



Yeshiva University

THE ZAHAVA AND MOSHAEL STRAUS
CENTER FOR TORAH AND WESTERN THOUGHT

Lincoln, the Bible and the Law
Syllabus / HH & MS / Cardozo Law School
Spring 2020

The law and the Bible are interwoven themes in Lincoln's life and career. The young lawyer from Illinois eventually made some of the most remarkable legal arguments about the nature of America, including: about the indissolubility of the Union, the power of the President to issue the Emancipation proclamation, the role of the Declaration in Constitutional interpretation. At the same time, as he formulated these arguments, the man who was once known for his lack of religious devotion used increasingly theological language, referencing the King James Bible that was the work most well-known to his fellow Americans. In this seminar, we will study the lessons and legacy of this feature of Lincoln's life.

Format of the Class: the lectures will proceed in chronological order of Lincoln's seminal speeches. We will study the historical context of each of these addresses, reflect on what they tell us about Lincoln's own evolution, and ponder on what biblical themes Lincoln may be drawing at various moments in his life.

Class Readings: Preparation for the class will require a reading and analysis of the Lincoln speeches to be studied that week, as well as additional readings that relate the Bible to Lincoln's rhetoric and challenges. Many of these latter readings will be taken from *Proclaim Liberty Throughout the Land*, a source



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reader on the Hebrew Bible and American History produced by the Straus Center for Torah and Western Thought. The class grade will be based on attendance, participation in seminar discussion, and on a end-of-term, graduate-level paper, that analyzes legal or biblical aspects of Lincoln's speeches or career.

- (1/27) “THE CIVIL RELIGION OF THE NATION:”
YOUNG MR. LINCOLN,
 - Young Men’s Lyceum Speech in depth
 - Mexican War and executive powers
 - Slavery—Lincoln’s resolutions from the state legislature and Congress
 - Lincoln’s early reading: the Bible and Shakespeare
 - Far of tyrants and tyranny—yearning for a place in history
Paired reading: *Proclaim Liberty Throughout the Land: The Hebrew Bible in the United States, Selections.*
- (2/3) “ OUR REPUBLICAN ROBE IS SOILED:” LINCOLN,
LEADERSHIP, THE REAL AND THE IDEAL, 1850-1854
 - Compromise of 1850
 - Lincoln the writer—political frustrations turn to poetry



- The eulogist: Henry Clay and Zachary Taylor—idealism vs. practicality
- Kansas-Nebraska—compromise or cop-out?
- Back on the stump—Peoria Speech in depth
- Dred Scott, Lincoln, and the law
- **Paired Readings: Leviticus 4, with commentary by Jonathan Sacks, “The Sins of a Leader”**

- (2/10) “THE ETERNAL STRUGGLE BETWEEN RIGHT AND WRONG:” THE LINCOLN-DOUGLAS DEBATES
 - The challenge—how and why
 - Debates as theater
 - Partisan press, partisan stenography
 - National attention
 - Political results
 - Discuss each (or most) debates—lawyerly style or political rhetoric?
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- (2/17) [*No class—arrange make-up?*]

- (2/24) “RIGHT MAKES MIGHT:” LINCOLN AT COOPER UNION [field trip]

- Invitation—politics in NY



- Worshipping in Brooklyn at Beecher’s church
- Changing the speech because of “civic” venue
- Role of the press
- The room where it happened—setting the scene
- The 3 speeches in one—the text
- The founders ’intent
- Appealing to the South (falsely?)
- Appealing to Republicans
- Impact—in PR and politics
- 1860 Convention

**Paired Readings: Biblical arguments against slavery,
*Proclaim Liberty Throughout the Land.***

• (3/2) “THE APPLE OF GOLD IN A FRAME OF SILVER:”
LINCOLN, THE DECLARATION, AND THE
CONSTITUTION IN PRE-WAR AMERICA

- Campaign & Election of 1860
- Lincoln continues to practice law and politics
- Arguments for declaration and constitution—our big theoretical discussions begin
- Flirting with southerners—his correspondence with Alexander Stephens
- Nurturing the new Lincoln image—some fun with iconography



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Paired Reading: Matthew Holbreich “In the Valley of the Dry Bones: Lincoln’s Biblical Oratory and the Coming of the Civil War”

