

**THE NECESSITY OF DISSONANCE:
LINCOLN’S LEGACY OF EMBRACING PATRIOTIC DISSENT**

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I. Introduction

As the sixteenth President of the United States, Abraham Lincoln was tasked with leading a profoundly polarized country in crisis. The Founding Fathers realized the issue of slavery would divide our fledgling country, and attempted to stifle slavery-related conflict through constitutional compromises.¹ When those compromises failed and eventually led to a gruesome civil war, newly-elected President Lincoln sought to reunite a deeply divided nation by uniting with the opposition. Embracing the spirit of dissent, the “homespun” President appointed four of his political opponents to serve in his cabinet – William H. Seward, Salmon P. Chase, Simon Cameron and Edward Bates.² He later appointed Edwin Stanton as Secretary of War, a Democrat who staunchly disagreed with his Lincoln’s war policy.³

At the time, Lincoln’s political contemporaries lamented that “[n]o President ever had a Cabinet of which the members were so independent, had so large individual followings, and were so inharmonious,” but Lincoln embraced the opportunity for opposition, reasoning that he could not allow his personal viewpoints to limit his selection of skilled American leaders.⁴ “We needed the strongest men of the party in the cabinet. We needed to hold our own people together. I had looked the party over and concluded that these were the very strongest men.” Despite political disagreements, Lincoln recognized that appointing a politically homogenous cabinet would be damaging to the nation, remarking that he “had no right to deprive the country” of the best available candidates for service.⁵ By placing America’s interests above his own, Lincoln established a legacy of excellence, even when it required him to embrace dissent.

II. Independent, Individual, and Inharmonious: Finding Greatness in Dissent

¹ See William M. Wiecek, *The Sources of Antislavery Constitutionalism in America, 1760-1848*, at 81-83 (Ithaca: Cornell Univ. Press 1977).

² DORIS KEARNS GOODWIN, *TEAM OF RIVALS: THE POLITICAL GENIUS OF ABRAHAM LINCOLN* (Simon & Schuster, 1st ed. 2005).

³ *Id.*

⁴ GEORGE S. MCGOVERN, *ABRAHAM LINCOLN: THE AMERICAN PRESIDENTS SERIES: THE 16TH PRESIDENT, 1861-1865* 53 (Henry Holt & Co., 1st ed. 2009).

⁵ *Lincoln’s Cabinet: From Rivalry to Respect*, ILLINOIS.GOV, <https://www.illinois.gov/alplm/museum/Learning/Documents/3.Lincoln%27s%20Cabinet%20Final.pdf> (last accessed Mar. 22, 2017).

A. The Importance of Dissent to the Political Process

Today, the importance of embracing patriotic dissent endures. Our country has become bitterly partisan. Citizens align themselves with a particular party and wear its symbols like badges of honor, scoffing at those who attempt to understand “the other side.” We take pleasure in disavowing conflicting viewpoints on every social media platform available – often viciously and without obtaining requisite background knowledge. Even our political leaders stoop to personal attacks to advance a political perspective. Lincoln recognized the danger in the blind promotion of partisanship, and demonstrated a singular ability to transcend personal attacks without vendetta in pursuit of objective excellence. Despite his political disagreements with Edwin Stanton (who held nothing but utter disdain for Lincoln and once referred to him as a “long-armed ape”), Lincoln remained convinced that Stanton was the most qualified man to serve as Secretary of War, and appointed him anyway.⁶ Lincoln’s decision eventually paid off. Despite their opposing leadership styles and political ideologies, Lincoln and Stanton worked to repair the Union together – first as adversaries, but eventually, as friends.⁷

Lincoln’s singular focus on creating a stronger nation, transcending his own ego and political opinions, particularly resonates in an era where citizens and politicians alike resort to petty insults to advance a point. Even worse than politicians who use partisanship to attack others, however, are citizens who remove themselves from public discourse completely. Technology enables us to filter opposing viewpoints from our newsfeeds with ease, eliminating meaningful bipartisan engagement and promoting blind political polarization. Social media users are increasingly sheltered from opposing viewpoints, exposed only to news sources representative of their own opinions. This “echo chamber” effect is completely adverse to Lincoln’s legacy of thoughtful discussion and respect for dissent. Engaging with opposing viewpoints enables citizens to contribute meaningfully to the political process. Lincoln championed self-education without regard to popular public opinion, urging citizens to “attach no consequence to the place you are in, or the person you are with; but get books, sit down

⁶ DORIS KEARNS GOODWIN, *TEAM OF RIVALS: THE POLITICAL GENIUS OF ABRAHAM LINCOLN* (Simon & Schuster, 1st ed. 2005).

