". . . AND SIX HUNDRED THOUSAND MEN WERE DEAD."

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ABSTRACT

The dispute that resulted in the secession of eleven Southern states from the Union and the ensuing Civil War proximately concerned the geographical expansion of slavery, but ultimately bore on the existence of the institution of slavery itself. This paper asks why in 1861 after seventy years of artful compromises over slavery civil conflict became unavoidable. The paper seeks an answer that goes beyond a description of the breakdown of compromises based on existing constitutional arrangements and that explains why attempts to negotiate a new constitutional compromise failed. Combining theoretical and historical analysis the paper concludes that in the years leading up to 1861 the outcome of the dispute over slavery had become too important to both Northern and Southern interests, relative to the expected costs of civil conflict, to be settled peacefully.

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From the beginning of the American republic Northern and Southern interests were at odds over the institution of slavery. Although the politics of slavery focused mainly on the issue of geographical limitations on the property rights of slave owners — specifically on whether slavery was to be permitted in the western territories that were preparing for statehood — the dispute ultimately bore on the existence of the institution of slavery itself. Remarkably, for the first seventy years of the republic artful compromises enabled the dispute over slavery to be settled peacefully.[1] These compromises incorporated a critical understanding that the Constitution allowed the individual states to determine the property rights of slave owners.[2]

As Barry Weingast (1998, pages 167-168) points out, "Because the country was growing, each new generation had to renew the arrangements that began when the founding fathers created a system with strong constitutional protection for slavery." In 1861, however, compromises based on existing constitutional arrangements broke down, and all attempts to negotiate a new constitutional compromise failed. Events culminated in the secession of eleven Southern states from the Union and the ensuing war for independence of the Confederate States of America from the United States of America. This war, usually called the American Civil War, remains by any measure the bloodiest war in American history. In

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[1]Focusing on the issue of slavery is a simplification. As Roger Ransom and Richard Sutch (2001) explain, Northern and Southern interests diverged over a variety of issues, including banking policy, tariffs, and public works as well as slavery. But Ransom and Sutch admit (page 288) that "the long-term fear behind Southern advocacy of states rights was unquestionably a defense of slavery". James McPherson (2001) debunks the claim that the main Southern interest was not in defending slavery, but in "a noble cause, the cause of state rights, constitutional liberty, and consent of the governed." According to McPherson, "... most professional historians have come to agree with Lincoln's assertion that slavery 'was, somehow, the cause of the [Civil] war'."

[2]This understanding largely shielded national politics from the issue of slavery. Prior to the establishment in 1854 of the Republican Party, the main political parties, Whigs and Democrats, had national constituencies, and the sectionally divisive issue of slavery was not central in the competition between the parties.

the poignant words of the historian David Potter (1976, page 583) summarizing the consequences of the war, "Slavery was dead; secession was dead; and six hundred thousand men were dead."

Why Secession and War? The Received Answer

Why did the issue of slavery eventually result in civil conflict? I take the received answer, my account of which is largely based on Robert Fogel (1989), McPherson (1988, 2001), Potter (1976), and Weingast (1998), to involve three main elements:

First, by the middle of the nineteenth century, as Potter (1976, page 93) explains, "The longstanding sectional equilibrium within the Union was disappearing and the South was declining into a minority status, outnumbered in population, long since outnumbered and outvoted in the House, and protected only by balance in the Senate." But, neither the Compromise of 1850, which admitted California to the Union as a free state, while allowing settlers in New Mexico and Utah to decide, under the principle of "squatter sovereignty", whether these territories should become free or slave states, nor the Kansas-Nebraska Act of 1854, which organized the Kansas and Nebraska Territories under the principle of squatter sovereignty, resulted in the admission of additional slave states, as maintaining balance in the Senate would have required. In addition, as Potter (1976, page 93) stresses, "There was not one slave territory waiting to be converted into another slave state, while all of the upper part of the Louisiana Purchase, all of the Oregon territory, and now all of the Mexican Cession stood ready to spawn free states in profusion." With their failure to gain admittance of Kansas as a slave state it was clear that Southern interests had permanently lost the protection of balance in the Senate.

