of Jesus as a miracle worker with full recollection of his pre-existence and knowledge of his life after death. . . . Refusal to accept the gospel’s characterization, however, can only mean that it is fictional and therefore not true. (236)

Culpepper believes that the “future role of the gospel in the life of the church” depends on how one answers the question whether “‘John’s story’ can be true if it is not ‘history’” (236). His own answer is a resounding affirmative. *Anatomy of the Fourth Gospel* is a sustained and masterful attempt to demonstrate that, by reading *John* as an artful narrative (a reading with only loose connections to the questions and answers of historical critics), we can once again “hear” the gospel’s message: “the story will have fulfilled its purpose and the truth to which it points can once again abide in its readers” (237). Although Culpepper does not reject the possibility that the gospel may have a “historical core or matrix” (11), it is clear that for him the power and the truth of *John* lie in its artistry as a narrative, not in whatever may lie

10. R. Alan Culpepper, *Anatomy of the Fourth Gospel: A Study in Literary Design* 3–4 (Philadelphia, 1983). Further references to Culpepper will be incorporated parenthetically in the text.

behind it historically.<sup>11</sup> In Stephen Crites's words, "[t]he truth of a story is in its narration."<sup>12</sup>

The power of *John* to challenge and remake the reader's world is thus a product of its "rhetorical structures" (234). Culpepper repeatedly describes the ways in which the gospel's narrator artfully creates an aura of reliability, disarming the suspicious and subtly moving all readers to accept his claims by his skillful inclusion of the reader as an "insider" (32, 35, 42, 48, 163–64, 165–80). The gospel's plot is a tool by which the writer propounds his "interpretation of the gospel story" (86), a story that, in fact, he has shaped (84–85) and that itself is *not* identical with historical reality (53–54).

The narrative of *John*, we are told by Culpepper, is made up not only of an imaginatively created plot but also of significantly fictionalized characters. Jesus' disciples are shaped by the narrative "representative roles" (123) the writer wishes to assign them: "the Jews" are the embodiment of unbelief; minor characters are constructed for specific purposes<sup>13</sup> and even when paralleled in the other gospels "often share only their names with their synoptic counterparts" (132). The Beloved Disciple, who is the gospel's image of the perfect disciple and plays an important role in the gospel's claim to authority (43–49, 1220), is "an idealized characterization of an historical figure" who "may" have witnessed the events about which his authority is invoked (47). He probably "has no roots in the [gospel] tradition and his role is fictionalized to a greater degree than that of the other disciples" (215). Most important of all, the Johannine Jesus is, in the end, the creation of the writer: "Actually the author, who was probably [not certainly] informed by tradition handed down within the Johannine community, fashioned the character, Jesus." The close resemblance between Jesus' manner of speech and that of the narrator "is therefore not a matter of the narrator's speech being conformed to Jesus', but of both reflecting the author's speech patterns and expressing his ideological point of view" (43). Culpepper's account of *John* goes beyond rejecting the notion that the gospel is a transparent reiteration of historical fact with either a one-for-one correspondence (the fundamentalist's view) or a piecemeal one (the view of the historical critic). His *John* is an opaque narrative, one whose Jesus owes no allegiance to any extratextual reality. Although Culpepper does not deny that the author drew on preexisting traditions, some of which no doubt go back to the historical Jesus, he is quite insistent that "John's story world . . . may or may not correspond to any historical reality" (68). The gospel's purpose is to draw the reader "into a literary world created by the author from materials drawn from life and history as well as imagination and reflection" (231). If the gospel succeeds, the reader will not concern herself over whether links between narrative and history exist.<sup>14</sup> The relationship between *John's* narrative and the historical Jesus is the same as that between *War and Peace* and the historical Napoleon. In each

11. See, e.g., *id.* at 231: "what the gospel is and what gives it its power as a narrative."

12. Stephen Crites, *The Spatial Dimensions of Narrative Truth-telling*, in Green, *supra* note 2, at 97, 114.

13. See, for instance, the discussion of the lame man. Culpepper, *supra* note 10, at 137.

14. See Culpepper's discussion of "narrative time" and "story time." *Id.* at 53–54.

instance the historical person was no doubt a necessary condition for the author's creation of the particular narrative, but in neither instance is it necessary to a successful reading of the narrative to know how closely the narrative is patterned after the history.

