Far more has been written about Abraham Lincoln than his longtime Illinois rival Senator Stephen A. Douglas. But it is Douglas—far more well known in his own time—with whom contemporary democracies must contend. In a U.S. election cycle dominated by candidates ranging from the ordinary—dissembling but capable—to the unhinged and disturbed (there is not a Lincoln among them) it is more important than ever to explore the vicissitudes of ordinary politicians’ moral reasoning.


This essay seeks to understand—as a personal matter as much as a scholarly endeavor—how Senator Douglas, in the late 1840s and 1850s, could come to endorse the doctrine of “popular sovereignty” as a moral principle with such conviction. This is a story—with Douglas as the protagonist—of what John Burt has called the failure “to embrace the entailments we dimly sensed but could not bring ourselves to acknowledge.” My explanation for this failure, as the title of my essay suggests, appeals to the phenomenon of self-deception.

I shall have more to say about the peculiar nature of “popular sovereignty” in the antebellum United States in a moment. Suffice it to say, for the time being, that Douglas’s doctrine of “popular sovereignty” had almost nothing in common with popular sovereignty as it has typically been understood in the history of political thought. Here is what Douglas meant by the phrase: “the right of the people of the Territories to govern themselves in respect to their local affairs and internal polity.” The doctrine of popular sovereignty in the territories was novel because prior to the mid-1850s, the national government (i.e. Congress and the President), as opposed to the people of the newly organized territories, had exercised authority over slavery in most of the territories it had organized.

Some background: a “territory” occupied an intermediate position between that of a sovereign state of the Union and mere land claimed by the United States. Typically, as the American people marched westward, either through purchase (Louisiana) or conquest (Mexico), their government acquired land from foreign powers (Native Americans, as “domestic dependent nations,” were never recognized in this regard). There were always a few bold settlers willing to venture out into these “wild” lands, but sustained—and profitable—settlement required a modicum of law and order. The “territorial phase” thus provided the rudiments of government while the settlers prepared for eventual statehood. There were rules, frequently bent and broken, about when a territory could become a state.

5 *Cherokee Nation v. Georgia*, 30 U.S. 1 at 17 (1831).
In the antebellum era, the period of time between the organization of a particular territory and its admission as a state was rather limited. But this seems to have magnified rather than diminished the importance of the territorial stage in the minds of antebellum politicians. What I have to say in this essay cannot be adequately understood unless one recognizes the phenomenon—to use contemporary terminology—of path dependency in territorial politics. Antebellum Americans recognized that the laws and human composition (e.g., slaves, slaveholders, free laborers) of a territory at its inception would shape its future. To put the matter bluntly, if slaveholders were permitted to emigrate with their slaves, the territory—in all likelihood—would enter the Union as a slave state. That is, if slavery “took root” in a particular territory, free labor would be disadvantaged and non-slaveholders would settle elsewhere. The preponderance of slaveholders in the territory would then legislate (if allowed) to protect slavery. In contrast, if slave property were excluded during the territorial stage, by the national government, by prohibition by the settlers themselves, or by what Douglas called “unfriendly legislation,” the territory would—in all likelihood—enter the Union as a free state. (By “unfriendly legislation,” Douglas was suggesting that even if, viz. the Dred Scott decision, territories were not authorized to prohibit slavery outright, they might refuse to enact legislation protecting that most peculiar and odious species of property.) Without legal protection for their slave property, slaveholders would stay put in the slave states or settle elsewhere. The free-soil settlers could then legislate to prohibit slavery in their territory, and then in their new state, when the time came. In short, the status of

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6 Five states (Vermont, Kentucky, Maine, Texas, and California) bypassed the territorial stage completely. Parts of Wisconsin, admitted to the Union in 1848, were organized by the Northwest Ordinance in 1787, a gap between organization and admission of 60 years. Although there are some complications—insofar as some organized territories were subsequently disorganized—the average period between initial organization and statehood, for the 21 states admitted between 1789 and 1861, was 21 years. Interestingly, slave states took an average of only 12 years to be admitted to the Union whereas free states took an average of 29 years to be admitted (my calculations throughout).


9 Dred Scott v. Sandford, 60 U.S. 393 (1857).
slavery in the territories, both legally and in practice, would determine the balance of power between freedom and slavery in the United States. Prior to the Civil War, the battle between freedom and slavery in the United States was fought in its lightly settled periphery.¹⁰

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I said already that Douglas’s doctrine of “popular sovereignty” in the territories was nothing like what is usually meant by that term. In the Western political tradition, popular sovereignty has been understood as “the idea that the ruler’s power derives from the people,” “that law is legitimate insofar as it is the product of the people’s decision making,”¹¹ the idea of “giving the putative people a commanding voice outside the government they created and embodying their rights as subjects in the commands they thereby gave to their government,”¹² “the contention that the unified will of the people is the supreme authority in a state,”¹³ or in the nationalistic tenor of the Declaration of the Rights of Man and of the Citizen: “The principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation.”¹⁴

I am willing to go so far as to say that Douglas’s conception of popular sovereignty, if we wish to remain careful about fundamental concepts, was not popular sovereignty at all:

Popular sovereignty… is fundamentally defined by the concept of sovereignty, the essential quality of which is its extralegal and extra-institutional quality. What makes the doctrine of popular sovereignty distinctive is the view that the “sovereign people” hold in reserve, outside the realm of constitutionally bound political activity, what is in

¹⁰David Potter could have begun his celebrated book, The Impending Crisis: America Before the Civil War, 1848-1861, in 1820 rather than 1848.
effect an extraordinary or extralegal power that is, in theory, unlimited and absolute, superior to all other constituted forms of public authority.\(^{15}\)

It was never Douglas’s contention that the settlers of a territory were *sovereign* in any recognizable sense. Douglas may have been “positively uncomfortable in the heady world of political theory,”\(^{16}\) and was certainly “not a deep thinker himself,”\(^{17}\) but he would have recognized that the authority he sought to give to the settlers in the territories was not extralegal, extra-institutional, unlimited, or absolute. What Douglas had in mind was simultaneously more mundane and more complicated. Insofar as “popular sovereignty” in the territories was about sovereignty at all, it was about *reallocating* the authorized *exercise* of a *share* of sovereignty from the national government to the institutions representing the people of an organized territory. Although I cannot argue the point fully here, Douglas’s doctrine of popular sovereignty in the territories is more accurately described as a kind of *localism* than with the name (then and now) attached to it.

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In this section and the next I describe the development of territorial politics with respect to slavery and Douglas’s own evolving views on the matter. Tracing the trajectory of Douglas’s views on the territories is straightforward because he served as chairman of the Committee on Territories in the House from 1845-1847 and then in the Senate from 1847 until he was removed as chair by Buchanan administration allies in December 1858.\(^{18}\)

The Northwest Territory, so named because it lies northwest of the Ohio River, now comprised of the states of Ohio, Michigan, Indiana, Illinois, Wisconsin, and part of Minnesota, was organized by the Second Continental Congress under the Northwest Ordinance of July 13, 1787. The sixth article of the Ordinance, which passed over only one “no” vote (Abra-


\(^{16}\) Wells, *Douglas: The Last Years*, 184.

