

Lincoln and Democratic Values

Federalism, American Transcendentalism, and the Moral Preconditions of Democracy

HOLV 3970

Fal Semester, 2008

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Office Hours: Fridays 3 - 5:30 pm; Tuesdays 5:30 on, and some Weds by appointment. Mondays I can be reached by email at home. Many Wednesdays and Thursdays I'm at RH for meetings.

Course Goals. This course is an interdisciplinary senior values seminar designed to provoke reflection on the nature and justification of democratic government, with major episodes in American history as examples. Democracy as a moral ideal is more than majority rule: it requires other principles to determine the scope of matters on which the legislature may rule, and limits to the content of laws the people or their representatives may make. We will survey themes related to this central question in American political philosophy from the *Federalist Papers* to the *Lincoln-Douglas Debates*, focusing on rival conceptions of the moral conditions that must be met for democratic government count as legitimate or deserving our principled allegiance. Using famous texts by Henry Jaffa and Gary Wills, as well as influential speeches and basic documents of American law, we will explore the relation between popular sovereignty and human rights; the balance between personal conscience and constitutional order; defenses of revolution and secession vs. arguments for centralization of power for to achieve coordination necessary for public goods, including basic justice. We will reconstruct the ideal of democratic justice from the tradition of 'civic republicanism' as it developed in the Federalist and Whig parties up to 1865, and consider its relevance for national and global government today.

Major Topics. Although historical figures and political developments in American government will be discussed throughout the course, our focus will be on philosophical questions about what makes government legitimate or just. In particular, we need a normative ideal of democracy that can explain how popular government can be more than mere "tyranny of the majority." We also need an account of the *relation* between the right to popular sovereignty and other human rights (or civil liberties in law) that the liberal tradition from Hobbes and Locke has often held to be more basic than the right to democratic self-government. This issue was at the heart of the debates between federalists, state rightists, and abolitionists in the period leading up to and during the American civil war. By examining key statements on democracy and slavery from 1680 - 1865, especially Lincoln's speeches and writings, along with contemporary philosophical work on similar issues, we will examine all the following topics in some detail:

- whether *revolution* or the forcible overthrow of an existing government by its own citizens is ever justified, and if so, for what reasons;

- under what conditions *secession* from an established sovereign order may be justified;
- for what reasons might *unification* or "consolidation" of distinct sovereign entities into a new political entity be justified (e.g. when should separate states cede some of their sovereign powers to a new federation of which they will be a part);
- whether democratic rule is simply a system to reward dominant interests (whether the majority should always get its way) or whether it has stronger moral presuppositions;
- whether basic civil liberties have a foundation or justification in natural law that is prior to (or independent of) the reasons for democratic government, as many transcendentalists, abolitionists, and liberal philosophers held, or whether there is some internal connection between negative liberties and rights to participation in collective self-rule.
- whether there is any clear position between legal positivism and external moral law that could help the politician should balance private conscience with constitutional order.

Lincoln's interpretation of democracy provides an especially useful focal point for these reflections both because of its enormous historical impact on the development of our own republic, and because Lincoln synthesized various different traditions of American thought. In short, Lincoln refounded American democracy on the conception of equal dignity epitomized in the *Declaration of Independence*. As his thought developed, Lincoln became increasingly convinced that popular sovereignty and fundamental human rights are derived from the *same root* in natural law, implying that no sovereign power can become legitimate by popular suffrage alone without respecting the inherent dignity of all individuals. This was one of three arguments against slavery that Lincoln employed, though they did not lead him directly to emancipation.

We will begin the course by looking at the debate between proponents and opponents of strong central government from the *Federalist Papers* to the 19th-century debate between Whigs and Southern Democrats over popular sovereignty, nullification, and secession. We will then look at representative writings by abolitionists, and at a positive conception of freedom that descended from Hegel through Emerson's Transcendentalism into Lincoln's own thinking. We will see how Lincoln draws together ideas from both these transcendentalist and federalist traditions, both in the Lincoln-Douglas debates and subsequent statements and writings. The course concludes with a study of the lasting impact of emancipation and the 13th Amendment.

Required Texts:

- (1) Harry V. Jaffa, *The Crisis of the House Divided* (2nd ed. Univ. Chicago Press, 1999);
- (2) *The Lincoln-Douglas Debates*, ed. Harold Holzer (Fordham Univ. Press, 2004 reprint).
- (3) *Lincoln on Democracy*, ed. Cuomo and Holzer (Fordham Univ. Press reprint, 2004) [Lincoln's principal writings & speeches].
- (4) Gary Wills, *Lincoln at Gettysburg: The Words that Remade America* (Simon & Schuster, reprint edition, 1993).
- (5) *Federalist Papers*, Penguin/Mentor edition edited by Charles Kessler and Clinton Rossiter.
- (6) Course packet for all other readings. \$15 paid by money order to Fordham University.

