1 LINCOLN AT FREEPORT

For a person who expects to lose on some decision, the fundamental heresthetical device is to divide the majority with a new alternative, one that he prefers to the alternative previously expected to win. If successful, this maneuver produces a new majority coalition composed of the old minority and the portion of the old majority that likes the new alternative better. Of course, it takes artistic creativity of the highest order to invent precisely the right kind of new alternative. The products of heresthetical genius are ephemeral compared to the work of, say, a great inventor, a great painter, or a great mathematician, though the heresthetical creations usually have more immediate impact on the world. Still the level of genius and creativity is roughly the same for the heresthetician as for these other innovators, and ought, I believe, to be admired and respected for exactly the same reasons.

So, as an appropriate illustration of both heresthetic and genius, I take my first example from the work of Abraham Lincoln, the greatest of American politicians and a man equally skilled as a heresthetician and a rhetorician. This example, which was recognized as a work of genius soon after its use, was a trap, much in the spirit of a dilemma, so cleverly constructed that no matter how the opponent responded the response itself would give Lincoln or his friends a future victory.

In the summer of 1858 Lincoln and Stephen Douglas, the incumbent Democratic senator, were campaigning for the election of candidates for the Illinois legislature who were pledged to vote for them for the United States Senate. The campaign took the form, in part, of a series of debates in Illinois cities, and in the debate at Freeport, Lincoln asked Douglas the question that ensnared him. The question was: "Can the

people of a United States Territory, in any lawful way, against the wish of any citizen of the United States, exclude slavery from its limits prior to the formation of a state constitution?" To modern readers this question probably seems legalistic in sense and turgid in expression, and probably some are astonished by my description of it as a work of genius. However, it was not just the words themselves, but the setting, that honed this question stiletto-sharp.

Throughout the whole period from 1800 to 1864 the coalition, variously revised, of Federalists, National Republicans, Whigs, and finally Republicans probably elected only one president with a majority of the popular vote.* Conversely, the coalition of Jeffersonian Republican-Democrats, revised into Jacksonian Democrats, elected at least ten by a majority. And from 1801 to 1869, Federalist-Whig-Republicans occupied the White House for only about 16 years, while Democrats occupied it for 52 years. Clearly the latter party was by far the more successful, doubtless because throughout the entire time it stood on a platform of agrarian expansionism, while the Federalist to Republican coalition stood on a platform of commercial expansionism. Given the fact that the great majority of the people worked in agriculture, it is not strange that the Democrats won most of the time. It is odd indeed that the Federalist-Whig-Republicans ever won at all.

Naturally, they repeatedly tried realigning themselves on some new organizing principle, which explains the sequence of new names, Federalist to National Republican to Whig to Republican. Along the way some adherents tried out other kinds of parties—Anti-Masonic, Know-Nothing (anti-immigrant), and Liberty or Free Soil (antislavery); and on occasion even Whigs deserted their central theme of commercial expansion. In 1840, for example, when they for once won a majority, they presented, on a platform of agrarian expansion, the aged Indian-killer, William Henry Harrison, the hero of Tippecanoe (1810), a rather faint carbon copy of Andrew Jackson, the

*He was William Henry Harrison. I do not count Lincoln in 1864 because he was elected on a Union ticket—union with War Democrats like his vice-president, Andrew Johnson—only by a majority in a truncated nation.

greatest Indian-killer of them all, and even a far less gory copy of Richard Johnson (Van Buren's vice-president), who with his own knife in his own hand killed Tecumseh.

Of all these alternative organizing principles, the most attractive and, increasingly, the most effective was some version of antislavery. The constitutional compromise in 1787 impliedly made slavery a matter of local law, and it was therefore not admitted to national discussion for over thirty years. But in 1819, even though he personally had been a party to the Compromise of 1787, Rufus King, the last Federalist candidate for president in 1816, tried to revive the fortunes of his defunct party by leading the great national burst of outrage over the motion to admit Missouri into the Union as a slave state. Jefferson, old and brooding at Monticello, described the agitation as a "fire-bell in the night," recognizing it for what it truly was: the instrument by which his coalition would eventually be undone. But not right away. Federalists became Whigs and attracted many Southerners, which made the slavery issue a less attractive tactic. Whigs used it only when they were out of office. But use it they did. John Quincy Adams, who, as president, had shown no particular sympathy for the condition of blacks, became the trumpet of righteousness denouncing slavery in the District of Columbia, clearly a national subject, and organizing Northern Whigs around free soil. By 1846, Northern Democrats were so terrified by the prospect of defeat on this issue that they embraced the antislavery position themselves (in, for example, the support of the Wilmot Proviso and the Van Buren candidacy in 1848). When the Whigs realized that they could do better by sloughing off their Southern adherents and attracting these radical Northern Democrats, they regrouped as the Republican party. This was something new, Federalist and Whig commercial expansionism tied to antislavery which, in its free-soil form of prohibition of slavery in territories and thus in all future states, was a kind of agrarian expansionism too. Finally, the core of the Federalist-Whig-Republican coalition had found an issue on which it could win. From 1868 to 1928 it elected nine presidents by a majority and held the White House 48 out of 64 years, while the Democrats elected no president by a majority and held the White House

only 16 of those 64 years, thereby almost exactly reversing the party fortunes in the previous era.