Second, prior to the election of 1860 every President has been either a Southerner or a Northerner who had significant Southern support. But, by 1860 more rapid population growth in the North than in the South allowed Abraham Lincoln, the candidate of the recently formed Republican Party, to be elected without carrying any Southern state. This

event meant that Southern interests also had lost the protection of the Presidential veto.

Third, the free-soil platform of the Republican Party, which called for the prohibition of slavery in the territories, implied a new understanding about the prerogatives of winners of national elections under the Constitution. Although the Republican platform did not mention emancipation, the platform in effect rescinded the understanding that the Constitution allowed the individual states to determine the property rights of slave owners.[3] The new president, Lincoln, as quoted by Potter (1976, page 427) and McPherson (1988, page 179), had denounced slavery as "morally wrong", had stated that "this government cannot endure, permanently half slave and half free", and had expressed his hope for the "ultimate extinction" of slavery. According to Fogel (1989, page 381), the Republicans were "determined to restrict slavery's political and economic domination to guarantee that the federal government promoted northern interests and principles."

On the Southern side, according to McPherson (2001), "Jefferson Davis...justified secession as an act of self-defense against the incoming Lincoln administration, whose policy of excluding slavery from the territories would make 'property in slaves so insecure as to be comparatively worthless,...thereby annihilating in effect property worth thousands of millions of dollars'." According to this account Southern secessionists were reacting both to demographic developments and to the proactive stance of the Republican Party in rescinding an understanding that limited the prerogatives of the winners of national elections under the Constitution.

Why Secession and War? A Deeper Question

The problem with this received answer is that it does not go far enough. Specifically, although the received answer describes the breakdown of compromises based on existing con-

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[3]Weingast (1998) argues that this understanding depended on balance in the Senate and, hence, that the rescinding of this understanding was not an independent development, but rather a result of the increasing dominance of Northern interests in national elections.

stitutional arrangements, it does not explain why attempts to negotiate new constitutional compromises failed. Certainly, there were many ideas for new constitutional arrangements in the air. Moreover, given their experience in devising compromises, Northern and Southern interests should have been capable of realizing such ideas, if they were feasible.

One idea, which would have changed the nature of national elections to reverse the increasing political dominance of Northern interests, was to reconstitute the Union as a federation of the set of Northern states and the set of Southern states. In his proposal for a "concurrent majority", the Southern politician John C. Calhoun envisaged a dual presidency, with one president representing the North and one representing in the South, and each with the power to veto legislation. Of course, such a reform proposal had no chance, as Northern interests, having worked hard to destroy sectional balance in the Senate, would hardly be willing to accept a sectionally balanced presidency.

Other ideas would have constructed a new understanding limiting the prerogatives of Northern interests, as the likely winner of future national elections under the Constitution. One possibility would have been to agree to rule out any policy more extreme than the British example of emancipation with compensation. But, Fogel (1989, page 412) tells us that "whatever the opportunity for a peaceful abolition of slavery before 1845, it surely was nonexistent after that date. To Southern slaveholders, West Indian emancipation was a complete failure...They could see plainly that the economy of the West Indies was in shambles, that the personal fortunes of the West Indian planters had collapsed, and that assurances made to these planters in 1833 to obtain their acquiescence to compensated emancipation were violated as soon as the planters were reduced to political impotency."

The proposed Crittenden Compromise, perhaps the most serious of several futile attempts to amend the Constitution in order to prevent civil conflict, embodied another set of possibilities for limiting the prerogatives of Northern interests. The Crittenden Compromise, formally introduced in Congress in December 1860, would have given explicit constitutional protection to slavery in those states, and in the District of Columbia, where slavery already

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existed and in those remaining territories in which slavery was to be allowed according to the Missouri Compromise of 1820.