Other recommended sources on reserve.

James M. McPherson, *Abraham Lincoln and the Second American Revolution* (1991); esp. ch.III, "Lincoln and Liberty," which describes the Southern "Herrenvolk" conception of

democracy, arguments that slavery was *necessary* for freedom, and Douglas's links to these ideas.

Glen E. Thurow, *Abraham Lincoln and American Political Religion* (1976); especially good on the Gettysburg Address and the Second Inaugural)

David Zarefsky, *Lincoln, Douglas, and Slavery* (1990); esp. ch.6 on "The Moral Argument" against slavery, Douglas's "procedural" and pragmatic conception of legitimacy vs Lincoln's moral teleology of "public sentiment" conception.

David Herbert Donald, *Lincoln* (Simon and Schuster, 1996).

Philip Shaw Paludan, *The Presidency of Abraham Lincoln* (University of Kansas Press, 1994).

Course Assignments:

An oral report	15%	Includes 2-3 page written presentation on a reading.
Two short answer assignments	25%	3-page short response to a question on readings.
Take-home test	20%	Covers readings through early November
One final paper	25%	12 pages + on topic agreed with me in advance.
Class participation	15%	Includes attendance and advance reading to prep for active participation in class discussion.

Honesty and Citation: Cheating is the one unforgivable sin. Handing in work you did in another class without clearing it with me is cheating. Handing in work derived from anyone else or any secondary source without citing it constitutes plagiarism, and is grounds for failing the course. You are welcome to bring in ideas and quotes from secondary sources, but you must cite them either by footnotes or parenthetical references referring to a bibliography at the end of the paper.
—This includes paraphrases: even if you reword what the author said, cite the page number.
—It also includes websites: give the full URL of the page you cite. Note that webpages should *never* be the only source you cite in college essays.

Course Schedule

Sept. 9: Introduction to the Class;

- (1) Five major course themes introduced.
- (2) John Locke's *Second Treatise of Government* on the right to revolution (course packet)
- (3) Comparison with the *Declaration of Independence* (course packet).
- (4) Jefferson's true position on slavery: selections from *A Summary View of the Rights of British America* and Jefferson's own draft of the Declaration (course packet)
- (5) The distinction between the "Public Choice" (or market model) and "Deliberative" conceptions of democracy. The notions of public goods and coordination through law.
- (6) Analogy between the Federalist Problem and the problems of the current world order w. UN.

Sept.16: Federalism vs States' Rights: the Consolidation Principle

- (1) Selections from the *Federalist Papers*: esp. #1-7, #15-16, #23, #31, #37-39, #45-47.
- (2) Selection from the *Anti-Federalist Papers* (esp. the speeches of Patrick Henry -- packet)
- (3) Alexander Hamilton, "The Federal Constitution" (*World's Great Speeches* -- packet)
- (4) James Madison, "The States and the Federal Government" (*World's Great Speeches*)
- (5) Other speeches by Franklin, Marshall, Hamilton, and Washington (*World's Great Speeches*)

Discussion points:

- Background to the 1789 Constitution and its toleration of slavery
- 1789 Constitution vs Articles of Confederation: enumerated powers, indirect election of senators and president, new taxation powers, direct election of House, etc.
- Washington's longer (undelivered) inaugural address and civic republicanism.

Sept. 19-21: Critical Theory Roundtable conference at Fordham - LC.

Sept.23: Southern Arguments for State Vetoes and Secession

- (1) *Federalist Papers* and *Anti-Federalist Papers* continued.
- (2) John Calhoun, "Slavery" (*World's Great Speeches* -- course packet)
- (3) John Calhoun, selections from *Disquisition on Government* (course packet)
- (4) Jefferson Davis, "Withdrawal from the Union" (*World's Great Speeches* -- packet)
- (5) Jefferson Davis's 1860 resolutions and Inaugural Address, from internet sources (packet).

