

A Game Theoretic Analysis of the American Secession Crisis: Rules of Apportionment and Democratic Regime Collapse

Charles A. Kromkowski
Department of Government and Foreign Affairs
232 Cabell Hall, University of Virginia
Charlottesville, VA 22903
cak5u@virginia.edu

ABSTRACT

This paper serves two immediate purposes: first, it opens a window onto the general relationship between rules of apportionment and regime development and failure; second, it looks through this window to explain the particular sequence of decisions that culminated in the collapse of the American constitutional order in 1861. Two additional purposes, associated with a larger comparative-historical work, are only suggested in this paper. These less immediate purposes are: 1) the development of a general theory of constitutional order that travels and informs across time, space and level of aggregation; and 2) the demonstration of a grounded rational choice approach that returns both rigorous historical accounts and realistic analysis of constitutional order and change.

While broadly supportive of the comparative analysis and synthesis of structural, agency and institutional conditions, I give special emphasis in this paper to a class of meta-institutional decisional rules known as rules of apportionment. To accomplish this, Part I of this paper clarifies the general nature of rules of apportionment. In particular, I define the constitutive informational and distributional elements of rules of apportionment. I then offer a theoretical description of the relationship between these rules and the constitutional orders of which they are but a part. In brief, I argue that rules of apportionment are necessary elements of every constitutional order, regardless of level of aggregation. As such, Part I speaks directly to individuals engaged in constitutional studies of the creation, maintenance and dissolution of supranational regimes, international relations, national constitutional orders, subnational associations and intrapersonal decisionmaking.

Part II illustrates the analytical utility of the concept of rules of apportionment by answering the core questions of the American secession crisis: namely, why did the South secede; why did the North resist; and why was the final outcome civil war. To accomplish this, I begin by describing the outcome set, or the set of alternatives that were commonly considered by Northern and Southern leaders between late 1860 and mid-1861. I then employ three game-theoretic models to aid my explanation of how and why, despite other mutually-preferred outcomes, the sequence of decisions between Southern and Northern statesmen ultimately and tragically culminated in constitutional collapse and the American Civil War.

Part III offers several conclusions concerning rules of apportionment, democratic regime collapse and the American secession crisis.

Paper prepared for delivery at the 1999 Public Choice and Economic History Conference, Wake Forest University, April 10, 1999. Copyright, 1999.

A Game Theoretic Analysis of the American Secession Crisis:
Rules of Apportionment and Democratic Regime Collapse¹

And if the Representative consist of many men, the voyce of the greater number, must be considered as the voyce of them all.

Once let it be understood that there is no remedy for secession; that the Constitution fails to provide for its suppression; that the Union is not an inviolable compact; that one or more States may sunder their connection with it, with impunity, not so much as saying by your leave; and the bond of Union becomes a rope of sand.

STRIKE A BLOW! The very moment that blood is shed, old Virginia will make common cause with her sisters of the South.²

This paper serves two primary purposes: first, it opens a window onto the general relationship between rules of apportionment and regime development and failure; second, it looks through this window to explain the particular sequence of decisions that culminated in the collapse of the American constitutional order in 1861. Two additional, although less immediate, purposes also are served by this paper. These less immediate purposes are: 1) the development of a general theory of constitutional order that travels and informs across time, space and level of aggregation; and 2) the demonstration of a grounded rational choice approach that yields both rigorous historical accounts and realistic analysis of constitutional order and change.

The failure of democratic transitions and consolidations, and the causes of the American Civil War have received close and extensive scholarly attention. Although the former has been examined primarily by political scientists and the latter almost exclusively by historians, recognition of three tropological devices common to many of these previous works binds and redivides these accounts across

¹ I would like to thank the following individuals for their contributions to this work: Lloyd Benson, Vernon Burton, Scott Gerber, John Gerring, Michael F. Holt, Peter Onuf, Timothy O'Rourke, Graham Peck, and David Waldner.

² Thomas Hobbes, *Leviathan*, Tuck, ed., ch. 16, p. 114; "The President on the Crisis," *Iowa State Registrar*, December 12, 1860, in *Northern Editorials on Secession*, pp. 154-55; Roger A. Pryor, Speech of April 10, 1861; as quoted in David M. Potter, *Lincoln and His Party in the Secession Crisis* ([1942], 1970), p. 213.

these disciplines.³ The first of these devices identifies exogenous structural conditions as the primary determinant of the fate of both democratic constitutions and of the American constitutional order in 1860.⁴ The second tropological device identifies endogenous agency-related conditions as the primary explanatory determinant.⁵ The third tropological device--made common by the new institutionalism literature--portrays political institutions as the determinant of both democracies in general and of the American constitutional order in particular.

To their credit, several political scientists offer accounts of the development of democratic orders or of the American constitutional order that make use of two or more of these tropological devices. Richard Biesel, for example, identifies both structural and agency-related conditions in his account of the American secession crisis. Adam Przeworski, by contrast, relates agency and institutional conditions in his account of democratic transitions and stability. In Making Democracy Work, Robert Putnam provides a third tropological synthesis by relating structural and institutional conditions to explain political variations within Italian political development. Finally, Barry Weingast offers the most comprehensive synthesis to date: his explanation of American democratic stability includes a structural condition (a civic culture intolerant of democratic transgressions), an agency condition (reelection-minded political agents), and several institutional conditions (regular elections and a "balance" rule of apportionment).⁶

While a comparative-historical analysis and synthesis of structural, agency and institutional conditions remains the ultimate, although as yet unattained, goal suggested by these prior works, this paper makes this goal attainable by focusing upon a class of meta-institutional decisional rules known as rules of apportionment. To this end, Part I of this paper clarifies the general nature of rules of apportionment. In particular, I define the constitutive elements and significance of rules of apportionment. This paper then offers a theoretical description of the relationship between these rules

³ For fuller expositions on the construction of interpretative works and the selection of tropological devices, see Hayden White, Tropics of Discourse, (1987); Herbert Kritzer, "The Data Puzzle: The Nature of Interpretation in Quantitative Research," AJPS, (1996), 40(1): 1-32.

⁴ Cf. Seymour Lipset, "Some Social Requisites of Democracy," APSR, (1959), 53:69-105; Gabriel A. Almond and Sidney Verba, The Civic Culture, (1963); John Ashworth, Slavery, Capitalism, and Politics in the Antebellum Republic, (1995).

⁵ Cf. Dankwart A. Rustow, "Transitions to Democracy," Comparative Politics, (1970), 2: 337-63; Guillermo O'Donnell and Phillippe C. Schmitter, Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies, (1986); Adam Przeworski, Democracy and the Market, (1991); Brian H. Reid, The Origins of the American Civil War, (1996).

⁶ Richard F. Biesel, Yankee Leviathan, (1990); Adam Przeworski, Democracy and the Market, (1991); Robert Putnam, Making Democracy Work, (1993); Barry R. Weingast, "The Political Foundations of Democracy and the Rule of Law," APSR, (1997), 91(2): 245-263.

and the constitutional orders of which they are but a part. In brief, I argue that rules of apportionment are necessary elements of every constitutional order, regardless of level of aggregation. As such, Part I speaks more generally and directly to individuals engaged in constitutional studies of the creation, maintenance and dissolution of supranational regimes, international relations, national constitutional orders, subnational associations and intrapersonal decisionmaking.

Part II demonstrates the analytical utility of Part I's conceptual clarification of rules of apportionment by focusing upon the core questions of the American secession crisis: namely, why did the South secede; why did the North resist; and why was the final outcome civil war. To accomplish this, I begin by describing the outcome set, or the set of alternatives that were commonly considered by Northern and Southern leaders between late 1860 and mid-1861. I then employ three game-theoretic models to aid my explanation of how and why, despite other mutually-preferred outcomes, the sequence of decisions between Southern and Northern statesmen ultimately and tragically culminated in constitutional collapse and the American Civil War.

Part III offers several conclusions concerning rules of apportionment, democratic regime collapse and the American secession crisis.

Part I

Ia. What is a rule of apportionment?

What is a rule of apportionment and why do apportionment rule changes open windows onto the foundation, dynamics and historical development of constitutional orders in general and of the American political order in particular? In brief, a rule of apportionment is that which defines the intragovernmental distribution of collective decisionmaking authority. As such, every constitutional order (at whatever level of social aggregation) can be defined and assessed in terms of its rule of apportionment. Among several general forms, a rule of apportionment might define the basis for dividing political representation within a national legislative assembly. For example, the original U.S. Constitution specified that representation in the U.S. House of Representatives shall be divided among the states according to the whole number of free persons and three-fifths all other persons, excluding untaxed Indians. In the U.S. Senate, representation was to be divided equally among the states: two senators per state.

