

Lincoln's Peoria Speech of 1854

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1 The problem of extreme moral conflict

The hope of liberal politics is that it can establish a tradition of fair dealing among people of different interests and views. At a minimum, when liberalism moves us to recognize that we usually have overlapping values, and overlapping stakes, even with those with whom we are at the moment in conflict, it makes it worth our while to deal with each other fairly. But the hope of liberal politics is more than this: it is that the habit of insight into the situations of other people that dealmaking and compromise encourages in us will move us to treat the tradition of fair dealing as itself a common interest and as the basis of a common moral life, a moral life which values principled engagements across lines of difference. The ultimate hope of liberalism is that we will approach even our adversary dealings with each other not merely opportunistically, as occasions to talk our interlocutors out of more of what we want from them, but in a political spirit, as part of an investment in a structure of fairness which is an object of interest in its own right rather than merely a means of satisfying other interests. Interest may be a motivation for politics, but a polis-life, which involves the moral investments of different people in each other, is its purpose.

It is common to think of large-scale cultural difference as the despair of liberalism, and to assume that liberalism is a kind of folkway that is only available in the West or in its cultural colonies. But cultural difference has been not the problem but the enabling precondition of liberalism since the end of the Wars of Religion (and indeed wherever people seek a *modus vivendi* among different traditions they invent something like liberalism). It is probably therefore a mistake to think of cultural difference as itself generally setting the limits to the availability of liberalism. Even the view that

certain strongly held habits of life and belief (such as Islamic or Christian fundamentalism) render a liberal political order impossible is probably also a mistake, at least so far as purely political (as opposed to cultural) liberalism is concerned. The suitability or unsuitability of liberal political regimes for particular places is not in any way an obvious function of the strength or weakness of certain traditions of belief, but a function of unhappy local histories of conflict among particular groups. Indeed, many of the bitterest ethnic or religious conflicts of the modern era have occurred between peoples who in fact have a great deal in common with each other, people who suffer what Freud called the narcissism of small differences. But even these kinds of conflicts are not inevitably beyond the reach of liberal methods. The despair of liberalism is not cultural conflict among different kinds of people, nor conflict between liberal and non-liberal regimes, but certain kinds of moral conflict within liberal regimes which put key liberal values at odds with each other.

When conflicts merely concern interests, liberal politics has a long and largely successful record of mediating them. One might at first believe that it would have similar success with moral conflicts, especially if one is in the habit of treating moral conflicts merely as interest conflicts in disguise, a habit which in many circles has the unearned prestige of superior realism. But conflicts over values, because they involve issues of identity and often bear about them the electric tang of moral panic, do not lend themselves to dealmaking politics in the same straightforward way that interest conflicts do. This is not to say, however, that liberalism inevitably fails in cases of moral conflict. Nor is it even to say that the depth of the conflict is a measure of whether liberal methods will fail or succeed, as if liberal methods can only succeed in cases where nobody really cares about the outcome. The failure or success of liberal methods to mediate moral conflicts is not in any obvious way a function of the importance of the moral stake; where liberalism fails it fails not because of the importance of the issue it seeks to address but because the detailed local history of the political conflict over it exposes some of the inner strains within liberal traditions.

My aim here is to examine the means that American political culture, a political culture committed to an ethos of compromise and dealmaking, brings to bear upon deep moral conflicts which can neither be evaded nor compromised away. In treating the political crisis over slavery and race during the 1850's as a moral conflict, I do not deny that it was also a political conflict of a traditional sort, concerned with power and control over resources,

nor do I deny that the moral conflicts were always entangled with the political and economic conflicts which are the traditional matter of politics.¹ I do not deny that the moral claims brought by each side were in many ways flawed by self-serving and illusion and wishful thinking, not to mention racism and greed. But I do say, and it is not controversial to say, that the special edge of the conflicts of the 1850's had to do with both sides' awareness of the moral stakes between them, and how political culture can mediate or resolve or evade deep moral conflicts was an issue explicitly fought out by the major political figures of that era.

It is not, or not only, because of the blunders of the politicians of that era that they were to unable to resolve the conflict over slavery, nor is their failure an inevitable consequence of the magnitude of the evil of slavery or of the scale of the interests involved in its behalf. The failure of the politics of the 1850's had to do with insoluble ironies in the central concepts of liberal politics, insoluble ironies which might lead some to despair of liberal politics generally, but which lead Lincoln to discover liberalism's tragic dimension.

¹It was also a political conflict in another sense of that word, in that the failure of the Whig party as a national organization removed some of the key means by which sectional conflict could be mediated and controlled. So long as both parties were national organizations, sectional conflicts took place within each party, and the party that failed to reach an accommodation between the sections would fail in the national elections, so that it was in the interest of all sides to seek an acceptable solution to problems of sectional conflict. After the failure of the Whig party, the chief ideological divisions increasingly were those that divided the parties from each other, and the internal politics of the parties were unable to moderate sectional conflicts. This vision of 1850's politics is most strongly associated with the writings of Holt (Holt 1978; Holt 1992), Anbinder (Anbinder 1992), Baker (Baker 1983), Gienapp (Gienapp 1987), Formisano (Formisano 1971), Freehling (Freehling 1990), Silbey (Silbey 1991), and others. Strange to say, this account of how parties work in America — parties are non-ideological congeries of local organizations, not ideological pressure groups — is expressly in play in the Lincoln-Douglas debates of 1858 (Douglas thinks that the Republican party is an ideological party such as America has rarely had), and many of the insights into American party systems that were introduced into contemporary political science by Lipset were thought through in strikingly similar terms by Martin Van Buren. For Van Buren's take on parties, see Greenstone (Greenstone 1993), and Niven (Niven 1983). I still am persuaded by the kind of political analysis advanced in more traditional accounts of 1850's politics, such as Nevins' *The Ordeal of the Union* (Nevins 1947a; Nevins 1947b; Nevins 1950a; Nevins 1950b) or Craven's *The Growth of Southern Nationalism* (Craven 1953), and which continues in the indispensable studies of Potter (Potter 1976), Fehrenbacher (Fehrenbacher 1978; Fehrenbacher 1980), Mayfield (Mayfield 1980), McPherson (McPherson 1990), and Foner (Foner 1970; Foner 1980).

I begin with one of the central ironies of liberal politics. Liberal politics is pre-eminently politics by discussion, as Isaiah Berlin called it (Berlin 1969). The authority of the arrangements liberal politics seeks to invent is chiefly a function of the consent those arrangements are able to win from people with conflicting interests and views. The authority of consent is different from the authority of principle: I am bound to the dictates of an arrangement of consent because I have agreed to it, not because it is right, and right matters in a culture of consent only insofar as one has been able to persuade all parties to be bound by it.² Right does matter in a culture of consent — cultures of consent are not amoral joint-stock companies for trading in pepper and slaves — but right only matters in behind-the-scenes ways, as a source of the telling arguments to common values to which mutually morally engaged opponents make persuasive resort. In a culture of consent morality matters as a means of persuasion, but where it extends beyond persuasion it is an instrument of tyranny, although perhaps of high-minded tyranny.

These arrangements of consent are available only to those who are willing to yield something to get something, to trade one issue for another, to accept half a loaf in the hope of getting the rest another day. Such arrangements are of course only possible if one has enough detachment from one's agenda that one can mortgage a part for the whole, the present for the future. They

²I'm not worrying the traditional distinction between the Right and the Good here. Traditionally the Good is the informing vision of a complete habit of life, and the Right is merely what people with different views of life have to agree upon in order to have some hope of living together. Those who make the distinction often think of the Right as rather thin gruel, relative to the Good, and think of a political order governed by Right rather than by Good as a deracinated and alienated one. Although I won't develop the point here, I'd like to point out that this argument about Right only applies to societies which feel the necessity of evading intractable moral arguments or treating them as somehow arguments about passionate illusions. But not every vision of Right requires this. Indeed, if in a moral conflict one seeks to make a commanding appeal to a value one shares with the other side — a value that may be indeed be universal or that may simply be one about which both sides have what Rawls calls an overlapping consensus — then there is no reason to believe that a public life ordered by Right is a deracinated one. The difference between Right and Good is not the difference between rootless and rooted regimes of social life. It is the difference between a style of argument in which one seeks to make an appeal to the values one shares with one's opponents, taking them as one finds them, and a style of argument in which one makes appeal only to one's own values, a style of argument in which one's values risk become transformed into nothing but the pretexts one gives one's own side when one is whipping them up to violence and in which therefore one can no longer distinguish between manipulative and nonmanipulative uses of reason.

are not possible if one is so urgently invested in one's own position that one cannot make prudent compromises about it. One can engage in dealmaking only if one believes that in no particular case is one's entire position at risk, that on particular issues there is always room to bend, that there is no particular stake one should be unwilling to trade away if it came down to it, except if there are enough other particular stakes to be traded away on other issues to be make it still worth my opponent's while to cut a deal with me. (That is to say, I can afford to make non-negotiable demands only if I have other, negotiable, issues about which to engage in logrolling.) The politics of consent functions best in the political culture described in the tenth *Federalist*, a culture in which people with heterogeneous interests which conflict with each other along many different lines are motivated to deal fairly with each other because those who are their opponents on one issue may be their allies on the next. The politics of consent functions much less well under conditions of polarized ideological conflict, in which every issue inscribes deeper lines of division in the same place and in which side issues, which under less fraught conditions provide means of mediating and moderating some larger quarrel, become instead mere theaters of proxy war over the main issue. A political culture of detached and worldly negotiation is also only possible if one has enough respect for one's opponents to imagine that they too may press claims against one, and that one should refrain as much as possible from the temptation to drive them to the wall, to demand from them, in Carl Becker's famous words of fifty years ago, a fatal sacrifice of vital interests (Becker 1942).

When Senator Charles Sumner announced that he was not in politics but in morals, he understood himself to be saying that the tendencies of those two professions pulled in opposite directions. The rule of God matters more than the rule of the majority, and to enter into political compromises with those with whom one is in deep and intractable moral conflict is inevitably to compromise one's own moral standing. Certainly this view has undeniable attractions. Many things are beyond the reach, or ought to be beyond the reach, of political bargaining among reasonable and decent people, and certainly slavery would be high on anybody's list of such things. Dealmaking and compromise are only for those things that are within the moral pale, and to treat certain outrageous things as if they were within that pale, one wants to say, is already to have fatally surrendered one's own moral position. When politics asks us to deal with institutions that are beyond the moral pale, it asks us, it appears, to place politics above morality, and nobody wants to do

such a thing.

The ironies to which this position is subject are obvious enough to be sketched in in a few sentences. When one draws a moral line in the sand, one does so in the faith that public life should be something other than merely a contest for power. One does this as a way of rejecting the Thrasymachean claim that right is an illusion, that what we call justice is in fact nothing more than the will of the stronger. Yet once one has drawn a line in the sand one has no choice but to engage in a contest of force with those who are on the other side of that line. A stance of moral stringency is morally exhilarating and rhetorically attractive. But the stringent idealist projects himself or herself into the very political world in which the stringent idealist is least able to survive, because once a line has been drawn in the sand, the issue will be decided by force, and contests of force are tests not of which side is right but of which side is strong. A stringently ethical politics seems inevitably to become a kind of crusader politics, a politics which kills what it loves through the very excess of that love.