Both Northern and Southern interests rejected this compromise. The Republicans, led by President-elect Lincoln, would not accept any scheme that infringed on the free-soil plank of their platform. And, according to Fogel (1989, page 413), the Southerners by then "were convinced that northern hostility to slavery precluded a union that would promote [Southern] economic, political, and international objectives."

Finally, Northern interests might have accepted the establishment of an independent Southern Confederacy. Assuming that the Confederacy would have no territorial ambitions beyond the borders of the eleven secessionist states, such a peaceful dissolution of the Union would have allowed Northern interests to implement their free-soil policy in the territories. But, the fervent opposition of Southern interests to the exclusion of slavery from the territories belies this assumption. As Roger Ransom (1989, page 167) emphasizes, "The South of the mid-nineteenth century was an expansionist system that coveted land to the west and to the south...If they gained status as an independent nation, slave owners would be free to pursue a 'foreign policy' just as inimical to the North's interests as that pursued by the 'slave power' when it had control of the federal government within the union." And, an independent Confederacy, unconstrained by the interstate commerce clause of the Constitution, would have had enhanced strategic advantages, including, for example, the ability to control access to the sea via the Mississippi River. Fogel (1989, page 416) argues that acceptance of an independent Southern Confederacy would only have postponed a war over slavery and its expansion and "that the delay would have created circumstances far more favorable to a southern victory."[4]

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[4]Massimo Bordignon and Sandro Brusco (2001) analyze the optimality of including secession rules in the constitution of a federal union. They consider a potential dispute over the value of the federal union. In their analysis, in contrast to the present analysis of the dispute over the expansion of slavery, secession resolves the dispute.

A Model of the Dispute over Slavery

The inability of Northern and Southern interests to fashion a new constitutional compromise suggests that the dispute over slavery resulted in secession and war in 1861 not only because compromises based on existing constitutional arrangements broke down, but also, and more importantly, because peaceful resolution of the dispute over slavery no longer provided a viable alternative to civil conflict. What fundamental factors made civil conflict, which was avoided before the election of 1860, unavoidable in 1861? To answer this question consider the following model of the dispute over slavery. Analysis of this model also will suggest some general conclusions about the conditions under which a constitutionally established political process can provide a peaceful alternative to civil conflict for settling disputes between constituent groups of a polity.[5]

Let N denote Northern interests, let S denote Southern interests, and let X, $X \in [0,1]$, denote the outcome of the dispute over slavery. Assume that N prefers X to be larger, whereas S prefers X to be smaller. For example, X equal to one can represent the free-soil policy that Northern interests favored, and that Southerners saw as leading to destruction of the wealth of slave owners, and X equal to zero can represent a policy of unrestricted property rights for slave owners, without geographical limitations, that Southern interests favored. Intermediate values of X can represent a more moderate set of policies, which might include modest geographical limitations on the property rights of slave owners and/or the

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[5]Other authors, such as Daron Acemoglu and James Robinson (2001) and Adam Przeworski (1991, 2001), who have analyzed the viability of constitutionally established political processes have looked at civil conflict as a mechanism for switching between democratic and nondemocratic constitutions. In other related literature Avinash Dixit, Gene Grossman, and Faruk Gul (2000), who generalize the seminal work of Alberto Alesina (1988), pose as alternatives a constitution that specifies limits on the prerogatives of the party in power and a constitution without such limits. These authors implicitly assume that both of these constitutions would be viable. Importantly, none of these contributions view a constitution and civil conflict to be alternative methods for settling disputes, as in the present paper.

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possibility of voluntary emancipation with compensation to slave owners.[6]

To implement the difference in the preferences of N and S as simply as possible, assume that the utility of N depends on X according to the additive term $A_N X,\ A_N \in (0, \infty),$ and that the utility of S depends on X according to the additive term $A_S(1 - X),\ A_S \in (0, \infty).$ The preference parameters, A_N and $A_S,$ are weights that calibrate the importance of dispute for N and $S.$ Assume that A_N and A_S are common knowledge.