Many rules of apportionment, to be sure, reflect constitutional realities that extend significantly beyond their written constitutional forms. This lack of transparency between the object and its appearance typically makes the study of rules of apportionment intractable. Despite this, rules of apportionment remain highly significant. At lower levels of aggregation, for example, rules of

apportionment are embedded deep within individual decisionmaking behavior⁷ as well as within interpersonal relations like marriages and business partnerships. Whereas in marriages, these rules typically are the unformalized or customary terms by which collective decisions are made, in the latter partnerships these terms typically are defined within written, legally-enforceable contracts.⁸ By contrast, at higher levels of aggregation (for example, inter- or supra-national relations) rules of apportionment often can be conceived in terms of a panoply of material, territorial and psychological factors that determine and affect the bargaining positions of two (or more) actors engaged in the expectation of some form of collective action.⁹

Although the full range of apportionment rules would be difficult to study comprehensively, these rules nevertheless are elemental parts of every constitutional order because they define the relationship between uncoordinated interests within the process of collective decisionmaking. In so doing, apportionment rules establish a minimum level of decisionmaking coherence and coordination necessary for collective action. In constitutional orders where collective authority is not a momentary exchange, wholly dependent upon force, monopolized by a single individual or dispersed among self-representing individuals, the rule of apportionment has a special relationship to the stability of the order because it affects how socially-organized interests and their agents will be embodied within the process of collective decisionmaking. In this respect, modern forms of representative governance cannot fully be described or analyzed without recognition of a constitutional order's rule of apportionment. Indeed, the fact that some apportionment rules permit the *re-presentation* of a plurality of societal interests within the collective decisionmaking process (and, thus, reciprocal relations between governmental authority and society) offers a basis for distinguishing democratic forms of government from governmental forms characterized by either monocratic (or "unitary") apportionment rules or the general (and more simple)

⁷ The observation that apportionment rules exist at the intrapersonal level ought not detain nor distract us here. At this level, apportionment rules are the deeply embedded and most likely hidden decisional rules that determine choices among rationally plausible alternatives. Dilemmas, in both their negative and positive manifestations, are paralyzing choice situations precisely due to the lack of an operable decisional rule. For further illustration of the consequences of this observation, see Eric Voegelin's commentary on Aeschylus' *The Suppliants* in New Science of Politics, (1952), pp. 70-73. See also Alasdair MacIntyre, Whose Justice? Which Rationality?, (1988).

⁸ See Elizabeth S. Scott and Robert E. Scott, "Marriage as Relational Contract," University of Virginia Law Review, (forthcoming); Robert Scott, Conflict and Cooperation in Long-Term Contracts, California Law Review, (1987) 75: 2005-54.

⁹ See James D. Fearon, "Bargaining Over Objects that Influence Future Bargaining Power," Paper presented at the 1997 American Political Science Association Meeting; James D. Fearon, "Bargaining, Enforcement, and International Cooperation," International Organization, (1998), 52(2): 269-305.

characteristic of existential representation.¹⁰

Rules of apportionment are important for another elemental reason: their stability has long-term informational consequences. Once established, that is, apportionment rules tend to remain in place. Although not immune to incremental adaptations, an established rule of apportionment—like all constitutional rules—is valued because it conveys information about the immediate position and longer-term prospects for various interests and individuals within a particular political order. In this respect, knowledge of the rule of apportionment provides a window through which individuals and societal interests can assess their political capacities to secure the collective legitimization of their interests.

Finally, apportionment rules are important because the combination of their distributional and informational characteristics often prompts particularly contentious types of political conflict. Why, for example, should one set of interests be privileged over any other set of interests when the matter concerns a collectively-binding decision? Moreover, if it is granted that a multiplicity of interests constitutes every society, then the rule of apportionment determines no less than who will govern and who will be the governed. This is an important distinction within every constitutional order, but its import is self-evident for all democratic forms of governance sustained by voluntaristic forms of consent.

Apportionment rule changes, thus, are important for several reasons. First, these rule changes offer nearly transparent opportunities for analyzing fundamental shifts in the distribution of collective decisionmaking authority. Second, wholesale apportionment rule changes are unexpected events because the decisions to abandon and to replace an existing apportionment rule will have adverse or uncertain effects upon presently-empowered interests. As a result, this type of rule change is not likely to occur without cost, resistance and coercion.

¹⁰ See Eric Voegelin, The New Science of Politics, (1952). In brief, Voegelin defines the historical existence of a society in terms of "existential" representation, or the presence of the capacity to act for a society as a whole. Aristotle's description of how Pisistratus came to rule Athens offers a classic example of existential representation under a 'unitary' (and tyrannical) rule of apportionment. According to Aristotle, "When [Pisistratus] had finished the rest of his speech, he told the people what had been done with their arms, saying that they should not be startled or disheartened but should go and attend to their private affairs, and that he would take care of all public affairs" which he and his sons did for the next thirty-six years. (The Athenian Constitution, chapters 15.5, 15-19)

This study of "plural" apportionment rules and of governmental forms based upon plural rules, thus, offers specialized insights concerning constitutional orders in which various individuals and interests are engaged in and consent to the creation and maintenance of a constitutional order. Whereas many previously have concerned themselves with the histories, the principles and practical mechanics concerning the consensual maintenance of "plural" constitutional orders, few have fully engaged the additional difficulty of also accounting for the consensual creation of this particular form of constitutional order. Modern theories of democracy, therefore, either note that the mechanics of founding moments are forever lost in the mists of time or they unwittingly mimic the Machiavellian logic that because "the many are incompetent to draw up a constitution" the founding of consensual democratic forms of governance necessarily requires non-democratic and "reprehensible actions." (See Machiavelli, Discourses on the First Ten Books of Titus Livy, I, 9, 2-3).

In consensual constitutional orders--that is, where association with and recognition of collective authority is inherently non-coercive--the opportunity to choose among alternative rules of apportionment raises acute, if not paradoxical, order-making and order-sustaining problematics. For although a rationally-directed individual or group would expect that the establishment of a set of constitutional rules would provide a baseline of stability for all interests and individuals, it also would become evident that the constitutional rules ultimately established would have discrete (and potentially suboptimal or disastrous) distributional consequences. Paradoxically, a group of rational actors although commonly compelled to forsake the dark forests of anarchy might not be able to negotiate their way back into the historic constitutional gardens promised by a collective authority.

To understand this potential for failure more fully, consider the simplified representation of the paradox of constitutional consent in Figure 1. Assume that two individuals or socially-organized interests (X and Y) face the decision whether to commit to the formation of a collective authority. Assume that the origin of the graph represents the expected utility of a pre-constitutional status quo. When, therefore, both actors expect a proposed constitutional rule to return common or approximately equal benefits, their consent could reasonably be expected. The expected utility of this set of constitutional rules forms an axis of common informational gain represented by the southwest-northeast diagonal.