Politics can serve an ethical aim, it seems, only if it treats those ethical aims with detachment, but that detachment seems to deny those ethical claims the urgency they deserve. This detachment is the source of the other side of the double-bind of 1850's politics. If one wishes to engage in a politics which does not destroy what it loves, one must treat moral imperatives as somehow not really imperative at all, as something about which people and political institutions have perfect freedom of choice. A moral order has no authority except under conditions of choice, and I compel others to adopt my views only by imperiling the authority of those views. At the same time, moral imperatives either have compelling force or they are not moral imperatives. In moments of intense moral conflict the two key features of moral autonomy, the fact that ethics gives binding law and the fact that ethical acts must be free, face each other in stark contradiction.

Under the normal conditions of moral argument, I may make persuasive recourse to claims about transcendent things if by doing so I can make an appeal to my opponent's own key values. If I am able to do this I am able to win my opponents unforced consent and thus to do justice to both freedom and rule. Even if I do not in fact bring my opponent over to my views, I am capable of remaining morally engaged with him by arguing on the basis of an overlapping consensus of values. But under conditions of intense moral conflict I am no longer able to appeal to shared key values, and my use of ideas about transcendence in that case reduces to the justifications I provide myself

before resorting to force. One might think it possible — indeed Stephen Douglas does think it possible — to restore persuasive engagement among such enemies by refraining from resort to moral absolutes when they can only be used in this inflammatory way. But if I really must make this concession in a thoroughgoing way, I must treat all my values as if they were only private obsessions, and I must treat all public issues as if they were only conflicts over interests (with values being perhaps only a slightly irrational kind of interest). And if I treat public issues as only conflicts over interests, then the shape of the *res publica* is a function only of the outcome of contests of force, and I have no reason to accord those outcomes moral respect. If, as the price of engagement with people of different views, I soften my commitment to my key values, then I have nothing with which to defend my position if my opponent wishes to raise the price of my engagement with him. Indeed, once I soften my commitments I have also softened my resistance to giving way to him, because my opponent knows there is nothing I won't trade away if I have to.

If I am unwilling to draw a line in the sand, crossing which would be an invitation to violence, then my opponent can always have his way with me, by raising the stakes between us. Moral laxity, or, less polemically, self-restraint about making moral appeals, even when aimed at the generous purpose of a restoration of persuasive engagement, invites the transformation of persuasive engagement into a mere contest of force no less than moral stringency does. Not only does the attempt to treat ethical politics as merely a rarefied kind of interest politics invite one to slide down the slippery slope to expediency politics; it deprives ethical imperatives of the means to hold their own in the persuasive arena.

The reader may recognize these positions as versions of those taken by Lincoln and Douglas, respectively, against each other. Both, in the summer of 1858, sought for ways to prevent the extension of slavery into the territories, and both sought to do so without provoking the South into secession. Each made against the other arguments of the kind I have just sketched in, and each was aware that the other's arguments were telling. Neither fully succumbed to the temptations inherent in their positions. Lincoln never adopted a destructive crusader politics, and Douglas neither adopted expediency politics nor ultimately allowed himself to be driven to the wall by his slaveholding opponents.³ Neither was able to hold off war either, but of course what the

³Zarefsky's *Lincoln, Douglas, and Slavery* gives a deeply persuasive account of the way

outcome would be was not entirely up to them, since neither anticipated just how intransigent the fire-eaters were becoming, and neither anticipated how adroitly the fire-eaters would outmaneuver their moderate opposition in the South, something which it seems likely would have happened even had Lincoln and Douglas not both, in their different ways, played into the fire-eaters' hands.

Lincoln did not arrive at a satisfactory answer to the problem posed to him by Douglas, the problem of binding politics to absolute morality without maddening it into crusader politics, until the Second Inaugural Address, delivered four years after Douglas' death and only days before his own. His solution, that the Absolute shapes politics, but that we are never allowed to know how we ourselves, with all our self-deceits and all our complicities, stand with regard to that Absolute, that Good and Evil are the crucial matter of politics but that we are never allowed to know whether we are the good or the evil, stands at the center of what is at once the greatest contribution to American political philosophy and the greatest elegy in the American canon. But even as an answer to this question of politics and morals, the Second Inaugural raises more questions than it solves, since exactly how its argument cashes out into policy is not, and in principle cannot ever be, a matter of complete clarity.

This essay concerns many issues from political philosophy, and many issues from political history. But the key values which inform it are literary ones. One group of values centers around the theme of negative capability, the sense that persons always have stories that are not already over, that persons are not exhausted by our claims about them — a theme that contemporary Literary Theory would do well to remember. It is negative capability, not atomic private selfhood, which is the foundation for the central place acknowledgement and respect hold in liberal political theory.⁴ Further,

Lincoln and Douglas strove to avoid reaching an argumentative impasse with each other (Zarefsky 1990).

⁴This is a controversial claim, of course, and I can't prove it here, although I think it can be proven. The problem is that liberalism has two genealogies and persuasive evidence can be offered for both. Those who don't much like it, like C. B. Macpherson, think of liberalism as the stalking horse for capitalism, and reduce the liberal concept of identity to possessive individualism (Macpherson 1962). But liberalism can also be seen as the consequence of a Reformation view of faith as something that can't be compelled by the force of institutions and retain its character as faith. Enlightenment concepts about moral autonomy and Romantic concepts of identity are both in play in this vision of the place acknowledgement and respect hold in liberal political theory, and it is important

negative capability is a feature not only of persons but of values which continually face us with new depths of implication, and which continually rebuke us with moral entailments we could not have anticipated when we committed ourselves to them.

The second cluster of literary themes concerns the concepts of irony and tragic knowledge. Certainly I am not the first to think of American history in these terms — my treatment is recognizably akin to that of Reinhold Niebuhr in the 1930's. The study of the political crisis of the 1850's may not yield policy for contemporary problems. But it can yield whatever is at the end of the downward path that runs from suffering to wisdom, that path first glimpsed by Aeschylus, who, like many who surveyed politics then and now, saw enough of the ways in which intractable wrongs breed endless chains of consequences to wonder what the end of things would be.

2 The debate over the Kansas-Nebraska Act

The speech Lincoln gave against the Kansas-Nebraska act in Peoria on October 16, 1854 was a reprise of a speech he had given in Springfield on October 4. The measure had been proposed by Douglas on January 3, and not passed by Congress until May, so Lincoln's response was a long time in coming. Lincoln's response was the response of an old Whig, not of the Republican he was to become over the next two years, and it was quite different from the response of Anti-Nebraska fusionists (as the nascent Republicans were called) or from the "Independent Democrats," Sumner, Chase, and Giddings, who had published their own heated, even inflammatory, attack upon the bill

not to reduce either to mere possessive individualism, although contemporary literary theory is proud, brutally proud, of its ability to treat that reduction as a symbol of its own intellectual rigor. There may yet be some link between possessive individualism and negative capability, or between capitalism and political freedom. But political thinkers of the political right and of the political left have been all too hasty to brandish reductive theories of what that link might be. To avoid this problem, John Rawls has recently argued that his vision of political liberalism involves only a thin theory of the person (Rawls 1993). He does this because he wishes to argue that people with very different concepts of the person — those who believe that human beings have immortal souls and those who believe that they have only mortal ids or rational expectations — can nevertheless agree to be bound by the rules political liberalism proposes for political conduct. I'm willing to concede that, but I'm also willing to argue that even Rawls' thin theory of the self is still a theory in which the self has negative capability, and that that is a strength of his theory rather than a weakness.

before Douglas had even given it its final form. Although Lincoln had been desultorily active in the Scott campaign in 1852, and had published an editorial critical of the Nebraska act in the summer of 1854, these speeches mark Lincoln's serious return to political life after the end of his term in Congress, and in them one hears for the first time the characteristic themes of Lincoln's mature political thought, and the characteristic music of his rhetoric.

The chief aim of the act was to organize a territorial government for the unorganized regions (excepting Oklahoma) of the Louisiana Purchase, what is now most of the states of Kansas, Nebraska, Colorado, Wyoming, North and South Dakota, and Montana. Douglas had been attempting to organize a government for this region since 1844. Historians from James Ford Rhodes at the turn of the century have taken a sinister view of Douglas' motives in the 1854 act, taking Sumner's view of it as an attempt to create new slave states in the western territories in order to advance Douglas' own presidential ambitions. A slightly later generation took Douglas' motives to be less sinister but venal, arguing that Douglas was seeking to make possible a transcontinental railroad which would have its eastern terminus in Illinois, preferably in some region where he himself owned property. (Douglas owned the land where the University of Chicago is now.)⁵ My own view is that there is no reason not to take Douglas at his own word when he said that organizing governments, any governments he could persuade Congress to accept, was his aim. Most of the transmississippi west had territorial governments organized by him, and many of the states of that region were shepherded to statehood under his auspices.

The territories were theaters of proxy war over slavery throughout the four decades before the Civil War, because the existence of slavery in the states themselves was not an open question, constitutionally speaking, be-

⁵For an excellent account of Douglas' motives in many crises, see Johannsen's biography, his edition of Douglas' letters, and his other studies of Douglas (Johannsen 1961; Johannsen 1973; Johannsen 1989; Johannsen 1991). Wells' *Steven Douglas: the Last Years* (Wells 1990), is also a moving and sympathetic account of the Little Giant. Douglas was often a hero to the "blundering generation" school, which sought to treat the Civil War as the consequence of the domination of 1850's politics by incompetent hotheads. These accounts of Douglas' motives include Capers (Capers 1959), and Milton (Milton 1934) and Randall (Randall 1945). My own reading of Douglas is strongly influenced by Harry Jaffa's *Crisis of the House Divided* (Jaffa 1959), but as will be seen, I see Douglas far more sympathetically than Jaffa does. A very fairminded recent view of Douglas' views, and how they differ from Lincoln's, is in Greenstone's *The Lincoln Persuasion* (Greenstone 1993).

fore the 13th amendment, and those who opposed slavery but were unwilling to press for immediate abolition felt they could compromise the economic vitality of slavery by preventing it from expanding into the territories. Before 1854, the status of slavery in the territory of the Louisiana Purchase, which included what would be the area of the Kansas-Nebraska Act, was settled by the first Missouri Compromise of 1820, which, among other things, prohibited slavery in the region north of the 36-30 line, the southern border of Missouri. The Mexican Cession enflamed this conflict anew, provoking a long struggle between those who (with President Polk) wished to extend the 36-30 line across to the Pacific, those who (with President Taylor, almost all of the northern Whigs, and many of the northern Democrats) supported the Wilmot Proviso, which applied the antislavery language of Jefferson's 1787 Northwest Ordinance to the Mexican Cession, and those who (with John C. Calhoun) denied that the Federal government had power to abolish slavery even in the Territories and demanded that the entire region be organized on a slaveholding basis.