Consider a constitution that prescribes an electoral contest, the winner of which, either N or $S,$ gets to set $X.$ The constitution also places limits on the prerogatives of the winner. One of these limits is that the winner not set X larger than $X_N.$ If X_N is smaller than one, then this limit is a binding constraint on N in the event that N wins the electoral contest.[7]

Either the nature of electoral contests and the prerogatives of winners of electoral contests can be themselves the subject of the constitution, or they can be derived from general principles expressed in the constitution. In addition, these components, or the general principles from which they are derived, can be embodied either in explicit provisions of the constitution or in implicit understandings.

Abide or Abrogate?

Constituent groups of a polity cannot commit themselves to abide by a constitution. Hence, a constitutionally established political process provides a viable alternative to civil conflict only if the constituent groups voluntarily choose to accept the outcome of this process, including the prescribed limit on the prerogatives of the winner. In other words a

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[6]The outcome of the Civil War was X equal to one, and this outcome permanently settled the dispute over slavery. In contrast, some disputes between constituent groups of a polity, such as disputes over the distribution of current income, are not amenable to being settled permanently. Such recurring disputes involve repeated interaction between the parties to the dispute. See Herschel Grossman (2003) for an analysis of the possibility of constitutional resolution of recurring disputes.

[7]Constitutional limits on the prerogatives of the winner also could impose a binding constraint on S in the event that S wins an electoral contest, but X_N is the relevant constraint in the present context.

constitution works only if it is self enforcing.[8]

Under what configurations of exogenous parameters is it possible to design a constitution that is self enforcing? Suppose that an electoral contest as prescribed by a constitution takes place and that N is the winner. Given that the constitution allows N to set X, but imposes a binding constraint on this prerogative, first S and then N have to decide whether to abide by the constitution or to abrogate the constitution. *A constitution is self enforcing only (1) if S will choose to abide by the constitution if S expects N to abide by the constitution, and (2) if N will choose to abide by the constitution if S is abiding by the constitution.*

Consider the choice that S faces as the loser of the electoral contest. Either S can abide by the constitution, accept the results of the election, and allow N to exercise its constitutional prerogative to set X, or S can refuse to accept the results of the election, abrogate the constitution, and launch a civil conflict in an attempt to prevent N from setting X.

Assume that S would abide by the constitution if and only if the expected utility of S from abiding by the constitution would be at least as large as the expected utility of S from abrogating the constitution. To determine the expected utility of S from abrogating the constitution, let N have probability Q, and, hence, let S have probability $1 - Q$, of winning a civil conflict. Assume that these probabilities are common knowledge.[9] Also, assume that, if S were to abrogate the constitution and to win the ensuing civil conflict, then S would set X equal to zero, its most preferred value. Alternatively, if N were to win the ensuing civil conflict, then N would set X equal to one, its most preferred value.

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[8]In focusing on the inability to make binding commitments to abide by a constitution this model abstracts from other possible reasons for the nonexistence of viable alternatives to civil conflict. As explained by James Fearon (1996) these reasons include the existence of private information about the consequences of conflict and limited divisibility of the issues that are subject to dispute. The present model assumes that both parties have the same information and that the outcome of the issue of slavery is a continuous variable.

[9]An interesting extension of the model would be to endogenize Q, as in papers like Dmitriy Gershenson and Herschel Grossman (2000) and Grossman (1999) that focus on the decision to allocate resources to civil conflict.