Historical Background to the Civil War (see dates in course packet):

- The Missouri Compromise of 1820 following Jackson's assertion of Federal Supremacy
- Compromise of 1850: California, Nevada, Fugitive Slave Law, and balance in the Senate
- the phenomenon of the Purple Dream & Southern overconfidence.
- the influence of Harriet Beecher Stowe, *Uncle Tom's Cabin*, 1852
- The Kansas-Nebraska Act 1854 [discussion of this item continued Oct. 28]
- Justice Taney's Dred Scott Decision, 1857 [discussion of this item continued Oct. 28]

Sept.30: Northern Arguments for Federal Supremacy against Nullification and Secession

- (1) Daniel Webster's masterpiece: "Reply to Hayne" (*World's Great Speeches* -- packet)
- (2) *Recommended*: Henry Clay, "On the Compromise of 1850" (*World's Great Speeches*)
- (3) Lincoln's First Inaugural Address, March 4, 1861: *Lincoln on Democracy*, 201-209, + informal comments p.215;
- (4) Lincoln's Address to the Joint Special Session of Congress, July 4, 1861: *Lincoln on Democracy*, 217-225.
- (5) *Lincoln at Gettysburg*, ch.4, 121-147; Lincoln establishes the supremacy of the federal gov.
- (6) Edward Everett, President of Harvard, "The Crime of Rebellion," from his oration at Gettysburg, in *Lincoln at Gettysburg*, 233-247.

Also see James McPherson, *Abraham Lincoln and the Second American Revolution*, ch.2, which will be discussed along with Emancipation at the end of the semester.

Oct. 7: Contemporary Arguments Concerning Secession

Short response paper #1 due on Federalism vs Anti-Federalism (topics to be assigned).

- (1) Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (Oxford University Press, 2004; 2007 pb): ch. 8 on "Self-Determination and Secession" (course packet)

- (2) Debate: application to Kosovo, Chechnya, South Ossetia?
- (3) *Recommended*: two other articles on eres:
 - David Copp, "International Law and Morality in the Theory of Secession," *Journal of Ethics* 2 (1998): 219-245.
 - Michael Seymour, "Secession as a Remedial Right," *Inquiry* 50 (August, 2007) 395-423.

Oct.14: From Hegel to Emerson to Lincoln: Development of an Argument Against Slavery

- (1) Hegel: *Phenomenology of Spirit*, 1807. summary of the following sections (course packet):
 "Independence and dependence of self-consciousness: Lordship and Bondage;"
 Discussion: Hegel's Notion of a Healthy, Authentic Community vs Extreme Individualism.
- (2) Emerson: "Compensation." *Recommended*: "Spiritual Laws" (in Emerson's *Essays* -- packet)
- (3) Lincoln's "LETTER TO BOSTON REPUBLICANS:" *LINCOLN ON DEMOCRACY, 154-155; AND SEE P.121.*
- (4) Lincoln's Second Inaugural Address: *LINCOLN ON DEMOCRACY, 340-342, AND FRAGMENT ON UNION, 188* (the silver and gold analogy); speeches at Trenton and Philadelphia, 196-199.
- (5) *Lincoln at Gettysburg*, Prologue, 11-40 and ch.3, 90-120 on Theodore Parker and the Transcendentalist interpretation of Jefferson and the *Declaration of Independence*.

Oct.21: Abolitionism and American Transcendentalism

- (1) Henry David Thoreau, *Slavery in Massachusetts* and *A Plea for Captain John Brown* (in course packet): individualism, higher law; from passive resistance to armed warfare.
- (2) Emerson: selections from *Emerson's Antislavery Writings* (in course packet)

Examples of Abolitionism & Transcendentalism in Political Speeches

- (1) Charles Sumner, "The Crime Against Kansas" (*World's Great Speeches*, p.291 -- packet)
- (2) William Seward, "The Irrepressible Conflict" (*World's Great Speeches*, p.295 -- packet)
- (3) John Brown, "On Being Sentenced to Death" (*World's Great Speeches*, p.298 -- packet)
- (4) William Lloyd Garrison, "On the Death of John Brown" (*World's Great Speeches*, p.299)
- (5) *Recommended*: Henry Beecher, "The System of Slavery" (*World's Great Speeches*, p.317)

Historical Background to the Debate between Lincoln and Douglas on popular sovereignty
 --The Kansas-Nebraska Act 1854
 --Justice Taney's Dred Scott Decision, 1857
 -- The Lecompton Constitution crisis in Kansas

Oct. 28: Lincoln and The House Divided: the debate over extending slavery:

Short response paper #2 due on American Transcendentalism (topics to be assigned).