⁷ *Id.*

anywhere, and go to reading for yourself.”⁸ Lincoln’s great tradition of bipartisan cooperation could not have been accomplished without careful consideration of alternative viewpoints.

Throughout history, parties in power and their supporters have attempted to cast a negative light on the practice of dissent. Supporters of President Obama’s international policy deemed its critics “unpatriotic.”⁹ After President Trump’s hotly-contested election, his supporters demanded that dissenters “get over it already, Trump won.”¹⁰ Politicians are similarly guilty of punishing dissenters. President Nixon fired both his attorney general and deputy attorney general for refusing to dismiss the special prosecutor who was investigating the Watergate scandal.¹¹ Most recently, President Trump fired Deputy Attorney General Sally Yates after she refused to enforce his executive order closing American borders to persons from predominately Muslim countries.¹² Attempting to define dissent as a “dirty word” is politically advantageous to those in power – it ensures party loyalty and ostracizes citizens who dare to disagree with party policies.

However, as Lincoln understood, avoiding conflicting opinions not only limits our potential for success as a nation, it endangers the core principles of democracy. It is human nature to surround ourselves with people who conform to our opinions. Avoiding conflict is simply easier than pursuing thoughtful debate. Evading dissent negates the uncomfortable possibility of discovering flaws in our own personal beliefs. However, thoughtful debate with a political opponent sharpens our critical thinking abilities and challenges our inner perspective. Lincoln recognized that “[w]e all declare for liberty, but in using the same word we do not all mean the same thing.”¹³ Citizens and politicians alike can (and should) disagree about the constitutionality of President Trump’s travel ban, the propriety of his proposed healthcare plan, or the legality of his business transactions. However, impugning the loyalty of those who dissent is traitorous to the core principles of democracy. Instead, we should adhere to Lincoln’s legacy

⁸ ALLEN D. SPIEGEL, *A. LINCOLN, ESQUIRE: A SHREWD, SOPHISTICATED LAWYER IN HIS TIME* 161 (Mercer Univ. Press 2002).

⁹ See generally Mark Finkelstein, *MSNBC's Cenk Uygur: Dissent Is Unpatriotic*, NEWSBUSTERS.ORG (Mar. 24, 2011), <http://www.newsbusters.org/blogs/nb/mark-finkelstein/2011/03/24/msnbc-cenk-uygur-and-dem-congressman-dissent-unpatriotic>.

¹⁰ See generally Mike Hendren, *Trump Won But Many Just Cannot Get Over It*, NEWSTALK 1290 (Jan. 16, 2017), <http://newstalk1290.com/trump-won-but-many-just-cannot-get-over-it-opinion/?trackback=tsmclip>.

¹¹ Michael D. Shear, Mark Landlater, Matt Apuzzo & Eric Lichtblau, *Trump Fires Attorney General Who Defied Him*, N.Y. TIMES (Jan. 30, 2017), <https://www.nytimes.com/2017/01/30/us/politics/trump-immigration-ban-memo.html>.

¹² *Id.*

¹³ President Abraham Lincoln, Address at Sanitary Fair, Baltimore, Maryland, April 18, 1864.

of embracing thoughtful and reasoned dissent, even when the dissenting opinion conflicts with our most cherished personal beliefs.

B. The Unique Role of Lawyers

It is important for lawyers to recognize the importance of dissent, for without it, we cannot champion the practice of compromise. Lincoln believed that “as a peacemaker, the lawyer has superior opportunity of being a good man,” tasked with the duty of using our legal educations to “persuade our neighbors to compromise.”¹⁴ This requires us to set aside our personal opinions and use our legal training to search for value in our opponent’s arguments. In the tradition of Lincoln, we lawyers must respect our colleagues in disagreement, carefully considering the merits of opposing arguments to strengthen our nation as a whole.

