

# ESSENTIAL CIVIL WAR CURRICULUM

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## The Federalism of Stephen A. Douglas (1813-1861)

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Stephen A. Douglas's political philosophy today would be called federalism, for he believed that the central government should exercise only expressly delegated powers under the Constitution and as a rule should defer to the majority judgment of local populations. Douglas would not have called himself a "federalist" because before the Civil War that word was associated with the Federalist Party of the early republic. Douglas as much as any Democrat of the antebellum era hurled the term "federalist" at the Whigs and then Republicans as a disreputable label. Both the Whigs and Republicans did support the kind of active central government that the Federalists once promoted, but the old party had earned permanent opprobrium for its separatism during the War of 1812, especially at the Hartford Convention, and never recovered its political viability. The party not only disappeared but its name was shunned as a mark of ignominy. A primary plank of the Democratic Party was limiting the central government to its explicit Constitutional powers. Democrats opposed a broad interpretation of authority vis-a-vis the states. Douglas, however, extended the principle to territories.

Douglas credited his becoming a follower of Andrew Jackson and the Democratic Party to his apprenticeship days in 1828 when his employer backed John Quincy Adams for the Presidency. Three of four Vermont voters in fact went for Adams in the election of 1824, but Douglas did not identify with his native state. When he became a celebrated U. S. Senator and Middlebury College awarded him an honorary degree, Douglas said, "Vermont is the most glorious spot on the face of the globe for a man to be born in, provided he emigrates when he is very young." That insult was not gratuitous or as jocular as he would claim several years later when he himself ran for President. It reflected how ambivalent he always felt about his upbringing in Vermont and went to the heart of his federalism. Douglas's personal life history underlay his commitment to American geographic diversity protected by a high measure of state *and* territorial autonomy.<sup>1</sup>

Douglas grew up in Brandon Vermont with a widowed mother who kept house for her bachelor brother. They operated a farm and his uncle expected Stephen to work on

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<sup>1</sup> Martin H. Quitt, *Stephen A. Douglas and Antebellum Democracy* (New York: Cambridge University Press, 2012), 13.

it when he was not in the local district common school. Stephen, however, did not take to farming but preferred woodworking. He thought of becoming a cabinetmaker and worked to that end in a master's shop, but soon found it too exerting for his size and strength. His mother was ambitious for him to be educated and become a professional man like his father, a physician who died only two months after Stephen was born. At the age of sixteen, with his cabinet-making prospects behind him, Stephen entered the newly reorganized Brandon Academy, which offered a limited curriculum that stressed memorization, not critical thinking.

In 1830 Douglas's sister married a man from upstate New York and their mother proceeded to marry her new son-in-law's father. The marriages brought the Douglas family to Clifton Springs, New York and Stephen soon enrolled in the Canandaigua Academy where for two years he enjoyed far better instruction than he had had in Vermont. He then spent several months in a law office and decided that the state's requirements for passing the bar would require more time and expense than he was willing to wait or his family could afford. New York in fact had the toughest bar requirements in the nation. At age twenty, in June 1833, Douglas left home to embark on an indeterminate journey west in order to find a place where he could become a lawyer much faster than he could in New York.

Undertaking what became a one thousand mile westward trek alone indicated a risk-taking, restlessness of Douglas that would remain part of his personality. In Cleveland he contracted bilious fever that left him bedridden for two months. He nearly died and the illness appears to have lastingly impaired his health. Both in Cleveland and then in St. Louis he brought letters of introduction to meetings with prominent attorneys but he departed from both cities. Before the onset of winter he arrived in Jacksonville, Illinois, a town named after his political hero. There he met an attorney who loaned him law books and advised him that passing the bar in Illinois was manageable. Douglas survived the winter by teaching, which left him with enough time to study law. Although Illinois required examination by two Supreme Court justices before a license could be granted, Douglas was tested only by one, who was not wholly satisfied but passed him. Douglas was exultant. To add to his gratification, at a meeting on the President's War on the Bank of the United States, Douglas extemporaneously defended him and became an instant hero to local Jacksonians. In March 1834, merely nine months after departing on an uncertain adventure west, Douglas could write home that he had opened his own law office and, he boasted, he was "less than twenty-one years of age."<sup>2</sup>