Culpepper is successful in portraying *John* as an extraordinary—and extraordinarily powerful—literary creation, but the end result is that he has rendered the gospel totally opaque to whatever may have been the reality of Jesus as perceived by the historian. To switch metaphors, he has opened an unbridgeable gulf between history and gospel.<sup>15</sup> It is important to note at this point that Culpepper does not do this because he is a radical sceptic about history (5, 11) but because the meaningfulness, reliability, and truth of the gospel lie entirely “on this side of it, that is, between text and reader, in the experience of reading the text” (237).

### III. The Consequences of Narrative Opacity

Culpepper is neither unusual nor extreme in his willingness (which subtly slides over into insistence) to bracket questions of historical fact. Many other narrativists agree that narratives are opaque, that their truth lies wholly in their meaning as texts that are read and not at all in their witness to extratextual reality.<sup>16</sup> One tendency of these scholars, indeed, is directly to reject the connection between mundane historical fact and “truth.” Stephen Crites writes: “Truth-telling as it functions in stories is not a matter of whether the story refers to a specific state of affairs historically. A story can deceive even if it refers to well-established facts, and it can be truth-telling even if it does not.”<sup>17</sup> Similarly, Garrett Green writes that just as “one can lie with the facts, so there are occasions where one can tell the truth with fiction.”<sup>18</sup> *Anatomy of the Fourth Gospel* is predicated on and pervaded by this view; the truthfulness of John, according to Culpepper, lies in what the author does with his text (and with us) and in our response, not in the gospel's faithfulness to an extratextual Jesus. We confirm the truthfulness of the narrative when we experience “the reality of a higher plane of life which can only be experienced by accepting the perspectives affirmed by the gospel” (234). The great task of the narrativist biblical scholar, Culpepper, Crites, and Green agree, is to shape readers who will approach the scriptural narratives freed of the obsessions of the historical critic. “Our challenge,” Green writes, “is to become . . . readers whose critical awareness of the fictionlike quality of the text does not prevent them from affirming the truth of the story it tells.”<sup>19</sup>

The argument that “truth” and historical or extratextual reality are not simply synonymous seems to me correct. It is intelligible to say of a novel

15. See, e.g., *id.* at 54–55: The textual “narrative” is not identical to the story and neither bears any necessary correspondence to “real or historical time.”

16. See, e.g., Garrett Green, “The Bible As . . .”: Fictional Narrative and Scriptural Truth, in Green, *supra* note 2, at 79.

17. Crites, *supra* note 12, at 99.

18. Green, *supra* note 16, at 84.

19. *Id.* at 91. See also Culpepper's brief and obscure discussion of the “pretense or willing suspension of disbelief that [is] required of the gospel's actual, contemporary readers.” Culpepper, *supra* note 10, at 207.

that it is “true to life” or “a truthful portrayal of contemporary Southern middle-class society.” Both expressions, however, suggest that the novel so described is partially transparent (I shall use the term “open”) to “life” or to “contemporary Southern middle-class society.” It is intelligible, furthermore, even to ascribe truthfulness to entirely fantastic narratives (for example, Tolkien’s *Lord of the Rings*), although we would be likely to rephrase our claim to state that such a work “expresses profound truths” or has “poetic truth.” And even as reformulated, there is an implicit claim that the narrative is open to the extratextual nature of human existence generally.