\(^{17}\) Johannsen, *SAD*, 240.

ham Yates of New York), proclaimed that “There shall be neither Slavery nor involuntary Servitude in the said territory...”\textsuperscript{19} The Northwest Ordinance was later reaffirmed under the new Constitution on August 7, 1789 as “An Act to provide for the Government of the Territory North-west of the river Ohio.”\textsuperscript{20}

![Map of Virginia, North and South Carolina, Georgia, Maryland with part of New Jersey &c.](https://www.loc.gov/item/2013593290/)


Legislation establishing “the Government of the Territory of the United States south of the river Ohio,” territory ceded to the United States by North Carolina, was passed less than a year later on May 26, 1790. The government of the Southwest Territory (which became the state of Tennessee in 1796) was to be “similar to that which is now exercised in the territory northwest of the Ohio; except so far as is otherwise provided in the conditions expressed in

\textsuperscript{19} Journals of the Continental Congress, vol. 32, 343.

\textsuperscript{20} 1 Stat. 50-53.
an act of Congress of the present session, entitled ‘An act to accept a cession of the claims of the State of North Carolina, to a certain district of western territory.”

That is, the government of the Southwest Territory was to be identical to that of the Northwest Territory, excepting those conditions stipulated by North Carolina in its cession of its western territory to the United States. Two conditions of the cession are worthy of comment. First, in the new territory, “no regulations made or to be made by Congress, shall tend to emancipate slaves.” Second, “the laws in force and use in the State of North Carolina, at the time of passing this act, shall be, and continue in full force within the territory hereby ceded, until the same shall be repealed, or otherwise altered by the legislative authority of the said territory.” Thus, while the Northwest Ordinance prohibited slavery in the Northwest Territory, the Southwest Territory began its existence under North Carolina law, in which slavery was permitted and protected. The language in the latter condition certainly implies, however, that the “legislative authority” of the new territory could move to prohibit slavery (it did not). This was a matter for the settlers to decide.

I mention these details from 1789 and 1790 because they set an important precedent for many years to come. Territories in the North (with the Ohio river demarcating the two sections) were established with slavery explicitly prohibited; territories in the South were established with slavery implicitly permitted. Prohibition in the North was accomplished by including, in the legislation establishing each new territory, the provision that “there shall be established within the said territory a government in all respects similar to that provided by the” Northwest Ordinance. Implicit permission for slavery in the South was accom-

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21 1 Stat. 123.
23 1 Stat. 108.
25 E.g., Indiana (2 Stat. 59). Similar references to the Northwest Ordinance are included in the statutes organizing Michigan (2 Stat. 309), Illinois (2 Stat. 515), and Wisconsin (5 Stat. 15). The pattern is broken in the organization of Iowa and Minnesota, which were not part of the original Northwest Territory.
plished, taking “An Act for an amicable settlement of limits with the state of Georgia, and authorizing the establishment of a government in the Mississippi territory” as an example, by authorizing the President “to establish therein a government in all respects similar to that now exercised in the territory northwest of the river Ohio, excepting and excluding the last article of the [Northwest] ordinance.”\textsuperscript{26} This “last article” was the sixth article, already mentioned (p. 5), prohibiting slavery. Striking the “last article” while putting nothing in its place meant that the decision about whether to permit or prohibit slavery in the southern territories was a question for the settlers, not Congress. It happens that every territory south of the Ohio chose to permit slavery, but they were not required to do so.

\textsuperscript{26} 1 Stat. 550.
Fast forward to 1819. The northern portion of the Louisiana Territory, acquired from France in 1803, had been renamed the Territory of Missouri in 1812. On December 18, 1818, John Scott “presented sundry resolutions adopted by the legislative council and house of representatives of the territory of Missouri, instructing him as the delegate of said territory... to use his exertions to procure the passage of a law for the admission of that territory into the union as a state.” When a bill to do just that was considered in the House of Representatives on February 13, 1819, James Tallmadge (R-NY) offered the following amendment: “the further introduction of slavery or involuntary servitude be prohibited... and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years.”

The fact that Tallmadge offered his amendment in February 1819 but Missouri was not admitted to the Union until August 10, 1821 gives some indication of how it was received, at least in the South. Southerners objected to what they saw as outside (northern) interference in a southern institution. In the final days of the fifteenth congress, Tallmadge’s amendment passed in the House, with its northern majority, but failed in the Senate. When the issue was revisited in the following congress, the Senate leadership attached Missouri statehood, without the Tallmadge Amendment, to legislation admitting Maine as a free state. This was an attempt to get Northerners to drop “restrictionism” in Missouri by offering a new free state in exchange for a new slave state.

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27 I have drawn on Howe, _What Hath God Wrought_, 147-160 in the following discussion of the Missouri Compromise.
28 The Louisiana Purchase was split into two territories, the Territory of Louisiana and the Territory of Orleans, in 1804. 2 Stat. 283. The Territory of Orleans became the State of Louisiana in 1812. 2 Stat. 701.
29 Journal of the House, Volume 12, 114.
30 33 Annals of Cong. 1170.
31 In the words of Thomas Jefferson: “An abstinence too, from this act of power, would remove the jealousy excited by the undertaking of Congress to regulate the condition of the different descriptions of men composing a State. This certainly is the exclusive right of every State, which nothing in the constitution has taken from them and given the General Government.” To John Holmes, Monticello, April 22, 1820 in Thomas Jefferson, _Jefferson: Political Writings_, ed. Joyce Appleby and Terence Ball (New York: Cambridge University Press, 1999), 497.
As Sean Wilentz has suggested, Southerners underestimated the resolve (and principled nature) of northern opposition to the expansion of slavery. The quid pro quo being offered in the Senate would not secure enough northern votes in the House. To get the votes that were needed to remove the restriction on slavery in Missourri, Senator Jesse Thomas (DR-IL) offered an amendment proclaiming that “in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of [36°30'N], not included within the limits of the state, contemplated by this act [Missouri], slavery and involuntary servitude...shall be, and is hereby, forever prohibited.” What is most surprising in the roll call on Thomas’s amendment (in the House) is not that it passed with 95 out of 100 northern votes, but that a majority of southerners (39-37) voted with the North to prohibit slavery north of 36°30'. Apparently, at that time, the admission of Missourri without restrictions was more important than the eventual fate of new territories to the west.

Notice that the Missouri Compromise language is stronger than that even of the Northwest Ordinance, which lacked the concluding phrase “forever prohibited.” But in other respects, the Missouri Compromise merely extended the precedent established in the Northwest Territory. The Ohio meets the Mississippi at 37°N in Cairo, Illinois. The Kentucky-Tennessee border meets the Mississippi at 36°30', which is also Missourri’s southern border. Thus, in essence, the Missouri Compromise extended the prohibition on slavery north of the Ohio river to the Louisiana Purchase, Missourri excepted. The only United States territory south of 36°30' had been previously organized in 1819 as the Arkansaw territory.

