

## Devane Lecture Discussion – 1-11-01

**TK:** Good afternoon and welcome again. Let me begin by re-introducing myself. My name is Tony Kronman. I'm the Dean of the Law School and I will be the host for this semester-long special tercentennial edition of the Devane Lectures. The format for the lecture series is as follows: on the Tuesday of each week of the Spring term, a lecture will be given by a different member of the Yale faculty on a topic that has already been announced and publicized; and following the Tuesday lecture, on Thursday, here also in Battell Chapel at 4:00, there will be an informal, town hall style question and answer session with the lecturer of the week. Having given the first lecture, it falls to me to be the first discussant at the first of our Thursday meetings. After this week, I will retreat into the roll of introducer on Tuesdays and interlocutor on Thursdays. But for the moment, at least, it's I who occupy the hot seat. The Thursday sessions are, of course, required for those Yale College students who are taking the Devane lectures for credit this semester, but members of the public are very much welcomed to attend these sessions, as well as the lectures on Tuesdays themselves. And I expect over the course of the term that our Thursday gatherings will prove to be an enormously stimulating and useful supplement to the Tuesday lectures.

As I say, I will be the interlocutor in the weeks to follow, but I can't interloquite myself. I need a companion in that endeavor and my good friend and colleague from the Political Science Department and Office of New Haven Affairs, Cynthia Farrar, has very generously agreed to be my partner in conversation this first week. What we have proposed to do is as follows: Cynthia and I thought we would begin with some conversation between the two of us—15-20 minutes, perhaps—and then simply open the floor to discussion. There is a microphone which has been set up in the center aisle and those of you who have a comment to make, a question to ask, an objection to interpose, should go to the microphone and, if there is a queue, take up your place in the queue. The purpose of this first bit of give and take between the two of us is to set the stage, to raise some questions, to start everyone's juices flowing, to put you back in mind of Tuesday's lecture and, perhaps, refresh your memory as to all of the questions and perplexities that that lecture raised as you sat listening to it. I have been asked to tell you that these sessions, as well as the lectures themselves, are being taped for broadcast on the website that has been created for the Devane Lectures and also for broadcast on the local Citizens Access Channel on local television. It's one of those channels that falls somewhere in between C-Span and CNN, in the high 20s, as I recall. Cynthia is going to begin with a few observations and, perhaps, a question or two. I'll respond and off we'll go. Finally, I would say, if you are moved irresistibly to say something, don't wait until we've finished our give and take up here. Go immediately to the microphone and, unless we're so lost in conversation that we simply can't see you standing there, we will recognize you immediately and give you your chance to talk. This, after all, is meant to be an opportunity for conversation and not just for further listening. Cynthia.

**CF:** By asking me to join him up here, Tony has actually come pretty close to talking to himself, for the reason that he was my teacher -- when he was very young. And, on Plato's account, he is therefore responsible for whether I am able to see truth among shadows.

I'd like to start by reminding all of us about some of the aspects of Tony's brilliant analysis of the contrast between the world of the Greeks and our world, drawing out some implications of

that argument and suggesting, from my own perspective, some different ways of looking at those questions. And then, as he said, he and I will pursue some questions among ourselves and open up to you to talk with us.

According to Tony, creation from nothing serves as the model for our understanding of ourselves and our relationship to the larger society. We value individuality, self realization, singularity not conformity. We see the state as having to be formed to create order from the inherently disorderly, not—as Plato would suggest—realizing an order that’s already been specified and making the soul fit into the public realm. Our commitment to democracy, he suggested, is based on the value we attach to fulfillment of individuality and Plato’s critique is based on the view that individuality is non-being and, therefore, intrinsically unworthy of pursuit. There is much to be said about this analysis and I’m sure you’ll have your own questions. I want to spend a few moments looking more deeply at the general contrast between the Greeks and us on the question of individuality, of the individual and the polity, how democracy deals with this, with a particular focus on the practice of democracy, whereas Tony emphasized theory. There was a Greek view and practice of democracy that was not Plato’s. Plato’s theory is an argument that was directed against the Athens of his own time, which was the society that invented democracy. It is, indeed, implicit in Tony’s account that Plato resolved the question of the relationship between the individual and the city in one way—that is, that the individual has to conform to the city and vice versa—and that we, with our Christian heritage, resolve it in another way: the city is simply the framework for individual self invention, which can’t be assessed by any public standard. I’d suggest to you, therefore, that in one way or the other, both of these views—both the Christian view and the Platonic view—in fact do away with the very question of the relationship between the individual and society. And yet, this question, which is one of the most important questions for us, I think, although we may not always recognize that to be the case, this question is precisely what the Athenians of Plato’s time were struggling with. Let me describe that and draw out a couple of points before turning to a question for Tony.