In such instances it seems correct to argue, as do Culpepper, Crites, and Green, that fictive narratives can nevertheless be true. It does not follow from this formal concession, however, that every particular narrative can be true regardless of its correspondence to extratextual reality. Imagine someone telling a friend about finding a new Chinese restaurant: “I went north on Chapel Hill Boulevard and turned at Cornwallis and then . . .” If the point is to describe the narrator’s trip to the restaurant so as to allow the listener to retrace her steps, no degree of literary artistry would make this a true narrative if the narrator in fact went south on Chapel Hill Boulevard and ate at the Burger King. The introduction of fiction would counter the purpose of the narrative and would make it, quite simply, untrue.

The Gospels are a type of narrative that must be open to extratextual reality not because all narratives are or need be “transparent” but because of the particular purpose and function of their narratives. They are, in James McClendon’s term, “identity-documents” that by their own “structure and intent”<sup>20</sup> witness to the historical existence and character of Jesus of Nazareth. As such, they must be “veridical, factual, actual history as well.”<sup>21</sup>

Why should this be so? Three reasons occur to me. The first is that Christian proclamation, unlike certain other religious convictions, intrinsically claims to point beyond itself to something, or rather Someone, else. The Buddhist teaching of the Four Noble Truths and the Eightfold Way, for example, has no necessary connection to the historical Siddhartha Gautama or to any extratextual reality. The truths are true if, in fact, in their impact on the reader, they bring enlightenment. The Way is a true path if, in fact, walking it leads to the cessation of desire. The meaning of the Truths and the Way properly lies “between text and reader.”<sup>22</sup>

The Christian proclamation that God raised Jesus from the dead, in contrast, directs the reader or hearer at once from the proclamation itself (embedded in text or speech) to the Persons and the event to which the proclamation refers. The truth of the proclamation, at least as traditionally understood, does not depend solely on its effect on the receiver but on

20. James McClendon, *supra* note 1, at 341.

21. *Id.* at 340.

22. Culpepper, *supra* note 10, at 237.

extratextual realities. "If Christ was not raised, then our preaching is in vain, and your faith is in vain."<sup>23</sup>

The second reason that the gospel narratives must be open to historical reality is that it is their faithfulness to the historical Jesus that distinguishes them from other stories and proclamations said to be "good news." The sheerly literary Jesus of an opaque narrative is a legend whose features are shaped not by congruence with an obeyed reality but by the ideology of the author. Culpepper's reconstruction of the Johannine Jesus is illustrative. Despite the gospel's insistence that "the word became flesh" and Culpepper's claim that the gospel was written to oppose the early Christian tendency to separate Jesus' humanity from the Word's divinity (226), Culpepper's Johannine Jesus is markedly inhuman: Jesus is omniscient (108); distant, cold, and aloof in personal dealings (109–10); not very loving (111); and manipulative (112). Shorn of his connection to the historical flesh-and-blood Jesus, Culpepper's Christ is indeed a god-on-earth; in Culpepper's view, "later docetic interpretations of the gospel are not entirely ill-founded" (112).<sup>24</sup>

The third reason that the gospel narratives cannot be separated from historical issues is that they are foundational of the ongoing life of a community, a community that identifies its origins not in timeless truths but in particular events. David Carr has pointed out that in individual life and experience the construction and reconstruction of a personal narrative cannot be indifferent to factual truth: we are who we are in large measure because of what actually took place in our pasts.<sup>25</sup> The same is true, he argues persuasively, for "the narrative constitution of a community":

Indeed, where the issue is not merely the shaping of an open future but the coherence of future, present, and past, it is important to be clear on what really happened; the past may be variously interpreted but it cannot be wished away or forcibly altered by an inventive narrative imagination.<sup>26</sup>

The Christian community is, in present reality, one thing if the story it tells about Jesus of Nazareth was historical reality during the principate of Tiberius. It is quite another if the story is false (or if Jesus was the epiphany of an inhuman deity, as Culpepper's book seems to suggest).