Fast forward, again, to 1846. Stephen Douglas is now a member of the House of Representatives. The war against Mexico began in April. It would not end until February 1848, but the eventual outcome was never really in doubt. The question was only how much territory the United States would acquire. On August 8, President Polk requested “an appropria-

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33 3 Stat. 548.
34 “An Act establishing a separate territorial government in the southern part of the territory of Missourri,” March 2, 1819, 3 Stat. 493.
tion...for the purpose of settling all our difficulties with the Mexican republic." James McKay (D-NC) proceeded to introduce a bill appropriating $2 million for that purpose. David Wilmot (D-PA) then introduced the following amendment to McKay’s bill: “That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico...neither slavery nor involuntary servitude shall ever exist in any part of said territory.” At first glance, it appears that what became known as the Wilmot Proviso would have simply extended the pattern discussed previously. But Wilmot’s amendment mentioned no line or river dividing freedom from slavery; it proposed to prohibit slavery in any and all territory acquired from Mexico, as a condition on its acquisition.

It should come as no surprise that Wilmot’s proviso was deeply unpopular in the South. It passed in the House along sectional lines but was filibustered in the Senate. More importantly, however, the Proviso provoked a controversy that would not be resolved until 1850, with the so-called compromise measures of that year. Furthermore, it was in the period 1846-1850 that something resembling Douglas’s “popular sovereignty” first appeared on the scene. Lewis Cass, former governor of the Michigan Territory (1813-1831) and the Democratic party candidate for President in 1848, argued in the famous “Nicholson letter” that “the principle of interference...should be limited to the creation of proper governments for new countries, acquired or settled, and to the necessary provision for their eventual admission into the Union; leaving, in the meantime, to the people inhabiting them, to regulate their internal concerns in their own way.” Cass’s “principle of interference” was notoriously, and probably purposefully, vague. Southerners interpreted it to mean that new states could enter the Union without restrictions (qua Missouri); Northerners interpreted it to mean that the settlers of organized territories could legislate to prohibit slavery.

Three iterations of the Compromise of 1850 merit discussion. The first iteration: in January 1849, Henry Clay (W-KY) introduced a series of eight resolutions that he claimed

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37 Howe, What Hath God Wrought, 767.  
constituted “an amicable arrangement of all questions in controversy between the free and
the slave states, growing out of the subject of slavery.” The second resolution, concerning
the territory acquired from Mexico, said “that appropriate Territorial governments ought to
be established by Congress in all of the said territory... without adoption of any restriction
or condition on the subject of slavery.”

The second iteration: in May, the “Committee of Thirteen,” chaired by Clay, presented
its report on the slavery question to the Senate. The bill reported by the committee, in its
sections on the proposed territories of Utah and New Mexico, stipulated that “the legislative
power of the territory shall extend to all rightful subjects of legislation... but no law shall be
passed... in respect to African slavery.” The difference between the first and second itera-
tions is significant. The first embodied popular sovereignty, at least implicitly; it permitted
the settlers of the territories to legislate as they pleased. The second iteration, in contrast,
prohibited the settlers from legislating at all on the subject of slavery, meaning that the
territories could neither prohibit nor permit slavery. It was anyone’s guess whether this had
pro-slavery or anti-slavery implications (see below).

The third and final iteration: the bill finally enacted on September 9, 1850 simply struck
out the phrase “nor in respect to African slavery” from the second iteration’s sections on the
territories’ legislative powers. This could have been interpreted as a victory for the popular
sovereignty position—it was certainly no Wilmot Proviso—but ambiguity remained. Around
this time, radical southerners had begun to argue that the Constitution itself effectively
established slavery in the territories. According to this “common property doctrine,” slavery
could not be barred from the territories because they were the “common treasure” of the
several states and therefore slaveholders had the Constitutional right to enter the territories
with their property, slaves included. This view was later endorsed by the Supreme Court in

39 Cong. Globe, 31st Cong., 1st Sess. (1850) 244.
42 9 Stat. 449 §7 (New Mexico), 454 §6 (Utah).
43 As explained later by Lewis Cass: the question “is whether, by virtue of the Constitution of the United
States, there is a kind of motive power in slavery that immediately spreads it over any territory, or by virtue

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the *Dred Scott* decision of 1857. For the time being, however, popular sovereignty appeared to have emerged victorious.

![Map of California, Oregon, Washington, Utah, and New Mexico](https://www.loc.gov/item/2012593338/)


Fast forward, for a final time, to 1854. As Chairman of the Committee on Territories, Stephen Douglas had made it his mission to organize the territory west of Missouri. In addition to what he saw as his duty, Douglas had an interest in the proposed Pacific Railroad. Construction of the railroad would have required “a line of governments extending from the of which any slave may be taken to any territory of the United States, as soon as it is annexed to the Union.” Cong. Globe, 33d Cong., 1st Sess. (1854) 423.
Mississippi valley to the Pacific ocean.”

All unorganized territory west of Missouri fell under the terms of the Missouri Compromise; hence, slavery was not permitted. Seeing no advantage in new free territories (and later states), Southerners had blocked Douglas’s proposals in the late 1840s and early 1850s.

In 1853, Senator David Atcheson (D-MO), a key supporter of a new Nebraska territory, told Douglas that to get the votes he needed he would need to find a way “to permit slaveholders to go with their property into the new territory at its opening.” On January 4, 1854, Douglas proposed to organize the Nebraska Territory with language identical to that of the Compromise of 1850; that is, with no mention of slavery. But in the report of the Committee on Territories, accompanying the bill, Douglas suggested that his Nebraska bill embodied “the principles established by the compromise measures of 1850” which should be “carried into practical operation within the limits of the new Territory.” The compromise measures, Douglas argued, rested on the notion that “all questions pertaining to slavery in the territories, and in the new States to be formed therefrom, are to be left to the decision of the people residing therein, by the appropriate representatives, to be chosen by them for that purpose.” This was Douglas’s attempt to sneak popular sovereignty into the Louisiana Purchase, where by the Missouri compromise, slavery was “forever prohibited.”

Douglas had to have known that this was not enough for his Southern colleagues. Popular sovereignty, even if it meant that the territories, once organized, could legislate to establish slavery, was little solace if slavery were prohibited in the interim. Indeed, as a clear overture to the south, the report suggested that “it is a disputed point whether slavery is prohibited in the Nebraska country by valid enactment. The decision of this question involves the constitutional power of Congress to pass laws prescribing and regulating the domestic institutions of the various territories of the Union.”

Douglas’s committee called the constitutionality

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44 Cong. Globe, 32d Cong., 2d Sess. (1853) 1116
46 Senate Reports, 33d Cong., 1, No. 15, 1.
47 Senate Reports, 33d Cong., 1, No. 15, 4.
48 Senate Reports, 33d Cong., 1, No. 15, 2.
of the Missouri Compromise into question, but was “not prepared now to recommend a
departure from the course pursued on that memorable occasion [the Compromise of 1850],
either by affirming or repealing the 8th section of the Missouri act…. In other words,
Douglas went as far as he could to appease the south without actually repealing the Missouri
Compromise.