So, what does the contrast between Plato’s equation of form and being and Christianity’s stipulation of creation from nothing tell us about this central question of democracy—that is, the question of the relationship between the individual and the polis? I’ve suggested that for both Plato and the Christian ideal, it’s not really an issue. In their view, there is no fundamental conflict. For the Greeks, however -- in their practice of democracy as opposed to the theory of Plato -- for them, as for us, there really is an issue about achieving order from the disorderly. The Greeks are more like us in this respect than one might think from Plato. They invented democracy. They moved away from an aristocratic order which was based on the assumption that only people with certain qualities, a certain background, could make decisions on behalf of the whole, to an order in which they gave power—considerable power—to people without property, to people without education, to people with no claim to be noble or virtuous or knowledgeable. So they, clearly, had to face exactly this challenge: how do you create a political order from individuals who have no claim to virtue or competence? This was an astonishing political revolution, an astonishing one. And it’s this that Plato is responding to. He found it chaotic, to say the least. They developed this system for making democracy work with citizens who could not claim any order inherent in themselves, and they also worried about it. They worried about the implications of democracy.

The second point I'd like to make (in addition to the fact that they had to face the question of creating order from the disorderly, which is more like us than one might think) is that unlike us and more like Plato, but very importantly for the question of the relationship between the individual and the city or state, they actually believed that it was political status that provided the key to freedom and equality. Not like us, with our Christian heritage, as Tony clearly indicated, who believe that every individual, as a human being, has equal dignity in the eyes of God. Moral and spiritual dignity was not the basis of status for the Greeks. They thought it has to be created and they went about doing so, as I just suggested, for people who could lay no claim to dignity. We can come back to this question in the conversation. It's very interesting to note that Plato was willing to include in his city both slaves and women, who were excluded from the Athenian democratic polis. And he did so because he felt, as Tony indicated last time, that the state could be structured in such a way as to shape the soul of every individual in the city who need, therefore, bring no capacity for decision making or judgment. The Athenians went a long way towards including in their polis people who could not say that they had any experience or any judgment. But they were not willing to extend it as far as to include slaves and women. And I think the challenge for us, which I think the Greek experience—not just Greek theory but the Greek experience—can help us get at, in a way that our Christian legacy with its emphasis on individuality and radical individualism really cannot, is how do we make political self determination a reality in the way that the Athenians were committed to doing? How do we reconcile the individual will and individual interest with social processes and goods? On the Christian view, this is, perhaps, not important. If you bear your dignity as a human being in the eyes of God, then what difference does it make what your worldly status is? What difference does it make whether you occupy a democracy or an aristocracy? Similarly, this conflict or this tension is not important for Plato because he does not, in the end, respect autonomy.

So I'd like to talk with Tony for a few minutes about what the implications of our commitment to individualism are for democratic life and governance and what the contrast between the Athenians and us really means. And let me just pose one specific question in talking about the central issue of our democratic experience now, namely how do we achieve order from the disordered? If individualism is our primary premise and goal, and protecting or promoting diversity, as Tony suggested, the means, then, in some sense we're not even trying to create order. We're just trying to provide a framework for the disorder. So I would like to talk a little bit about how the contrast that you are raising really connects with the issues that are most crucial in democratic practice.

**TK:** Great. Very helpful. Thanks, Cynthia. Let me start by describing three different ways of conceiving the relationship between the individual and the political community to which the individual belongs. Every political community, after all, is made up of individual men and women and so the question naturally arises—it's a central question for Plato already in *The Republic*—how should we understand the relationship between the encompassing community which is made up or composed of its individual members and the individuals themselves. The first of these three views is the one that I attributed to Plato. The community, on this view, is the macrocosm of the individual or, to turn the formulation around, the individual is a microcosm of the community. There is a species of order which exists at each level. The city or the state has a certain shapeliness, it has a structure, it has an order of its own. And that is the image or reflection or reduplication, at a political level, of the order, the shapeliness, the form which already exists in the soul of each and every one of its individual members. So as you move from

individual to the political association, you move from one kind of order to another and the political order, the higher order, or the aggregative order is simply the reflection or doubling of an order that already exists at an individual level. Let's call this the mirror relationship. The city mirrors the individual. It's the reflection or redoubling of the individual—the individual writ large, to put it in Plato's famous words. That's the first way of thinking about the relationship. And that's a way of thinking about the relationship which is quite foreign to us today, and in my talk I really meant, as much as anything else, to draw attention to its foreignness, to make it seem strange and remote because, indeed, it does lie—this conception—on the other side of an intellectual divide that, for us, is extremely difficult and perhaps not even possible any longer to cross.