Finally, let the positive numbers, C_N and C_S, which are calibrated in units of utility, denote the expected costs of a civil conflict to N and S respectively. These costs include the allocation of scarce resources to arming and to other conflictual activities and, if conflict escalates beyond the threat of the use of force, the possible destruction of scarce resources and loss of life.[10] Assume that C_N and C_S are exogenous and common knowledge.[11]

Given these assumptions, if S, the loser of the electoral contest, expects the winner, N, to abide by the constitution, then S would choose to abide by the constitution if and only if X_N is small enough to satisfy the following condition:

$$(1) \qquad\qquad A_S\,(1 - X_N) \;\geq\; A_S\,(1 - Q) - C_S.$$

The LHS of condition (1) is the expected utility of S from abiding by the constitution given that S expects N to abide by the constitution and to set X equal to X_N. The RHS of condition (1) is the expected utility of S from abrogating the constitution. In the ensuing civil conflict S would expect to realize X equal to one with probability Q and X equal to zero with probability $1 - Q$, and to incur the cost C_S. Condition (1) is equivalent to $A_S X_N \leq A_S Q + C_S$. Importantly, if A_S becomes larger, then condition (1) requires that X_N be smaller.[12]

Now consider N, the winner of the electoral contest. If S does not abrogate the constitution, then N can exercise its constitutional prerogative to set X. In choosing X, either N can abide by the limitation that it will not set X larger than X_N or N can behave

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[10] The model abstracts from risk aversion. If N and S were risk averse, then a civil conflict would be more costly because its outcome would be probabilistic.

[11] For simplicity the model assumes that C_N and C_S do not depend on A_N and A_S. Assuming instead that C_N and C_S increase with A_N and A_S would not change the qualitative implications of the model as long as the ratios, C_N/A_N and C_S/A_S, are not constants.

[12] We might suppose that, because N prefers X to be larger, if X_N satisfies condition (1), then it satisfies condition (1) as an equality. The conclusions derived below do not depend on whether condition (1) is satisfied as an inequality or as an equality.

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opportunistically, disregard this limitation, and thereby abrogate the constitution.

Assume that N will abide by the limit on its constitutional prerogative if and only if the utility of N from setting X equal to X_N is at least as large as the expected utility of N from setting X equal to one, which is its best opportunistic choice. The expected utility of N from setting X equal to one, in turn, depends on how S would react. Assume that, if N were to set X equal to one, then either S can acquiesce or S can launch a civil conflict in an attempt to force a decrease in X.

Of course, once N has set X equal to one, this outcome might not be fully reversible. For example, once N has implemented a free-soil policy, or even more radical restrictions on the property rights of slave owners, and slaves had begun to take advantage of these restrictions, reestablishing the unrestricted property rights of slave owners would pose obvious difficulties.

To allow for the imperfect reversibility of X, assume that, if, following N having set X equal to one, S were to launch and to win a civil conflict, then S would be able to decrease X to $\hat{X}$, $\hat{X} \in [0,1]$, whereas, if N were to win the civil conflict, then N would be able to keep X equal to one. According to this formulation the smaller is $\hat{X}$ the more reversible would be a decision by N to set X equal to one. Assume further that, if N were to set X equal to one, then S would launch a civil conflict in an attempt to force a decrease in X if and only if the expected utility of S from a civil conflict would be larger than the utility of S from X being equal to one.

Given these assumptions, if N were to set X equal to one, then S would launch a civil conflict in an attempt to force a decrease in X if and only if the configuration of exogenous parameters satisfies

$$(2) \qquad\qquad A_S \left(1 - Q\right) \left(1 - \hat{X}\right) \; - \; C_S \; > \; 0.$$

The LHS of condition (2) is the expected utility of S from a civil conflict that, if S were to win, would result in X equal to $\hat{X}$, but which, if N were to win, would result in X equal to one. The RHS of condition (2), which is zero, is the utility of S from X being equal to one.