Calhoun's theory, also advanced after Calhoun's death by Jefferson Davis, was that the territories were not the property of the American people collectively but the joint property of the several states, and that therefore, in administering the territories, the Federal Government must do nothing that would jeopardize the interests of the slaveholding states in those territories. Many northerners thought of the Calhoun-Davis view as a self-seeking invention of recent vintage, but in fact the view had strong currency in the South back to the time of the Missouri Compromise, and even James Madison, who supported the Compromise and admired the Northwest Ordinance, was not certain that the Calhoun-Davis view did not have a Constitutional case, although Madison opposed that case.⁶ The Calhoun-Davis view, which seems nonsensical today, was probably the majority view among Southern Democrats, as support of the Wilmot Proviso was the majority view among Northern Whigs.

The solution to the impasse between these views is usually credited to Henry Clay and Daniel Webster. Douglas himself gave the credit to Lewis Cass, the nominal leader of the Democratic party in 1850. But the resolution of the struggle over the Mexican Cession, called the Compromise of 1850, was actually for the most part Douglas' own work. We think of the Compromise

⁶See the interesting discussion of this issue in Drew McCoy's study of Madison in retirement, *The Last of the Fathers* (McCoy 1989).

of 1850 as a package deal, offering the South the Fugitive Slave Act (and the assumption of the national debt of the Republic of Texas) in exchange for the admission of California as a free state (which would change the balance of power in the Senate, shifting it forever against the South), the resolution of the Texas boundary in favor of New Mexico, the abolition of the slave trade in Washington D.C., and a discreet silence about the future status of slavery in the Utah and New Mexico Territories⁷. Only about a quarter of the Senators and Representatives supported the compromise as a package deal, and the compromisers were chiefly the increasingly desperate minority factions of the two parties, Southern Whigs and Northern Democrats. (Only four congressmen from what would be the Confederate states actually supported the compromise as a package.) As a deal, the compromise had gone down to defeat on a series of shockingly opportunistic votes by hardcore factionalists of both sides.⁸ Douglas salvaged the compromise only by separating its provisions, with the compromisers and the Northern Whigs providing a majority for the north-favoring measures, and the compromisers and the Southern Democrats providing a majority for the south-favoring measures. The result was a compromise that neither side felt much allegiance to as a compromise, and each side was constantly on the lookout for ways to blame the other for breaking it, so that they themselves could do so.⁹

Douglas' proposals for Utah and New Mexico, the "Popular Sovereignty" (or, less sympathetically, "Squatter Sovereignty") position first presented by Lewis Cass in the famous December 1847 letter to A.O.P. Nicholson which probably cost Cass the 1848 presidential election, were studiously ambiguous. All sides agreed that the two territories could enter the Union with or without slavery, as their state constitutions provided, which was true of every

⁷I count this last, as Douglas and Webster did, as part of the Northern side of the bargain, although most Northerners, who preferred the sure thing outcome of the Wilmot Proviso, did not see the Utah and New Mexico provisions that way.

⁸For a close analysis of the crucial votes, see Hamilton (Hamilton 1964). For a general treatment of the Wilmot Proviso controversy, see Morrison (Morrison 1967).

⁹One of the reasons that Douglas dismisses the criticisms of Northern Whigs who blame him for disrupting the uneasy peace established by the Compromise of 1850 is that those who criticize him most harshly probably did not themselves support the compromise when it was made. Douglas dismisses Lincoln's attack on this issue as pious gas of this sort. But Douglas is probably unfair in doing so, since Lincoln goes out of his way, even when he does not have to, to say that he would even be willing to abide by the Fugitive Slave Act, abominable as he thinks it is. We just don't really know whether Lincoln would have stood with Taylor or with Clay had he been in Washington in the summer of 1850.

other state in the Union as well, since slavery was then a state matter. Prior to admission, Douglas felt that his bill provided that the Territorial Governments could prohibit or permit slavery as they wished. The language of his bill was ambiguous enough, however, that the Calhounite reading, that since the Territories were the joint property of the states that even the Territorial Governments could not abolish slavery on their own, could still be advanced. There was also conflict over the status of slavery during the period *before* territorial governments were organized, with Douglas holding that Mexican law, which prohibited slavery, applied until the territorial governments chose to repeal it, and with most Southern Democrats arguing, in defiance of legal precedents stretching back to the *Somerset* case in the 18th century, that slavery had legal standing in the territories even in the absence of a positive law establishing it, since the shame-faced and evasive language concerning slavery in the Constitution seemed to them to amount to a positive law establishing slavery rather than, as it seems to everyone without an interest in seeing it otherwise, a mere concession to the necessity of recognizing slavery where it existed already¹⁰.

In the years leading to the Nebraska Act, Douglas faced increasingly intransigent opposition from within his party, and he was hard put to prevent southern Democratic extremists from imposing slavery upon such unlikely places as Minnesota and Oregon. Indeed, the doctrine of Popular Sovereignty in the Territories was invented (by New York Senator Daniel S. Dickinson six months before Cass's Nicholson letter) to forestall a fire-eater attempt to force slavery into Oregon, which was organizing a territorial government and which wished to keep slavery out.¹¹ As late as the fall of 1853 Douglas was

¹⁰For the *Somerset* case, see Davis' *the Problem of Slavery in the Age of Revolution* (Davis 1975). Fehrenbacher also discusses the case in his two books on the Dred Scott case.

¹¹Douglas at this time favored the view that slavery was prohibited in Oregon by the Northwest Ordinance. Southerners were willing to concede that slavery should not go to Oregon, but they claimed that the only grounds for doing this would be the Missouri Compromise. Their motivation is to give some color to their proposal to extend the 36-30 line across the Mexican Cession. Douglas was ready to concede, and it was to forestall this concession that Dickinson invented the Popular Sovereignty argument. Calhoun raised the stakes by abandoning the grounds of the Missouri Compromise and pressing his joint property theory later in 1847, and Cass's adoption of the Popular Sovereignty position as a party line was intended to outflank Calhoun. Cass had earlier been a supporter of the Wilmot Proviso. See Johannsen's biography of Douglas for details. See also Carl Schurz's very old biography of Henry Clay for his own pointed view of the matter (Schurz 1899).

still attempting to organize the Nebraska lands on a free territory basis, as the first Missouri Compromise required him to do. In January 1854 Douglas made a series of fatal concessions, and because those concessions were perhaps the most fraught and disastrous moves ever made by an American politician, they demand to be presented in a step by step way.

Arguing that the Popular Sovereignty position adopted for Utah and New Mexico had changed the political landscape, Douglas brought in the Nebraska bill (not yet separating Kansas and Nebraska) with language from the Compromise of 1850 allowing the region to choose or reject slavery at the time of admission. At this time he noted that many figures from the South doubted the constitutionality of the Missouri Compromise, but his language is specifically designed to duck that question either way. And indeed, since the states formed from the Nebraska territory, once they became states, could have done whatever they wished about slavery in any event, it is hard to see exactly what this bill promised other than a sympathetic hearing from the North in the event that the constitutional conventions in the territories wind up submitting proslavery constitutions and a sympathetic hearing from the South in the even that they submit antislavery constitutions. (Given the state of politics at that time, even this may have been wishful thinking, however.)

Southerners read this form of Douglas' bill as implicitly prohibiting slavery in the territories before the adoption of a state constitution. On January 10th, under pressure from a cabal of Southern Democrats including Senators Atchison, Mason, Hunter, and Butler — all Washington D. C. housemates, by the way, the famous "F Street Mess" — Douglas (under the pretense of correcting a typographical error in his original bill) added an additional 14th section to the bill, giving (as he thought) the territorial legislature the power to act on slavery, and including also his famous sentence arguing that the intent of the bill was neither to legislate slavery in nor to legislate it out, but to leave the territories perfectly free to form their institutions in their own way.

It was this second version of the bill which provoked the initial firestorm of criticism, although since Chase, Sumner and Giddings' "Appeal of the Independent Democrats," did not in fact see print until it had reached yet another, third form, that fact might be obscured. The Chase appeal denounced the bill as "a gross violation of a sacred pledge; as a criminal betrayal of precious rights; as part and parcel of an atrocious plot to exclude from a vast unoccupied region immigrants from the Old World and free laborers from our own States, and convert it into a dreary region of despotism, inhabited

by masters and slaves.” This denunciation undoubtedly hardened Douglas’ mind about the bill, particularly since Chase had, with a show of friendship, asked him to postpone the debate for a few days so that he could think about it, a few days which Chase used to rush his rather personal denunciation of Douglas into print¹².

What Chase and company did not see was that the concession the January 10th version offered was a very ambiguous one, because although the bill gave the territorial legislature power to legislate on slavery, it also assumed that the Missouri Compromise prohibition would remain in force until the legislature acted, which is to say that the legislature that would be called upon to decide the fate of slavery in those territories would be made up of non-slaveholders. Perhaps the F Street Mess counted on their ability to rush, extra-legally, a large enough number of slaveholders into the territory to have their way. Douglas certainly bet the opposite way. Each hoped to be able to skate very quickly over the patch of thin ice.

They were prevented from doing so by Senator Archibald Dixon of Kentucky, a moderate Whig, who sat in Clay’s seat in the Senate and looked forward ineffectually to the day when slavery might depart his state. His motives in stressing the risk to the South of the January 10th bill are hard to figure. William Freehling and Allan Nevins both believe that he was looking to revive the fortunes of his party in the South by showing that Whigs too could take a hard line.¹³ It was a fatal miscalculation, because he underestimated the fire-eaters’ ability to raise the stakes higher than the Whigs could follow them. The fire-eaters seized upon this issue as a kind of knife to the throat of the Union, and they were able to capitalize upon northern hostility to Douglas’ bill in order to transform the struggle into an identity politics contest about who would be disloyal to the South and who would stand up for it come what may. The fire-eaters were in principle opposed to the popular sovereignty position (committed as they were to their joint property theory), and were not enthusiastic about Douglas’ bill. But they used it ruthlessly to destroy the last shred of legitimacy the Whig party had south of the Mason-Dixon line, and the hostility Douglas’ bill provoked at the North gave them a very strong hand in doing so.

¹²This is Nevins’ view in the second volume of *The Ordeal of the Union*.

¹³William Seward, then the leading antislavery leader in the Senate, later bragged that he himself had put Dixon up to this demand, in order to put Douglas in an impossible position. If that’s true, then Seward is guilty of a scarcely credible act of double-dealing. Most historians now don’t take Seward’s boast seriously.

Douglas tried for some days to duck the challenge Senator Dixon's argument proposed, but after a long carriage ride with Dixon on the 15th of January he conceded, and on the 22nd he forced the explicit repeal of the 36-30 provision of the Missouri Compromise down the throat of the bewildered President Pierce.¹⁴ From the 22nd of January the die was cast, and at least the several-years long guerrilla war in Bleeding Kansas, if not the Civil War itself, became inevitable, as the freesoil and proslavery factions fought for control over the territory.

The simplest way to describe Douglas' error would be to say that he seems to have assumed that only Southerners would be so foolish as to whip themselves into a fury over a symbolic issue. He never for a moment believed that slavery could survive in Kansas, Missouri Compromise or no Missouri Compromise. At the time of the compromise of 1850, he had spoken of the inevitability that seventeen new free states would arise from the Mexican Cession and the rest of the Louisiana Purchase, and that no new slave states would arise. He had also predicted on the floor of the Senate in 1849 that slavery's days in Delaware, Maryland, Virginia, Kentucky, and Missouri were numbered. Douglas, like Lincoln, felt that the vitality of slavery depended upon its ability to expand. But he felt that prohibiting the expansion of slavery by fiat would enflame sectional resentments. Popular Sovereignty wound up enflaming them even more, especially once it became clear in 1856 that, by almost nine to one margins, settlers in Kansas opposed slavery. But Douglas felt that the South would accept a practical defeat so long as it was accorded a symbolic victory, and that the North would accept a symbolic defeat so long as it was accorded a practical victory. Both guesses were wrong.

