

THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF POLITICAL SCIENCE

Political Science 388  
The Constitution and the Civil War

Spring 1972  
Mr. Storing

I. FLAW

A. Natural and Civic Equality

Thomas Jefferson, Notes on Virginia XIV, Koch & Peden,  
The Life and Selected Writings of Jefferson (Modern  
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Abraham Lincoln, Repeal of the Missouri Compromise, Peoria,  
1854 (xerox excerpt)

Speech at Charleston, 1858, Richard Current  
(ed), The Political Thought of Abraham Lincoln (Bobbs-  
Merrill), pp. 105-106

Remarks to a Committee of Colored Men,  
1862, Current, pp. 207-213

Winthrop D. Jordan, White Over Black; American Attitudes  
Toward the Negro, 1950-1812, chs 1,2,7,8,9,11,12,15,16

B. Cases on Slavery

Legal status of slaves

Hudgins v Wrights 11 Va, Henning's & Munford's Reports  
133 (1806), S.C. of App. of Va

State v Jones 1 Miss. 83 (1820) - Sup. Ct. of Miss.  
Neal v Farmer 9 Ga. 555-584 (1851) - Sup. Ct. of Ga.

Howard v Howard 51 NC (6 Jones) 235 (1858)

North Carolina Criminal Cases

State v Boon 1 N.C. 191-202 (1801) - Ct. of Conference of  
North Carolina

State v Tackett 8 N.C. 210 (1820) - Sup Ct of N.C.

State v Reed 9 N.C. 451-458 (1823) - Sup Ct of N.C.

State v Hale 2 Hawks 582 (1823)

State v Mann 13 N.C. 263-268 (1829) - Sup Ct of N.C.

State v Hoover 4 Dev. & Bat. (N.C.) 365 (1839)

State v Caesar 31 N.C. 391 (1848) - Sup Ct of N.C.

Laura Foner & Eugene Genovese (eds), Slavery in the New World  
(Prentice Hall, 1969), Part I; Part II, pp. 87-169;  
Part III, pp. 221-231, 256-261.

A. E. Keir Nash, "A More Equitable Past? Southern Supreme  
Courts and the Protection of the Antebellum Negro,"  
North Carolina Law Review, 1970 (Vol 48), 197

Recommended

Frank Tannenhaus, Slaves and Citizens (Vintage), pp 43-104

Stanley Elkins, Slavery

Allen Weinstein and Frank Gatell, American Negro Slavery, A Modern Reader (Oxford, 1968)

## C. Fugitive Slave Law

Prigg v Pennsylvania 16 Pet. 539 (1842) (Story, Taney, Wayne, McLean opinions)

Ableman v Booth 21 How. 393 (1859)

Kentucky v Dennison 24 How. 66 (1861)

/Frederick Douglass, "The Fugitive Slave Law" 1852, in Philip Foner (ed.), The Life and Writings of Frederick Douglass, Vol. II, pp. 206-209.

## D. Free Law - Slave Law

/Abraham Lincoln, Peoria Speech, 1854, Roy Basler, Abraham Lincoln, His Speeches and Writings, p. 283

Rankin v Lydia 2 Ark Marshall 470 (1820), Ky.

Winn v Whitesides 1 Mo Rep 334 (1824)

Commonwealth v Aves 18 Pickering Rept 360 (1836) Mass.

/Strader v Graham 10 How 82 (1851)

Scott v Emerson 15 Mo. R. 577-592 (1852) - Sup Ct of Mo.

Scott v Sandford 19 How. 393 (1857) Taney, Nelson and McLean opinions)

Abraham Lincoln, "The Dred Scott Decision" 1857, Basler, p. 352; Current, 84.

Frederick Douglass, "The Dred Scott Decision," 1857, Foner, Vol. II, p 407-424.