If S would acquiesce if N were to set X equal to one — that is, if the parameters do not satisfy condition (2) — then N, having won the electoral contest, would abrogate the constitution and set X equal to one. Alternatively, suppose that S would react to N setting X equal to one by launching a civil conflict — that is, suppose that the parameters satisfy condition (2). In that case, given that S has not abrogated the constitution, N would choose to abide by the constitution if and only if X_N is large enough to satisfy the following condition:

$$(3) \qquad\qquad A_N \ X_N \ \geq \ A_N \ [Q + (1-Q)\hat{X}] - C_N.$$

The LHS of condition (3) is the utility of N from abiding by the constitution and setting X equal to X_N, given that S is abiding by the constitution. The RHS of condition (3) is the expected utility of N from abrogating the constitution, if S would react by launching a civil conflict. In the ensuing civil conflict N expects to realize X equal to one with probability Q and X equal to $\hat{X}$ with probability $1 - Q$, and to incur the cost C_N. Importantly, if A_N becomes larger, then condition (3) requires that X_N be larger.

Is a Self-Enforcing Constitution Possible?

Taken together conditions (1), (2), and (3) imply the following proposition:

> **If and only if the configuration of exogenous parameters satisfies con-**
> **dition (2), then, when N wins an electoral contest, values of X_N that**
> **satisfy both condition (1) and condition (3) would be consistent with**
> **both N and S abiding by the constitution. In addition, if and only if**
> **the configuration of exogenous parameters satisfies**
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> $$(4) \qquad\qquad C_N \ /A_N \ + \ C_S /A_S \ > \ (1-Q) \ \hat{X},$$
>
> **then the set of values of X_N that satisfy both condition (1) and**
> **condition (3) is not empty. Hence, if and only if the configuration of**

exogenous parameters satisfies both condition (2) and condition (4), then it is possible to design a self-enforcing constitution that, when N wins an electoral contest, would settle the dispute between N and S without civil conflict.

This proposition implies that the following properties of the exogenous parameters would help to make constitutional resolution of disputes a viable alternative to civil conflict:

- The ratio C_N/A_N, which calibrates for N the expected cost of a civil conflict relative to the importance of the dispute, should be large. A large value of C_N/A_N would deter N from abrogating the constitution and provoking a civil conflict.

- The ratio C_S/A_S, which calibrates for S the expected cost of a civil conflict relative to the importance of dispute should be neither too small nor too large. A not too small value of C_S/A_S would deter S from abrogating the constitution, but a not too large value of C_S/A_S would encourage S to launch a civil conflict in reaction to an abrogation by N, a threat that would deter N from abrogating the constitution.

- The probability Q should be neither too small nor too large. This property means that neither N nor S should have a big advantage in civil conflict. A not too small value of Q would deter S from abrogating the constitution, but a not too large value of Q would encourage S to launch a civil conflict in reaction to an abrogation by N.

- The measure of reversibility, $\hat{X}$, should be small, implying high reversibility. High reversibility would encourage S to launch a civil conflict in reaction to an abrogation by N and would deter N from abrogating the constitution by making it costly for N if S were to win an ensuing civil conflict.

The observation that a large value of C_N/A_N and a not too small value of C_S/A_S help to make a self-enforcing constitution possible is especially interesting because it conveys both

good news and bad news. The good news is that, given the importance of the dispute, if civil conflict would have large costs, especially for N as the winner of the electoral contest, and if the N and S anticipate these large costs, then civil conflict is avoidable. The bad news is that, given the expected costs of civil conflict, if the outcome of the dispute is sufficiently important, again especially for N, then civil conflict is unavoidable.

Why Was Civil Conflict Unavoidable?

Given that Northern interests had become politically dominant under the existing constitution, as evidenced by the outcome of the battle over statehood for Kansas and the presidential election of 1860, and that Northern interests would have remained politically dominant under any conceivable alternative constitution, continued peaceful resolution of the dispute over slavery would have required that Northern and Southern interests agree on a self-enforcing limitation of the prerogatives of Northern interests in choosing the outcome of the dispute. To account for the inability of Northern and Southern interests to reach such a constitutional compromise our model directs us to historical scholarship that finds that in the years leading up to 1861 the outcome of the dispute over slavery increased in importance for both Northern and Southern interests. This finding suggests that by 1861 the dispute was too important to be settled by a constitutionally established political process and, hence, too important for civil conflict to be avoided. In terms of our model historical scholarship suggests that by 1861 A_N and A_S had become too large to satisfy condition (4).