Douglas' argument is not merely a geographical one about temperature and rainfall, although Lincoln consistently portrays it is if that were all there was to it. Douglas allowed Lincoln to do so, because it allowed Douglas cover for his position that something other than the fiat of the central government

¹⁴Conceivably had Chase or some more reputable like-minded person striven in private with Douglas, he might have bent the other way. In 1858, when Douglas began to waver about opposing the English Compromise in favor of the fraudulent Lecompton Constitution for Kansas, his protege David Broderick of California took him aside and told him that if he supported the English Bill he might as well "go out into the street blow his brains out." Douglas did ultimately oppose the English bill. This time, however, it was Dixon who knew how to handle Douglas, and Chase knew only how to infuriate Douglas but not how to beat him.

will keep slavery out of Kansas. It is true that Kansas is too dry and cold for cotton. But it is not too dry and cold, at least in the river valleys, for hemp, the chief slave-grown crop of Kentucky and Missouri. Certainly David Atchison, who was from western Missouri, where slavery was stronger than in the east of the state, felt that slave agriculture could cross the state line, and Jefferson Davis and many other Southerners agreed with him. And conceivably slaves can do many other things than raise crops. (In Richmond, they even ran an iron works.)

Douglas' argument was a sociological one, not a geographical one. Although technically slaves can do anything other workers can, the cultural vitality of slavery is tied to high-value forms of agriculture. Further, Douglas was aware that the kind of people who would be looking to move to the dry plains of Kansas (as opposed to the better lands of south Texas), would be yeoman nonslaveholders from the South who would be moving there to escape from the competition from slave labor and from the presence of black people. In an earlier generation, such people would have taken slaves to new territories and painfully aped the ways of the kinds of people who looked down on them in the established slave states. (Thomas Sutpen in *Absalom! Absalom!* is such a man.) But because the rise in the price of slaves since the closure of the international slave trade had made such people unable to own slaves, yeoman emigrants became the kind of anti-slavery racists that Berwanger describes, people who hated slavery and black people about equally.¹⁵ These were the kind of people who settled California and Oregon (who wrote free-state constitutions under popular-sovereignty conditions), and who for that matter had earlier settled southern Illinois. They were the kind of people who in fact did settle Kansas, despite everything. Douglas had intended to give such people a powerful incentive, in the form of what we now call the Homestead Act, which Douglas originated in 1849, although it did not become law until 1862, the year after his death. This act can only have been, and can only have been intended to be, a death-blow to slavery, and that is why Douglas was never able to pass it.¹⁶

The point of this summary is that Douglas in 1854 was not fighting an avant-garde action on behalf of the Slave Power Conspiracy, but a rearguard

¹⁵Whether Douglas was right about this is still a hot subject of debate. I finally believe, with Potter, that Douglas' thesis is culturally if not economically true.

¹⁶Johannsen makes this claim in *The Frontier, the Union, and Stephen A. Douglas* (Johannsen 1989). The argument is so persuasive that I'm rather surprised it hadn't been made before.

action against the Calhounite joint-property position¹⁷. Lincoln might not have known that in 1854. He could not have missed it in 1858, but he chose to ignore it.

On his own side, Douglas seems to have been tone-deaf, as Allan Nevins called him fifty years ago, about the cost of moral compromises. People are willing to take a loss in the hopes of reaping a gain when the stake is money, and Douglas seems to have thought that people — well, Northerners anyway — could easily make the same kind of detached prudential calculations about moral issues. The problem is this: when I give up money to make money, I still know how much money means to me. But when I give up right to advance right, I am likely to lose sight of how valuable right is to me, or even perhaps what it is. The ethos of moral dealmaking is in some ways an attractive one, but its risk is that engaging in that dealmaking may make what matters to one less and less clear, less and less worth the struggle. When Lincoln accuses Douglas of weakening the commitment in the public mind to hostility to slavery, he partly accuses Douglas of being part of the Slave Power Conspiracy. That Lincoln can make this charge, and persist in it in the face of convincing evidence to the contrary right up to the outbreak of the war, might lower him some in our esteem. Or that even Lincoln is driven to make such insane charges might give us some sense of just how fevered the political life of the 1850's was becoming. But Lincoln's charge has another meaning, and a more plausible one. For if one is to be always willing to deal with one's enemy where one finds him, and with what is ready to hand, one might well begin to lose one's grip on just what matters. The problem in a nutshell is that we cannot know in advance what Douglas would not have conceded if he had been pressed hard enough and ruthlessly enough for concessions. When the break came, from the struggle over the fraudulent proslavery Lecompton Constitution in Kansas in 1857 to the outbreak of war four years later, Douglas stood firm. But many people of his views did not, and knowing the details of those views does not predict how such people will turn.

¹⁷All of the standard histories cover the notion of a "slave-power conspiracy" to subvert the free political institutions of the south. But an interesting account of it is also given in Davis' short book on the subject(Davis 1969).

3 Lincoln's chief arguments

When Douglas travelled back to Illinois in the late summer of 1854 to defend the Kansas-Nebraska Act, he said that he could have travelled the entire way by the light of his own burning effigy. In Chicago, where four years earlier he had successfully won over a hostile audience to support of the Compromise of 1850, he was shouted down by the crowd and was unable to give his speech. In Springfield, the neutral territory between the antislavery northern counties of Illinois and the pro-southern (if not pro-slavery) counties of Little Egypt, he was able to make his speech. But Lincoln, whom he had refused to debate, rose at the end of the speech and announced he would reply the next day. Accepting the inevitable, Douglas agreed to allow Lincoln to reply to him when next he spoke, a few days later at Peoria, on condition that Douglas himself have a few minutes rebuttal at the end. Lincoln readily agreed to this, he humorously admits in the opening paragraphs, since it assured him that the Democrats in the audience would stay to hear his own speech, if only for the pleasure of hearing Douglas flay him once it was over. All told, this series of speeches would have taken about seven hours to deliver, with the Peoria Speech accounting for about three and a half hours of it.

Lincoln's Peoria speech opens with a disavowal of the kinds of personal attacks upon Douglas that were the focus of the Appeal of the Independent Democrats and would be the focus of Lincoln's own House Divided speech four years later. His motive is partly a political one, in that he wishes to disavow himself from the kind of radicalism that would alienate voters in Central Illinois. He not only wants to dissociate the cause of free soil in the territories from the cause of abolition in the states, but also to affirm that his position is a national position, not merely a reflection of a northern sectional agenda.

I wish further to say, that I do not propose to question the patriotism, or to assail the motives of any man, or class of men; but rather to strictly confine myself to the naked merits of the question.

I also wish to be no less than National in all the positions I may take; and whenever I take ground which others have thought, or may think, narrow, sectional and dangerous to the Union, I hope to give a reason, which will appear sufficient, at least to some, why I think differently.

And, as this subject is no other, than part and parcel of the larger general question of domestic-slavery, I wish to MAKE and to KEEP the distinction between the EXISTING institution, and the EXTENSION of it, so broad, and so clear, that no honest man can misunderstand me, and no dishonest one, successfully misrepresent me.

In making the distinction between toleration of slavery where it exists already and hostility to its extension into the territories, Lincoln constructs an ideal slaveholder by whom his speech might imaginably be overheard, a slaveholder who stands within Lincoln's own horizon of persuadability. Not all slaveholders stand within Lincoln's horizon of persuadability. The slaveholder who believes, with Calhoun, that slavery is a positive good, does not. But Lincoln is unwilling to assume that the positive good position is characteristic of slaveholders as a whole.¹⁸ To address this idealized slaveholder, Lincoln must give up the idea that the slaveholder is, *qua* slaveholder, an evildoer with a demonic agenda, and must see at least some kinds of slaveholder as people with moral capacities and values not far different from his own. This idealized slaveholder, a figure whom Lincoln recognizes as being a member of his own moral species, is the slaveholder who hates slavery in principle but does not see any immediately available practical way of putting it to an end. He has in mind some of the great Virginians of the Revolutionary generation, Washington, Madison, and Jefferson, and their successors, men

¹⁸The horizon of persuadability Lincoln imagines in his debates with Douglas is far narrower. Lincoln's speeches in 1858 have nothing to say to Southern Democrats, nothing to say to Southern Whigs, and nothing even to say to Northern Democrats. His entire energy is directed toward persuading moderate Northern Republicans that even though the popular sovereignty position has won out in Kansas it is still not a position that the Republican party can afford to adopt. The darkest case one can make about Lincoln's views in 1858, a case made by Randall and only rejected by Jaffa after a struggle, is that Lincoln was chiefly motivated by the necessity of keeping Douglas, who was engaged in a death-struggle with Buchanan over the future of the Democratic party after the Lecompton crisis, from changing his stripes and joining the Republicans, as Greeley was urging him to do. Whether or not this was indeed Lincoln's agenda, Lincoln so constructed his position to keep free-soil, popular sovereignty Democrats out of the party. (Free-soil, anti-Nebraska Democrats, however, had already become Republicans by 1858. Indeed one of them, Lyman Trumbull, maneuvered Lincoln out of the Senate seat he should have won in 1856.) This position, according to Zarefsky, cost Lincoln the support of the former Whigs who had voted for Fillmore in 1856 and who still hesitated about joining the Republican party, and this in turn cost him the 1858 election.

such as Henry Clay and John Crittenden (and for that matter Zachary Taylor and Reverdy Johnson), who represented the road not taken for Southern politics. While it is easy to stigmatize such men as lacking the moral force to take the South down a difficult road, as loving peace and ease more than right, it is important to remember that such persons were often themselves prisoners of necessity, of debt, for instance, and of the inability to imagine that former slaves and their masters might ever be able to live together on terms of political and social equality. Thomas Jefferson may, thinking of slavery in a famous passage, have trembled for his country when he reflected that God is just, but he also described himself and people like him as having, in his famous phrase, "a wolf by the ears."

The key theme for Lincoln is that the conditions for freedom are easily lost and not easily recovered. It is not merely that as a master one learns habits of brutality and repression that make one incapable of democracy. It is also that slaveholding, like alcohol, binds master as well as slave upon the wheel of necessity, and the polis life is available only under conditions where necessity is at bay. The slaveholder, like the alcoholic, has surrendered himself to a kind of necessity to which even his best intentions are ineffectual. But the man who has surrendered to necessity is nevertheless a far different figure from the demonic, sexually aggressive, and endlessly resourceful figure one sees in Stowe's Simon Legree. (He is not, however, far different from Stowe's thoughtful, ironically articulate, androgynous, and self-hating Mr. St. Clair.) There is an appealing modesty, and a lack of moral pretense, in Lincoln's presentation of this case, something that is refreshing to hear in an age like our own, when public men and women must pretend to a greater certainty than their convictions in fact support, in order to shout down, perhaps, that Socratic daemon which keeps insisting that we are neither as good as we like to believe nor as earnest as we like to appear.

