THE ELEVATION OF MEN:
LINCOLN’S LEGACY ON GOVERNMENT AND THE LAW

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I. Introduction

Abraham Lincoln deeply admired the American political system, where men of little means, such as himself, could rise to become leading statesmen and great businessmen.¹ He embodied a form of government that has come to be regarded as positive government, one that plays a constructive role in society and is balanced against the American ideal of individual liberty.² Due to the national climate in which he lived, and perhaps unfortunately, Lincoln’s legacy is focused almost entirely on the matter of slavery and his successful preservation of the Union. Yet his ambitions and accomplishments, as both a lawyer and a statesman, stood for more than any single issue.

In his Gettysburg address, arguably the culmination of his philosophy and of his devotions, Lincoln reminded the world that the great battles of that era, from the literal battlefields of the Civil War to debates on the floors of Congress, were fought over much, much more. To Lincoln this was the climax, a sort of grand test for the Republic, the American Government, and her revolutionary Constitution. Triumph would prove that our government, and the ideals on which it stood, indeed was democracy in its greatest form. The final line of the Gettysburg Address poignantly articulated Lincoln’s perception, declaring, “this nation, under God, shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth.”³

Those famous words, of the people, by the people, for the people, have come to be enshrined in our minds alongside the Declaration of Independence and the Preamble to the Constitution, and portray the greater ideals of government Lincoln envisioned. He once wrote that “[t]he legitimate object of government, is to do for a community of people, whatever they need to have done, but can not do, at all, or can not, so well do, for themselves – in their

¹ Jason A. Adkins, Lincoln’s Constitution Revisited, 36 N. Ky. L. Rev. 211, 218 (2009) (“In Lincoln's mind, America - a nation founded by a collection of great men such as the world had never seen - gave everyone the opportunity to make something of themselves. Men of little means could rise to become statesmen and great businessmen.”).
³ Gettysburg address….
separate, and individual capacities.” He further explained that those “desirable things which the individuals of a people can not do . . . fall into two classes: those which have relation to wrongs, and those which have not.” The former category encompasses matters such as crimes, torts, and breaches of contract, while the latter embraces everything that “in its nature, and without wrong, requires combined action.” This view led Lincoln to understand that no matter if all men are just, there will always be some need for government, though admittedly, perhaps less.

II. Government Of the People, By the People, For the People

Today, our government embodies Abraham Lincoln’s vision more so than any other of our forefathers. His can be understood simply as one where the government provides to its citizens what they cannot provide themselves, for even in a perfect world, he believed, there would still be some need for government, if only to provide basic necessities and allocate resources. Alas we do not live in a perfect world, so in addition to the many services that are unrelated to any wrong, (e.g. public roads, schools, and police), our government must also step in to correct for issues that Lincoln determined were connected to wrongs.

Lincoln’s concept of a legitimate government’s purpose is demonstrated in numerous ways today. From environmental protection to public health, social equality, and everything in between, our government demonstrates his notions of legitimacy and necessity. Law is the avenue by which these concepts are carried out, carving out a crucial role for attorneys. With guidance from Lincoln’s philosophies on government and the law, we may all remain confident that we are making vital contributions to society.

A. Modern Law’s Fulfillment

Our modern government and the current law not only fulfill Lincoln’s visions, but exceed them. In addition to correcting the wrongs that he directed a legitimate government should, the law has evolved to address and take action protecting individuals in ways that might seem completely foreign to Lincoln himself. The government steps in to protect its citizens from

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5 Id.
6 These included “public roads and highways, public schools, charities, pauperism, orphanage, estates of the deceased, and the machinery of government itself.” Id.
7 Id.
threats that endanger the entire nation, but are ones that no individual alone could prevent. There are two significant ways in particular that our modern government protects us from wrongs, the first being the creation and proliferation of federal agencies, the second being the evolution of the Fourteenth Amendment to the U.S. Constitution.

The so-called wrongs that Lincoln contemplated and identified were criminal acts or civil misbehaviors (e.g., breach of contract). While these indeed still exist and remain a main focus of the law and government today, modern government also steps in to correct countless more wrongs that have evolved with us over time. In response to tremendous growth and progress, we created agencies that protect interests of national significance that have become endangered with our growth. For example the Environmental Protection Agency (EPA), the Equal Employment Opportunity Commission (EEOC), and the Food and Drug Administration (FDA), are all federal agencies, often with state counterparts, that protect vitally important interests that we as individuals could not hope to protect ourselves. The EPA aims to shield the environment from irreversible damage, while the FDA grants confidence in the production and delivery of our food and medicine. There are countless more federal and state agencies, all created to deal with issues that men are individually unequipped to address.

In addition to the creation of these federal agencies, ratification of the Fourteenth Amendment shortly after Lincoln’s presidency created a new type of legal recourse for the law to address society’s wrongs. Under the moniker of equal protection and due process, the Amendment is a major avenue by which attorneys and legislators correct these wrongs. Everything from civil liberties to gender equality and issues regarding economic rights has

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8 Id.
13 See ENVIRONMENTAL PROTECTION AGENCY, supra note 9.
14 See U.S. FOOD AND DRUG ADMINISTRATION, supra note 11.
15 U.S. CONST. amend XIV.
been decided on Fourteenth Amendment grounds. The judicial system is the avenue by which schools were desegregated,\textsuperscript{19} and voting rights for all races were reinforced.\textsuperscript{20} Through the laws of our constitution, and many a skilled attorney’s advocacy, the judicial system, with the aid of the Reconstruction Amendments, has become one of the most effective ways for government to correct the wrongs that Lincoln contemplated.