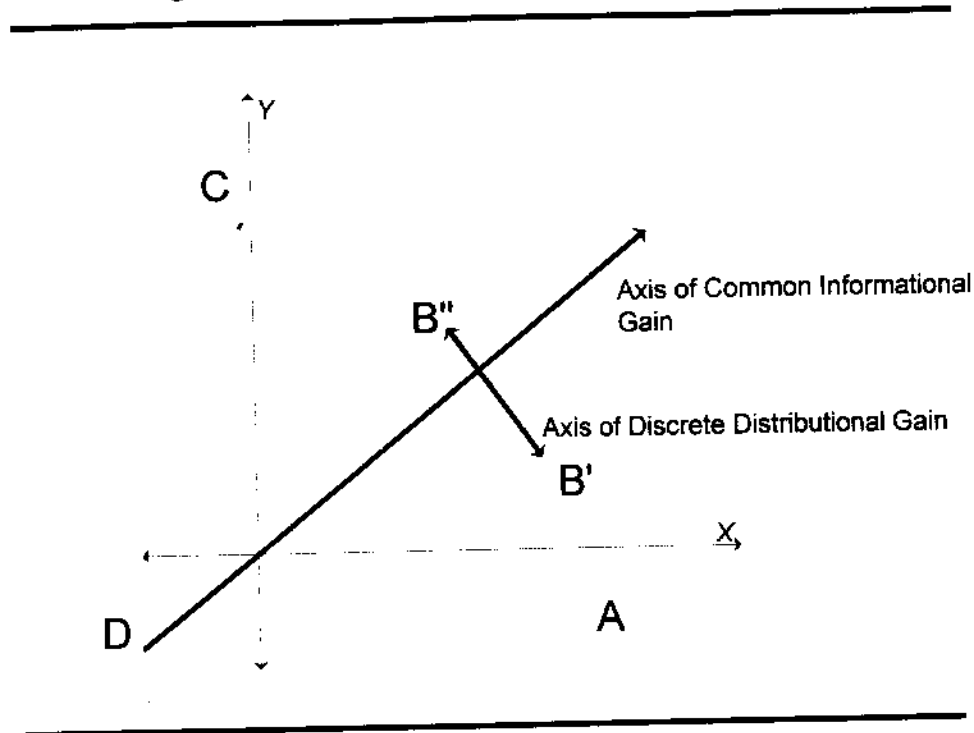
Consider the expected utilities of the additional bundles of proposed constitutional rules: A, B', B", C and D. Each constitutional bundle is expected to return different relative gains to the two actors. As such, commitment to include these rules raises more complex, although not necessarily insurmountable, problematics. Actor X, for example, might exchange its consent for constitutional bundle "C" for actor Y's reciprocal consent for constitutional bundle "A." In so doing, the net expected value of the proposed constitutional order would be increased.¹¹

When, however, actors X and Y care more about relative individual gains than net gains or when the values of different rules are not fungible, constitutional rule exchanges likely will not be completed or maintained. When, moreover, the rule choice is discrete (for example, between B' and B") and the expected utility difference is significant, consent also cannot be expected. For what would motivate either actor to forsake a relative distributional benefit? For one, the expected relative benefit may be so trivial that, at some point, a constitutional hold-up (and the resulting stream of "lost" gains) would not seem to be worthwhile. In rare circumstances, however, when the relative difference between two proposed constitutional rules is expected to distinguish the governing from the governed, consent would seem

¹¹ See Fritz W. Scharpf, "Coordination in Hierarchies and Networks," in Games in Hierarchies and Networks, Fritz W. Scharpf, ed., (1993), pp. 125-65.

highly improbable and the imperative to sustain a constitutional hold-up almost indefinite. Choices among rules of apportionment are one of these circumstances.

Figure 1: The Calculus of Constitutional Consent



Ib. Apportionment Rules and Their Constitutional Orders

The elemental verities of the relationship between apportionment rules and the constitutional orders within which they are embedded seem poorly understood or misspecified. To clarify this relationship and to appraise the consequences of apportionment rule changes, this paper proposes a theoretical framework that relates rules of apportionment to the formation, transformation, and breakdown of constitutional orders.

To open a window onto this theoretical framework, let us (for a moment) conceive of the American political order and all other forms of constitutional order as complex and dynamic wholes that can be studied from three distinct analytical levels or reference points: namely, the external constitution;

the domestic constitution; and the intragovernmental constitution. Analysis of a constitutional order with respect to its *external constitution* would define the order by its relationships to other orders. A similar analysis with respect to the *domestic constitution*, by contrast, would define this constitutional order in terms of the relationship between the governing part of the order and the populace over which it governs. Finally, a constitutional analysis with reference to the *intragovernmental constitution* of an order would define the order in terms of the relationships among the set of actors who hold and exercise the authority and power to make collective decisions.¹² Measurement of the development of a particular constitutional order, thus, would seem to require comparative generalizations about changes observed at one or more of these three constitutional levels.

Although changes in the domestic and external constitutions of an order no doubt are important (especially, given the special circumstances created by revolution, war and the processes of globalization¹³), the theory offered here relates the development of a constitutional order to changes within the intragovernmental constitution. This theory, therefore, focuses upon the set of collectively-relevant actors and relates their expectations concerning relative decisionmaking capacities and preferences for levels of governmental authority to the formation, transformation and breakdown of a particular constitutional order.¹⁴

The *formation* of a constitutional order, it is proposed, requires the convergence of two types of expectations. First, each actor must have a positive, long-term expectation concerning its capacities to direct or to affect the allocation of governmental authority and its collective benefits. Initial expectations about these decisionmaking capacities are based, in large part, upon the terms specified within the rule of apportionment. Second, the formation of a constitutional order also requires a convergence of expectations or preferences concerning the general type and extent of governmental authority. These

¹² The set of "politically relevant" actors includes the principal interests organized within society and their agents within government.

¹³ See, for example, Theda Skocpol, States and Revolution, (1979); Richard F. Bensel, Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877, (1990); Stephen M. Walt, Revolution and War, (1996); Vivien A. Schmidt, "The New World Order, Incorporated: The Rise of Business and the Decline of the Nation-State," Daedalus, (1995); Philip G. Cerny, "Globalization and the Residual State," Designs for Democratic Stability, (1997), pp. 285-329.

¹⁴ Expectations are cognitive phenomena and, therefore, not fully measurable. Moreover, the intensity and density of these expectations vary among political actors and over time. Measurement of changes in political expectations, as a consequence, is extremely difficult—especially over extended time periods. Arguably, the clearest indicator of a minimal level of convergence is the voluntary participation of political actors within a common form of government. It follows, therefore, that the absence of this form of political association is an indicator of the divergence of political expectations.

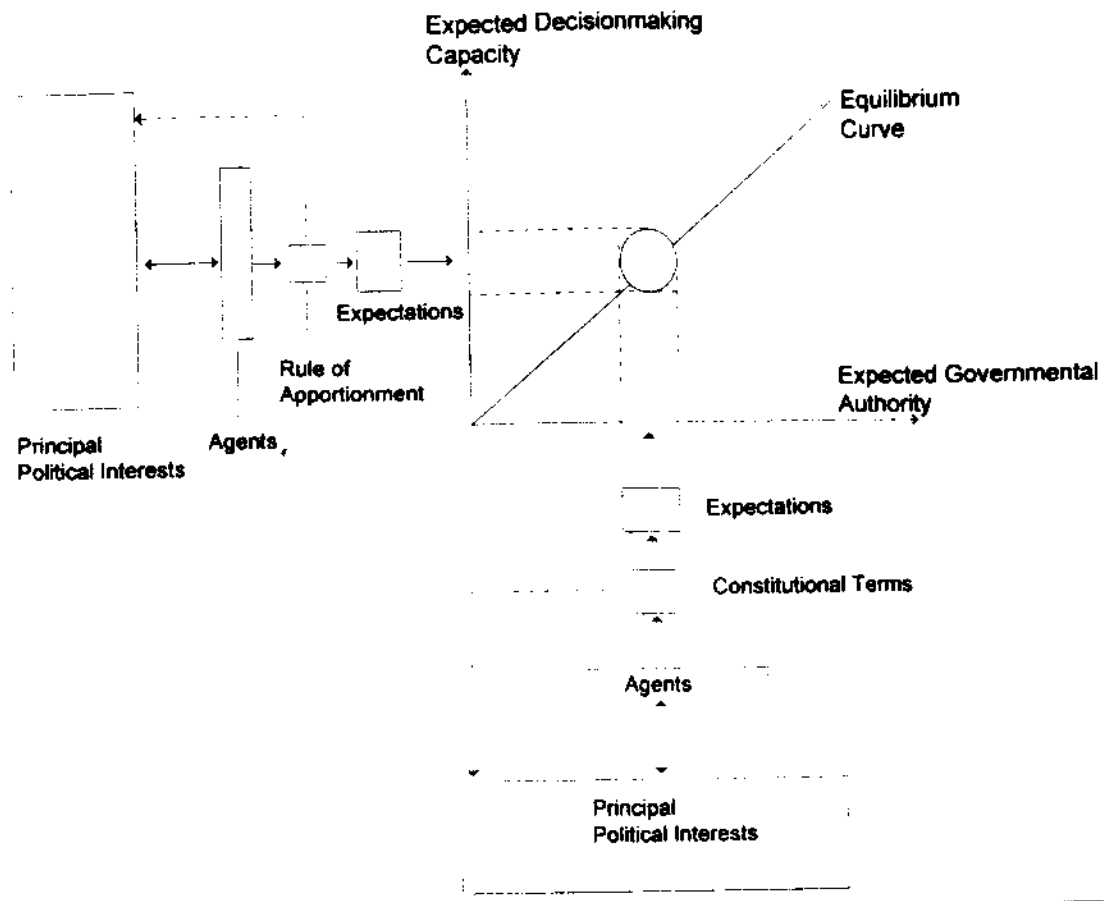
expectations are based initially upon the set of institutions and practices which specify the constitutional boundaries of legitimate governmental action.