Before proceeding, let me say I think I have no prejudice against the Southern people. They are just what we would be in their situation. If slavery did not now exist amongst them, they would not introduce it. If it did now exist amongst us, we should not instantly give it up. This I believe of the masses north and south. Doubtless there are individuals, on both sides, who would not hold slaves under any circumstances; and others who would gladly introduce slavery anew, if it were out of existence. We know that some southern men do free their slaves, go north,

and become tip-top abolitionists; while some northern ones go south, and become most cruel slave-masters.

When southern people tell us they are no more responsible for the origin of slavery, than we; I acknowledge the fact. When it is said that the institution exists; and that it is very difficult to get rid of it, in any satisfactory way, I can understand and appreciate the saying. I surely will not blame them for not doing what I should not know how to do myself. If all earthly power were given me, I should not know what to do, as to the existing institution.

Lincoln's proposals on this score are very feeble indeed — the emigration of freed slaves to Liberia, that last resort of wishful thinkers (like Madison, or Clay, or Stowe) who wish to somehow rid their country of slaves and of black people in one breath. Even twenty-two years before this, the most promising emancipation movement in Virginia, which came within a few votes of ending slavery in the Old Dominion, had come to grief on the recognition that Liberian emigration — or rather, deportation — was neither practicable nor decent. But the point is that Lincoln is fully aware of the inadequacy of this response, and he presents it not as a possible course of action but as evidence of his bewilderment, a bewilderment he shares with the decent among his slaveholding opponents.

My first impulse would be to free all the slaves, and send them to Liberia, — to their own native land. But a moment's reflection would convince me, that whatever of high hope, (as I think there is) there may be in this, in the long run, its sudden execution is impossible. If they were all landed there in a day, they would all perish in the next ten days; and there are not surplus shipping and surplus money enough in the world to carry them there in many times ten days. What then? Free them all, and keep them among us as underlings? Is it quite certain that this betters their condition? I think I would not hold one in slavery, at any rate; yet the point is not clear enough for me to denounce people upon.

It is puzzling that Lincoln is not certain that even keeping freedmen underfoot as a kind of permanent underclass is at least an improvement over keeping them under the power of the lash and the patroller. We want to say

that there ought to be other choices — equality, for instance — but the point is that it is extremely hard to imagine giving power to those whom you given reason to hate you. That those whom one has subjected and repressed really do have reason for this hate does not make the act of handing power over to them any easier, and indeed the thought of the anger and desire for revenge that would seem to be the natural concomitant of repression would provoke nightmares enough to make a common life difficult even without paranoid fantasies and a demonic vision of the otherness the other. Given this, the surprise is not how vicious the postwar world of Jim Crow and Lynch law was, but that it was not far worse. Lincoln certainly thought it might be.

Lincoln is also aware of the intractable problem of racist feelings, including his own. The passage I am about to quote used to be cited as exhibit A in the debunking case against Lincoln. And indeed, the actual positive content of Lincoln's racism here is not far different from Douglas' and has some of the same policy implications. But there is a key difference in tone between Lincoln's avowals here and the more gleeful claims of the same kind made by Douglas, and that is that Lincoln is not proud of his racism, only realistic about its power and intractability. Racism seems irrational to Lincoln, but he knows the pull of that irrationality because he feels it. To concede that an irrational feeling is intractable is not to argue that it is rational or right. Lincoln does not use the depth of these feelings as an excuse for leaving them totally untouched but cautiously suggests ways to modify those feelings gradually. This is far different from the use other people made of the assumption that widespread racism made it impossible to imagine how white people could outgrow it. Justice Taney's claim, in his *Dred Scott* opinion, that black people have no rights that white people are bound to respect was not meant as a representation of his own views (indeed, he deplored those views) but of what he — mistakenly — took to be the views of the Founders. Taney argued that these views are reprehensible, but that since no constitutional acts have been taken to change the order they established, they still have legal force, reprehensible as they are. Lincoln's view pulls in precisely the opposite direction. Indeed, even his confession of his own ugly racial feelings has something of the air of a strategic concession to it, as if Lincoln were attempting to wheedle his audience, not just the slaveholders, out of their own racism. He uses toward them what I have elsewhere, describing Lincoln's attitude towards other examples of powerful but intractable ugly feelings, called the tone one uses when speaking to a strange dog. The power of irrational feeling, like the act of holding slaves, binds people to necessity

and weakens their capacity for freedom. As in the case of slavery itself, Lincoln sees the futility of a direct assault upon these things that corrode the public life. But to concede that is not to concede that they need always triumph, or that they cannot be weakened at the margins until they begin to give way at the center. Lincoln's hostility to racism is a more cautious version of his already very cautious hostility to slavery.

What next? Free them, and make them politically and socially, our equals? My own feelings will not admit of this; and if mine would, we well know that those of the great mass of white people will not. Whether this feeling accords with justice and sound judgment, is not the sole question, if indeed, it is any part of it. A universal feeling, whether well or ill-founded, can not be safely disregarded. We can not, then, make them equals. It does seem to me that systems of gradual emancipation might be adopted; but for their tardiness in this, I will not undertake to judge our brethren of the south.

Lincoln can afford sympathy with this idealized slaveholder because that figure has already made the crucial concession, that slavery is wrong and must ultimately be abolished. Lincoln finds this concession in the language of the Declaration of Independence, whose preamble he sees as making commitments that are incompatible with the persistence of slavery. Lincoln is willing to concede that the Founders were unable to make good on the promises contained in that document. But he argues that the Founders wanted to make sure that the promise they made would not be forgotten, that it would stand as a reminder to them of unfinished business, and that for all of the ways the founders had compromised themselves in the design of the Federal Constitution, even there they had adopted pointedly evasive and shamefaced language such as "the importation or migration of persons" for the slave trade, and avoiding the use of the word "slave" even where it is glaringly obvious that slavery is the subject. It was the Virginia legislature, after all, not just Thomas Jefferson, that insisted upon the prohibition of slavery in the Old Northwest at the time of the Northwest Ordinance, under the Articles of Confederation. And, Lincoln argues, it was only because slavery had already planted itself there that Virginia did not insist upon the same thing for Kentucky, North Carolina for Tennessee, and Georgia and South Carolina for the Old Southwest.

Attacking Douglas' contention that allowing the territories to decide for themselves about slavery is simply allowing them the right to self-government, Lincoln invokes the language of the Declaration about what self-government means. But Lincoln uses "self-government" to describe a kind of government that the founders did not in fact establish. Neither Lincoln nor Douglas are obviously right about what the founders intended, because what the founders intended was an open question even to them. Douglas describes the state they set up, but Lincoln describes the meaning of that state. Douglas describes their conception, Lincoln their concept.¹⁹

The doctrine of self government is right — absolutely and eternally right — but it has no just application, as here attempted. Or perhaps I should rather say that whether it has such just application depends upon whether a negro is not or is a man. If he is not a man, why in that case, he who is a man may, as a matter of self government, do just as he pleases with him. But if the negro is a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern himself? When the white man governs himself that is self-government; but when he governs himself, and also governs another man, that is more than self-government — that is despotism. 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.

Judge Douglas frequently, with bitter irony and sarcasm, paraphrases our argument by saying "The white people of Nebraska are good enough to govern themselves, but they are not good enough to govern a few miserable negroes!!"

¹⁹Ronald Dworkin (Dworkin 1986) uses a law's concept to describe the deep but perhaps not fully articulable value it is intended to serve. A law's conception is its concrete working-out in the political and legal institutions of a particular time and place. To see moral conflict as a conflict between concept and conception is very promising, because it means that each side is quarreling about insights into the same meaning. But it was the habit of nineteenth century politicians to see the moral conflict as a conflict between higher law and positive law. That is a far less promising formalism, since it tempts everyone to see it as an issue between those who have moral authority and those who have only power. To see moral conflict as a conflict between concept and conception is to invite moral engagement among opponents. To see moral conflict as a conflict between higher law and positive law is to invite only civil war.

Well I doubt not that the people of Nebraska are, and will continue to be as good as the average of people elsewhere. I do not say the contrary. What I do say is, that no man is good enough to govern another man, without that other's consent. I say this is the leading principle — the sheet anchor of American republicanism.

This claim, that political promises are saturated with entailments that those who make them may not be able to make good on, is pressed by Lincoln into an even stronger view: that in politics one makes certain kinds of value commitments without fully knowing what their entailments are, that only much later do we know the meaning of the things we have promised, and indeed, we find ourselves often to have promised things we would have denied were in our intentions when we made the promise. Political values have the kind of implicitness that people do. They have stories that are not over and turn in unanticipated directions which nevertheless seem to have inevitability in retrospect. If pressed, the Founders would perhaps have denied that “All men are created equal” or that “they are endowed by their Creator with certain inalienable rights” commit them to abolition, or to political rights for women. Indeed, had an issue been made of those things at the time, the Declaration would probably not have passed (if the fight over Jefferson's denunciation of slavery in the original draft of the Declaration is any sign). But it is not merely an exercise in strong misreading or special pleading to argue that the founders have committed themselves in those words. And it is not hard to apply the same case to Lincoln himself, that his opposition to slavery is phrased in terms which commit him to the political and social equality of the races, despite his passionate and explicit disavowal of that commitment when Douglas presses him about it.²⁰ Charged political

²⁰This same theme probably plays out on Douglas' side of the quarrel as well, since although many who took the popular sovereignty position on Utah and New Mexico had reason to deny that their act committed them to take the same position on Kansas and Nebraska, it's still not totally implausible (although with Lincoln I still think it's mistaken) to argue that the compromise of 1850 had revolutionized the question of how to organized territorial governments concerning slavery and established a new way of thinking about the problem that ought to be applicable everywhere. (This claim is of course complicated by Douglas' own fulsome praise of the Missouri Compromise in 1849 — which Lincoln quotes in the Peoria speech, ironically and unfairly out of context, since in the 1849 context Douglas was attempting to extend the 36-30 line across the Mexican Cession, not merely to praise its application in the region of the Louisiana Purchase — but Douglas

agreements are of course strategically ambiguous, otherwise agreement will not happen; but they also are full of implicitness, and their entailments keep emerging as an unanticipated but startling rebuke from a better self.

Lincoln cannot but have been aware that this kind of slaveholder had been losing ground in the south to the kind of slaveholder who believed that slavery is a positive good. Sometimes he blamed the cotton gin for this. Sometimes he blamed Douglas, for bending too often to the desires of the intransigent. He didn't often focus on what seems to modern historians to be the real cause, which is the way loyalty politics worked to discredit moderate slaveholders in the local partisan conflicts of the south. I don't think that Lincoln ever had a clear idea of just how formidable the fire-eaters had become. Certainly his grossly incompetent behavior during the five months between his election and his inauguration revealed no clear grasp of how things stood, but then again the Republicans, unlike the Democrats, did not have hundreds of postmasters in the South keeping them apprised of the situation.