Then on January 16, Senator Archibald Dixon (W-KY) offered an amendment stipulating
that the section of the Missouri Compromise prohibiting slavery “shall not be so construed
as to apply to” Nebraska. This did explicitly what Douglas’s committee report had only
implied. Realizing that the Nebraska territory would remain unorganized as long as the
Missouri restriction remained intact, Douglas incorporated Dixon’s amendment into his own
bill. The January 23 version included the following language:

all laws of the United States. . . shall have the same force and effect within the said Terri-
tory of Nebraska. . . Except the eighth section of the act preparatory to the admission of
Missouri into the Union. . . which was superseded by the principles of the . . . compromise
measures, and is hereby declared inoperative.

A February 7 amendment removed any ambiguity as to the fate of the Missouri Compromise:

the eighth section. . . being inconsistent with the principle of non-intervention. . . is hereby
declared inoperative and void; it being the true intent and meaning of this act not to
legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave
the people thereof perfectly free to form and regulate their domestic institutions in
their own way. . .

What became known as the Kansas-Nebraska Act—the proposed Nebraska territory had
been split in two—eventually became law on May 30, 1854.

What had just happened? From 1787 to 1850, Congress had repeatedly reserved a portion
of its newly organized territory for freedom. The Compromise of 1850 broke precedent by
substituting popular sovereignty for explicit prohibition north of some line or river. The
Kansas-Nebraska Act then eliminated the restriction on slavery previously in force in the

49 Senate Reports, 33d Cong., 1, No. 15, 3.  
50 Cong. Globe, 33d Cong., 1st Sess. (1854) 175. For the details in the paragraph, I follow Potter, The
Impending Crisis, 160ff.
Louisiana Purchase north of 36°30'. That is, Congress, with Douglas leading the charge, had
opened a wide swath of territory that had been declared “forever” free to the institution of
slavery. All in the name of leaving the people of the territories “perfectly free to form and
regulate their domestic institutions in their own way.”

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I could go on and multiply extract after extract from my speeches in 1850,
and prior to that date, to show that this doctrine of leaving the people to
decide these questions for themselves is not an “after-thought” with me.[51]

There is of course a relatively simple political and historical explanation for all of this.
It is easy to say that Douglas lived in a different time, that he was a racist (he was), that
he desperately wanted a Pacific Railroad, and that he had national ambitions in a Southern
dominated Democratic Party. But I am far more interested in how Douglas justified his
actions to himself—his self-conception. Plenty of men and women of the era were attuned
to the moral implications of the Kansas-Nebraska Act. Douglas’s Democratic party lost sixty-
six of ninety-one free-state seats in the elections of 1854-1855.[52] Two new political parties
(American and Republican) were formed from the ashes left by the Northern Democracy.

How is that these men and women, not sharply different in background and upbringing,
saw the evil in popular sovereignty but Douglas did not? How could he manage to shield
himself from the “moral lights” all around him, much less blow them out as Lincoln later
claimed he did?[53] David Shapiro, a psychologist, notes that self-deception is associated with
“a readiness to defer to authoritative opinion, to accept ideas, eventually to ‘believe’ them.”[54]

I suggest that when the facts one wishes to avoid are moral in nature, as with Douglas, it

[51] Cf. Annette Gordon-Reed and Peter S. Onuf, “Most Blessed of the Patriarchs”: Thomas Jefferson and
[52] Potter, The Impending Crisis, 175.
Henry Clay’s speech before the American Colonization Society in 1827. See Eulogy on Henry Clay, July 6,
1852, 2:131.
helps to elevate Shapiro’s “ideas” into “principles” and then to build an edifice of support around them. And it certainly helps when the principles chosen have, either in fact, or by genuine or concocted association, a long and celebrated history. Popular sovereignty was the principle that allowed Douglas to so thoroughly deceive himself. The remainder of this section describes how Douglas stumbled upon the principle of popular sovereignty, adopted it as his own, and finally built an edifice supporting it that only the Civil War could destroy.

Stephen Douglas began his career in the national legislature when he was elected to the House of Representatives in 1843. In the second session of the 28th Congress, Douglas first entered the fray of territorial politics. The issues being discussed at that time were the organization of the Oregon territory and the admission of Iowa and Florida to the Union as states. In the Oregon debate, Douglas was seemingly more interested in “carrying our laws and our institutions to our people there,” and “the extending of our laws and our protection over it” than the settlers’ wishes. His concerns with Oregon seem to have been a matter of foreign policy; he hoped, by organizing a territorial government, to solidify the nation’s claim to territory then jointly occupied by the British.

In the debate over the admission of Iowa and Florida, Douglas called “some of the provisions of the Florida constitution . . . positively obnoxious,” but he nevertheless felt that the admission of new states did not “require an endorsement and approval of each and every provision of those constitutions.” He said that “the people of each State are to form their constitution in their own way and in accordance with their own views, subject to one restriction only; and that was, that it should be republican in character.” This may look a lot like his later popular sovereignty view. However, it is important to notice that Douglas was talking about the admission of Florida as a state, not the organization of a new territory. He was merely endorsing what is sometimes called the “equal footing doctrine,” the claim

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56 Cong. Globe, 28th Cong., 2d Sess. (1845) 284. A republican constitution, for Douglas, was simply one that did not set up a monarchy or an aristocracy.
that there ought to be no restrictions on the constitutions of new states.\textsuperscript{57} The doctrine had played a role in the Missouri controversy.\textsuperscript{58} Douglas then said the following:

\begin{quote}
The father may bind the son during his minority; but the moment he attains his majority, his fetters are severed, and he is free to regulate his own conduct. So with the Territories; they are subject to the jurisdiction and control of Congress during their infancy, their minority; but when they attain their majority, and obtain admission into the Union, they are free from all restraints and restrictions, except such as the constitution of the United States has imposed upon each and all the States.\textsuperscript{59}
\end{quote}

This was Douglas’s position on the territories in early 1845. It forms the anchor of a trajectory ending with an emphatic, principled, and I believe sincere endorsement of popular sovereignty in the territories by 1857. But his paternalist description of the territories in their “infancy, their minority” is not easily forgotten.

In December 1845, in his second term in the House, Douglas was elected chairman of the Committee on Territories. Towards the end of the first session, the committee reported a bill to organize the Oregon territory. Oregon was special in at least one respect: the people residing in the proposed Oregon territory had set up their own provisional government in 1843. He proposed that the laws of the provisional government remain in force unless altered by the territorial legislature. The provisional government’s laws, Douglas argued, were “better adapted to the people there than any we could adopt, and that it was better for them, under this bill, to remedy them than to remedy them ourselves.”\textsuperscript{60} Douglas’s bill made no reference to slavery, but James Thompson (D-PA) proposed the following amendment, which was agreed to: “And neither slavery nor involuntary servitude shall exist in said territory.” The bill did not become law, despite passing in the House.