Democrats knew, of course, what damage the slavery issue could do to them. President Polk, writing in 1847, attributed the raising of the question, probably correctly, to Whig opportunism and prophesied the effect with remarkable accuracy:

> The slavery question is assuming a fearful and most important aspect. The movement [for the Wilmot Proviso] . . . if persevered in, will be attended with terrible consequences to the country, and cannot fail to destroy the Democratic party, if it does not ultimately destroy the Union itself. . . . Of course, Federalists [Polk's pejorative name for Whigs] are delighted to see such a question agitated by Northern Democrats because it divides and distracts the Democratic party and increases their [that is, Whigs'] prospects of coming to power. Such an agitation is not only unwise but wicked.

The Democratic response to the slavery issue was, therefore, to paper it over, to push it back into the localities so that it could not be agitated nationally. In the 1850s the main Democratic device for this response was the Kansas-Nebraska Act of 1854, which was mainly the handiwork of Stephen A. Douglas. It provided that territorial legislatures, not Congress, should decide on whether or not to permit slavery in territories. It did not work. Civil war in "bleeding Kansas" was the result. And then the Southern Democratic majority on the Supreme Court took the occasion of the Dred Scott case (1857) to rule that a slave was not a citizen and had no standing in federal court to sue even though resident in a free territory, and that, by implication, territorial laws against slavery conflicted with the Constitution. This decision profoundly shocked most Northerners, and—quite blindly, so it appeared—blocked Douglas's strategy. But radical Southerners were delighted and the decision encouraged them to raise their reservation price in intrapartisan bargaining from a simple demand for toleration of their "peculiar institution" to an overweening demand for the right to expand the institution throughout the territories.

This, then, was the setting for Lincoln's question. It came out of the long Whig search for a winning issue; out of the ultimate realization that the slavery issue would irreparably

split the Democratic party, and had indeed split it at the formation of the Republican party; and out of the opportunity offered by the intensity of feeling, North and South, on the Dred Scott decision to exploit even more adroitly the division in the Democracy.

Lincoln's question generated a personal and political dilemma for Douglas. He was running for reelection as senator in 1858, but as the leading Northern Democrat, he also hoped and expected to be the Democratic candidate for president in 1860. These two elections were in two different constituencies, Illinois and the nation as a whole, in which the divisions of opinion were quite different. And it was this difference that Lincoln exploited.

If Douglas answered yes (that territorial legislatures could exclude slavery), then he would please Northern Democrats for the Illinois election. This would continue his policy of pushing the slavery issue back to the territories and, for Illinois Democratic voters, it would seem adequately free-soil in tone. On the other hand, for the radical Southerners, now wholly intransigent after the Dred Scott decision, yes would seem a betrayal of the Southern cause of the expansion of slave territory and a split in the traditional intersectional Democratic alliance. So a yes answer improved his chances in Illinois in 1858 but severely hurt his chances in the nation in 1860.

On the other hand, if Douglas answered no, then he would appear to capitulate entirely to the Southern wing of the party and alienate free-soil Illinois Democrats. Thus he would hurt his chances in Illinois in 1858 but help his chances for 1860. Since he had to answer either yes or no, he was certain to hurt himself in one of the two elections.

Douglas answered yes and was reelected to the Senate. But in the nominating convention in 1860 he was nominated only after Southerners withdrew in order to nominate a third candidate for themselves. Lincoln won the Republican nomination, in no small part because of the heresthetical ability displayed in the campaign of 1858, and was elected president by a plurality.

His question at Freeport should be interpreted, I think, as the capstone of the Republican strategy of splitting the Democratic

majority. As between the traditional platforms of agrarian expansionism (Democratic and majority) and commercial expansionism (Whig and minority), the Republican combination of commerce and free-soil attracted the Northern Whigs (a large majority of that party) and a substantial proportion of Northern Democrats, so that Republicans had, first, a plurality and, by 1868, a big majority in the nation. I think there is no more elegant example of the heresthetical device of splitting the majority, and it displays Lincoln the politician at his grandest.

An interesting incidental question is whether or not Lincoln in 1858 foresaw his own role in 1860. The debates were certainly one of the very first public campaigns for the Senate and, for that reason alone, attracted national attention; and Lincoln himself took care to get the debates published in Ohio in 1859, all of which suggests that Lincoln may have had some plans for his own future. There seems to be no question, however, that he saw the Freeport question as a way to destroy Douglas and split the Democratic party in 1860. His campaign advisors opposed his asking the question, and it is hard to find any motive for Lincoln to ask it other than a self-sacrificing attempt to undo the Democrats. In his historical novel *The Crisis,* Winston Churchill—the American novelist, not the British statesman—romanticized Lincoln's heresthetic at Freeport by attributing to him the following parable, where the pear is the senatorship and Sue Bell is the presidency:

> "Boys," said he, "did you ever hear the story of farmer Bell, down in Egypt? I'll tell it to you, boys, and then perhaps you'll know why I'll ask Judge Douglas that question. Farmer Bell had the prize Bartlett pear tree, and the prettiest gal in that section. And he thought about the same of each of 'em. All the boys were after Sue Bell. But there was only one who had any chance of getting her, and his name was Jim Rickets. Jim was the handsomest man in that section. He's been hung since. But Jim had a good deal out of life,—all the appetites, and some of the gratifications. He liked Sue, and he liked a luscious Bartlett. And he intended to have both. And it just so happened that that prize pear tree had a whopper on that year, and old man Bell couldn't talk of anything else.