Be that as it may, Lincoln addresses the "positive good" slaveholder by doubting whether he really means what he says. If slavery were a positive

could and did argue that his praise was only strategic, and of course he abandoned that position in 1850.) Lincoln himself holds that the Compromise of 1850 had created a new political order — that is why he is enraged with Douglas for upsetting the applecart. And it is not totally unreasonable to assume that the arrangements of 1850 license one to rethink the question of slavery from the beginning and require one to reopen the questions that seemed closed in 1820. Indeed, on this issue Lincoln and Douglas entirely change places: Douglas traditionally argues that it is acceptable for one region to arrange matters differently from another and not to insist upon a universal rule. That's why it is all right for him that Louisiana demands slavery within its borders and Illinois rejects it. But on the territorial question it is Lincoln, not Douglas, who is comfortable with the patchwork solution which provides one set of rules for the Louisiana Purchase and another for the Mexican Cession. Lincoln's patchwork solution is if anything even more ragged than Douglas' since the different visions of slavery are at least maintained by different polities, the different states, but the different rules for the Territories advocated by Lincoln are imposed by the same polity, the federal government. The Compromise of 1850 itself had a kind of implicitness that imposed itself against the intentions of its framers, since after all most of those who voted for its individual measures in fact opposed the compromise as a package deal, but were required to treat it as a package deal afterwards. One of the reasons that Lincoln's and Douglas' arguments about the meaning of the Compromise of 1850, or the Missouri Compromise, or the Northwest Ordinance, seem to go in circles is that all of these arguments are arguments from implicitness, and arguments about implicitness are hard to settle, particularly if they pretend to be arguments about the legislative history and original intent of the acts concerned.

good, Lincoln argues, then why did slaveholders share the northern enthusiasm to abolish the international slave trade? (He did not foresee how Breckinridge's supporters would call for reviving that trade in 1860.) If the slave were merely a species of domestic animal, then why do slaveholders treat slave dealers as repugnant creatures? They do not think of horse dealers or cattle dealers in these terms.

Now, I admit this is perfectly logical, if there is no difference between hogs and negroes. But while you thus require me to deny the humanity of the negro, I wish to ask whether you of the south yourselves, have ever been willing to do as much? It is kindly provided that of all those who come into the world, only a small percentage are natural tyrants. That percentage is no larger in the slave States than in the free. The great majority, south as well as north, have human sympathies, of which they can no more divest themselves than they can of their sensibility to physical pain. These sympathies in the bosoms of the southern people, manifest in many ways, their sense of the wrong of slavery, and their consciousness that, after all, there is humanity in the negro. If they deny this, let me address them a few plain questions. In 1820 you joined the north, almost unanimously, in declaring the African slave trade piracy, and in annexing to it the punishment of death. Why did you do this? If you did not feel that it was wrong, why did you join in providing that men should be hung for it? The practice was no more than bringing wild negroes from Africa, to sell to such as would buy them. But you never thought of hanging men for catching and selling wild horses, wild buffaloes or wild bears.

Again, you have amongst you, a sneaking individual, of the class of native tyrants, known as the "SLAVE-DEALER." He watches your necessities, and crawls up to buy your slave, at a speculating price. If you cannot help it, you sell to him; but if you can help it, you drive him from your door. You despise him utterly. You do not recognize him as a friend, or even as an honest man. Your children must not play with his; they may rollick freely with the little negroes, but not with the "slave-dealers" children. If you are obliged to deal with him, you try to get through the job without so much as touching him. It is common with you to join

hands with the men you meet; but with the slave dealer you avoid the ceremony — instinctively shrinking from the snaky contact. If he grows rich and retires from business, you still remember him, and still keep up the ban of non-intercourse upon him and his family. Now why is this? You do not so treat the man who deals in corn, cattle or tobacco.

The “positive good” advocates were fond of invoking the claim that slaves are species of property like any other. They were attracted to this formula because it appears to be sweeping, and compact, and it puts an end to argument. It has the sound of apodictic certainty, and those who brandish it gain from it an air of unhesitant self-confidence. A brandished formula like this gives one the sense of having settled the subject; it also gives one rhetorically the ability to close the door on messy concessions and negotiations. The value of a show-stopping reply in an uncertain world is perhaps so high that we often embrace them even when they in fact falsify what our convictions really are. That is the force of Lincoln's argument here: that the brandished reply is false to the actual convictions it is invoked to defend. What the slaveholders deny in resorting to such formulas is the implicitness of their own convictions. Convictions with implicitness are vulnerable convictions, and it is better to swear to a lie than to concede that. I call this rejection of one's own implicitness in the name of rhetorical firmness “the suicidally apodictic.” I call it suicidal because it pays more attention to the force of one's own side than to the conviction that side stands for. It is suicidal also because it demands a similar response. The South was not alone in wielding suicidally apodictic statements, and such statements tend to ratchet each other up in a kind of *wechselwirkung* which ought to be familiar to anyone who has ever found himself enmeshed in an argumentative economy of reciprocated vituperation. Certainly neither side of the abortion struggle of the 1980's, for instance, really believed their own compact statements. And it's a good thing, too. But in the 1850's people increasingly did believe their compact statements, increasingly did give themselves to the suicidally apodictic. To reject the implicitness of other people is ultimately to render political life with them hopeless. But to reject one's own implicitness is worse, for it is an instance of what Kierkegaard calls a despair so deep that it cannot recognize itself as despair.

Given Lincoln's generosity to the imagined slaveholder, his first entry into his quarrel with Douglas is surprisingly harsh, which is not to say that it is

unjust:

This declared indifference, but as I must think, covert real zeal for the spread of slavery, I can not but hate. I hate it because of the monstrous injustice of slavery itself. I hate it because it deprives our republican example of its just influence in the world — enables the enemies of free institutions, with plausibility, to taunt us as hypocrites — causes the real friends of freedom to doubt our sincerity, and especially because it forces so many really good men amongst ourselves into an open war with the very fundamental principles of civil liberty — criticizing the Declaration of Independence, and insisting that there is no right principle of action but interest.

Now Douglas had said nothing against the Declaration of Independence, although he assumed that the founders meant it only to apply to white men. But proslavery ideologues like Calhoun, Dew, and Harper, and Fitzhugh consistently treated the Declaration as wild and dangerous nonsense, and Lincoln saw Douglas' popular sovereignty position as providing intellectual cover for such a position. Even more startling is the way Lincoln ties criticism of the Declaration with the notion that "there is no right principle of action but interest." Douglas did not really believe that either, so we must resist the temptation to see the debate as a replay of the first book of the *Republic*, with Lincoln himself as Socrates and Douglas as Thrasymachus. But there is a way in which Lincoln is right.

Douglas' key idea was that persuasive engagement with your opponents requires two things: first, the concession that sometimes you can be defeated and that your world won't end because of it, and second, the promise that you won't make too much of your victories. Concerning the first feature of persuasive engagement, Douglas signified his willingness to accept defeat if it is really in the cards by accepting the outcome of the struggle in Kansas, whatever it would be. He was free to do this because he had a pretty good idea already that the outcome would be in his favor. But he didn't see himself required to give the South even odds, only not to load the dice. Douglas believed in turn that he could persuade the South to accept defeat in Kansas so long as it was not the federal government that imposed that defeat.

Concerning the second feature of persuasive engagement, the promise not to drive your opponents to the wall in the event of victory over them, Douglas'

prognostications about the geography and sociology of the territories were intended to let nature, rather than his own moral hostility to slavery, take the rap for the failure of slavery in Kansas; Douglas meant popular sovereignty to be a way of marking his own side's voluntary restraint about using its moral position in a threatening way. Lincoln's promise not to abolish slavery in the states where it already existed was also meant to be a promise that he would not use his moral advantage as a pretext to drive his opponents to the wall. But only the older type of slaveholder, who thought of slavery as an evil which could not be rooted out immediately but which should be put in the way of ultimate extinction, could have seen Lincoln's act as that kind of promise. To those who believed, with the fire-eaters, that slavery was a positive good, and that it must either expand or die, Lincoln's concession was no concession at all. But to those people Douglas' concession was no concession either, since it would have resulted in the same outcome, the failure of slavery in the territories.²¹

Douglas' act, in his own view, was a willingness to renounce using moral weapons in the course of a contest he already knew (or rather, believed) he would win by other means. Lincoln was not so sure that the matters-of-fact of geography and sociology pointed to an antislavery victory in Kansas (since it is on the same latitude as Illinois, and slavery was strong in the counties of Missouri closest to the Kansas border). Lincoln saw slavery as economically robust and politically aggressive, capable, by its own force, of establishing itself so deeply that it can not be pulled out once it has become rooted. After all, even if slavery could not have survived in Kansas in 1854,

²¹It is plausible to see the desire to extend slavery into the territories as part of an aggressive and expansionist agenda on the part of the slave states to strengthen their position in the Congress. But extension seems to serve opposite purposes in different parts of the South. Where slavery was robust, expansion seemed to be insurance against the idea that confining slavery to the states in which it existed already would compromise its vitality. But in the upper South a different argument had currency. Their position, the "diffusionist" position, argued that the extension of slavery would not in fact increase its vitality, since every slave that entered Kansas would be a slave removed from some other slave state. Lincoln gives this rather silly position short shrift in the Peoria speech. But what the upper South had in mind by their argument was to make it possible for them to end slavery in their own states by exporting all their slaves, so as to rid themselves of slavery and slaves in one step. This is hardly an antislavery position. But it was in fact exactly the way slavery was ended in New York, New Jersey, and Pennsylvania. A recognition of how bad a solution this is was among the things that prevented Virginia, which was considering a similar plan, from abolishing slavery in 1832.

which Lincoln did not concede, slavery had in the preceding generation been given, in other regions where it was assumed it would not prosper, a powerful new lease on life by the invention of the cotton gin. Should some moral equivalent of the cotton gin have arisen to give slavery new possibilities, Douglas' position would have been a losing one, and Lincoln was not willing to run the risk, particularly since slavery did not have to be terribly well established to have a chokehold over the political institutions of a territory or a state, as the example of the power of slavery in lightly-enslaved Missouri should demonstrate.

What Lincoln was most afraid of in the Peoria speech was not that slavery would establish itself in Kansas but that the "positive good" theory about slavery would gain such standing that those who opposed slavery but did not want to go to war about it would be forced to treat slavery as if it were a matter of moral indifference, an interest like an economic interest to be traded off against other interests with which it might be in conflict. That the "positive good" view was gaining ground is measured by the extent to which a moral critique of slavery, once shared even by slaveholders, became a style of argument so inflammatory that those who were not immediately ready for violence were put under pressure to cease to press such a critique. And Douglas indeed did refuse to press that critique. But his doing so did not mean that he had no moral issues with slavery; it only meant that he thought he could win his case by refraining from inflammatory moral arguments and pressing non-inflammatory economic ones.

What Lincoln fears is that the pressure of the "positive good" argument may drive moral motives out of politics, so that political questions will always be decided by nonmoral things like force or money or geography. Douglas speaks as if money and geography will decide the slavery question, and have already decided it in Kansas. But Lincoln is wrong that Douglas has no moral motives; all Douglas has done is to refrain, for strategic purposes, from making moral arguments. Douglas intended to use Popular Sovereignty as a device to persuade the South to accept what he took to be its inevitable defeat in the territories. Had slavery been kept out by a moral fiat, the slaveholding states could complain, Douglas feared, that they had been shut out of a say in the future of the nation and treated as a kind of subject province rather than as members of the polis community. Under popular sovereignty, Douglas felt that he could reply to this claim by arguing that the slave states had been given a fair chance to have their way in the territories, but, having fairly lost out there, should accept their defeat.