Douglas's unexpected achievement in Illinois at age twenty was only the beginning. His rise as an organizer and officeholder of the fledgling pro-Jackson

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<sup>2</sup> Now obsolete, "bilious fever" was a common diagnosis for inflammation accompanied by fevers. Douglas also referred to his sickness as "rheumatism"; in fact he may have had a bout of rheumatic fever that permanently weakened him. *Ibid.*, 47; In the summer of 1832, President Jackson vetoed a bill to renew the charter of the Second Bank of the United States. Campaigning in defense of his veto, Jackson won re-election and attacked the Bank by removing federal deposits before its charter legally expired in 1836. Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: Oxford University Press, 2005), 367-374, 391-403; Quitt, *Stephen A. Douglas*, 65.

Democratic Party in the state was meteoric. In late 1834 he successfully lobbied the state legislature to wrest the appointment of state's attorneys from the governor, and in early 1835 the lawmakers chose him for one of those posts. He did not complete his term; instead in August 1836 he won a seat in the legislature, but served only for one session. He resigned his seat in 1837 to accept a presidential appointment as register of the Federal Land Office in Springfield, designated by the legislature to be the new capital. Eight months later the Democratic convention of his district nominated Douglas for Congress. At the time of his nomination he was twenty-four, too young to serve in the House of Representatives, as the Whig press noted.

Douglas's rapid rise in Illinois during the 1830s gave resonance to his career-long advocacy of the principle that local diversity was a great strength of American democracy. Had he stayed in New York at the age of twenty-four he still would have been trying to acquire sufficient credentials to obtain a law license. Had he been willing to persevere eventually he might have become a lawyer in the Empire state, but he certainly would not have attained the political heights his precocity fueled in his twenties in Illinois. He had set out for the West because he knew hurdles to advancement were lower there. His first year in Illinois he wrote home that he had "been so fortunate as to have located in the Paradise of the world." He was "succeeding here far beyond my expectations..."<sup>3</sup>

Douglas never forgot where he came from or where he had landed. He was always grateful that the country was large and diverse enough to enable someone like himself, ambitious, an activist rather than a scholar, comparatively impecunious as a youth, to make it if he had the gumption to seek out a place that suited his particular needs. His speeches before New England audiences during his run for President in 1860 were consistent with the enthusiasm he had expressed in 1833 when he described himself to his brother-in-law as a "Western man." "It does a man good to emigrate," he assured listeners in Vermont, where he admitted his love for "my own Illinois." He told a New Hampshire crowd that growing up he had believed that the valley of the Green Mountains where he lived was the center of civilization and that beyond was a world of barbarism. Yet by going west he discovered how the "diversity of circumstances which prevails in the different portions of our extended Union" contributed to a variety of views on such hot issues as slavery and abolitionism. Time and again, on the campaign trail and in Congress, Douglas reiterated the theme that mores and manners varied from place to place in America and that such diversity was good.<sup>4</sup>

Douglas experienced his first defeat in Illinois in his 1838 run for Congress. He lost to Abraham Lincoln's law partner by thirty-six of some thirty-six thousand votes. Only reluctantly after several months did he relinquish his effort to have a recount. He remained at the land registry for two more years until the Democratic legislature confirmed the governor's nomination of him as secretary of state. Months later he was credited with having the legislature expand the state supreme court and he was then

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<sup>3</sup> Ibid., 66.

<sup>4</sup> Ibid., 38; Ibid., 150-1.

elevated to that bench. He preferred the title "Judge" for the rest of his life. Even his brother-in-law, perhaps the male to whom he was most attached during his life, greeted him with that title.

In 1843 Douglas stepped down from the bench to accept the Democratic nomination for a newly created seat in Congress. This time he won handily. And from the start he was a major player in the House of Representatives, where he wrote and presented the majority report of the standing Committee on Elections and Privileges, which had to confront a newly mandated system of congressional districts vis-à-vis state preferences for at-large elections. In his second term he was chosen chair of the Committee on Territories. He was so effective that two years later, when he entered the Senate, he was appointed chair of its Committee on Territories. Altogether for thirteen years as chair of the key committee in one chamber or the other, Douglas had more influence on federal territorial policy than any other member of Congress.