> "Now there was an ugly galoot whose name isn't worth mentioning. He knew he wasn't in any way fit for Sue and he liked pears about as well as Jim Rickets. Well one night here comes Jim along the road, whistling, to court Susan, and there was the ugly galoot a-yearning on the bank under the pear tree. Jim was all fixed up, and he says to the galoot, 'Let's have a throw.' Now the galoot knew old Bell was looking over the fence. So he says, 'All right,' and he gives Jim the first shot. Jim fetched down the big pear, got his teeth in it and strolled off to the house, kind of pitiful of the galoot for a half-witted ass. When he got to the door, there was the old man. 'What are you here for?' says he. 'Why,' says Rickets, in his off-handed way, for he always had great confidence, 'to fetch Sue.'
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> "The old man used to wear brass toes to keep his boots from wearing out," said Mr. Lincoln, dreamily.
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> "You see," continued Mr. Lincoln, "you see the galoot knew that Jim Rickets wasn't to be trusted with Susan Bell."

AN ENDNOTE ON THE RELATION OF HERESTHETIC TO RHETORIC

The dilemma is a classic rhetorical device intended to show the logical weakness of an opponent's intellectual position. It persuades by revealing the opponent's weakness and implying thereby the speaker's strength. A standard example that goes back to early fifth-century Greek culture—actually to the colonial culture of Syracuse in Sicily—is the double dilemma of Korax (the "crow") and Tisias. Korax, a rhetor and sophist, was the teacher of Tisias (and also of Gorgias, who became a great teacher of rhetoric in Athens and the subject of Plato's dialogue of that name, through which he made *sophist* a pejorative word for all time). Tisias had agreed to pay tuition to Korax out of the fee from the first case he won. But he did not practice and so did not pay. Korax sued and Tisias defended himself with this dilemma: "If I win, I need not pay by reason of the judgment of the court. If I lose, I need not pay because the terms of the contract will not have been fulfilled. Since I must either win or lose, I need not pay." Korax responded: "If I win, you must pay by reason of the judgment of the court. If I lose you must pay because the terms of the contract will then be fulfilled. Since I must either win or lose, you must pay."

The judge dismissed the case (so Tisias won), but the judge called him a "bad egg from a bad crow." So in a sense neither dilemma was rhetorically successful because each canceled the other out. Doubtless Korax did, however, achieve enormous word-of-mouth advertising, as indicated by this repetition of the story twenty-four centuries later.

In these rhetorical dilemmas the purpose is to show that the opponent's case is weak. But in the heresthetical dilemma Lincoln posed to Douglas the purpose was to force Douglas to put himself in an undesirable position for winning some future election. Clearly the goal of the rhetorical dilemma is to persuade, while that of the heresthetical dilemma is to structure the decision-making situation to the speaker's advantage and the respondent's disadvantage.

This contrast is in general true of all parallels between rhetoric and heresthetic. It might be thought that rhetoricians would have collected examples of heresthetic as well as rhetoric. Indeed, one of the reasons I have derived the word *heresthetic* from a Greek root is that Greeks should have, but did not, identify the heresthetic art. The reason they did not, I believe, is that rhetoric and heresthetic are fundamentally different. Having chosen to concentrate on rhetoric, they never got around to the study of heresthetic, even though they unconsciously practiced it in their popular assemblies.

Sources: The exact form of Lincoln's question and Douglas's response is most easily available in A. Lincoln, *The Illinois Political Campaign of 1858: A Facsimile of the Printer's Copies of His Debates with Stephen Arnold Douglas as Edited and Prepared for the Press by Abraham Lincoln* (Washington, D.C.: Library of Congress, 1958). An account of the development of the slavery issue is contained in chapter 9 of my book, *Liberalism against Populism: A Confrontation between the Theory of Democracy and the Theory of Social Choice* (San Francisco: W. H. Freeman, 1982). The quotation from President Polk is from James K. Polk, *Diary,* ed. Milo M. Quaife, 4 vols., (Chicago: McClurg, 1910), January 4, 1847, vol. 2, p. 305. The story of Farmer Bell, Jim Rickets, and the ugly gaboot is from Winston Churchill, *The Crisis* (New York: The Macmillan Co., 1901), part 2, chapter 3. The story of Korax and Tisias is most easily available in George Kennedy, *The Art of Persuasion in Greece* (Princeton, N.J.: Princeton University Press, 1963), pp. 59ff.