Figure 2 offers a visualization of the posited relationships between principal political interests and their agents and between these agents, the set of constitutional rules and their attendant expectations for relative decisionmaking capacity and levels of governmental authority. The convergence of these expectations, moreover, are positively related on an idealized equilibrium curve. Given, however, that expectations are subjective and, therefore, never uniform among any set of political actors—even those who establish or maintain a political order by force—the nexus of these expectations is not represented as a point on the equilibrium curve but as an idealized space containing various (and sometimes contradictory) expectations. National political orders, like other constitutional orders, cannot be manufactured simply by tinkering with various combinations of apportionment rules and constitution length, nor do they spring forth spontaneously or fully-developed every time political expectations converge on the two identified dimensions. Rather, these orders are created only after a set of actors assume this order-making authority and act deliberately and successfully to effect this end. The formation of a constitutional order, in this respect, is a voluntary union among a set of constitutional actors who share similar expectations concerning the benefits of participating within a common order and similar expectations concerning their capacities to renegotiate the terms of this constitutional union in the future.

The formation of a constitution order, thus, is like the completion of a long-term contract in that both agreements are grounded in a voluntaristic consensus that determines the parties to the exchange, the general form of the exchange, and the specific terms of the exchange.¹⁵ What specifically is exchanged during the formation of an order is the autonomy of individual action for the expected benefits under a collective authority. The formation of an order, therefore, entails several agreements. The first agreement defines the set of collectively relevant actors. The second agreement defines the general principles or framework of government. The third and final agreement specifies the institutions and practices that will shape and constrain the subsequent actions of the governing part of the constitutional order.¹⁶

¹⁵ See Ian R. Macneil, The New Social Contract: An Inquiry into Modern Contractual Relations, (1980).

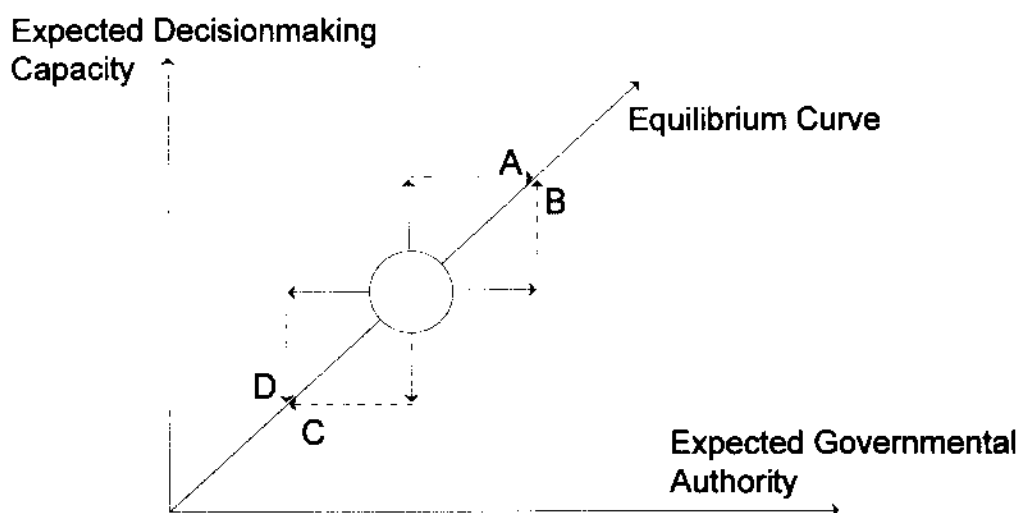
¹⁶ For similar "layered" descriptions of the constitutional elements of political order, see James Buchanan and Gordon Tullock, The Calculus of Consent, (1962), pp. 78-80, 119-20; Stephen D. Krasner, ed., "International Regimes" issue of International Organization, (1982), 36(2); James D. March and Johan P. Olsen, Rediscovering Institutions, (1984), p. 111; and Elinor Ostrom, Governing the Commons: The Evolution of Institutions for Collective Action, (1990), pp. 50-52.



If the convergence of expectations about decisionmaking capacities and governmental authority creates a general equilibrium space within which consensual collective action occurs, then the subsequent *transformation* of this space (and, thus, of a constitutional order over time) can be idealized in terms of four general dynamics. The first and second dynamics alter long-term decisionmaking capacities and, thus, the vertical dimensions of the equilibrium space. The first dynamic (denoted as "A" in Figure 3) is that the greater the expected increase in decisionmaking capacities, the greater the expected increase in levels of governmental authority. Conversely, the second dynamic (denoted "C") is that the greater the expected reduction in decisionmaking capacities, the greater the expected reduction in governmental authority. The third and fourth dynamics, by contrast, alter long-term levels of governmental authority and, thus, the horizontal dimension of the equilibrium space. The third dynamic (denoted "B") is that the greater the expected increase in governmental authority, the greater the expected increase in decisionmaking capacity. Conversely, the fourth and final dynamic (denoted "D") is that the greater the expected reduction in governmental authority, the greater the expected reduction in decisionmaking capacity.

How large and small changes in expectations about decisionmaking capacities and levels of governmental authority ultimately transform a constitutional order is too complex and understudied for this paper to address in full. Suffice to say here, the divergence or diffusion of expectations creates conditions that prompt attempts to redefine various elements of a constitutional order. When these attempts compel support from other constitutionally-relevant actors, incremental and wholesale changes in existing institutions are possible. In addition to the adjustment or replacement of existing institutions, a constitutional order can be redefined through the establishment of additional institutions or through alterations in the set of intragovernmental agents. When, however, attempted renegotiations of an order repeatedly fail or when a subset of actors begin to question the longer-term benefits of their association with other actors, then the consensus necessary to sustain a constitutional order weakens and, on occasion, breaks down.

Figure 3: Dynamics of Constitutional Development



Part II

Given the window opened onto rules of apportionment in Part I, Part II of this paper offers an analysis of the American Secession crisis. Like the American Revolution and the framing of the U.S. Constitution, the Antebellum era and the American Civil War have been studied intensively and extensively by successive generations of political historians.¹⁷ Paradoxically, however, as the

¹⁷ For reviews of this literature, see Edwin R. Rozwenc, ed., The Causes of the American Civil War, (1972); Eric Foner, "The Causes of the American Civil War: Recent Interpretations and New Directions," Civil War History, (1974), 20: 197-214; David Potter, The Impending Crisis, 1848-1861, (1976), pp. 30-50; Charles Crowe,

preconditions and the decisions preceding this constitutional breach have become broadly familiar, the causes of this constitutional breakdown have become more perplexing. Indeed the more that is known, it seems, the less satisfactory have the existing set of accounts become.

Accounts of the causes of secession and the subsequent civil war typically are carried by two general logics. The first general logic portrays the American Civil War as an inevitable and "irrepressible" culmination of deeply-embedded economic, cultural or ideological differences between the North and South. Sectional differences concerning the legality and morality of slavery are often highlighted in these accounts. Others, like historian John Ashworth, explain that "the origins of the American Civil War "can be traced to the differentiation of the Northern and Southern economies during the first quarter of the nineteenth century."¹⁸ Accounts compelled by the second general logic, by contrast, typically deny the inevitability of the Civil War. These accounts, in addition, generally downplay sectional differences or portray them as the source of common, if not entirely manageable, tensions within the American political order.¹⁹ In these accounts, the causes of the subsequent constitutional collapse are attributed to the destabilizing combination of a small number of inflammatory extremists and the era's unfortunate dearth of statesmen.

