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P O L I T I C S F O R T H E

G R E A T E S T G O O D

The Case for Prudence in the Public Square



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INTRODUCTION

Is it Immoral to Be Prudent?

Any exhilaration that Abraham Lincoln felt on being elected president of the United States in the early morning hours of November 7, 1860, was fleeting. The election left Lincoln feeling, in his words, “as I never had before, the responsibility that was upon me.”¹ He was quickly confronted with profound issues of political prudence.

Because Lincoln was elected on a Republican platform opposing the extension of slavery, Southern cries for secession came quickly. Talk of “compromise,” set against the backdrop of the Missouri Compromise of 1820 and the Compromise of 1850, was on everyone’s lips, but was rejected by many Americans—North and South—as opinions hardened.

Congress convened on December 3, twenty-six days after the election. Congressman David Clopton of Alabama counted heads for secession and concluded, “I cannot see how a collision of arms can be avoided.”² Many Republican leaders “disliked the very idea of concession as implying timidity and apology.”³ After the first Senate caucus, Republican Senator William H. Seward, summed up the situation: “The Republican Party today is as uncompromising as the Secessionists in South Carolina.”⁴

On December 18, the first Southern state, South Carolina, seceded, and the Senate formed a committee to address the crisis. The leader of the committee, Democratic Senator John J. Crittenden, proposed six constitutional amendments to resolve the crisis, including one that would extend slavery into the territories.⁵

The committee began work on December 22. Of seven proposals put forward in the committee, only Crittenden’s seems to have captured significant

public support.⁶ But his proposal was quickly rejected by the committee. After six more days of debate, on December 28, “the committee reported to the Senate that it could reach no conclusion.”⁷

President-elect Lincoln, with no constitutional authority until his inauguration on March 4, was in no position to negotiate a settlement. When he issued what he intended as a conciliatory statement in a speech by Republican Senator Lyman Trumbull, it was attacked by both sides. Nor were Southerners in a position to overturn the election or extend slavery into the territories through Congress. But Republicans were under pressure to grant concessions.

Lincoln quickly decided that he could make no concession on the issue of *the extension of slavery in the territories*,⁸ “believing that the doctrine of the exclusion of slavery from the Territories must be defended as their supreme citadel.”⁹ Lincoln was “determined to stand behind the Republican platform, believing that any attempt to soften his position would dishearten his supporters in the North without producing any beneficial impact on the South.”¹⁰ This was a fence against slavery which he would not tear down.

In so doing, Lincoln reaffirmed a national policy against the extension of slavery by Whigs, Free Soilers and Republicans going back at least to the Mexican War and the Wilmot Proviso of 1847, and held with growing tenacity throughout the 1840s and 1850s.¹¹ And it was a policy strongly articulated by Lincoln in numerous speeches between 1854 and his election in 1860.

Lincoln’s letter to Senator Trumbull on December 10—repeated in other letters to Republican members of Congress—summarized his position: “Let there be no compromise on the question of extending slavery. If there be, all our labor is lost, and ere long, must be done again. . . . The tug has to come, and better now than at any time hereafter.”¹² Lincoln disseminated his position to Republican Party leaders, and it was published in the *New York Tribune* on December 22.

Was Lincoln’s rejection of the Crittenden Compromise—as history has called it—right or wrong? Should Lincoln have accepted some extension of slavery into the territories?

Lincoln’s consideration of the Compromise is a classic example of prudential reasoning. Prudence is practical wisdom. Prudence has been considered a cardinal (preeminent) virtue since at least the time of Aristotle.

Prudence is concerned with right action and requires deliberation, judgment,

decision and execution. Wisdom understands what is right; prudence involves making the right decision and implementing it well. Prudence takes account of limitations in a world of constraints and strives to achieve the greatest measure of justice—the greatest good possible—under the particular circumstances.

Although politics is perhaps the first arena that comes to mind when we think about prudence, prudence is a virtue first cultivated or neglected in our personal lives. Americans live in a culture of choice. Choice is a major theme of marketing. We shape our identity and our legacy through our choices. We make hundreds of choices a day, from the trivial to the profound, and we love to choose. When I asked my six-year-old daughter to get ready to go grocery shopping with me, she looked me in the eye and asked, “What are my options?”