#### IV. Opaque Narrative in Constitutional Law

The decision to treat scriptural narrative as transparent, opaque, or open is obviously crucial for Christian theology. What may be less clear is that a similar decision confronts interpreters of the United States Constitution. The Constitution is on its face prescriptive rather than narrative, more like the legal sections of the Torah than the great biblical stories of the Patriarchs, Exodus, Good Friday, and Easter. Since its beginnings, however, argument over the interpretation of the Constitution has been conducted

23. 1 Corinthians 15:14.

24. Docetism is the opinion, held by some early Christians but rejected by mainstream Christianity, that Jesus was human in appearance only.

25. David Carr, *Time, Narrative, and History* 98–99 (Bloomington, 1986).

26. *Id.* at 171.

mainly by proposing particular accounts of its origin and development. An interpreter's version of the meaning of the Constitution has been closely linked to his or her vision of its history. In this section I discuss the role of narrative in one of the great cases in Constitutional Law, the dispute over nullification in the Age of Jackson.

In 1831, during the height of the nullification crisis that pitted a defiant South Carolina against federal power to enforce an 1828 tariff act obnoxious to most South Carolinians,<sup>27</sup> Vice President John C. Calhoun wrote and made public an address on "the relation, which the States and General Government bear to each other."<sup>28</sup> Calhoun's goal was to justify intellectually and jurisprudentially the claim that a single state, acting in convention in its sovereign capacity, could nullify, or declare void and unenforceable, a congressional statute.<sup>29</sup> Calhoun found the state right of nullification "too clear to admit of doubt" but conceded that the disagreement of "able, experienced and patriotic individuals"<sup>30</sup> had led him to restate what he regarded as "the true doctrine on this important subject."<sup>31</sup>

According to Calhoun's argument for nullification, the error of those who opposed the doctrine was in their misreading of the narrative of American history. The "fundamental principle of our system" was historical: "the General Government emanated from the people of the several States, forming distinct political communities and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community." Calhoun further developed his argument in a letter on nullification, which he published the following year.

[I]f it be true, indeed, that the Constitution is the work of the American people collectively; if it originated with them, and derives its authority from their will, then there is an end of the argument. The right claimed for a State, of defending her reserved powers against the General Government, would be an absurdity. Viewing the American people collectively as the source of political power, the rights of the States would be mere concessions—concessions from the common majority, and to be revoked by them with the same facility that they were granted. The States would, on this supposition, bear to the Union the same relation that counties do to the States; and it would, in that case, be just as preposterous to discuss the right of interposition, on the part of State against the General Government, as that of the counties against the States themselves. . . . But, fortunately, the supposition is entirely destitute of truth. So far from the Constitution being the work of the American people collectively, no such political body, either now, or ever did exist. In that character the people of this country never performed a single political act—nor indeed can, without an entire revolution in all our political relations.<sup>32</sup>

27. For a brief description of the nullification crisis, see Glendon G. Van Deusen, *The Jacksonian Era: 1828–1848*, at 70–80 (New York, 1959).

28. Letter to Frederick W. Symmes (July 26, 1831), in 11 *The Papers of John C. Calhoun (1829–1832)*, ed. Clyde N. Wilson, 413–45 (Columbia, S.C., 1978).

29. On December 20, 1828, the South Carolina legislature adopted a set of resolutions denouncing the 1828 tariff as unconstitutional, accompanied by a report anonymously authored by John C. Calhoun. *Resolutions of South Carolina, in State Documents on Federal Relations*, ed. Herman V. Ames, 152–53 (New York, 1970).

30. Letter to Symmes, *supra* note 28, at 416.

31. *Id.* at 414.