Although contradictory in their methodological assumptions and explanatory conclusions, accounts made from both approaches clearly offer many important insights into the structural context and the agency-related forces present in late 1860 and early 1861. The fact, nevertheless, remains that neither set of accounts provides a generally satisfying explanation for why a peacefully-negotiated settlement of sectional differences failed in mid-1861. The basic explanation provided by the first set of accounts is unsatisfactory for two reasons. First, these accounts implicitly assume that environmental or structural conditions broadly orchestrate the decisions of political actors. As such, these accounts implicitly deny the voluntarism and accountability of political decisionmakers by assigning a rough functionalist form of causality onto the structural conditions which existed in 1860. The second reason is empirical: namely, that the specific causal leap taken from the structural context in 1860 to the particular sequences of political decisions seems inappropriately retrospective because numerous historians have demonstrated that for all of the obvious differences between the North and South prior to 1860 there were as many and,

"Civil War: Meanings and Explanations," in Jack P. Greene, Encyclopedia of American Political History, (1984), pp. 251-272; Michael Holt, Political Parties and American Political Development, (1992), pp. 303-22.

¹⁸ John Ashworth, Slavery, Capitalism, and Politics in the Antebellum Republic, (1995), p. 79.

¹⁹ For a recent and more sophisticated version of this second general logic, see Brian H. Reid, The Origins of the American Civil War, (1996).

in all likelihood, more similarities between the sections than at any point since 1776.²⁰

The second set of explanations are equally as unsatisfying although for entirely different reasons. These accounts typically ignore structural influences altogether and instead attribute the causes of the Civil War wholly to the era's political leaders. At the same time, however, the political skills of these statesmen are dismissed as unusually inadequate. Secession and the American Civil War, in this respect, seems to be the culmination of a process of political drift, without any notable compulsion or resistance from the existing context and without much thought or effort by the set of political actors prior to 1860. Not only is the idea of spontaneous political change of this magnitude difficult to imagine, there is little evidence these political actors were any less qualified than those who negotiated peaceful resolutions of prior sectional crises. Indeed, turnover rates for members of the U.S. House of Representatives remained consistently high throughout the Antebellum era. In addition, the question remains why the virulent rhetoric of secession became widely appealing in 1860 while it essentially had been ignored by most Southern and Northern statesmen during the preceding thirty years.

Given the apparent strengths and limitations of existing accounts, an account that explains the 1860-1861 secession crisis in relation to prior sectional crises and that recognizes structural conditions as well as the principal actors, their interests and their decisions immediately prior to American Civil War seems in order.²¹ The constraints of this paper's format make it necessary to state, rather than to report, that my analysis of structural developments between 1790 and 1860 offer no immediately obvious

²⁰ See especially Joel H. Silbey, "The Civil War Synthesis in American Political History," Civil War History, (1964), 10: 130-140; Edward Pessen, "How Different from each Other Were the Antebellum North and South?," American Historical Review, (1980), 85: 1119-49.

²¹ Barry R. Weingast's account of the secession crisis is exceptional in the first respect because it simultaneously explains why the stakes at the end of the 1850s were higher after the second party system collapse compared to prior sectional crises and why secession and civil war remained highly contingent events. See Barry R. Weingast, "American Democratic Stability and the Civil War: Institutions, Commitment, and Political Behavior," Analytic Narratives, Bates, Greif, Levi, Rosenthal and Weingast, eds., (1998).

Richard Bense's account of secession in Yankee Leviathan (1990) is exceptional in the second respect because it recognizes both fundamental structural differences between the sections and a calculus defined in terms of distinct sectional preferences for national governmental authority and an expected shift in sectional decisionmaking capacities. The latter calculus parallels the general theory of constitutional development defined in this account, although this account offers alternative descriptions of the structural conditions as well as of sectional preferences and expectations. As a consequence, our counter-factual speculations concerning the horizon of possibilities in late 1860 and early 1861 and the inferences we draw from them also differ. These differences may be artefacts of the methodological differences between our accounts, or they may well be effected by the different temporal frameworks within which our inquiries are embedded. That is, whereas Bense's perspective on secession is essentially retrospective in that it is the pivotal event that precedes the Civil War, the subsequent failure of Reconstruction, and the creation of a national political economy, this account explains the secession crisis and the initiation of the Civil War from the perspective offered by the preceding eighty years of civil peace and contestation over the substance and meaning of the American union.

long- or short-term sectional differences that necessitated a constitutional crisis between Northern and Southern states in 1861.²² Indeed, since 1790, every state had reaped significant benefits under the constitutional union established in 1787. In addition to generally peaceful domestic and external constitutions, and high rates of demographic growth and sustained (although uneven) economic development, the principal interests within both sections also often succeeded in using the national government to promote or to protect their particular interests. Moreover, by 1860 Northern and Southern states had adopted surprisingly similar institutions of representation.

During the first half of the nineteenth century, relative differences among the sections grew more prominent in several areas, although these differences often were mitigated by shared national experiences or by other more deeply-embedded political commitments and capacities. By 1850, relative changes in the sectional distribution of national representation clearly prompted different sets of political expectations. Nevertheless, this divergence of Northern and Southern expectations concerning each section's national decisionmaking capacities created only the opportunity for constitutional change in the rule of apportionment: it did not foreordain the initial secessions of South Carolina and four other lower South states, the subsequent secessions of six upper South states after the provocations at Fort Sumter, or the commitments by both sections to become engaged in the American Civil War.

Several critical questions concerning the American secession crisis, thus, remain. Why did eleven Southern states voluntarily abandon their long-standing commitment to the American Union? Why did the Northern-state dominated national government resist secession? Finally, why did this attempt to redefine the political relationships between Northern and Southern states culminate in civil war? Coherent answers to these questions, to be sure, require methodological devices that are sensitive not only to contextual conditions and historical sequences of political decisionmaking, but also to the range of possible outcomes and the relative value of these outcomes for each principal political actor. It is towards the specification of the set of outcomes that this study now turns.

The Outcome Set

Although numerous proposals for restructuring the American political order were developed, debated and, on occasion, established prior to 1860, only six alternatives were given serious attention by Northern and Southern statesmen after South Carolina formally seceded December 20, 1860.²³ This

²² See Chapter 8 of my The Bond of Union, ms., (August 1998).

²³ Following Herbert A. Simon, it is assumed that "to understand political choices, we need to understand where the frame of reference for the actor's thinking comes from--how it is evoked. An important component of the frame of reference is the set of alternatives that are given consideration in the choice process." (Herbert A. Simon, "Human Nature in Politics: The Dialogue of Psychology with Political Science," American Political Science Review,

shared conceptual framework included proposals for: 1) constitutional reform of the existing Union; 2) enactment of legal reforms; 3) adoption of symbolic political reforms; 4) the peaceful division of the Union; 5) the coercive resolution of the secession crisis; and 6) maintenance of the political status quo.

The meanings and likelihood assigned to each of these outcomes, to be sure, was neither fixed nor uniformly-distributed among Northern or Southern statesmen. Indeed, historian Roy Nichols reminds us, "the confusing variety of plans and ideas whirling around in the minds of the many who attempted new designs" is difficult to appreciate given the hindsight of their ultimate failure and displacement by the American Civil War. Moreover, "[t]he most significant element in the confusion, and one sometimes lost sight of, was the lack of anything like unity among the inhabitants of the fifteen slave states and their leaders."²⁴

The initial declarations of secession by the lower South States, for example, were compelled and supported by a variety of interests and intentions among the statesmen of the Upper and Lower South. For a small number of these individuals, these formal declarations were intended to be the initial step toward founding a new Southern nation. For many others, however, the act of secession was a means and not an end. As one "secessionist" advocate argued in January 1861:

Secession is not intended to break up the present government, but to perpetuate it . . . we go out for the purpose of getting further guarantees and security for our rights . . . our plan is for the Southern States to withdraw from the Union for the present, to allow amendments to the Constitution to be made, guaranteeing our just rights.²⁵

Northern statesmen also interpreted "secession" in a variety of ways. Initially, most disregarded the first secessionist declarations because the threat of secession, although never before acted upon, had become commonplace during the past thirty years. As negotiations appeared to stalemate between the "secessionists" and "Unionists," northern state leaders increasingly perceived "secession" as a bargaining tool designed to increase the South's political leverage within the national government. As such, numerous individuals within the North counseled strongly against any capitulation to the demands of their

(1985), 79: 302).

²⁴ Roy Nichols, Blueprint for Leviathan: American Style, (1963), pp. 141-42.

²⁵ As quoted in Jesse T. Carpenter, The South as a Conscious Minority, ([1930], 1963), p. 167. Additional contemporaneous observations could be recited. See statement by former Tennessee Senator John Bell in December 1860 in Roy F. Nichols, Blueprints for Leviathan: American Style, (1963), p. 145.