## Manumission

Roll v Venner 5 Howard, 6 Miss 305 (1840)

Bryan v Walton 14 Ga 185 (1853) Sup Ct of Ga

Mitchell v Wells 37 Miss 235 (1859) \*Miss High Ct of Errors and Appeals

Abraham Lincoln, "A House Divided," 1858, Basler, p. 372; Current, p. 94

"Address at Cooper Institute," 1860,

Basler, p. 517; Current, p. 139

/Frederick Douglass, "The Constitution and Slavery," 1859, Foner, Vol. I, pp. 261-267

- Joel Kies, The Founders and the "Ultimate Extinction" of Negro Slavery in the United States
- Harry V. Jaffa, Crisis of the House Divided, chs. 2,3,11-13, appendix 2
- ✓ Don E. Ferenbacher, Prelude to Greatness: Lincoln in the 1850s, chs 4-5.✓
- ✓ Frederick Douglass, "To Gerrit Smith," 1851, Foner, II, 149  
 ✓ Change of Opinion Announced," 1851,  
 Foner, II, 155
- ✓ "The Constitution of the U.S.: Is It Pro Slavery or Anti-Slavery," 1860, Foner, II, 467✓

## II. RUPTURE

- Lincoln, First Inaugural Address," 4 March 1861, Basler, p. 579;  
Current, p. 168  
Message to Congress in Special Session," July 4, 1861,  
Basler, p. 594; Current, p. 180  
Letter to Erastus Corning, 12 June 1863, Basler, p. 699
- James G. Randall, Constitutional Problems Under Lincoln (1926),  
 chs 2,3,6-8, 16, 20
- Prize Cases 2 Black 635 (1863) (Grier opinion, parts I & II; Field dissent)
- Texas v White 7 Wall 700 (1869)
- Ex parte Merryman 17 Fed. Cases 144 (1861), Commager, Documents,  
 No 209
- Ex parte Milligan 4 Wall 2 (1866)
- Cummins v Missouri 4 Wall 277 (1867)  
Ex parte Garland 4 Wall 333 (1867)
- Mississippi v Johnson 4 Wall 475 (1867), Commager, Documents, No. 259  
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### Recommended

- Thomas J. Pressly, Americans Interpret Their Civil War
- Edward S. Corwin, The President, Office and Powers, ch. 6
- Sumner's Resolutions on the Theory of Secession and Reconstruction, Commager, Documents, No. 212
- Lincoln, Letter to Matthew Birchard and Others, 29 June 1863
- Jaffa, "The Emancipation Proclamation," Robert Goldwin (ed),  
100 Years of Emancipation

## III. RECONSTRUCTION

## A. The Perpetuation of Our Political Institutions

Background: The Declaration of Independence; the Constitution of the United States of America; The Federalist papers, Nos. 1, 10, 15, 49, 78; Marbury v Madison 1 Cr. 137 (1803)

Abraham Lincoln, "The Perpetuation of Our Political Institutions: Address Before the Young Men's Lyceum of Springfield, Illinois, January 27, 1838," Basler, p. 76; Current, p. 11

Harry V. Jaffa, Crisis of the House Divided (1959), ch. 9

## B. The Refounding

Lincoln, "Fragment: The Constitution and the Union," Basler, p. 514

Address Delivered at the Dedication of the Cemetery at Gettysburg, 19 November 1863, Basler, p. 734; Current, p. 284

Second Inaugural Address, 4 March 1865, Basler, p. 791; Current, p. 220

Jaffa, Crisis of the House Divided, chs 11-20

Frederick Douglass, Oration in Memory of Abraham Lincoln, 14 April, 1876, Foner, Vol II, pp. 309-319

Richard Hofstadter, "Abraham Lincoln and the Self-Made Myth," The American Political Tradition

## C. The Civil War Amendments

Alfred Avins (ed.), The Reconstruction Amendment Debate (selections)

Slaughter House Cases 16 Wall 36 (1873), Miller opinion, Field dissent  
Civil Rights Cases 109 US 651 (1884)

Veto of the Civil Rights Act, 1866, Commager, Documents, No. 253

Frederick Douglass, "The Civil Rights Cases" 22 Oct 1883, Foner, Vol II, pp. 392-403.