Lincoln's difficulty in reconciling abolitionism and loyalty to constitutional law:

- (1) *Lincoln on Democracy*: Holzer's Introduction, xxix-xl; Young Men's Lyceum Address, 15-23; Lincoln's Peoria speech and others against the Kansas-Nebraska Act and Dred Scott, 55-94.
- (2) *Lincoln on Democracy*: Rossiter's introduction, The "House Divided" speech, July 10 speech against Douglas, July 17 and August 17 speeches, and other fragments: 97-125;
- (3) *Recommended*: *Lincoln on Democracy*, 141-148; 156-180, 231-233: The Cooper Union Address and various writings on labor and capital.

Nov. 4: Election Day, no classes.

Nov. 11: the Lincoln-Douglas Debates with Jaffa's background. Veteran's Day.

- (1) *Lincoln-Douglas Debates*, First and Second Debates (August 21 & August 27), 40-135. Fourth Debate (September 18), Lincoln's Speech (189-203). Compare the speech at Columbus in *Lincoln on Democracy*, 157-159.
 - Lincoln vs Douglas's popular sovereignty argument for the toleration of Southern slavery.
 - Lincoln's *Declaration*-based doctrine of legal equality with political and social inequality.
 - Lincoln's Hegelian notion of reciprocity as universality; parity-of-reason arguments.
- (2) Henry Jaffa, *The Crisis of the House Divided*:
 - ch.I: "The Crisis in Historical Judgment" (concerning revisionist analyses of Lincoln)
 - ch.II: "Lincoln versus Douglas: the Alternatives" (26-37).
 - ch.XI: "The Legal Tendency toward Slavery Expansion" (275-293).
 - ch.XII: "The Political Tendency toward Slavery Expansion" (294-301).

Nov. 15: possible overnight trip to Gettysburg

Nov. 18: The Lincoln-Douglas Debates and Jaffa's Argument for Lincoln

- (1) *The Lincoln-Douglas Debates*, Fifth Debate, Main Speeches (October 7), 234-268; Seventh Debate, Main Speeches (October 15), 321-362..
- (2) Jaffa, *The Crisis of the House Divided* (course packet):
 - ch.XIV: "The Universal Meaning of the Declaration of Independence" (308-329).
 - ch. XV: "The Form and Substance of Political Freedom in the Modern World" (p.330-346).
 - ch. XVI: "Popular Sovereignty: True and False" (347-362).
- (3) Recommended: Jaffa's Interpretation of Douglas, *Crisis of the House Divided* Chs. VI-VII.
- (4) Recommended: Richard Hofstadter; "Abraham Lincoln and the Self-Made Myth," *The American Political Tradition*, 118-175 (on eres).

Take-home test due Friday Nov.21 in my box.

Nov.25: Contemporary Parallels: Deliberative Democracy Presupposes Basic Rights

- (1) Jürgen Habermas, *Between Facts and Norms*, ch.3 sect.2-3: "A Reconstructive Approach to Law part I" on the internal connection between popular sovereignty and basic rights (packet)
- (2) Cass Sunstein, *The Partial Constitution*, ch.1: "A Republic of Reasons" (course packet)
- (3) Recommended: Mark Sagoff, "At the Shrine of Our Lady of Fatima: Why Political Questions are not all Economic" (eres).

Dec.2: Contemporary Issues: Basic Rights and Limits to National Sovereignty

- (1) David Luban, "Intervention and Civilization: Some Unhappy Consequences of the Kosovo War, from *Global Justice and Transnational Politics* (course packet)
- (2) Habermas, "Remarks on Legitimation through Human Rights," reprinted in *The Postnational Constellation* (course packet)

Dec.9: Emancipation and the 13th Amendment: Lincoln's bargain with Transcendence.

- (1) *Lincoln on Democracy*, the Emancipation Proclamation and after: 237-274, 286-93, 317-18: War Powers and the Gettysburg Address: 275-284, 307-8; Black troops, Black suffrage, the 13th Amendment: 309-11, 313-14, 324-26, 336-40.
- (2) The history of the 13th Amendment: document from two webpages (course packet).

- (3) James McPherson, *Abraham Lincoln and the Second American Revolution*, chs.2-3 on Lincoln, Revolution, and the concepts of negative and positive liberty (course packet)
- (4) *Recommended*: David Herbert Donald, *Lincoln*, ch.13: “An Instrument in God’s Hands,” 354-376 (course packet)

Dec.16. Final class meeting in lieu of exam.

- (1) Philip Shaw Paludan, *The Presidency of Abraham Lincoln*, ch.15, “The Reconstruction Proposition,” and “Conclusion,” 297-319 (Eres).
- (2) Frederick Douglass, “The Meaning of July Fourth for the Negro” and “Oration in Memory of Abraham Lincoln,” 1876 (*World’s Great Speeches*, in course packet).

Final term papers due.