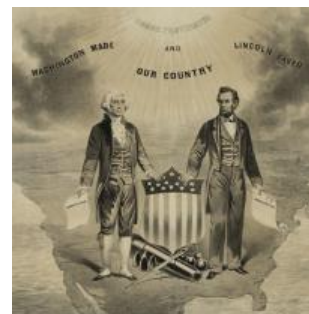


Abraham Lincoln in His Time and Ours

Natural Rights, Citizenship Rights, State Rights, and Black Rights: Another Look at Lincoln and Race

by James Oakes

Stephen Douglas was the first in a long line of observers frustrated by the inconsistent things Abraham Lincoln had to say about racial equality. In their fifth debate, at Galesburg, Illinois, on October 7, 1858, Douglas complained that when Lincoln went into the northern part of the state “he stood up for negro equality” but that when he went into the southern counties Lincoln “discarded the doctrine and declared that there always must be a superior and inferior race.”[1] Lincoln was willing to endorse racial *inequality* everywhere in Illinois, but only in the northern parts of the state would Lincoln dare to assert the equality of blacks and whites. Douglas accused Lincoln of tailoring his views “for political effect.” Although not many scholars have been satisfied by that diagnosis, the temptation to simplify matters remains irresistible. There are historians who view Lincoln as little more than a mouthpiece for mid-nineteenth-century racism and others who claim that Lincoln didn’t have a racist bone in his body. Somewhat more satisfactory have been the efforts to parse Lincoln’s various statements and to discern crucial distinctions—between the way he thought about race and the way he thought about slavery, for example, or between his egalitarian view of natural rights and his prejudicial view of social and political rights. This last distinction gets closer to the way Lincoln thought without quite getting there.



“National picture: Behold oh! America, your sons. The greatest among men,” lithograph by Charles Shober, ca. 1865. (Library of Congress Prints and Photographs Division)

Lincoln believed that race relations were regulated at three different levels. At the highest level, the natural rights promised in the Declaration of Independence and guaranteed by the Constitution, Lincoln consistently favored the equality of blacks and whites. Slavery was wrong because it deprived men and women of the natural rights to which everyone was equally entitled. The Declaration of Independence promised life, liberty, and the pursuit of happiness to “all men.” “If the negro is a man,” Lincoln said in his first major anti-slavery speech, “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.”[2] He repeatedly described slavery as a moral, social, and political evil; freedom was the natural right of every human being. Moreover, there was an implicit racial egalitarianism in this argument, for Stephen Douglas and most Democrats embraced the principles of the Declaration of Independence but made a racial exception to it. In order for Lincoln to elevate natural rights into an anti-slavery argument, he had to repudiate the racist exception by arguing that blacks and whites were equally entitled to their liberty and to the fruits of their labor. Lincoln’s commitment to universal natural rights was at bottom racially egalitarian.

Below natural rights was a second category, the privileges and immunities of citizenship, sometimes called citizenship rights, and at this level Lincoln was cautiously egalitarian during the 1850s and

unambiguously so during his presidency. He had long argued that the fugitive slave clause of the Constitution should be enforced in a way that guaranteed free blacks their citizenship rights of due process. He reacted strongly against the Supreme Court's decision, in the *Dred Scott* case, that blacks were not citizens. In his inaugural address Lincoln promised to enforce the fugitive slave clause of the Constitution, but at the same time "provide by law for the enforcement of that clause in the Constitution which guarantees that 'The citizens of each State shall be entitled to all the privileges and immunities of the citizens in the several States.'"[3]

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What Lincoln hinted at in his inaugural address his administration formally proclaimed a year and a half later. In late 1862, Edward Bates, the Attorney General, produced an astonishing decision, nearly thirty pages long, repudiating everything Chief Justice Taney had to say about black citizenship. The Constitution, Bates ruled, "says not one word, and furnishes not one hint, in relation to the color or to the ancestral race" of citizens. Every person born free on American soil was, "at the moment of birth, *prima facie* a citizen." [4]

Finally, there were aspects of race relations that fell solely within the purview of states. Who could vote? Who could hold state office? Who could marry whom? Who could or could not attend public school? Who could or could not serve on juries? These questions were answered in different ways by different state legislatures. In those answers the various states introduced into American law a vast mosaic of racial, ethnic, and gender discriminations. And in deferring to the states on these and other "domestic" matters, Lincoln necessarily deferred to discrimination as well.

Because most legal discrimination was restricted to the states Lincoln was able to avoid the politically treacherous issue of racial equality during his presidency. In fact, the greatest achievements of his administration—the restoration of the Union, the Emancipation Proclamation, the enlistment of black troops, and the emphatic reassertion of black citizenship—are much more easily explained by reference to his racial egalitarianism than by his racial prejudices.

But the fact remains that for most of his life—maybe all of his life—Lincoln had a blind spot on the matter of race. It never seems to have occurred to him that the racist state laws he endorsed might undermine the ability of blacks to pursue their happiness, or that discrimination might diminish the privileges and immunities of citizenship. Lincoln spoke eloquently of a society in which everyone had a "fair chance in the race of life," but how fair could the race be in a society where black children were denied equal access to public schools? Self-government, Lincoln often said, was the guiding principle of his political philosophy—but apparently he did not think the principle was compromised by state laws that excluded blacks from voting and holding elective office.

Ever since 1821, when Missouri submitted a constitution that prohibited free blacks from moving into the state, opponents of slavery objected to such laws as a clear violation of every citizen's right to move freely from one state to another. But the only time Lincoln referred to such laws was in a private letter in which he expressed concern about Republicans who publicly opposed them. If he believed that state laws barring blacks from serving on juries in any way compromised the right to trial by jury, he kept the belief entirely to himself. There's an unnervingly abstract legalism about the distinction Lincoln drew between equality of rights and citizenship on the one hand, and a state legislature's authority to discriminate on the other.

In the real world, the ability of free blacks to enjoy their natural rights and exercise the privileges and immunities of citizenship depended on the states where they actually lived. When those states imposed a

raft of legal discriminations on free blacks they cheapened the meaning of freedom and discounted the value of citizenship. I suspect this bothered Lincoln, but it wasn't his issue. It would take other men and women, and another century of struggle, before "states rights" was finally abolished as an excuse for racial discrimination in the United States of America.

[1] Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick, NJ: Rutgers University Press, 1953–1955), 3:214.

[2] *Collected Works*, 2:264.

[3] *Collected Works*, 2:264.

[4] All quotations of Bates in this and subsequent paragraphs are taken from *Opinion of Attorney General Bates on Citizenship* (Washington, 1863).

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