The second way of thinking about the relationship is very familiar. It, perhaps, best describes the way in which most Americans today think about the relationship of the American state to its individual citizens. Let me call this “the container model.” If the first is the “mirror model,” the second is the “container model.” On this view, the state is a container of the laws and institutions, of the rules of order backed up by courts and police and the like, whose function is to provide a stabilizing framework within which individual men and women are free to pursue whatever ends or programs of life they happen to have—within limits, to be sure. If your program of life is committing serial murders, that's not permitted—it's off the list of things that you may permissibly make your governing practice or rule of life. But the latitude is very broad and, within its limits, many different people can do many sorts of things within the container. The container is just a neutral, relatively impassive, uninstructional, unguiding framework of stability. It's meant to provide the space within which individuals, on their own—or as we, I think say, most commonly, in private, outside of the public realm-- follow their wishes and wants and likes and ambitions, whether they be reading philosophy or drinking as much beer in a short period of time as you can. A true democrat would say both are noble—perhaps equally noble -- pursuits.

The third way of thinking about the relationship, which I think is suggested by Cynthia's remark, really can't be captured adequately by either of these other two. And I don't have a catchy name for it—mirror, container—maybe you can think of one. But it is a third conception which has a very long and important history, one that runs all the way back to the Athenian democracy and one that continues to have, for many today, a great deal of appeal. On this third conception, individuals gather in political communities for the purpose of creating together, through collective self government, a community of their own. Community is not already formed when they come to it. It's their responsibility to form it. They are the authors of the order their community comes to possess. They're the ones who give it its shape and design through legislating laws and in other ways. They are the makers of their community. But they make it freely and on their own and without reference to a fixed blueprint that tells them in advance exactly what model they're to follow. Now, this third view of the relationship between individual and political community is like the second one in some ways, but unlike it in others. It's like it in that it starts from the assumption that there are no clearly fixed models set in advance by which individuals are to guide their lives, either in private or in public. The personal world and the political world is radically open and free, something to be achieved, to be fashioned, not merely to be learned or discovered through philosophical reflection or otherwise. It is an inventive enterprise—politics on this third view. But in another respect, the third view differs sharply from the second because, on the second—the “container” view—where does all

the self-invention go on? It goes on in private, out of the public realm where laws are made and enforced. That's not a site of self invention. The job of the state, on the container view, is simply to set up some boundary rules, some rules of the road that its individual citizens will observe so they don't get in one another's way as they go about the business, in private, of becoming individuals, of pursuing their own individual dreams and desires. On this third view—let me call it the “view of self government,” of “democratic self government”—the inventive work of creation in which individuals engage, and part of their experience of being and becoming individuals, consists in the collective and cooperative acts of self government, of forming together a community they can all inhabit and claim as their own.

Now, let me make just one further observation and then stop. If we think of the relationship between citizen and state and city in this third way, then we come immediately to the problem that Cynthia posed at the end of her remarks. If the state has an order or is to acquire an order which citizens working together must fashion for themselves, how are they to be equipped for this collaborative effort of self government, of political self creation? What kind of intellectual and moral and other equipment do they need if they're to come to this task and be well prepared for it? That's a question that does not arise on either of the first two views that I described. It doesn't arise on the first view—the mirror view—because there, by assumption, the souls of the citizens have already been stamped with an order which perfectly anticipates the order of their political community, and there is no order to be made up or invented at the political level. It's fixed in advance by the one true design that tells us how political communities should be arranged. And it doesn't arise on the second view, either, because, there, everyone is left to his or her own devices—to live individually and in private as they wish. There is no common, collective enterprise of self government for which people need to be equipped. We each have whatever equipment we have for our own private pursuits and that's an end of it. The rest is just administration by courts and police. And equipping one's self for citizenship doesn't come into that at all. So if one adopts this third view, which moves the locus of self invention from the private sphere to the public one, then a question does arise and it's a very serious question indeed, which Tocqueville, among others we will be talking about later on this semester, paid a lot of attention to—the question of how individual souls can and, perhaps, must be shaped in preparation for this all important work of political self formation, self government, as we put it.