Douglas's influence as a legislative leader was due in good part to his moderation and pragmatism. He was not an ideologue, an extremist regarding his principles. In his first term a chair of the House Committee, he made clear his philosophy regarding the diversity of constitutions that would transform territories into states: "The great diversity of opinions, growing out of the variety of climate, soil, productions, pursuits, and customs would preclude the hope of procuring a general concurrence of sentiment in favor of every provision of any constitution." He argued that no state would be admitted if every member of Congress had to approve of every provision in a constitution, because the members represented states with dissimilar provisions regarding suffrage qualifications, eligibility to and tenure of offices, slavery, and a host of other matters.<sup>5</sup>

Where Douglas consistently differed from his committee colleagues was in his reluctance to impose regulations on territories before they achieved statehood. He took Article IV, Section 3 of the U.S. Constitution lightly: "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." If Douglas could have had the Constitution amended, that clause undoubtedly would have been his primary target. While he did not deny the constitutionality of congressional regulation, he found much intervention "not appropriate". He never understood why people who immigrated to western territories should have fewer rights to determine their own internal affairs than did the people they left behind in states.<sup>6</sup>

He made the point humorously during his Presidential campaign:

I think the New Hampshire boy who moves to the West when he is twenty years of age, is just as capable of self-government as the brother that remains behind. Just cast your eyes round this neighborhood and find an old gentleman who had two sons. The one was an ambitious, restless, energetic, daring boy; the

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<sup>5</sup> Ibid., 108.

<sup>6</sup> Ibid., 129

other was an amiable, kind, lazy, good fellow. Which of these boys do you think went out West? Which stayed at home and lived with his daddy and mammy? The bold and ambitious young fellow went up and dug up the prairie; or in the wilderness he carved out his own fortune, made his own farm, put up his own fences and perhaps split his own rails. He cultivated his own fields, erected a schoolhouse and a church...By that time I reckon the wild boy had sown his wild oats pretty well, and was fully capable of self-government as the one that stayed here and acted under father's and mother's advice... Now are you going to tell me such people are not capable of self-government merely because they live in a Territory?"<sup>7</sup>

The catchphrase that Douglas came to use to encapsulate his philosophy was "popular sovereignty." Although he applied his principle to a variety of issues that came before his territorial committees, including prisons, schools, criminal codes, marriage and divorce rules, and voting, popular sovereignty was and remains most identified with the hot button issue of the years 1845-1860 - slavery in the territories. Douglas claimed to be indifferent to whether a territory adopted or rejected slavery, as long as the choice was registered honestly by the majority of inhabitants. Further, and this argument is normally overlooked by his critics, he pronounced that the central government had never freed a single person. At the time the Constitution was ratified, he noted, twelve of the thirteen states had slavery. By the middle of the century seven of them had abolished slavery. They did so on their own. As early as 1787 Congress had banned slavery in the Northwest Territory; yet he noted that it continued there long afterwards even in his own adopted state, Illinois, which did not completely end the institution until 1848. He believed that local majorities essentially did what they wanted, that the central government lacked the capacity to enforce its will, and that federal policy should recognize that autonomy.

The Mexican American War, which Douglas heartily endorsed, brought more than 500,000 square miles of new territory to the United States. The War, as directed, promoted, and concluded by President Polk, was unambiguously an imperialist enterprise with California and its enormous coastline as the big prize. The explosive question was whether slavery would be extended to any of the new land. When California applied for admission as a state without being first organized as a federal territory, Congress split over the issue of slavery expansion. The 1849-50 session of the thirty-first Congress was the longest in American history to that date. In the background was the threat of disunion coming from southern firebrands. Beginning in August Douglas assumed the leadership role in trying to achieve a compromise and he succeeded. The multipronged Compromise of 1850 did not please everyone— compromises by definition never do— and Douglas emerged as a national figure of prominence.