Southern cohorts.²⁶

Before attempting to reconstruct the sequence of decisions that culminated in the American Civil War, three generalizations concerning the orientations of American political leaders in early 1861 will prove useful. The first generalization is that although there clearly was a diversity of opinions concerning the benefits and possibilities of renegotiating the terms of the American political order, reactions to South Carolina's declaration of secession in December 1860 suggest that, at a more general level, there also were distinct "Northern" and "Southern" reactions to this possibility. Additional inspection of these reactions, moreover, suggests that the latter sectional orientation can further be subdivided into distinct "Upper South" and "Lower South" reactions. These classifications, of course, are analytical constructs but they are not unimportant because they provide an historically-grounded basis for modeling the diversity of opinions and interests concerning secession in terms of a smaller (and, therefore, more manageable) set of unitary actors.

The second generalization is that the differences between Northern and Southern orientations turned on their perceptions of the derivative benefits and costs of secession. Southern leaders (in both the Upper and Lower South) generally perceived secession as an opportunity to negotiate for more favorable terms than were provided under the existing constitutional order. By contrast, most Northern leaders (especially, Republican Party members) generally perceived secession in terms of relative and absolute losses. The latter set of leaders, consequently, was notably reluctant to engage in both formal and informal negotiations. Indeed President-elect Abraham Lincoln privately counseled his fellow Republicans: "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.... Stand firm. The tug has to come, and better now than at any time hereafter."²⁷

The final generalization is that during the initial months of 1861 neither the Northern state-dominated Union nor the secessionist states of the Lower South possessed the capacity to establish the terms or boundaries of their political existence. To be sure, there were Southern leaders who believed that by unilaterally recalling their representatives from Washington, the national government would collapse. Still others confused the parchment framing of a southern Confederacy with the existential articulation of a new political order. Similarly, there were Northern leaders who believed that by simply

²⁶ See, for example, New York Evening Post editorials by William Cullen Bryant in New York Evening Post, September 26, 1855 and October 1860 in Power for Sanity: Selected Editorials of William Cullen Bryant, (1994), pp. 383-84, 380.

²⁷ Lincoln to Lyman Trumbull, December 10, 1860, as quoted in David M. Potter, Lincoln and His Party in the Secession Crisis, ([1942], 1970), p. 157.

ignoring the secessionists the constitutional terms of the old Union would remain unimpeached and unaffected. More serious persons, never enchanted by these political fantasies, understood that the peaceful resolution of the secessionist crisis necessitated a bargaining process directed towards a commonly acceptable outcome. And the most sober of these individuals understood that beyond the consensual reconstitution of the American Union lay the uncertainties of more coercive means of reconciling their differences. Negotiations between these consensual and coercive paths began in earnest only after the first secessionist declaration was issued in late December 1860. It, therefore, is to the description of the six general solutions of the outcome set that this chapter immediately turns.

Constitutional Reform

The first outcome called for the constitutional reform of the existing terms of the American political order. Numerous constitutional amendments were proposed publicly and privately by Northern and Southern political leaders.²⁸ Among others, several of these amendments called for the constitutional affirmation of the individual right to enslave others as property. Other amendments proposed more direct modification to the existing rule of apportionment by guaranteeing sectional equality within the U.S. Supreme Court or by creating a new double national Executive consisting of a representative from each section.

Legal Reform

The second outcome called for the legal (or statutory) reform of the authority and capacities of the national government. Among others, these reforms included the addition of new slave states into the Union, active federal enforcement of the 1850 Fugitive Slave Act, federal recognition of the right of slave property within federal territories, and federal assistance against abolitionist agitation within the South.²⁹

Symbolic Reform

The third possible outcome considered by Northern and Southern statesmen called for the establishment of symbolic political reforms. This outcome offered little to the secessionist states except a political opportunity to rejoin their fellow states within the existing Union. Among others, these reforms included a promise for a constitutional convention to address Southern state concerns, repeated assurances that the federal government would not abolish slavery where it existed, and sectionally-sensitive appointments to President Lincoln's Cabinet.

²⁸ See Carpenter, The South as a Conscious Minority, ([1930], 1963), p. 166.

²⁹ See Nichols, Blueprint for Leviathan: American Style, (1963), p. 135.

Peaceful Separation

The fourth possible outcome of the secession crisis was the peaceful division of the United States.³⁰ Like the other outcomes, this was not a new idea in 1860: indeed, separation from the Union had been proposed as far back as the 1787 Constitutional Convention--although, over the intervening years, the advocates and lines of division often had changed. By 1860, numerous individuals within the North openly advocated allowing the Southern states to secede. Clearly, however, the most vocal advocates for separation and for the creation of a new southern confederacy were from the Lower South states.³¹

Coerced Union/Separation

Unlike the five other outcomes, the fifth outcome possibility resolved the secession crisis through coercion. Few individuals, it seems certain, initially foresaw this outcome as leading to a protracted and massively-destructive civil war. Indeed, Southern proponents confidently suggested that only a small show of force by the secessionists would be necessary to repel the then-minuscule Union army. In the North, few publicly pushed for the use of force against the secessionists. However almost a full year before the secession crisis, the New York Evening Post editorialized: "If the controversy ever comes to a division of the Union, the North will wait for no convention; the people of the free states will occupy first and negotiate afterwards with the advantage of possession on their side."³²

Status Quo

The sixth and final outcome was maintenance of the political status quo. Like the other outcomes, this outcome had numerous interpretations. For many, the status quo was defined by its most immediate, short-term characteristics. By the end of 1860, the political status quo had been disrupted in highly unusual ways. The election of Abraham Lincoln broke the Democrats' influence over the White House. Lincoln, moreover, won like no prior presidential candidate: without a single southern state Electoral College vote. Despite this clear setback for the South, Lincoln received only 39.7% of the popular vote in a four-candidate race. Moreover, according to historian Michael F. Holt, "few people

³⁰ For detailed conceptual histories of the idea of Union prior to the Civil War, see Paul C. Nagel, One Nation Indivisible: The Union in American Thought, (1964); John McCardell, The Idea of a Southern Nation: Southern Nationalists and Southern Nationalism, 1830-1860, (1979); Clive S. Thomas, American Union in Federalist Political Thought, (1991). For a briefer account of the idea of Southern separatism, see Jesse T. Carpenter, The South as a Conscious Minority, 1789-1861, ([1930], 1963), pp. 171-220.

³¹ See Nichols, Blueprint for Leviathan: American Style, (1963), p. 147.

³² William C. Bryant, [editorial in New York Evening Post, January 20, 1860] in Power for Sanity: Selected Editorials of William Cullen Bryant, (1994), p. 377.

in the 1850s and 1860s anticipated that the Republicans would remain the permanent . . . anti-Democratic party in American politics.³³ The Democrats, after all, controlled Congress in the immediate aftermath of the 1860 election and the Supreme Court was composed of the same individuals who recently had handed down the infamous Dred Scott decision. As a result, in the words of Stephen A. Douglas, the newly-elected Republican President was effectively "tied hand and foot, powerless for good or evil."³⁴

For many (and arguably most) of the individuals who became seriously engaged in the secession crisis in 1861, maintenance of the status quo had far more significant long-term consequences. For most Southern statesmen, the long-term prospects associated with the political status quo were especially worrisome. The abolitionist movement, for one, had been invigorated by the 1860 election and, no doubt, encouraged to pursue this moral mission in future national and state elections. The South's traditional control of the Supreme Court also was threatened by the probable retirement of seven Justices on the Taney Court. At minimum, Lincoln's federal district court appointments promised a new kind of thinking about the normative dictates of the U.S. Constitution, the powers of the federal government, and the constitutional rights of slaveholders.³⁵

More importantly, the anticipated decennial reapportionment of the U.S. House of Representatives in 1861 promised to transfer additional representation from Southern to Northern states.³⁶ In the Senate, the long-awaited admission of Kansas as a free state finally was completed in January 1861, further increasing the North's majority. Together, these changes promised to reduce the South's Electoral College share before the next presidential election in 1864. Table 1 projects the South's relative strength as it likely appeared to those who surveyed the frontiers of national representation in 1860.

³³ Michael F. Holt, Political Parties and American Political Development, (1992), p. 333.

³⁴ See Roy F. Nichols and Eugene H. Berwanger, The Stakes of Power, (1982), p. 92; Bruce Levine, Half Slave and Half Free: The Roots of Civil War, (1992), p. 228.