**CF:** I would add to what Tony just said that the issue of equality is very important in this conversation and that you might argue that self invention in public, as certainly the Athenians thought, is really the only way to address fundamental issues of equality because everybody is unequal at the private level. The Athenians realized that, like everybody else. People come into the world with different talents, different skills, different moral luck, different families, different positions, and so on. And it is the specific contribution of the public realm -- and, for the Athenians, this was a very key point—to enable people to acquire equal status. But, secondly—and I think this is very important about the issue of equality in democracy—equal status was not simply ascribed by them. We -- in part, I think, because, as Tony suggested, of the legacy in our politics of our Christian heritage --we believe that people are inherently equal simply by being God's creatures. The Athenians did not believe that. They believed that equality had to be created and that there were rich people and poor people in Athens, that the polis spanned that range, and that the only way to promote equality was to engage people in inventing themselves publicly. And that, if you simply allowed private self invention, you would have ongoing inequality. And it may be that, because of our Christian belief that all people are inherently

equal, that we are less motivated to make a difference in the public realm and to address issues of political equality, of this-worldly equality, than the Athenians were.

**TK:** I think a very basic question is, how we ought to understand the relationship between these two very familiar, very appealing, and very American ideas—individualism and equality. Equality, understood in the simplest and most obvious terms implies sameness. To be equal to something or someone is to be the same as that something or someone in some respect. We are accustomed to speaking of ourselves—we Americans—as equals, as all the same in certain crucial respects but, quite obviously, it doesn't seem to us to be a contradiction to say, at the same time, we are a nation of individuals devoted to the ideal of individuality as I described it on Tuesday. Now, there's one obvious and familiar way of reconciling these two ideas—the equality and individualism—and that is to say that the equality we enjoy and celebrate is an equality of rights or entitlements or protections whose whole purpose is to enable us to pursue, within the protected space that those rights established, whatever idiosyncratic vision of life seems to us to be most consistent with or expressive of our unique identity, our individuality. So that, having the rights I do, I can insist on being treated with equal deference and solicitude by the state and by my fellow citizens, with the object of creating a place in the world where I can be free to be my own peculiar self. And we value that peculiarity as the *raison d'être* of the equality, the sameness to which we express an equally fervent attachment. Now, all of that is pretty obvious. But here's a further complication, and I'll just mention it: Equality of rights isn't the only respect in which, in America today, we might be said to be devoted to the ideal of sameness. We are also, famously—Tocqueville remarks on this with tremendous perceptiveness—we are also, famously, a nation of conformists who are constantly running around, looking to see what our neighbors do, wanting to follow suit, not just to avoid the embarrassment of standing out like a sore thumb, but for the pleasure of the warm company of the crowd. This is something that we enjoy and that so much of our culture promotes and rewards. That spirit of conformism, which is as American as our commitment to equality of rights and our devotion to the principle of individuality, of everyone's equal and independent right to follow his or her own star—this conformism, which is very much a part of our national psyche and our culture, really is, I think, at war with the principle of individualism as I described it on Tuesday. Equality of rights isn't. That can be comfortably reconciled with our American devotion to individualism, but the leveling habits of conformity which television and all of the rest of our cultural apparatus tend to feed and encourage, that really does point to an appetite which is as strong in us as the appetite to separate and to be self reliant in the words of Emerson's great essay, which is part of the background reading for next week, and an appetite which is as strong as that and quite profoundly, I think, at war with it.

**CF:** One response to Tony's point about equality: in addition to seeing equality as potential—potential and ability or the space within which to realize one's one individuality; and equality as sameness, I think there's also another aspect of equality which is the one I was trying to gesture towards a minute ago. That was the one that was important for the Athenians, which is not so much equality of outcome because they didn't believe in that. They did not take all the money from the rich and give it to the poor or anything like that. They acknowledged private differences. But it's more than equality of opportunity. I don't have a label for it—not a good one. But it is a commitment to making everybody as equal politically as they can possibly be. And by creating not just opportunities but responsibilities that enable them to live up to that. So, for example, the use of the lot to pick people for public office; the use of rotation so that you

couldn't stay in that office for very long and couldn't hold more than two of them in your lifetime. So that, in Athens, one out of every three citizens had served for a year as one of the Council, as one of the members of the city who determined what the agenda was for the public assembly. There was a very rigorous and demanding set of expectations which we have all but given up. And it seems to me that's relevant to the question of equality because the claim to political equality is much less strong if you are not exposed to the requirement that you must exercise judgment and constantly be held accountable by your fellow citizens for doing that.