One can maintain a position like Douglas' only so long as one keeps it present to one's own mind that one is only *pretending* not to have a moral agenda. Douglas is the opposite of a hypocrite: he pretends that his moral motives are only interest motives. And he carries on that pretense in order to better secure his moral aim. But Douglas' pretense has an implicit power he may yet be forced to make good on: if one may have moral motives but cannot bring moral arguments into the public arena one may be forced not only to pretend, but to behave, as if there is no right public principle of action but interest. For if the price of political engagements with others is a promise to lay one's moral objections to one side, one can of course be held to that promise, in which case one might as well have conceded that one's moral motives were only sentimental illusions. If one must act on the basis of the assumption that one cannot press in public a disputed moral agenda about slavery, it does not matter that one is merely pretending to let that agenda go, for then one can give one's self no good reason to oppose slavery anywhere, and can be forced to argue that just as states can decide the issue of the morality of slavery for themselves, so persons can, and if any one person wishes to hold a slave, no other can say him nay: "If you don't like slavery, then don't hold slaves," the bumper sticker of 1854 might have read.

At first this argument seems rather a stretch. After all, Douglas knows perfectly well what his moral motives are, and those motives don't lose their force if he confines himself to non-moral arguments so long as those arguments, even if they are economic rather than moral arguments, continue to be aimed at ultimately securing the moral outcome he seeks. But Lincoln's argument is that to confine one's self to a particular style of argument is to establish a particular kind of public self-consciousness. Refraining from moral critique, Lincoln feels, will harden the public mind to the injustice of slavery. The problem is this: as a Whig, Lincoln feels that liberal regimes require for their support a deeply ingrained and only partly conscious structure of habits and feelings, without which liberal regimes are unstable. As a Democrat, Douglas was less committed to the idea that liberal regimes require the support of deeply ingrained cultural habits, and for this reason the idea that his strategic retreat from moral argument might have a corrupting effect on the public mind is mystifying to him.²² That his strategic retreat

²²Notice that I did not argue that Douglas rejects entirely the idea that liberal regimes require the support of cultural habits, only that his view of them is far less sweeping than

from moral language might corrupt the public mind seems as strange to Douglas as the idea that people's convictions might be manipulated by changing their vocabularies. (One of the reasons Whigs were so often nativists was that they felt that those who had been brought up under repressive governments abroad could not have had opportunity to internalize the habits of thought required for good citizenship. Democrats, by contrast, did not believe that liberal habits of thought were hard to obtain, and indeed they felt that liberal principles are really only meaningful if they are universal features of human identity rather than the possessions of a blood culture. This is why Democrats tended to oppose nativism.²³)

Even though liberal regimes depend upon the widespread prevalence of particular habits of thought, they cannot impose those habits of thought by force of law. One might think of it this way: our current regime could not long survive if Nazi ideals prevailed among the people, and yet it cannot use the force of law to repress them. To give another example, our government can legally repress some public forms of racism — no matter how much a white restaurant owner hates black people, he must serve them in his restaurant. But our government cannot make that restaurant owner like black people, and if too many people become like him, our government will be unable to secure racial equality. It must not only shape public institutions, but must also shape the public mind. But it cannot compel the public mind, and if the public mind sets in a particular unwholesome direction it will have no choice but to give way. Exactly what means a liberal regime may use to secure the cultural preconditions of its stability is of course an exquisite question. There is a strain of liberal thought which argues that liberal regimes must adopt a position of strict neutrality about moral issues which divide the people. This is of course Douglas' view, and it is the view of the earlier Rawls. Lincoln's view is the view of the later Rawls, that liberal regimes need not adopt a position of strict neutrality about every moral conflict, but need only promise to refrain from using the repressive power of the state to

Lincoln's is. Neither Lincoln nor Douglas is so ethnocentric that, with Burke, they can understand such a thing as "the rights of Englishmen" but can make no sense of "the rights of Man." But neither has so abstract a notion of political identity that a doctrine of rights requires no cultural support.

²³This view of the difference between a Whig cast of mind and a Democratic one derives from Daniel Walker Howe (Howe 1979). But it maps onto the distinction Greenstone describes between Humanist (Democratic) Liberalism and Reformist (Whig) Liberalism (Greenstone 1993).

foreclose such conflicts by force. It is perfectly appropriate for liberal regimes to use the persuasive resources of a public culture against values which, if they triumphed, would make liberal regimes impossible, but those resources do not include the police. It is this numbing effect upon the public mind that is at the heart of Lincoln's critique of Douglas' strategy.²⁴

Lincoln's description of the slippery slope upon which Douglas stands is stern but just:

But you say this question should be left to the people of Nebraska, because they are more particularly interested. If this be the rule, you must leave it to each individual to say for himself whether he will have slaves. What better moral right have thirty-one citizens of Nebraska to say, that the thirty-second shall not hold slaves, than the people of the thirty-one States have to say that slavery shall not go into the thirty-second State at all?

But if it is a sacred right for the people of Nebraska to take and hold slaves there, it is equally their sacred right to buy them where they can buy them cheapest; and that undoubtedly will be on the coast of Africa; provided you will consent to not hang them for going there to buy them. You must remove this restriction too, from the sacred right of self-government. I am aware you say that taking slaves from the States to Nebraska, does not make slaves of freemen; but the African slave-trader can say just as much. He does not catch free negroes and bring them here. He finds them already slaves in the hands of their black captors, and he honestly buys them at the rate of about a red cotton handkerchief a head. This is very cheap, and it is a great abridgement of the sacred right of self-government to hang men for engaging in this profitable trade!

Douglas proposes Popular Sovereignty because, in leaving the question of slavery to be settled by the matters of fact of sociology and geography, he believes it allows him to avoid forcing his own moral position upon a society that is divided about moral issues while also enabling his moral position to

²⁴One might compare Lincoln's grudging concessions to the power of popular racism — he is resigned about it, but not neutral — to Douglas' concessions to the "positive good" view, which does indeed strive for the rhetoric of neutrality, even if it is clear that Douglas privately believes that the "positive good" theory is hogwash and that slavery must be confined by some non-compulsive means.

prevail in a way that his opponents cannot complain about. But what seems to Douglas a matter of easily-affordable moral generosity seems to Lincoln a fatal moral concession. Douglas does not really believe (even though he sometimes says as much) that “there is no right principle of action but interest.” But his generous restraint of his own moral judgment, exercised in the interest of maintaining persuasive engagement with those who have different moral ideas, forces him to behave as if he did believe that. He does not believe what Thrasymachus does, but he is forced to behave as if he did, and that concession cannot help but cloud the issue of just how much those moral ideas really mean to him. It is a fatal concession to leave the outcome of moral conflicts to matters of fact not just because the matters of fact may turn out unpredictably, but because turning to matters of fact to settle moral conflicts falsifies the nature of those conflicts. Forces of nature are not moral. Biology is not a god. History is not a god. Economics is not a god. To treat any of these things as if they were is to treat moral agency as an illusion, whether it be the moral agency of people or of polities. We have no reason to accord moral respect to the outcomes of natural processes, because those outcomes are the happen-so of laws other than those of morality. To behave otherwise is to subordinate the moral identity that makes us human to natural processes, to dissolve practical reason in the metabolism of nature, to build altars to a bloody necessity tricked out as a beautiful one.

Slavery, this is to say, subjects the polities where it exists to a kind of fatality. Lincoln's argument is not one that can be settled by econometrics, for it is finally a vision of the moral rather than the political economy of slavery. Slavery is a kind of force that people or groups of people hold over each other. As a kind of force it is subject to the necessities of force. Slaveholding is a kind of trap door through which polities fall into depths from which they cannot by their own power climb out of. The defenders of Popular Sovereignty argue that decisions about slavery, like other decisions, should be the object of free choice by those who stand at the moral crossroads. This vision of free choice is defensible only so long as one can imagine that freely choosing whether or not to deprive others of freedom has no effect upon one's own capacity for freedom. But it is the tendency of slavery to corrupt free institutions, because no state can choose to undo what it has already done and root out slavery once it is already established, and the force of that necessity brings in its train other consequences which corrupt democratic rule, from the extensive and ugly police regulations required to keep slavery going, to the inevitability with which slavery corrupts the economic and

cultural status of free labor, and drives out the yeomen who would practice free labor, to the disproportionate power slaveholders demand and are given in the polities where they are a force.

The fatality of slavery is that by freely choosing to introduce it, I make it impossible for my descendents to freely choose to remove it, and I commit them to an endless contest of force with their slaves and with nonslaveholders.

Another important objection to this application of the right of self-government, is that it enables the first FEW, to deprive the succeeding MANY, of a free exercise of the right of self-government. The first few may get slavery IN, and the subsequent many cannot easily get it OUT. How common is the remark now in the slave States — “If we were only clear of our slaves, how much better it would be for us.” They are actually deprived of the privilege of governing themselves as they would, by the action of a very few, in the beginning. The same thing was true of the whole nation at the time our constitution was formed.

Slavery in the body politic is like alcohol in the body. Once I have freely taken it in, I am no longer free in any other way. But if slavery is an intoxicant, positive good theories of slavery are a sign of intoxication.

Even the Kansas Nebraska-Act itself, conceived as an exercise in agency, as something which would license the people of Kansas to arrange their own affairs their own way, has a kind of fatality about it.

The people are to decide the question of slavery for themselves; but WHEN they are to decide; or How they are to decide; or whether, when the question is once decided, it is to remain so, or is it to be subject to an indefinite succession of new trials, the law does not say, Is it to be decided by the first dozen settlers who arrive there? or is it to await the arrival of a hundred? Is it to be decided by a vote of the people? or a vote of the legislature? or, indeed by a vote of any sort? To these questions, the law gives no answer. There is a mystery about this; for when a member proposed to give the legislature express authority to exclude slavery, it was hooted down by the friends of the bill. This fact is worth remembering. Some yankees, in the east, are sending emigrants to Nebraska, to exclude slavery from it; and, so far as

I can judge, they expect the question to be decided by voting, in some way or other. But the Missourians are awake too. They are within a stone's throw of the contested ground. They hold meetings, and pass resolutions, in which not the slightest allusion to voting is made. They resolve that slavery already exists in the territory; that more shall go there; that they, remaining in Missouri will protect it; and that abolitionists shall be hung, or driven away. Through all this, bowie-knives and sixshooters are seen plainly enough; but never a glimpse of the ballot-box. And, really, what is to be the result of this? Each party WITHIN, having numerous and determined backers WITHOUT, is it not probable that the contest will come to blows, and bloodshed? Could there be a more apt invention to bring about collision and violence, on the slavery question, than this Nebraska project is? I do not charge, or believe, that such was intended by Congress; but if they had literally formed a ring, and placed champions within it to fight out the controversy, the fight could be no more likely to come off than it is. And if this fight should begin, is it likely to take a very peaceful, Union-saving turn? Will not the first drop of blood so shed, be the real knell of the Union?

“Will not the first drop of blood so shed, be the real knell of the Union?” All too truly. Popular Sovereignty, through what Harry Jaffa calls the intoxication of the will, is the means by which freedom bends itself back into fate.