In 1853, after his first wife died, Douglas left his two young sons with his sister and brother-in-law and he went to Europe for several months. Heads of state from England to Russia greeted him as an important American statesman. The trip may have

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<sup>7</sup> Ibid., 151-2.

inflated his sense of self-confidence, for when Congress convened in December he immediately took up a longstanding project of his, organizing the Nebraska Territory. This was the remaining unorganized land that was part of the Louisiana Purchase of 1803. The Missouri Compromise of 1820 had drawn the 36°30' parallel (the southern boundary of Missouri) across the Louisiana Territory as the dividing line between slavery and non-slavery as permitted by Congress in that territory, except for Missouri itself. Douglas insisted that the principle of popular sovereignty had been implemented in the Compromise of 1850 and therefore could replace the 36°30' line, when he was pressed by southern members of his Senate committee. This would leave the door open for proslavery settlers to bring their obnoxious institution to Kansas in the name of popular sovereignty. Douglas did not anticipate the firestorm that his bill sparked. Although he succeeded in having both houses of Congress pass the Kansas-Nebraska Act—a remarkable feat that reflected his brilliance as a congressional manager—the unintended political consequences were enormous. Not least was that it galvanized the new northern antislavery Republican Party, which was unequivocally opposed to the act. Although it was correctly understood that slaves would not be brought into the northern portion, designated as Nebraska, no one predicted what the law triggered—a fight on the plains of Kansas between pro- and antislavery forces.

Although much tarnished by the bloodletting in Kansas and political fallout caused by his legislation, Douglas remained steadfast in his commitment to territorial self-determination. Abraham Lincoln not only secured the Republican Party nomination to challenge Douglas for the Senate in 1858, he stalked the incumbent on the campaign trail until Douglas agreed to seven face to face debates. It turned out to be a political misjudgment by Douglas, who was a towering figure in Illinois, while Lincoln could only gain from the exposure. Although Douglas won the election, Lincoln achieved a new stature nationally because the debates received broad press attention and Lincoln's performance won him influential Republican support in the East. Douglas never wavered in his defense of the right of settlers in Kansas to decide for themselves the question of slavery. Perhaps the most famous moment of their debates came at Freeport, when Lincoln pressed Douglas about the implications of the Supreme Court decision in the Dred Scott case, to wit, that Congress could neither prohibit slavery in federal territory nor permit a territorial legislature to do so. Douglas replied that the local legislature could avoid violating the Court's ruling simply by doing nothing, for slavery could not exist without enabling legislation. Accordingly, he demonstrated how popular sovereignty could trump the infamous decision.

Douglas's Freeport doctrine made him persona non grata to southern diehards and he would not agree to their demand for a slave code in federal territories. He would not agree to Congress mandating the slavery question on either side. A consequence was that he won the regular Democratic nomination for President in 1860 but southern Democrats left the convention and nominated their own candidate. Lincoln won the election and the secession crisis followed in a month. Douglas sought a congressional compromise, but none could be had this time. He was a staunch Unionist and supported the man who had finally defeated him. He had broken precedent and campaigned across the country,

including two tours through the South. Exhaustion and heartbreak might have contributed to his health. His bout at twenty with a form of rheumatic fever had weakened his heart. He died less than two months after the Civil War erupted at the age of forty-eight. His argument for the value of American diversity and modern federalism remains a significant legacy.<sup>8</sup>

### Stephen Arnold Douglas

Born	April 23, 1813, Brandon, Vermont
Died	June 3, 1861, Chicago, Illinois
Buried	Stephen A. Douglas Tomb Chicago, Illinois
Father	Stephen Arnold Douglass
Mother	Sarah Fisk (Granger) Douglass
Career Milestones	Douglas dropped the second s from his family name   1834 Admitted to the Illinois bar   1841 elected to the Illinois House of Representatives, appointed registrar of the Springfield Land Office, became Illinois Secretary of State an appointed associate justice of the Illinois Supreme Court   1843 and 1844 Elected to the US House of Representatives   1846 Elected US Senator by the Illinois General Assembly   1850 Helped broker the Compromise of 1850   1852 Defeated for nomination as the Democratic Party candidate for president   1853 Re-elected to the US Senate   1854 Brokered the passage of the Kansas-Nebraska Act   1856 Defeated for nomination as the Democratic Party candidate for president   1858 Lincoln Douglas Debates held and re-elected as US Senator from Illinois   1860 nominated by the Democratic Party for president but the Democratic Party split and Southern Democrats nominated John C. Breckinridge while the newly formed Constitutional Union Party nominated John Bell. Defeated in the 1860 presidential election by Abraham Lincoln.

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<sup>8</sup> Ibid., 184.