³⁵ Dwight L. Dumond, The Secessionist Movement, 1860-1861, (1931), p. 18.

³⁶ The likely sectional consequences of the next House reapportionment was a subject of discussion in both the North and South. At the framing of the Confederate constitution, for example, most of the newspapers in Montgomery, AL contained an analysis. In February 1861, moreover, the Philadelphia Inquirer editorialized that although the North and South were roughly equal in 1800, the Southern states had fallen "eight votes behind the Free States in the Senate, and about sixty-two in the lower House, under the next apportionment, and consequently in a minority of seventy in the election of the President. This, so far as a political power in the Union depends upon mere representative force, puts them at our mercy, or our justice or magnanimity--a dependency that we would be as slow to accept as they are to rely upon. . . . The North has been provoked and driven into sectionalism; the South is beaten, punished and humbled for its many transgressions. . . ." (See Roy F. Nichols, The Disruption of American Democracy, (1948), pp. 460-61; Allan Nevins, The Emergence of Lincoln, (1950), II: 311; and "Adjustment, Compromise, Concession," Philadelphia Inquirer, February 23, 1861, in Northern Editorials on Secession, H.C. Perkins, ed., (1942), I: 284-85).

Table 1: Distributional Frontiers of National Representation in 1860

| | House of Representatives* | | | Senate** | | | Electoral College*** | |
|-------|---------------------------|-----------|--|----------|-------|--|----------------------|-------|
| | 1860 | 1863-1873 | | 1860 | 1870 | | 1860 | 1864 |
| North | 62.0% | 63.5% | | 54.5% | 58.3% | | 60.4% | 61.8% |
| South | 38.0% | 36.5% | | 45.5% | 41.7% | | 39.6% | 38.2% |

* Before the 1860 Census, Northern states had 147 members in the House, Southern states had 90 members. The House reapportionment was completed in July 1861: the North received 148 members, the South 85 members. Percentages do not include 1862 Supplemental Apportionment Act (12 Stat. L. 353) which added eight members to the House: seven to Northern states, and one to a Southern border state.

** The distribution of representation in the Senate by 1870 requires more speculation than the apportionment of representatives in the House of Representatives. Calculation of the North's representation by 1870 is guided by the admission of three additional states before 1870 (Kansas, 1861; Nevada, 1864; Nebraska, 1867). Expectations in 1860 for the admission of additional Southern states were small, therefore the South's representation is assumed to remain stable.

*** Calculations for the 1864 Electoral College representation account only for the admission of Kansas in January 1861 and the 1861 House reapportionment.

Although short-term changes in the distribution of national representation likely concerned only a small number of highly-engaged individuals, the anticipation of longer-term changes prompted divergent sectional expectations concerning future divisions of representation. Amidst numerous special causes, therefore, the distributional logic of the original Constitution's rule of apportionment was the common, general cause that made secession both plausible to Southern leaders and an anathema among Northern leaders. Moreover, the fact that the original apportionment rule was elemental to the constitutional agreement in 1787, to the development of the American political order between 1790 and 1860, and to the wholesale constitutional collapse in 1861 exposes, among other things, a latent contradiction embedded deep within the theory and practice of a republican constitution. For once the core republican ideals of self-rule and of majoritarianism became part of the pattern of thought by which the principal interests of the Antebellum era and their political agents commonly understood their right to govern and the process of governance, a breakdown in the constitutional consensus among these interests and agents became conceivable (if not, expected) when the latter process was anticipated as foreclosing the former right.³⁷

³⁷ The eruption of the contradiction between the ideals of majoritarianism and self-rule into the public discourse of the 1860-1861 secession crisis was, in many respects, the surface phenomenon of a much deeper tension embedded within the original American synthesis of the discourse of republicanism with the American Revolution's nationalist (if not indeed imperialist) aspirations. For the former, despite the subsequent reworking in The Federalist, was and remained the genetic progeny of the Revolutionary era's oppositionalist discourse and the latter, despite unequivocal constitutional commitments to federalism, displayed inexorable tendencies towards expansion

By 1860, the self-styled intellectual leadership of the South had long been engaged in various (although often inconsistent) ways of recasting the republican tradition to avoid the adverse effects of this contradiction. Most prominently, the widely-embraced theory of "states rights" emphasized the primacy of the self-rule component within the republican tradition. Once, however, an acceptable baseline of national representation was no longer anticipated for the South the renegotiation of the national rule of apportionment (broadly understood as the institutionalized division of collective decisionmaking authority) became a matter of both practical and theoretical necessity. For many, especially sectional ideologues like Calhoun, the need for and the theoretical justification of an alternative rule had been conceived decades prior to 1860. For others, like the statesmen of the Upper South, the projected benefits of a new apportionment rule were conceded but the risk and potential costs associated with this constitutional change tempered support for the act of secession until a negotiated resolution was foreclosed in the aftermath of Fort Sumter.

From its initial conceptualization, therefore, the common purpose and appeal of secession among Upper and Lower South statesmen did not arise from latent nationalist aspirations, but from the disappointment and anticipation of the past and future consequences of the apportionment rule adopted in 1787. As Virginian James Scott concluded in his 1860 treatise The Lost Principle, so (no doubt) did many other Southern statesmen: "The grand defect of the Constitution," according to Scott, "was to have rested the power upon a fluctuating basis like that of population." "The result of the arrangement," he added, "has been to swell the representative power of the commercial classes of the North, and to increase the preponderance over the South, by the wealth derived from the export and import trade of

and consolidation. Whereas the latter aspirations for nation- and empire-building seemed relatively easy to satisfy through the trials and rewards of western expansion, the peculiar American form of republicanism continuously prompted the construction of political identities in relation to (or, more accurately, in opposition to) others. As long as this oppositional 'other' was perceived to be external to the American constitutional order--for example, the British, the French or the various indigenous peoples--the expression of the idea of national consolidation within the familiar cadences of American republicanism did not seem particularly contradictory. The periods, however, when oppositional identities were imagined, constructed and sustained almost exclusively from the substance of domestic antinomies--for example, North-South, Federalist-Republican, free-slave, native-immigrants, Protestant-Catholic--the ideas of nationalist consolidation and expansion were perceived by some to have especially threatening and exploitive consequences. The republican-nationalist synthesis, nevertheless, remained complete: for despite the persistent fears of victimization by a domineering metropolis, the desire for national expansion (albeit, in increasingly more selective forms) remained unsatiated. The integration of this oppositional form of republicanism into the political discourses of the Southern states proved especially problematic. For the imagined racialist divisions that continuously and, in time, almost exclusively were used to construct oppositional identities at the state level ultimately limited the possibilities and credibility of alternative identity formation at the national level. For deeper penetration of these core issues and of the republican-imperial synthesis, see Peter Onuf, "American Revolution and National Identity," Mellon Sawyer Seminar, Johns Hopkins University, 20 April 1998; and Peter Onuf, "Federalism, Republicanism, and the Origins of American Sectionalism," in All Over the Map, (1996), pp. 11-37.

the South." In short, "the sages of Philadelphia had subjected the federal machine . . . to the control of that very despot, Numbers, against which the English constitution has so carefully guarded."³⁸ Scott, therefore, concluded:

It is not going too far to say, that never was there a more splendid failure in government, never a more wretched conclusion of a grand and ostentatious experiment. . . . [I]t was the great delusion of the century that gave it birth--it has well nigh ruined the oldest and richest part of the Confederacy--it has pampered with ill-gotten riches the frozen hills and bleak valleys of New England--it has corrupted by the extravagant and lawless expenditures to which it has given birth, the morality of a portion, and will, unless amended or destroyed, gradually undermine that of the whole people--it has embittered into deadly hate the animosities between North and South. . . it has done all this, because of the vice which its makers introduced in the representation, which, like an error in the first concoction, must be followed by disease, convulsions and finally death itself.³⁹

After 1820, by contrast, Northern leaders increasingly became optimistic about the long-term benefits which they expected from the original Constitution's apportionment rule. As the national decisionmaking capacities of the northern states increased and began to coalesce as a viable coalition within Congress, so did the North's commitment to a more legalistic and more nationalistic conceptualization of the American Union.⁴⁰ Coupled with this significant conceptual change, by 1860 Northern statesmen also had become increasingly indignant about the customary practice of capitulating to Southern demands in the face of the North's clear numerical superiority over the South.⁴¹ Northern anti-slavery advocates, thus, were not the only individuals who self-righteously envisioned a "northern tier of states, from one ocean to the other. . . pressing down thus more and more heavily on the confines of slavery. . . till finally it will be discovered that the laws of population are themselves abolitionists."⁴² Northern statesmen not surprisingly regarded secessionist declarations as blatant denials of demographic realities and as brash attempts to renege on a constitutional agreement which had bound North and South

³⁸ John Scott, (pseud., "Barbarossa"), The Lost Principle, (1860), pp. 193, 217, 130. See also Edward A. Pollard, The Lost Cause, (1866), pp. 58-59.