The American Government, and its accompanying legal system, is almost inconceivably complex. It takes years of experience to master even a fraction of the expanse, which is why the role of attorneys is so vital. Attorneys advocate on behalf of citizens, and they are the liaison by which government and the law intertwines. All of the great advocates for individual liberties and due process, and the countless lawyers employed by government agencies, allow our government to provide the type of positive support that Lincoln hoped for. In order for attorneys to fulfill this role, it is helpful to look back to Lincoln’s philosophy for guidance.

\textbf{B. Our Role as Attorneys}

While Lincoln’s statement on the legitimate purpose of government is rather straightforward, a letter he wrote shortly before the presidential election of 1860 allows us to understand how he envisioned a legitimate government would operate in practice. Dr. Theodore Cansius, a prominent citizen of Springfield, Illinois writing on behalf of its German-American community, asked Lincoln his opinion of a new Massachusetts law restricting the rights of immigrants and naturalized citizens.\textsuperscript{21} In a response that was published in newspapers across the country, Lincoln declared that, “[u]nderstanding the spirit of our institutions to aim at the elevation of men, I am opposed to whatever tends to degrade them.”\textsuperscript{22} This proclamation not only serves to reinforce our understanding of Lincoln’s vision of government and its legitimate role, but it provides an effective measuring post for examining how our behavior comports with that vision. This noble goal, the \textit{elevation of men}, is a candid yet extraordinary ambition, and it is

\textsuperscript{18} See generally Nebbia v. New York, 291 U.S. 502 (1934) (holding the federal government may regulate the price of milk).

\textsuperscript{19} See Brown, 347 U.S. at 483.

\textsuperscript{20} See Hunter v. Underwood, 471 U.S. 222 (1985) (invalidating an Alabama constitutional provision that on its face was racially neutral, but was intentionally discriminatory).

\textsuperscript{21} F.I. Herriot, \textit{THE PREMISES AND SIGNIFICANCE OF ABRAHAM LINCOLN’S LETTER TO THEODORE CANIUSIUS #} (1915), available at https://archive.org/stream/premisessignific00herriott#page/n5/mode/2up

one that I should hope serves as a maxim for all attorneys, so that we may best serve Lincoln’s vision of government.

My own pursuit of this directive, to contribute toward the elevation of men, began long before I arrived at law school. When I enrolled, I did so because it offered the opportunity for a career in which I would remain intellectually challenged throughout, and simultaneously use that intellectual devotion in a real, tangible way to assist others. I do not think it is a stretch to say though, that one of the most common dilemmas we face as law students, especially in the nascent stages of our careers, sometimes strains our commitment to this ideal. As any law student beginning within the last decade can tell you, our decisions before enrolling and our decisions upon graduation have become frighteningly strategic. It is impossible to avoid the constant reminder that unemployment rates and overwhelming debt makes law school an unwise decision for some. While I am, and I should hope that my classmates are as well, completely satisfied with and confident in my decisions to this point, I would be lying if I denied that those bleak warnings were a major factor. We are often compelled to try to find a way to balance our competing desires to serve the most needy citizens of our community, while simultaneously making career decisions that are in our own best personal interests. It is certainly not impossible to satisfy both of those two desires, and I am genuinely inspired by all of my peers who do, but it is unfortunately no secret that the two are sometimes incongruent.

Lincoln’s views however, on government, the law, and our role in society as lawyers, inspiringly encapsulate a philosophy for us to live and work by. It is one that allows us to balance these competing desires. On one hand our appetite for charity, on the other our inclination to make rational decisions. So long as all of our decisions, all of our work, and all of our focus remains vigilantly aimed toward the elevation of man, we can take solace in the fact that we are effectively contributing to the benefit of society. In addition, we may revel in the fact that our contributions are amplified by the collective action of our peers. Just as Lincoln believed that there would always be need for government, to provide what citizens cannot individually provide to themselves, our work as lawyers comes together to form a contribution to society that we alone could not provide.
III. Conclusion

Abraham Lincoln’s profound philosophy, to constantly aim toward the elevation of man, is something that I will hold in my mind and my heart throughout my career. It allows us to be confident in our decisions even when on their face they do not comport to all of our desires, and it grants us the knowledge that we are making a profound contribution to society. Modern government certainly fulfills the role that Lincoln hoped it would, and it is the avenue by which we as lawyers continue to contribute to his vision.

For my closing remarks I would like to share another piece of Lincoln’s profound advice, which was originally intended for an audience of future attorneys. In preparation for a lecture on the law that was never actually given, Lincoln wrote in his notes,

[t]here is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence and honors are reposed in and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty is very distinct and vivid. Yet the impression is common, almost universal. Let no young man choosing the law for a calling for a moment yield to the popular belief – resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer.\(^{23}\)

This stigma surrounding lawyers, which Lincoln felt compelled to address 150 years ago, still exists. It is something we certainly all have heard, learned to laugh off, and in some ways appreciate. Yet I find Lincoln’s resolve, that we should remain honest in all of our endeavors, perfectly compliments his visions of government and forms a harmonious ideal for which we should all strive to maintain. So long as we remain honest in all of our endeavors, and we always seek to elevate our fellow man, we may remain confident that we are contributing to the government and society that Lincoln envisioned and revered over a century and a half ago.