32. Letter to James Hamilton, Jr. (August 28, 1832), in *Papers of John C. Calhoun, supra* note 28, at 613, 614–15.



For Calhoun, the historical origins of the Constitution entailed a particular constitutional conclusion. Because the states as sovereign and distinct political communities created both Union and Constitution as a matter of history, the federal government, “with all its Departments, is in fact the agent of the States, constituted to execute their joint will, as expressed in the Constitution.”<sup>33</sup> It necessarily followed that the power to interpret the constitution of a state (the principal) was superior to that of any branch of the federal government (the agent). The device of nullification, by which a state acted “in her sovereign capacity, in Convention, to declare an unconstitutional act of Congress to be null and void,”<sup>34</sup> was merely the procedure for bringing the principal’s ultimate right to determine the scope of the agency to bear on the agent’s particular actions. Calhoun insisted that his constitutional argument rested on a thoroughly historical basis:

Strange as the assertion may appear, it is nevertheless true, that the great difficulty in determining whether a State has the right to defend her reserved powers against the General Government, or in fact any right at all beyond those of a mere corporation, is to bring the public mind to realize plain historical facts, connected with the origin and formation of the Government. Till they are fully understood, it is impossible that a correct and just view can be taken of the subject. In this connection, the first and most important point is to ascertain distinctly, who are the real authors of the Constitution of the United States—whose powers created it—whose voice clothed it with authority—and whose agent, the government it formed, in reality is. . . . The formation and adoption of the Constitution are events so recent, and all the connected facts so fully attested that it would seem impossible, that there should be the least uncertainty in relation to them.<sup>35</sup>

A little less than three decades after Calhoun’s defense of nullification, his intellectual and political heirs took the radical step he had feared and resisted: South Carolina, “in her sovereign capacity, in convention,” repealed its ratification of the Constitution and resumed the separate and independent status that Calhounite constitutionalism insisted had preceded the formation of the Union. Subsequent acts of secession by other southern states and the national administration’s decision to resist disunion by force led to the Civil War. In his message to a special session of Congress in July 1861, President Abraham Lincoln defended the measures he had taken to combat secession. Lincoln went beyond the practical question of responding to the rebellion to offer a brief yet powerful intellectual rejoinder to the state compact theory of the Constitution. Secession was wrong, Lincoln insisted, because the argument for its legitimacy rested on a false historical premise. The original states had never been independent political entities: “no one of them ever ha[d] been a State *out* of the Union. The original ones passed into the Union even *before* they cast off their British colonial dependence; and the new ones each came into the Union directly from a

33. *Id.* at 618.

34. *Id.* at 624.

35. *Id.* at 614. In his 1831 address, Calhoun asserted that his compact theory of the Constitution rested “on facts historically as certain, as our Revolution itself, and deductions, as simple and demonstrative, as that of any political, or moral truth whatever.” Letter to Symmes, *supra* note 28, at 415.

condition of dependence, excepting Texas.”<sup>36</sup> As a simple matter of history, it was not the states that created the Union, but the reverse. “By conquest, or purchase, the Union gave each of them, whatever of independence, and liberty, it has. The Union is older than any of the States; and, in fact, it created them as States.”<sup>37</sup> As a matter of historical “fact,” the states (except Texas) had never themselves possessed independence or sovereignty “in substance, or in name.” The whole elaborate edifice of states’ rights constitutionalism, Lincoln asserted, was a fraudulent misrepresentation of history and thus of constitutional reality, “an insidious debauching of the public mind.”<sup>38</sup>

Now that the agonizingly important political questions of secession and national unity have long been laid to rest, it is possible to see rather clearly that Calhoun and Lincoln shared a common approach to interpreting basic constitutional issues. Both men believed that to resolve such issues it was necessary to define the nature of the Constitution as either a compact formed by preexisting sovereignties or as a fundamental law promulgated by “the authority of the people”<sup>39</sup> of the entire nation. The proper mode of addressing this question of constitutional definition, Calhoun and Lincoln agreed, was by narrative. Each man sought to establish the truth of his view by recounting what he regarded as plain historical facts, or, in my terms, by recounting a narrative constructed out of historical investigation rather than through political theorizing.