Fogel's account of northern ante-bellum politics suggests a plausible story that is consistent with an increase in A_N. From the late 1840s, mainly because of increased immigration, incomes and living conditions of native, northern, non-farm workers became increasingly depressed. Fogel (1989, page 356) tells us that this depression of living conditions was "one of the most severe and protracted economic and social catastrophes of American history."

As a consequence of this working-class depression land policy became increasingly important. Free homesteads, opening western lands for settlement by the working poor, became a

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paramount demand of northern labor. But, the objective of Southern interests that western territories be opened to slavery stood in the way of free homesteads. Thus, as Fogel (1989, page 350) explains, land policy "drew into direct conflict with Slave Power the northern working-class leaders who had previously remained aloof from the anti-slavery movement." The result was the coalescing of free-soil proponents and nativist factions into the new Republican Party and a new unwillingness of Northern interests to compromise in the dispute over slavery.

In addition, the evidence about the economics of slavery, as summarized by Fogel (1989) and Ransom (1989), suggests a plausible reason for an increase in A_S in the years leading up to 1861. According to Fogel (1989, page 412), "From the mid-1840s on...the slave economy of the South was vigorous and growing rapidly. Whatever the pessimism of [slave owners] during the economic crises of 1826-1831 and 1840-1845, during the last half of the 1840s and most of the 1850s they foresaw a continuation of their prosperity and, save for the political threat from the North, numerous opportunities for its expansion. The main thrust of cliometric research has demonstrated that this economic optimism was well founded..." As Ransom (1989, page 47) puts it, "On the eve of the Civil War, American slaveholders were coming off a decade and a half of exuberant growth and expansion."

As it turned out, the actual costs to both Northern interests and Southern interests of the ensuing civil conflict, including six hundred thousand men killed and thousands more maimed, certainly were larger than the expected costs, C_N and C_S. We can speculate whether, if both Northern interests and Southern interests had not underestimated the costs of the ensuing civil conflict, the perceived configuration of exogenous parameters still would have failed to satisfy condition (4), even with the increased importance of the dispute, as reflected in increased values of A_N and A_S. But, it is only hindsight that suggests that the negotiation of a new constitutional compromise would have been better for both Northern interests and Southern interests than the actual consequences of the civil conflict. In the event, the Civil War settled the dispute.

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Summary

This paper has combined theoretical and historical analysis to propose an answer to the question of why in 1861, after seventy years of artful compromises that enabled the dispute over slavery to be settled peacefully, civil conflict became unavoidable. This answer goes beyond a description of the breakdown of compromises based on existing constitutional arrangements and attempts to explain why all of the many attempts to negotiate a new constitutional compromise failed.

The salient theoretical finding was that, if the outcome of a dispute is sufficiently important relative to the expected costs of civil conflict, then a constitutional compromise, which would have to include a self-enforcing limitation on the prerogatives of the winner of electoral contests, is not possible. The salient historical observation was that, as a result of developments in the years leading up to 1861 the outcome of the dispute over slavery had become increasingly important to both Northern and Southern interests. In addition, both Northern and Southern interests apparently underestimated the costs of civil conflict.

The paper concludes that secession and war were unavoidable because the dispute over slavery had become too important to both Northern and Southern interests to be settled peacefully. This event exemplifies the theoretical proposition that, if the constituent groups of a polity are deeply divided and, as a result, are unable to agree on meaningful and self-enforcing limitations on the prerogatives of winners of electoral contests, then civil conflict can be unavoidable.

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