The famous friendship between Supreme Court Justices Ruth Bader Ginsburg and Anton Scalia is an exceptional illustration of the patriotic dissent espoused by President Lincoln. Though they were rarely politically aligned, Justice Ginsburg and Justice Scalia remained “best buddies,” recognizing the didactic value in confronting a diametrically opposed political belief. Though the justices “disagreed now and then,” when Ginsburg wrote for the Court and received a Scalia dissent, “the opinion ultimately released was notably better” than her initial draft.¹⁵ Confronting an opposing viewpoint takes courage, but it ultimately makes our resulting beliefs sharper and more reasoned. As Lincoln, Ginsburg, and Scalia illustrate, grappling with dissent can only make us stronger.

Exposure to dissent has brought clarity and meaning to my own life, eventually leading me to pursue a legal education. In the religious sect I was raised in, dissent was not simply disfavored – it was abhorred. From an early age, I was taught to distrust classroom textbooks and anyone who embraced an “alternative” point of view. Secular education was suspicious; sect leaders instructed us to be constantly vigilant to avoid any person who might sway us from the “objective truths” we were taught each Sunday. As I matured, I began to question this polarized view of the world. At first, I was afraid to pursue meaningful discussions with those with opposing views. However, as I began to engage in discussion with others in college courses and

¹⁴ ‘*Persuade Your Neighbors to Compromise*’, N.Y. TIMES (July 12, 1991), <http://www.nytimes.com/1991/07/12/opinion/1-persuade-your-neighbors-to-compromise-218791.html>.

¹⁵ Elisha Fieldstadt & Pete Williams, *Justice Ruth Bader Ginsburg on Justice Antonin Scalia: ‘We Were Best Buddies’*, NBC NEWS (Feb. 14, 2016), <http://www.nbcnews.com/news/us-news/justice-ruth-bader-ginsburg-justice-antonin-scalia-we-were-best-n518671>.

organizations, I recognized the enormous value in embracing dissenting viewpoints. The new information I received changed some of my existing personal opinions and confirmed others – but the result of these debates was irrelevant to my growth as a well-informed citizen.

Attempting to understand and empathize with alternative viewpoints sharpened my own ability to reason and left me thirsty for more discussion, more information, and more perspective. This intense desire to understand society more cogently eventually led me to pursue a law degree, where I relished the opportunity to explore the world through objective lenses of logic and reason.

As lawyers, we must seek to exemplify Lincoln’s legacy of welcoming dissent with open arms. Our legal training affords us the unique opportunity to address social conflict in a reasoned manner, removed from personal biases and passions. It is easy to ostracize dissenters and cast negative light on those who disagree with us. In an era where inflammatory insults are prized for their ability to generate advertising revenue, lawyers must divorce themselves from passion, in Lincoln’s great tradition. We must not be distracted by personal prejudices; we must not allow these prejudices to divide us. As Lincoln demonstrated, our nation cannot establish a legacy of excellence without embracing dissent. In this particularly polarized moment in American history, lawyers have a unique calling to embrace the opposing views of others in pursuit of a more perfect union.

III. Conclusion

Abraham Lincoln’s legacy is defined by his unflappable vision of unity for the American republic. Lincoln recognized the necessity of embracing political views that challenged his own. His cabinet appointments reflected both his inner confidence in his own judgment as well as his sense of political humility. Though he disagreed with many of his cabinet members and their respective appointees, Lincoln recognized the great value in not only in respecting dissenters, but working together as colleagues.

As Lincoln surely recognized, it is cognitively expensive to embrace the views of a dissenter. Grappling with an opposing viewpoint requires concentrated thought and energy; it is much easier to consume information from sources that confirm our internal biases. However, as Lincoln’s successful association with his political rivals demonstrated, making an effort to understand alternative viewpoints will allow us to unify our vision for democracy. Lincoln’s

collaboration with his dissenting rivals was undoubtedly challenging, but his ability to reason, free from passion, ultimately benefitted our nation for the better. We must celebrate Lincoln's commitment to bipartisan cooperation, and strive to emulate his legacy of unity.