It is tempting to regard either Calhoun or Lincoln as simply mistaken, as the victim (or perpetrator) of historical error and thus of constitutional confusion. Even contemporary writers and judges sometimes attempt to resolve historically—by fiat or research—the debate over the priority of the states and the nation, and to employ their narrative conclusions in normative constitutional argument.<sup>40</sup> This attempt is fundamentally misguided, for it fails to recognize that the narratives of the origins of the Constitution offered by Calhoun and Lincoln (and their predecessors and followers) are quite opaque and thus insulated against change through actual historical investigation. Calhoun was quite aware of intercolonial efforts at revolutionary unity in the 1760s and 1770s, just as Lincoln knew that the Articles of Confederation labeled the Union a league of sovereign states and that the legal force of the Constitution by its own terms was the product of state ratification. In each case, however, these facts were as irrelevant to the narrative each wished to tell as the facts about the historical Jesus are to Culpepper’s study of *John*. The power of Calhoun’s or Lincoln’s

36. Abraham Lincoln, Message to Special Session of Congress (July 4, 1861), in *The Political Thought of Abraham Lincoln*, ed. Richard N. Current, 180, 183 (Indianapolis, 1967). Later in the message, Lincoln noted that Texas had surrendered its unique status as a preexisting republic “on coming into the Union.” *Id.* at 184.

37. *Id.*

38. *Id.* at 182.

39. *Id.* at 187.

40. See the extremely interesting majority and dissenting opinions in *United States v. Verdugo-Urquidez*, 856 F.2d 1214 (9th Cir. 1988), *rev’d* 58 U.S.L.W. 4263 (1990). I thank Professor Eric Andersen for this reference. See also H. Jefferson Powell, *Joseph Story’s Commentaries on the Constitution: A Belated Review*, 94 *Yale L.J.* 1285, 1304 n.127 (1985).

narrative lay not in its openness to extranarrative (historical) realities, but in its effect on the reader. Lincoln's narrative, for example, enabled him to describe supporters of secession as opponents of "that power which made the Constitution, and speaks from the preamble, calling itself 'We, the People.'"<sup>41</sup>

Narrative opacity creates problems for constitutional argument similar to the problems that opaque narrative raises in biblical interpretation. The narrative form itself suggests that the constitutionalist is proposing that normative questions should be resolved on the basis of historical research.<sup>42</sup> The opacity of the proposed narratives, however, neutralizes or renders irrelevant historical evidence contrary to the constitutionalist's normative goals. The argument thus acquires a facade of historical "objectivity" and "truth" (recall Calhoun's invocation of "the most incontestable facts"<sup>43</sup>) without admitting in substance the possibility of historical disproof. Such use of narrative is historically irresponsible and rhetorically disingenuous.

### V. Conclusion: Transparency, Opacity, and Openness

In response to the post-Enlightenment treatment of narratives as transparent envelopes for truths that can and should be extracted and then expressed free of their narrative trappings, some contemporary critics argue for an approach to narrative meaning that, because it rejects as immaterial any reality beyond the narrative itself, renders narrative opaque. In this essay I have argued that, at least for the reading of scriptural narrative and for constitutional interpretation, this approach is misguided. It may be true that "heaven sometimes condescends to us below and inspires many a magically hopeful story,"<sup>44</sup> but comforting fairytales are not what the gospels purport to be. The history of the origins of the Constitution has and ought to have a significant part to play in argument over the meaning of the Constitution, but debatable questions of constitutional interpretation ought not to be resolved by constructing pseudohistorical narratives that presuppose the results the narrator wishes to reach. Rather, if legal discourse is to benefit from the current interest in narrative, advocates of narrative must first develop an understanding of what sort of narrative legal arguments can or should be.

41. Lincoln, *supra* note 36, at 186.

42. This is itself a problematic enterprise. See William E. Nelson, History and Neutrality in Constitutional Adjudication, 72 Va. L. Rev. 1237 (1986).

43. Letter to Symmes, *supra* note 28, at 424.

44. Crites, *supra* note 12, at 116.