We spend much more time making choices than we do thinking about making *good* ones. What are our goals and priorities? Are they the right ones? How we will use our time and resources? Who can give us good counsel? What is the right decision in these circumstances? And, having made a decision, how do we implement it effectively?

But considerations of prudence inevitably extend to public policy and politics. Questions about the goals of politics, the purpose of law, the effective use of law, the moral boundaries of law, are as old as the Greek philosopher Aristotle.

These concerns were traditionally debated against the backdrop of the classical virtue of prudence. Greek, Roman, Stoic and Christian philosophers, like Aristotle, Seneca, Cicero, Augustine, Thomas Aquinas and Immanuel Kant, reflected on the nature and application of prudence. Political leaders like Edmund Burke and William Wilberforce, and American founders like Thomas Jefferson, John Jay and John Adams expressly relied on prudential decision making.

A prudential political (and legislative) strategy focuses on worthy goals, identifies effective means to achieve those ends and the wise use of limited resources, recognizes the limitations of the fallen world and its constraints on political action, and seeks to preserve the possibility of future progress. A prudential approach balances zeal with knowledge, especially knowledge of the current obstacles and of effective ways to overcome them.

Prudence used to be part of the common vocabulary of Americans.¹³ But

despite their long history spanning several civilizations, the cardinal virtues—prudence, courage, temperance, justice—are rarely taught today. For some, what’s useful (utility) is more important than the moral reasoning required by prudence. For some, prudence has been reduced to pragmatism or whatever works. For others, prudence is equated with moral compromise.

Yet, whether or not we use the term *prudence*, and understand its long history in philosophical and political theory, we commonly rely on prudential reasoning. The war in Iraq since 2003 is a vivid example of prudential reasoning and debate.¹⁴ Two individuals may have opposite views of the war, but it is quite likely that they think (and maybe argue) in terms of the publicly stated goals for the war, whether the goals are good and achievable, the effective relationship between ends and means, and the likelihood of success. We use prudential reasoning, well or poorly, whether we recognize it or not.

A reflection of prudence is also seen in the terms we use to discuss politics. Throughout our political history, Americans have used shorthand phrases, almost clichés—like “political compromise,” “settling for half a loaf,” “accepting the lesser of two evils” or “getting what you can”—to refer to incremental gains when seeking political change. Behind these shorthand phrases, which really do little to guide ethical decision making, lies the classical tradition of political prudence.

Whether it is ethical and effective to seek to secure “half a loaf” when the moral ideal in politics is not achievable, is a common question faced by political activists and politically involved citizens, both in policymaking and in elections. It is a dilemma faced by political leaders throughout American history.¹⁵

Voters may feel this most acutely when they vote for president, sometimes referring to the “lesser of two evils.” But that common phrase is really a cliché that obscures the need for prudential reasoning about political choices. Voters sometimes feel torn between an all-or-nothing approach, which resists regulations or partial prohibitions of a social problem as “compromise,” and an all-or-something approach, which seeks to secure as much progress as possible when obstacles make complete success legally or politically impossible.

The theme of this book is the recovery of a rich understanding of prudence, as it has been understood by philosophers and statesmen, for its application by policymakers and citizens to contemporary public policy. Although the pri-

mary focus is on bioethical issues, the analysis will be useful to citizens interested in any political issue.

Among the range of bioethical issues in public policy, abortion is a particularly sensitive and difficult issue that calls for prudence. The confirmations of Chief Justice John Roberts and Justice Samuel Alito to the Supreme Court in 2005-2006 sparked widespread political speculation about the potential overturning of the Supreme Court's 1973 decision in *Roe v. Wade*. A reversal of *Roe* would not outlaw abortion but would, instead, return the issue of abortion to the people and the electoral and legislative processes. The prudential deliberations over the right public policy would then intensify dramatically.¹⁶

An understanding and a cultivation of prudential reasoning is needed as these political questions intensify in the coming years. Prudence will not ensure unanimity, but prudence can clarify the debate, focus it on the most important questions and teach us wisdom in political decision making.