Douglas renewed his efforts in the second session of the 29th Congress. Taking Thompson’s cue, he included the following language in the twelfth section of the new bill: “That the inhabitants of said territory shall be entitled to enjoy all and singular the rights... granted

\begin{footnotesize}
\textsuperscript{57} Journals of the Continental Congress, volume 32, 339.
\textsuperscript{58} See above, p. 17 and note 31.
\textsuperscript{59} Cong. Globe, 28th Cong., 2d Sess. (1845) 284.
\textsuperscript{60} Cong. Globe, 29th Cong., 1st Sess. (1846) 1203.
\end{footnotesize}
and secured to the people of the Territory of the United States northwest of the river Ohio, by the articles of compact contained in the” Northwest Ordinance. The inconsistency in Douglas’s actions should be apparent. In the first session, he had supported organizing the Oregon Territory according to the settlers’ wishes; in the second session, he supported a Congressional prohibition on slavery. The fact that slavery would have been prohibited either way obscures a question of principle: should Congress or the settlers decide the fate of slavery in Oregon?

Later in the second session, after Wilmot had introduced his famous proviso for the Mexican Cession, Douglas attempted to replace it with an extension of the Missouri Compromise line through the Mexican Cession to the Pacific. This would have prohibited slavery in any territory acquired from Mexico north of 36°30', leaving the matter up to the settlers south of 36°30'. This, like his support for a Congressional prohibition of slavery in Oregon, was a curious position for a man who later upheld the right of the people of the territories to regulate their institutions in their own way with emphatic conviction.

Previous scholars have argued (correctly) that Stephen Douglas was a pragmatist. In 1852, he said that “Measures of policy are in their nature temporary, and liable to be abandoned whenever the necessity ceases which called them into existence; but democratic principles are immutable, and can never die so long as freedom survives.” Perhaps, then, Douglas’s on again, off again support for territorial settlers’ wishes can be understood in these terms. But this is to explain Douglas without understanding him. What was the principle to which these “measures of policy” were dedicated? Not popular sovereignty, at least not in the late 1840s, for this was precisely what Douglas was willing to bargain away in Oregon and in the Mexican Cession. Was it the Union? The Democratic Party? Westward expansion? Whatever it was, Douglas was willing to give away his beloved “popular sovereignty” to get it.

Douglas entered the Senate later that year (1847) and was immediately elected chairman of the Committee on Territories. For a time the Oregon question became linked to the

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61 Bills and Resolutions, 29th Cong., 2d Sess. Bill 571, p. 11.
62 Quoted in Johannsen, SAD, 357.
controversy over the Mexican Cession. Various proposals were introduced to organize the Oregon territory. Douglas introduced an amendment to the Oregon bill then being considered that would have extended the Missouri Compromise line to the Pacific, despite the fact that the proposed Oregon Territory lay entirely above 36°30'. Extending the line in the Oregon bill would have been a roundabout way to end the dispute over slavery in the Mexican Cession; it would have been equivalent to organizing the former Mexican territories under the terms of the Missouri Compromise. The amendment passed in the Senate but was quickly removed by the House. At the close of the first session, the Senate voted to recede from its amendment and pass the House version of the Oregon bill, in which slavery was prohibited under the terms of the Northwest Ordinance rather than the Missouri Compromise.\footnote{Cong. Globe, 30th Cong., 1st Sess. (1848) 1077-1080.}

In short, despite at times making overtures to the settlers’ popular sovereignty, Douglas was throughout this period perfectly happy to allow Congress to prohibit slavery in the northern Mexican Cession and in Oregon. His scruples about legislating for the territories would come later.

Much later. Although the eventual result of Compromise of 1850 would be to organize the Utah and New Mexico Territories according to the principle of popular sovereignty, Douglas first tried almost everything else. On December 11, 1848, he introduced a bill providing “that all the territory acquired from Mexico by the treaty of peace shall constitute one State in this Union.”\footnote{Cong. Globe, 30th Cong., 2d Sess. (1848) 21.} This proposed superstate would have contained all of contemporary California, Nevada, and Utah, as well as parts of Arizona, New Mexico, Colorado, and Wyoming.\footnote{Henry Gannett, Boundaries of the United States and of the Several States and Territories, with an Outline of the History of All Important Changes of Territory (Washington: U.S. Government Printing Office, 1904).} The proposal was odd but attractive because it would have allowed Congress to avoid the slavery issue entirely; states, nearly all the parties agreed, were authorized to legislate as they wished.

Immediately after introducing his bill, however, Douglas referred to it “merely as a suggestion, with the hope that out of it we may get something that will be a law to the people of that country.” Douglas said he was willing, “with great pleasure,” to support Senator
Clayton’s compromise bill (discussed below), and “with still greater pleasure,” to “support a bill presenting and carrying out the Missouri Compromise.” Under Clayton’s compromise, the product of a select committee, the territories would be prohibited from legislating on the subject of slavery, but “any slave coming into these territories might sue in the federal courts to determine the legal status of slavery in the area to which he had been brought.”

The Clayton (W-DE) proposal, supported “with great pleasure” by Douglas, was simply a buck passing maneuver. Douglas also, at one time, supported Senator Henry Foote’s (D-MS) proposal to admit California as a state while adding New Mexico to the state of Texas. This would have done more than open the New Mexico territory to slavery, as it eventually was in the Compromise of 1850; it would have have placed New Mexico under the authority of a southern state in which slavery was protected by law.

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66 Potter, *The Impending Crisis*, 74.  
One could be forgiven for concluding that Douglas would have accepted any proposal organizing the Mexican Cession, under whatever terms, by whatever combination of states and territories. However, Douglas never supported the organization of new territories according to the Wilmot Proviso or the “common property doctrine.” But he appears to have been confused about or indifferent towards the distinction between popular sovereignty and the extension of the Missouri Compromise. In fact, within the very same speech (Jan. 22, 1849), Douglas referred to the Missouri Compromise as “a measure by which I would be willing to settle this question” as well as the great fundamental principle that the people are the source of all power; that from the people must emanate all government; that the people have the same right in these Territories to establish a government for themselves that we have to overthrow our present Government and establish another if we please. . . . And it is this great principle that lies at the foundation of my action here in resisting . . . the extension of slavery in a country now free, and of resisting . . . any restraint upon the people to establish such institutions as they may see fit to establish.

Did Douglas not realize that by extending the Missouri Compromise line Congress would be imposing a “restraint upon the people” north of 36°30’—a restraint prohibiting slavery?