4 The Irony of American History

Douglas renounces moral language because he feels that it is inflammatory. He does have a moral agenda, however, and it is an antislavery agenda, one which is intended to keep slavery out of Kansas and Nebraska. He invents, in place of the inflammatory language of moral dispute, a less inflammatory language of geography and sociology: Kansas will be free anyway because of the dictates of climate and culture, and the South would be wiser to accept that than to resist it. This language is persuasive only if natural processes can be described in a way that is charged with covert moral approval, if a phrase of the form “This is the course of nature” or “this is the tendency of

history” is a disguised way of saying “this is good, even if, for the record, I renounce the language of good.” This position is morally coherent only so long as the happen-so of climate and culture advances a moral agenda one in fact holds on other grounds, that is, only so far as the climate of Kansas will keep slavery out of the territory. This dependency ties the outcome of morally charged events to processes that in fact are not part of a moral economy: if Kansas were wetter or warmer, one would have to concede it to slavery. This dependency, that is to say, enslaves practical reason to natural destiny, which is contrary to the work of practical reason, which is to establish the moral autonomy of persons and of polities.

Douglas renounces moral language in the name of a species of moral autonomy. Human beings must choose for good or evil in their own way. If they do not have the ability to do otherwise, their acts are not acts of moral autonomy but of obsession and compulsion or of tyrannous habit and ideological conformity. So too with polities, whose moral status as bodies that make and can be held to promises is a function of their ability to choose what promises to make. In Jaffa’s telling phrase, “To deprive communities of free men of their power of decision over grave questions simply because they were grave was to strike at the main ground of justification of both federalism and democracy.”

Douglas does not, however, actually recuse himself from moral decisions by invoking the concept of freedom of choice. Despite what he says, it does matter to him which side wins out in Kansas, just as it matters to him which side had already won out in Illinois. But in pretending that the outcome is only the consequence of natural forces, or only the outcome of a contest of political force, he deprives himself of the resources of moral argument at a time when they may well become necessary to him. If I recuse myself from moral conflicts, even if I do have a moral agency and feel fairly certain of having my way with it, I nevertheless can fairly be said to have treated the power of moral ideas merely as a function of their ability to win out in a contest of force or in a contest of forces of nature, and this is to concede, in the face of my own moral agenda, that there are no moral ideas, and that justice really is only the will of the stronger. If I must treat justice only as if it were the will of the stronger, I transform by that act, no matter what moral motives bring me to it, contests between moral opponents into strict contests of force. And I deprive my victory in such a contest, if I win it, of its moral authority, because the outcome of contests of force have no claim to moral authority.

The other position, however, has an equally fatal flaw, for in an enflamed dispute I take a moral hard line, I transform that contest into a contest of force, and again we enter a world in which justice has no force, a world governed only by the will of the stronger. Lincoln is no more the stringent idealist, no more Shakespeare's Angelo, than Douglas is Thrasymachus, and Douglas' attempts to describe him that way are no less unfair than Lincoln's own parodies of Douglas' position. But both have already made fatal concessions. For whether one recuses one's self from a moral claim or presses it with however many qualifications, each position risks ushering us into a world in which outcomes are determined by contests of force. The dual fatality of both positions, which between them seem to take up all the available space, is the emblem of historical irony.

I started this paper by arguing that two apparently opposite positions, moral stringency and moral indifference, lead to the same outcome, a world governed only by the will of the stronger. Those two positions do not fully describe either Lincoln or Douglas. Lincoln is no more the stringent idealist, no more Shakespeare's Angelo, than Douglas is Thrasymachus, and Douglas' attempts to describe him that way are no less unfair than Lincoln's own parodies of Douglas' position. But both have already made fatal concessions. For whether one recuses one's self from a moral claim (while making cover reservations) or presses it (with however many qualifications), each position risks ushering us into a world in which outcomes are determined by contests of force. Lincoln and Douglas do not stand for moral stringency and moral indifference, respectively, but for different versions of moral pragmatism which stand on opposing slippery slopes. Neither position is certain to evade its risks; both are wagers.

Does historical irony amount to despair about the ability of liberal regimes to weather fraught moral conflicts? It certainly amounts to a recognition that a general and repeatable solution to the problem of intractable moral conflict is likely to continue to evade us. But we have no reason to believe that war over slavery was inevitable merely because of the intensity of the evil of slavery or the magnitude of the interests or forces arrayed on its behalf. For intractable and bloody moral conflicts over religious issues in which the highest stakes seemed to be at risk, conflicts which, like the conflict over slavery, involved enormous secular interests as well, were also pressing in the era when liberalism came into being. Deep and intractable moral conflicts were among the problems liberalism was designed to manage, and a recognition of how high the price of the failure to manage those conflicts

would be was among the motivations that made liberalism attractive in the first place. So the fact that a moral conflict is deep is not itself an argument that the conflict must evade the attempts of liberal politics to mediate it.

Managing a deep moral conflict is not, however, likely to be a matter of discovering some global solution to it which all sides will immediately recognize themselves as bound to accept. For it is a sad fact of human nature that when we discover a deep regulative principle which ought to govern the conflict at hand, when we climb to a higher level of abstraction in order to discover a commanding appeal to a common value shared with our opponents, we usually use that principle to sharpen rather than resolve the conflict, because in enflamed situations the temptations such principles offer us to argue that our opponents are completely beyond the moral pale (and are therefore not people with whom we should have to engage in dealmaking) are rhetorically irresistible. Because we so often transform what ought to be a common principle into a private weapon, we should not count on discovering a principle deeper than our conflict which we might use to regulate it.

But if it is unwise to seek a global resolution to a conflict, it is possible to make local arrangements which, once made, pave the way for other local arrangements, which in turn pave the way for a global resolution that appears unimaginable at the beginning. A resolution to a deep moral conflict, this is to say, is more likely to arise from a strategy of seeking slightly irrational, ad hoc, catch as catch can bargains whose chief attraction is that they are less disastrous than a failure to engage in dealmaking would be, a strategy that is closer to Douglas' strategy in 1854 than to Lincoln's.

To form the basis of a stable political order, however, something more than a *modus vivendi* is necessary; for one thing, it is necessary to persuade one's self that the concessions one is prepared to offer in the name of a *modus vivendi* do not amount to a fatal moral sacrifice. One cannot always know in advance which moral sacrifices are fatal ones. Douglas' sacrifices did not seem fatal to him, and indeed, in his own case, since he did not allow himself to be forced into deeper and deeper concessions by increasing resistance from the fire-eaters, the sacrifices he offered were not in fact fatal, although other politicians might have shown less resistance, and the sacrifices he offered arguably did offer the South an invitation to raise the stakes. Ultimately, the disaster of the Kansas-Nebraska act was not that it encouraged the supporters of freedom in the territories to give up their moral convictions in the name of supporting popular sovereignty in Kansas (as Lincoln said it might) but that it unintentionally encouraged the settlers of Kansas to settle their differences

with each other by force, which in turn enflamed the conflict the Kansas-Nebraska Act was designed to evade, making it necessary for each side to demand more and more stringent concessions and to be less and less willing to offer its own. The four years of civil conflict in Kansas so hardened sectional divisions that by the summer of 1858, when the people of Kansas had made their wishes clear by coming out overwhelmingly against slavery in their region, the major politicians of the South were no longer unwilling to abide by the bargain that Douglas had made with them in good faith.

Enflamed moral conflicts only lend themselves to *modus vivendi* solutions. *Modus vivendi* solutions involve moral sacrifices whose depth is never fully obvious when we make them, because we cannot tell in advance how making them will change our minds, whether they will weaken our moral fiber by bending it, or will strengthen our moral position by enabling us to skate over the thin ice to a safer place. The moral sacrifice of *modus vivendi* politics such as Douglas' is a wager. We cannot know whether that sacrifice was worth it merely by knowing how high the stakes were. We can only know whether the sacrifice was worth it once we know whether it enabled us to establish a habit of successful dealmaking with our opponents, from which something more than a mere *modus vivendi* may ultimately be expected. We cannot know whether our sacrifice was foolish or wise until later, because the success of our strategy is a function of whether our opponent is willing to respond in kind, which is something that is in our opponent's power and not in our own.

A stable political order must finally rest not on a *modus vivendi* but on common political if not moral values, on something like the common political vision that Lincoln argues that North and South do, in their good moments, really share. But we don't discover those values merely by invoking the better angels of our nature. We discover them only after a history of successful dealmaking persuades us that we were not fools to have taken moral risks with each other. Douglas' solution in 1854, because it was only a *modus vivendi* solution, was a more promising solution to the enflamed conflict at hand than Lincoln's was. But it could redeem that promise only if it enabled both sides to move to a common moral position that was not merely a *modus vivendi*, to a position, that is, that is ultimately closer to Lincoln's than to Douglas'. I think it is still an open question whether that transition was possible or not. But it would have had to have used a *modus vivendi* compromise that was better than the Kansas Act, which tempted the Border Ruffians and the Jayhawkers to settle their differences with Bowie knives,

and forced each side nationally into a position where compromise became no longer possible.

The irony of history is that it turns on moral wagers whose wisdom cannot be clear when they are made, moral wagers that risk not only one's outcome but also one's moral standing. Douglas' risk in 1854 turned out to be a losing one, and he paid not only a prudential but a moral price for it. Lincoln in 1861 was forced to make a similar wager, that the violence of a great civil war would not so unhinge the Republic that even a victory would cost it its soul. As he argues in the Second Inaugural, he could have known at the time neither whether his act was prudent nor whether it was ultimately speaking moral, not only because he could not know whether his side would win the war, nor only because he could not know whether the justice of his cause would ultimately outweigh the mixed motives, self-serving, and self-deceit which inevitably attend all human acts, but also because he could not know to what extent his moral purposes would inevitably be transformed by the ugliness and brutality which war always involves. Warmaking was also a great wager, a leap of faith comparable to that of another Abraham, a leap made, like that other Abraham's, in the face of irony.

This irony is a function not only of the concrete historical situation of the political crisis of the 1850's but of tensions within the concept of practical reason that under pressure rise to the level of stark contradictions. It is the work of practical reason to give binding law. But the element of practical reason is freedom. If the persuasive resources available to us are unable to win the uncoerced consent of the other to a dictate of practical reason, the only alternative to us is force, which, however, cares nothing for practical reason. Except in a tradition of persuasive engagement which in the 1850's has already become strained, moral proclamations reduce to incitements to violence, and freedom reduces to contests of violence. The binding dictate of right and the unforced consent of the will to right are always at the point of disengagement from each other. Lincoln did not stand for tyrannizing right, and Douglas did not stand for tyrannizing will. But neither could keep right and will aligned, and neither knew how to restore persuasive engagement once it became discredited. Democratic polities will often come to grief over moral conflicts, because moral issues can't be decided by votes, and a moralizing tyranny destroys moral autonomy. We cannot know in advance whether we will find a way out of this contradiction, although we know of similar occasions in which others have managed to do so. Neither Lincoln nor Douglas could find such a way out, although both knew it was a contradiction,

and both, with considerable force of mind and even considerable intellectual integrity, tried as hard as they could. The consequence of their failure was that 640,000 Americans killed each other. But that didn't solve the problem either.

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