In the past few centuries since the rise of representative government, other social reform movements have faced similar tensions. Difficult questions of political prudence can be seen in the British anti-slavery movement of the eighteenth and nineteenth centuries. After many years of effort, division hindered the British anti-slavery movement in 1830 before the slave trade was successfully prohibited in 1833.¹⁷

Despite the long history of classical prudence—its support in moral philosophy and theology, and its historical effectiveness in the examples of Wilberforce and Lincoln—it continues to be subject to strident criticism. Like the William Lloyd Garrisons of the nineteenth century, a minority today challenges this understanding of political prudence as immoral, at least when moral issues are the focus of politics; they assert, instead, that only an all-or-nothing approach is legitimate. This challenge overlooks the classical understanding of prudence and would sideline our traditional moral understanding of political change in a representative democracy. A right understanding of prudence is necessary to realistically make a moral difference in politics.

One critic of prudence is moral perfectionism. Is legislation morally illegitimate unless it prohibits a social evil completely? Or can legislation properly limit a social evil if a prohibition is not possible? A recent book by British activist Colin Harte, *Changing Unjust Laws Justly*, takes the position that any partial prohibition is “intrinsicly unjust,” which I will refer to as the “per-

fectionist” view. *Is it immoral to be prudent?* is the paradox moral perfectionism poses.

The perfectionist challenge to prudential legislation effectively calls into question the morality of democracy itself (and the structural constraints on government). Change usually comes slowly and incrementally in a democracy. This is so for several reasons, but the primary one is that political power is more diffused in a democracy than in a monarchy or authoritarian government. That diffusion of political power is intentional, and the main reason is to preserve liberty by preventing the consolidation of power that might lead to tyranny.

Prudence is not pragmatism; prudence requires moral purpose. Prudence aims to achieve the greatest good possible in the concrete circumstances. Prudence does not require an all-or-nothing approach to public policy. In fact, an all-or-nothing approach, generally speaking, is often neither prudent nor effective. An all-or-nothing approach is not dictated by divine or natural law, moral philosophy, or ethics. Prudence must necessarily guide the consideration of constraints and contingencies in politics, especially when lawmakers begin to grapple with the specifics of legislation and efforts to limit unjust laws and conditions.

The related ethical and legal doctrines of *cooperation* and *complicity* complement a prudential analysis, and support the wisdom of an *all-or-something* approach to public policy. They confirm that legislators and citizens can establish a legislative fence around an unjust law or condition without participating in the problem.

It is not possible to say that any partial prohibition of a social evil is “intrinsically unjust” without considering various factors, including the specific intent of the legislators, the particular language of the law, and—perhaps most importantly—the existing institutional, legal, social and political constraints. While it is not possible to say, in the abstract and without considering the concrete circumstances, that any law permitting a social evil is unjust, such a law may be prudent or imprudent in the particular circumstances.

Chapter one recovers the ethical teaching of Aristotle, Augustine and Thomas Aquinas. Since prudence involves action, it’s necessary to examine political leaders who have actually employed prudence in making political decisions. Hence, chapter two looks at prudence in the thought of the American

founders. The prudential tradition is richly exhibited in the thought and practice of these founders. The famous *Federalist Papers*, advocating the adoption of the Federal Constitution in New York State, is the supreme example of the founders' prudential reasoning about government. Chapter three looks at prudence in the decision making of William Wilberforce. Chapter four examines prudence in the decision making of Abraham Lincoln. The historical examples of Wilberforce and Lincoln—just two of numerous examples that could be cited—reveal that these leaders relied on prudence and effectively employed an all-or-something approach. Chapter five rebuts the challenge to prudence by moral perfectionism. The last two chapters apply the insight of classical prudence to contemporary policymaking in a democratic republic. Chapter six addresses the question of abortion. Chapter seven addresses the regulation of biotechnology. I conclude by addressing several obstacles to prudence in the contemporary thinking of those like Catholics and evangelicals with strong moral positions on bioethical issues.

Although prudential reasoning is necessary for political leaders, it is also essential for citizens in a republic, a system of representative government where we choose our political leaders. Prudence is a habit that can be learned by experience, a habit that will contribute to the flourishing of our lives as parents, citizens and voters. It is vital for all of us to develop mature prudential reasoning in our assessment of public policy and in our voting for political leaders, if our democratic republic is to reflect the greatest measure of justice possible in a world of constraints.