Douglas’s inconstancy with respect to the terms on which the Mexican Cession should be organized might appear to support John Burt’s recent claim that Douglas was moved “by his sense that popular sovereignty was a prudent compromise policy by which the free states could offer some sort of fair play to the slave states without completely surrendering the territories to the slave states.” If popular sovereignty was really only “a prudent compromise policy,” as Burt suggests, Douglas is consequently open to the charge, also advanced by Burt, that the popular sovereignty argument was on a completely different moral plane than that of the free-soil and anti-expansionism arguments. Or, in other words, on Burt’s reading Douglas was attempting to counter an argument backed by moral conviction with an

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68 Douglas, on March 3, 1849: “I have tried to get up State bills, territorial bills, and all kinds of bills, in all shapes, in the hope that some bill, in some shape, should satisfy the Senate.” Cong. Globe, 30th Cong., 2d Sess. (1849) 668.
70 Burt, Lincoln’s Tragic Pragmatism, 603.
argument of prudence that eschewed morality altogether. I claim, and this is where I disagree with Burt, that Douglas had to have known, either implicitly or subconsciously, that his free-soil opponents occupied (or appeared to have occupied) the moral high ground. Moreover, this would have been the case so long as Douglas continued to advance popular sovereignty alongside other compromise proposals such as the extension of the Missouri Compromise. The argumentative and rhetorical inadequacy of this strategy helps to explain why, over the course of the 1850s, Douglas became a principled advocate of popular sovereignty. He had to at least attempt to elevate popular sovereignty to the same plane of moral principle as the free-soil and anti-expansionist arguments. It was this attempt that led to his self-deception.

Roughly eighteen months later (June 3, 1850), one finds Douglas essentially denying that he had ever supported a Congressional prohibition of slavery, either via the Northwest Ordinance or the extension of the Missouri Compromise:

> The position that I have ever taken has been, that this and all other questions relating to the domestic affairs and domestic policy of the territories ought to be left to the decision of the people themselves, and that we ought to be content with whatever way they may decide the question, because they have a much deeper interest in these matters than we have, and know much better what institutions suit them than we, who have never been there, can decide for them.

Douglas had effectively circled back to the position he had held during the Oregon debate—that Congress ought to let the settlers decide because they know better. Furthermore, in the midst of a verbal squabble with Senator King (D-AL), Douglas defended himself against the charge that he had supported the Wilmot Proviso by suggesting that he had just “made a speech in favor of the doctrines I have always held.”

We know that Douglas never supported the Wilmot Proviso but we also know that popular sovereignty was not a doctrine he

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71 I do not mean that Douglas sensed that his free-soil opponents occupied the moral high ground because they held the morally superior position (which they of course did). Rather, I mean that Douglas had to have known that prudential and principled arguments operate on (morally) different registers.

72 This is also what Harry Jaffa does on Douglas’s behalf in Crisis of the House Divided, pt. 2.


had “always held.” Douglas was either deliberately misrepresenting the truth or he had suppressed his own memory. My instinct is closer to the latter. Douglas had hitched his wagon to the popular sovereignty position, and was then in the process of altering his self-conception accordingly. He now saw himself as a popular sovereignty man, through and through, and could hardly represent himself otherwise. I am being deliberate in my use of the word “represent,” for as Shapiro notes, “self-deception is not a strictly internal process” and “actually receives its final construction in speech.”\(^{75}\) Douglas could proclaim what was factually untrue with such conviction because he no longer saw himself as the same man.

To establish the self-deception argument, it at least must be true that Douglas became sincere in his commitment to popular sovereignty. Individuals who dissemble for instrumental reasons (as with Lincoln\(^ {76}\)) succeed in distinguishing their beliefs from their representations. Those who deceive themselves, in contrast, come to truly believe what they represent. They are sincere; sincerity is a necessary (but certainly not sufficient) condition for self-deception. Douglas’s speeches from the debate over the Compromise of 1850 are inconclusive in this regard. We cannot really tell whether he was dissembling or beginning to deceive himself. The following paragraphs bring some evidence to bear in favor of the latter, that it was self-deception.

Following the Compromise of 1850, the debate over the status of slavery in the territories went quiet for several years. But Douglas could not let a sleeping dog lie. He was committed to bringing government to all United States territory. In December 1853 a bill to organize the Territory of Nebraska was referred to Douglas’s Committee on Territories\(^ {77}\) I have already told the story of the Kansas-Nebraska Act in broad strokes (see above, pp. 13–15).

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77 Douglas had introduced bills to organize a Nebraska Territory in December 1844, March 1848, and March 1853.
At this moment I only wish to point out that all previous territories organized under Douglas’s direction had included a provision stipulating that “all the laws passed by legislative assembly shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect.” This Congressional power to nullify territorial legislation was certainly consistent with Douglas’s earlier (1845) position in which the territories were to be regarded as children. However, on March 2, 1854, the Kansas-Nebraska bill was amended, on Douglas’s motion, so as to remove the language requiring Congressional review of territorial legislation, replacing it with language resembling Article 1, Section 7 of the United States Constitution. This is significant. From his position as chairman of the Committee on Territories, Douglas had moved to alter the legal and institutional structure of the Kansas and Nebraska Territories, and not just his rhetoric, to be more in keeping with his cherished principle of popular sovereignty. Absent this development (and perhaps even with it), one might reasonably suspect that he was “all talk.”

Robert Johannsen has suggested that Douglas changed the bill in order to preempt the attempts of Senator Salmon Chase (Free Soil-OH) to kill it. Chase explained that despite being committed to keeping slavery out of the territories, he was permitted to do his best to perfect the bill on the popular sovereignty grounds on which it was likely to become law. Thus, Douglas may have been pressed by his opponents to replace Congressional review of territorial legislation; nevertheless, his acquiescence demonstrates a willingness to embrace the downstream implications of the principle of popular sovereignty. This move to protect territorial legislatures from Congressional nullification corroborates Douglas’s rhetoric, especially his repeated references to popular sovereignty as a “great fundamental principle,” in the Kansas-Nebraska debates.

In a striking prelude to his 1858 debates with Abraham Lincoln, Douglas even tied popular sovereignty to the Declaration of Independence, which he claimed “had its origin in the violation of that great fundamental principle which secured to the people of the

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78 E.g., 7 Stat. 326 (Oregon).
colonies the right to regulate their own domestic institutions in their own way; and that the Revolution resulted in the triumph of that principle, and the recognition of the right asserted by it.” Parenthetically, it is worth noting that Lincoln referred to the Declaration of Independence to support a matter of high principle only once prior to these remarks of Douglas. He began to refer to the Declaration of Independence, and the phrase “All men are created free and [sic] equal,” with some frequency only after Douglas had in March 1854. Lincoln was no pioneer with respect to that maneuver.

If Douglas’s words and deeds during the debate over the Kansas-Nebraska Act are not yet conclusive in favor of his sincerity, consider his response to Kansas’s pro-slavery Lecompton Constitution. The lingering worry for my argument is that Douglas’s behavior is consistent with a prudential strategy, the goal of which was to organize new territories, and admit new states, while keeping the Union together.