But let me raise another question which was prompted by . . .

**TK:** Could I stick with this just for one sec? Here's a huge can of worms which you all are aware of, but let me take a turn or two and open it up a little bit. If we start by asking why equality is important to us, why we value it, why we think it's something worth working towards, well, I suppose one response might be because it's the right thing to do. The establishment of equality is a good, in and of itself, regardless of what follows from it. It's a moral good, an ethical good, a spiritual good. It's something that we think worth having on its own account and you don't need to say more than that. Well, perhaps one might defend equality on those grounds, but I think more familiarly and, to my mind, more convincingly, one might say, "Equality is important and good and desirable and worth striving for and making sacrifices for because it is a necessary precondition to the achievement and pursuit of what we really, ultimately, care about as the final good in life which is fulfillment for us as human beings." And what does that fulfillment consist in? The achievement of the distinctive individuality which permits us, as we exit life, at the far end, to look back and say, "I made my mark. I was not just one among many but I was a spark—a distinctive spark. I glowed for a moment in a way that no spark in all of time ever did and contributed my unique note to the symphony," or something like that. That's a little grand, but you get the idea. Equality is for that. That's what equality is for. But if you start down that road then, of course, immediately—and here comes the can of worms—the question is, "Well, what kind of equality is needed to put people in a position where they can pursue the project of becoming individuals in a serious and fulfilling way?" What kind of equality and how much equality? Is it enough to say, "We will all be free from certain forms of arbitrary persecution by the state?" Or all be free from certain forms of explicit discrimination by our fellow citizens—is that enough—to create the kind of freedom and opportunity that we need in order, meaningfully, to pursue the project of becoming individuals? Well, it's a very good start. But many have believed that more—perhaps much more—is required.

For example—this is what made me think of it, Cynthia—a redistribution of material resources. There's a famous saying: The French law, in its majesty, forbids the rich as well as the poor from sleeping under bridges at night. And that ironic observation is meant to capture the thought that equality of legal protection, or property rights, protection from arbitrary arrest and all of the rest, is just a start toward genuine equality, that if you want people really and truly to have an equal, roughly equal opportunities to become glowing sparks, remarkable individuals with their own unique careers in life, you've got to go beyond formal equality and get into the business of redistributing resources. You can't have some who are very rich and others who are very poor. Well, that thought leads to some uncomfortable further thoughts. Maybe you shouldn't have some people who are just a little bit richer and others who are a little bit poorer. Maybe everybody should have to have the very same number of dollars or chips or whatever it is that gives one a claim on material resources. And then, a further thought which is more

uncomfortable still: even if we had the same number of dollars, some of us are born with larger and some with lesser helpings of good things like brains and beauty and speed and politesse and any one of a thousand different talents and disadvantages which help or hinder in the pursuit of individuality. And maybe we ought to be compensating the losers in this natural lottery for coming up short.

To all of which one might respond, this doesn't have anything to do with individualism. You can pursue the project of becoming an individual even if the resources you begin with—the dollars and the talents—are trivially small by comparison with those of your peers. You can still make of them what you will and that's the important part of individualism—that you are free to make of what you have what you will—even if you've got just a little drop by comparison with your neighbor's overflowing cup, you can make of it what you will. Well, do you really believe that? Isn't it fair to respond, one's poverty of resources can be so daunting, so inhibiting, so frustrating as to incapacitate the project of individuality at its very start, to make it psychologically and intellectually nearly impossible to summon the confidence and courage to say, "I will make of myself something special in the world from the resources I have at hand, limited though they be." Big can of worms. This is, among other things—the way I put it is a little more abstract—this is the debate that divides the Democratic and Republican parties in the United States today. It's just that simple. The Democrats are the party of redistribution. The Republicans are the party of *laissez faire*. But they are both committed to the principle of individualism, though they interpret its prerequisites and preconditions in different ways.