- (3/9) THE ALMOST CHOSEN PEOPLE: LINCOLN AS PRESIDENT-ELECT AND HIS EVOLVING BIBLICAL CONCEPTION OF AMERICA
- Letters from the president-elect refusing to conciliate
- Perils of electoral vote count
- Perils of interregnum—secession—alternative govt in South
- Cabinet-making
- Great Farewell address—concurrent reliance on tradition (George Washington) and God
- Speeches en route—failures in Indiana and Ohio—confusion
- The great Biblical allusions: Lincoln in Trenton and at Independence Hall
- Lincoln in NY—can a city secede—legal discussion with unknown documents
- Secession, treason, and loyalty (Andrew Johnson, Southern exception)
- The aborted peace convention—breaking legal and constitutional precedent
- Lincoln and the “shadow” (original 13th) amendment to the constitution



- **Paired Readings: Psalm 137; Meir Soloveichik, “Saving American Nationalism from the Nationalists: Lincoln and the Almost Chosen People”**

- (3/16) “ BETER ANGELS:” BEHIND THE FIRST INAUGURAL
 - How he composed and revised it
 - Role of Seward and role of Lincoln as editor
 - Perils of inauguration itself
 - Breaking down the text
 - Decision vs dictum: does Lincoln reject the supremacy of the supreme court
 - “A husband and wife may divorce, but...”: rejecting legality of secession
 - “I shall have the most solemn oath to preserve, protect, and defend...” Lincoln turns to the constitution
 - Sublimity of peroration vs. tough original ending
 - Partisan response
 - **Paired Readings: The Biblical Covenant vs. Divorce: Isaiah 49-50, Jeremiah 3, Hosea, Selections**
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- (3/23) “ A PEOPLE’S CONTEST:” LINCOLN AND THE LAWS IN THE SECESSION CRISIS
 - Executive decisions—call for volunteers and blockade—discuss constitutionality



- Keeping Congress away
- Calling special session for July 4th
- Early calls for devotion and prayer
- First blood
- The 90 day volunteers, re-enlistment, and the crackdown on press dissent in NY and the Border States after Bull Run
- Is secession covered in the Constitution?
- **Paired readings: *Proclaim Liberty Throughout All the Land*, selections, including “The Prayer that United the Continental Congress.”**
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- (3/30) “ HENCEFORTH AND FOREVER FREE:” THE EMANCIPATION PROCLAMATION AND THE BOOK OF ESTHER
- The big issue of the war—did Lincoln have the right to act against slavery
- The big lies—preparing the public for emancipation with the Greeley letter, the hostile greeting to African-American freedmen at the White House
- Political reality—the upcoming off-year elections
- Status of contrabands—impact of the camps on the Lincolns
- Lincoln and African-Americans: his history
- The document—why prose and no poetry?
- Responses—partisan press
- Responses—Frederick Douglass
- Responses—Karl Marx



- **Paired Readings on Esther and the Emancipation**
Proclamation: Book of Esther, chapter 4; Petition to Lincoln citing Esther from Rev. William Patton one week before the Emancipation.

- (4/6) “MUST I SHOOT A SIMPLE-MINDED SOLDIER BOY?” LINCOLN, FREEDOM OF EXPRESSION, FREEDOM OF SPEECH, AND CIVIL LIBERTIES IN WAR

- Lincoln’s argument: save constitutional guarantees and lose the nation, or forfeit them to save the constitution
- Crackdowns on Freedom of speech—Ohio & Vallandigham
- Freedom of the Press—Chicago Times, New York World
- Class debate: was Lincoln’s crackdown on Civil Liberties justified (readings: Corning message to Lincoln and Lincoln message to Corning and Corning’s response)

(4/13) [*No Class: Passover*]

- (4/20) “OUR FATHERS:” THE GETTYSBURG ADDRESS AS AMERICAN DOCTRINE AND AMERICAN SCRIPTURE

Paired Reading: Sermons of Rabbi Sabato Morais; Jonathan Sacks, *The Home We Build Together*, “Covenant and Social Contract”



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- (4/27)“AS GOD GIVES US TO SEE THE RIGHT:

LINCOLN’S SECOND INAUGURAL ADDRESS

Paired Readings: Jonathan Sacks, *The Home We Build Together*, “Telling the Story;” Meir Soloveichik, “The Theologian of the American Idea.”

Make Up Session -

Special Session on the Thirteenth Amendment, The Lincoln Movie, and Lincoln in culture today