Shortly after the passage of the Kansas-Nebraska Act, Missouri “border ruffians” took control of the territory’s government in Lecompton by rigging elections and intimidating free-soil voters. An alternative but illegally constituted government formed in Topeka. When the pro-slavery government called an election for delegates to a constitutional convention, free-soil voters, knowing that the election would be rigged against them, refused to participate. The convention produced a radically pro-slavery document, and nearly sent the constitution to Washington without submitting the plan to a vote of the people. At the very last moment, the convention was persuaded to submit the choice between “constitution with slavery” and “constitution without slavery” to the people. The problem was that even if Kansans voted for the “constitution without slavery,” the other odious features of the Lecompton constitution would remain, and any slaves brought to Kansas prior to the adoption of the constitution would have been “permitted” to stay (bound to their masters). Thus, according to free-

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80 Eulogy on Henry Clay, July 6, 1852, 2:121-132.
82 My brief description of the issues in Kansas follows Potter, The Impending Crisis, ch. 12.
soilers, there was actually no way to reject the Lecompton constitution or to prevent slavery from taking root in Kansas.

For Douglas, this was a flagrant violation of the doctrine of popular sovereignty. However, if popular sovereignty were for Douglas only a means to an end, a prudential strategy, his subsequent actions make little sense. Douglas claimed that the Lecompton constitution did not embody the will of the people. It was opposed by a majority of the settlers. He thought it obvious that the constitution should be sent back to Kansas for full submission: “If it be the will of the people freely & fairly expressed it is all right, if not it must be rebuked.”

Douglas went toe-to-toe with the Buchanan administration (in control of precious patronage) over Lecompton. It was widely believed at the time that in so doing he was sacrificing his presidential ambitions. Buchanan made it a party test, which, in an era of strict party discipline, jeopardized Douglas’s position in his beloved Democratic party.

If this constitution is to be forced down our throats, in violation of the fundamental principle of free government, under a mode of submission that is a mockery and an insult, I will resist it to the last. I have no fear of any party associations being severed. I should regret any social or political estrangement, even temporarily, but if it must be, if I cannot act with you and preserve my faith and my honor, I will stand on the great principle of popular sovereignty, which declares the right of all people to be left perfectly free to form and regulate their institutions in their own way. I will follow that principle wherever its logical consequences take me, and I will endeavor to defend it against assault from any and all quarters.

Could this have been mere rhetoric? It should be kept in mind that by taking this position on Lecompton, Douglas was giving up what would surely have been his position as the informal head of the Democratic party (Buchanan had pledged not to run for reelection). In all likelihood, supporting Lecompton would have guaranteed his party’s nomination for the presidency in 1860. Kansas would have been admitted as a state, and slavery agitation would have ceased, at least in Kansas. Antebellum politicians still believed that Congress had no authority over slavery in the states, once they were admitted to the Union. And it’s conceivable that the Democratic party would not have split in two the way it did in 1860.

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83 Quoted in Johanssen, *SAD*, 581
Douglas passed on at least two subsequent opportunities to give up on popular sovereignty. The first was the *Dred Scott* decision. That decision had essentially ratified the “common property doctrine,” as advanced by southern politicians:

And an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular Territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of due process of law. [...] And if Congress itself cannot do this—if it is beyond the powers conferred on the Federal Government—it will be admitted, we presume, that it could not authorize a Territorial Government to exercise them.\textsuperscript{85}

Chief Justice Taney’s argument was not only that the Missouri Compromise was unconstitutional because prohibiting slavery north of 36°30' deprived citizens of their slave property without due process of law, but also that the territorial legislatures could not prohibit slavery for the very same reason. Setting aside that this argument is ridiculous—Douglas recognized as much—Douglas could have simply accepted it. But he did not. Instead, he developed what would become known as the Freeport doctrine: that the territories, although unauthorized to prohibit slavery outright, might refuse to pass laws protecting slave property. Everyone at the time understood that the master-slave relationship was nothing without a code of laws to enforce it. One man might belong to another, but without (for example) legal provisions restricting the movement of the enslaved, or protecting masters from prosecution for assault, slavery was meaningless.

In one respect, Douglas’s Freeport doctrine was a matter of splitting hairs. And it may even have been splitting hairs in order maintain his position in the Democratic party while retaining the support of this northern constituents. In another respect, however, it is the logical consequence of the doctrine of popular sovereignty, given the *Dred Scott* decision. If the Supreme Court has ruled that the Constitution denies the territories the authority to prohibit slavery, Douglas reasoned, it did that and no more. The people of the territories were still free to regulate their domestic institutions in their own way. And if that meant

\textsuperscript{85}60 U.S. 393 (1857) at 450, 451.
that the people of the territories, through their legislation, refused to aid slaveholders in recovering their human property, that was popular sovereignty. Although it opened him up to ridicule and denunciation, the Freeport doctrine is exactly what a committed supporter of popular sovereignty would come up with.

The second opportunity foregone was the Democratic nomination for the presidency in 1860. On the senate floor in January 1860, in reply to accusations made by Senator Clement Clay (D-AL), Douglas insisted: “I am not seeking a nomination. I am willing to take one provided I can assume it on principles that I believe to be sound; but in the event of your making a platform that I could not conscientiously execute in good faith if I were elected, I will not stand upon and be a candidate.” The platform he “could not conscientiously execute in good faith” was one that included a congressional slave code for the territories. That plank was the logical reply of the southern fire-eaters to Douglas’s Freeport doctrine. Douglas, it will be remembered, had suggested that territorial legislatures could keep slavery out with “unfriendly legislation,” or in other words, by refusing to enact a slave code. The fire-eater response was that Congress should enact one for them. Had Douglas not held popular sovereignty as a matter of principle, and if he desired above all else to be president or to hold the Democratic party together, he could have swallowed the slave code plank. He did not.

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And now to the heart of the matter. I hope to have shown in the previous sections that although Stephen Douglas was not always committed to the doctrine of popular sovereignty, he later became its (perhaps only) sincere advocate. The more fundamental claim of this paper—a moral claim as well as the reason for caring about Douglas at all—is that sincere support for the principle of popular sovereignty as Douglas understood it (complete local autonomy on questions of deep moral concern) requires a healthy dose of self-deception.

Self-deception, in its most general sense, involves hiding something from one’s self. It is logically paradoxical but psychologically ubiquitous. One cannot, logically speaking, ever truly hide something from oneself, because in order to hide something you have be aware of it. Self-deception “clearly requires a selective monitoring of oneself” as well as “a way of forestalling consciousness of inimical ideas or feelings and doing so without self-awareness.” 87 It is not that when we deceive ourselves we actually hide things from ourselves; rather, we train ourselves to suppress or ignore what contradicts our adopted beliefs.

Since my subject matter belongs to the antebellum era, self-deception looms large. Slave-holding, I imagine, must have required the unrelenting suppression of the fact of the humanity of the slaves. But I doubt that this was always possible. Part of the psychological bind of slavery is that the slave’s humanity is undeniable and therefore cannot be completely suppressed. One might, without warning, find oneself doing that which one knows, deep in one’s heart, to be sinful. The inventions of scientific racism, the “positive good” theory of slavery, and indeed the notions of biological race, and racial slavery itself, helped to fill in the gaps that common humanity forced open from time to time. The belief that the dark skinned were inferior by nature, or that slavery was the best they could hope for, even if not always genuinely held, may have helped to have calmed the souls (as spurious as that may have been) of the slave-masters.

This does not mean that self-deception stopped at the Mason-Dixon line. It is my contention that popular sovereignty was something akin to the northern analogue of the positive good theory. With slavery no longer on its supposed path to extinction, and with the closing of the Atlantic slave trade in 1808, it paid psychological (and economic) dividends to transform a terrible evil into a positive good. Similarly, for Douglas, it paid dividends to turn a policy sanctioning the same evil into a “great fundamental principle of free government.” Instead of being forced to come to terms with the fact that popular sovereignty handed over to uncivilized frontiersmen (including men like the Missouri border ruffians) the fate of

the darker skinned among them, Douglas could conceive of himself as a great defender of a principle of self-government.

Douglas also liked to argue that slavery could never establish itself in the western territories because the climate there was inhospitable to the institution. It may even have been true that southern-style plantation slavery had no future in the West. Yet, this was to implicitly accept that the evil of slavery was primarily a function of the treatment and condition of the slaves. But if slavery is in essence a “relationship of domination” defined by the status of master and slave, it is hard to see how climate of any sort could have stopped it. As long as there is work to be done, and individuals with the raw power and symbolic resources to make others do it, there is an interest (however vile) in codifying and maintaining the arrangement by which some do the work and others profit. Could Douglas really not imagine an institution of hereditary servitude in some other form taking shape in the West? Or did he have misplaced confidence in the moral instincts of the settlers, a moral instinct he seems not to have shared? Douglas admitted, to the incredulity of Lincoln at Quincy, that he held “that the people of the slaveholding States are civilized men as well as ourselves, that they bear consciences as well as we, and that they are accountable to God and their posterity and not to us. It is for them to decide therefore the moral and religious right of the slavery question for themselves within their own limits.”

I am certain that I cannot demonstrate the moral bankruptcy of Douglas’s principle of popular sovereignty as well as Lincoln in fact did. I do think, however, that I can diffuse the Douglasite claim that once a territory had been organized “the people are their own rulers in respect to all their domestic affairs, and interference from any other power is antidemocratic and arbitrary.” Douglas seems to have been taken in what by what I like to call the democratic promise of the local. Local self-government, now as much as then, often strikes the ear or the eye as a principle of deep value. It has an almost knee-jerk attraction.

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88 Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, MA: Harvard University Press, 1982).
89 Sixth Debate with Stephen A. Douglas, at Quincy, Illinois, October 13, 1858, 3:274.
90 Quoted in Johannsen, *SAD*, 410.
Why should they over there decide how we do things here? This is the sentiment to which Douglas’s popular sovereignty argument appeals. But it is not in fact democratic upon further reflection. For at least in Douglas’s case, the they in question was also a we. Congress, as the democratically elected representative of the American people, was not a foreigner with no claims on or interests in the moral and political development of the territories. In fact, Congress, as the representative of the whole nation, with greater claim to the mantle of “the people”—might have served as the better angels of our natures. Subsets of “the people” are sometimes asked to defer to the judgment of wider democratic family.

For in democracies, protections for human rights are left—uncomfortably—under the control of “the people.” Douglas was nearly right when he spoke of “that great truth, which ought to be familiar to all statesmen and politicians, that a law passed by the national legislature to operate locally upon a people not represented, will always remain practically a dead letter upon the statute book, if it be in opposition to the wishes and supposed interests of those who are to be affected by it, and at the same time charged with its execution.” The claims of human rights do depend on the people for their execution. But this does not mean that one people is required to sit idly by while one of its subsets denies the rights of humanity. Genuine popular sovereignty, as Lincoln called it, is not so naïve. Subsets of “the people”—the whole and its parts—stand in a justificatory relationship with one another. Popular sovereignty or self-government is emergent in this sense. In the words of Lincoln:

The doctrine of self government is right—absolutely and eternally right—but it has no just application, as here attempted. Or perhaps I should rather say that whether it has such just application depends upon whether a negro is not or is a man. If he is not a man, why in that case, he who is a man may, as a matter of self-government, do just as he pleases with him. But if the negro is a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern himself? When the

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91 As Lincoln argued: “Again, is not Nebraska, while a territory, a part of us? Do we not own the country? And if we surrender the control of it, do we not surrender the right of self-government? It is part of ourselves. If you say we shall not control it because it is ONLY part, the same is true of every other part; and when all the parts are gone, what has become of the whole? What is then left of us? What use for the general government, when there is nothing left for it [to] govern?” Speech at Peoria, Illinois, October 16, 1854, 2:267.
93 Speech at Columbus, Ohio, September 16, 1859, 3:405.
white man governs himself that is self-government; but when he governs himself, and also governs another man, that is more than self-government—that is despotism. If the negro is a man, why then my ancient faith teaches me that “all men are created equal;” and that there can be no moral right in connection with one man’s making a slave of another.\footnote{Speech at Peoria, Illinois, October 16, 1854, 2:265-66.}

It is rarely noticed, but Lincoln did far more than assert the human rights of the slaves. He also made a contribution to that vexed question in democratic theory of how to uphold human rights when they are denied recognition by majorities within: “I insist, that if there is ANY THING which it is the duty of the WHOLE PEOPLE to never entrust to any hands but their own, that thing is the preservation and perpetuity, of their own liberties, and institutions.”\footnote{Speech at Peoria, Illinois, October 16, 1854, 2:270.}

My sense is that this argument of Lincoln’s is sometimes passed over partly because of the influence of Harry Jaffa’s natural rights reading of Lincoln’s political philosophy\footnote{Robert P. Kraynak, “Moral Order in the Western Tradition: Harry Jaffa’s Grand Synthesis of Athens, Jerusalem, and Peoria,” The Review of Politics 71, no. 2 (2009): 181-206; Harry V. Jaffa, “Too Good to Be True? A Reply to Robert Kraynak’s “Moral Order in the Western Tradition: Harry Jaffa’s Grand Synthesis of Athens, Jerusalem, and Peoria”,” The Review of Politics 71, no. 2 (2009): 224-240.} and partly because of its radical implications. In the age of globalization and human rights, we can no longer deny that there exists a “we the people” over, above, and standing outside those subsets of the people we call nations. What Lincoln teaches us is that it will not do to accord to nations what Douglas sought to accord to the territories; namely, a claim to complete autonomy on questions of deep moral concern.

The essentials of my argument are thus: Stephen Douglas, throughout his career, with varying levels of commitment, attempted to elevate the claim that communities ought to be permitted to control their own domestic institutions without outside interference to the same plane of principle as the claim that “all men are created equal.” To do so requires an act of self-deception, of which so many of us are susceptible at times.