³⁹ Scott, The Lost Principle, p. 217.

⁴⁰ See Kenneth M. Stampp, "The Concept of a Perpetual Union," Journal of American History, (1975), LXV: 5-32.

⁴¹ See Michael F. Holt, The Political Crisis of the 1850s, (1978).

⁴² As quoted in Robert Wiebe, The Opening of American Society, (1984), p. 361. See also Hinton R. Helper, The Impending Crisis of the South, (1857).

alike for the past seventy years. As one Northern newspaper editor argued in January 1861, the North's only "offence is that they are free. . . . Their crime is the census of 1860. Their increase in numbers, wealth, and power is a standing aggression" to the South.⁴³

Given the incongruities between the raw Northern-state dominance of the national government in 1860 and Southern statesmen's persistent claims to retain their traditional right of self-rule, the majoritarian component of republican theory became the conceptual cudgel of choice for many Northern statesmen. In his First Inaugural Address, for example, President Abraham Lincoln acknowledged the core issue of the secession crisis was "[i]f by the mere force of numbers a majority should deprive a minority of any clearly written constitutional right, it might in a moral point of view justify revolution. But," he added, "such is not our case." Without moral justification for revolution, the options for resolving the crisis and for preserving the constitutional principle of majority rule were clear to Lincoln:

If the minority will not acquiesce, the majority must, or the Government must cease. There is no other alternative, for continuing the Government is acquiescence on one side or the other. If a minority in such case will secede rather than acquiesce, they make a precedent which in turn will divide and ruin them, for a minority of their own will secede from them whenever a majority refuses to be controlled by such minority.⁴⁴

In addition to the clear divergence of sectional expectations concerning the long-term division of national decisionmaking capacities, expectations for national governmental authority also differed between the two sections. Since 1787, the principal interests within both sections had been successful in securing national-level commitments for many of their particular interests. By 1860, both sections clearly expected the authority and capacities of the national government to expand. Each section, however, wanted to extend national governmental authority toward fundamentally different (although not mutually-exclusive) purposes.

The principal interests within the Northern tier of states generally wanted their agents within the national government to secure new protective tariffs, more liberal federal land policies, and federal railroad subsidies. With a Northern-state preponderance in Congress and the 1860 election of the pro-North and pro-growth Republican Abraham Lincoln, fulfillment of these northern expectations was a conceivable, if not probable, political possibility. The principal interests within the Southern tier of states were similarly activist: unlike their northern counterparts, however, they wanted their national-level

⁴³ "The Question of the Hour," The Atlantic Monthly, (January 1861), 7: 117-120.

⁴⁴ Lincoln, "First Inaugural Address," in A Compilation of the Messages and Papers of the Presidents, James D. Richardson, ed., (1897), 6: 9.

agents to secure credible national commitments for territorial expansion into Central America and the Caribbean, and for federal recognition and protection of slavery as a positive individual right.⁴⁵ Lincoln's election and the Republican Party's strength in Congress after the 1860 elections likely guaranteed that these Southern expectations would remain unfulfilled for at least the immediate future.

The combination by late 1860 of Southern expectations for smaller net benefits and higher negotiation costs within the existing Union suggests a plausible motive for the subsequent act of secession. Secession, nevertheless, remains a puzzling overreaction to a single electoral loss. For not only was it conceivable that these unfulfilled expectations were only temporary short-term losses, it also must be conceded that the South (both as a section and as individual states) received a substantial and nearly-certain stream of benefits under the existing Union. As a result, the suggested calculus of secession would seem to entail forsaking a guaranteed and non-trivial stream of benefits under the status quo for an uncertain and costly attempt to secure an unpredictable stream of benefits under a hypothetical alternative constitutional order.

The puzzle of Southern secession, thus, awaits a more adequate solution. Consider the model of expected utility streams for the South and North represented in Figure 9.1. For both sections, the *absolute* benefits accruing from their voluntary participation within the Union were expected to increase over time. Notably, however, the *relative* differences between the expected utilities of the North and the South also were expected to increase over time. As a result, in the absence of any consideration of the risks and costs of change, secession becomes an appealing option when relative differences were anticipated as ultimately destroying the South's capacity to maintain their decisionmaking parity with the North.⁴⁶ Put more simply, although the principal interests within the South had and likely would continue to benefit under the existing constitutional order, Southern statesmen (especially those with investments in or attachments to a sectionally-centered political identity) were motivated to secede from the Union because of their fears of becoming politically irrelevant within the national government.

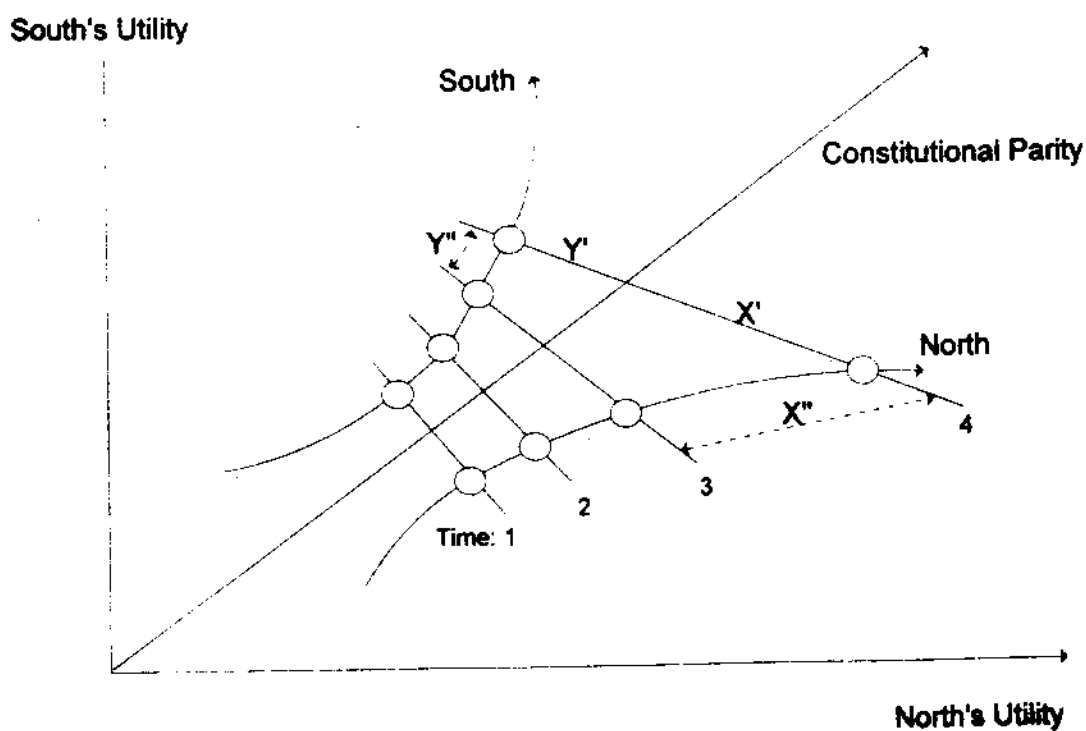
If the desire to rule was the general motive compelling secession, why did the North resist the lower South's decision to secede and why were Northern statesmen in this crisis seemingly unwilling to negotiate a peaceful resolution of this constitutional crisis? Again, Figure 9.1 suggests a logic for understanding the North's motives. For prior to the 1860 crisis, the North's willingness to negotiate with

⁴⁵ On the generally increasing nature of South demands for national-level protection of their sectional interests, see William J. Cooper, The South and the Politics of Slavery, 1828-1856, (1978).

⁴⁶ For a theoretical discussion of the conditions under which political actors focus upon absolute and relative gains, see Robert Powell, "Absolute and Relative Gains in International Relations Theory," American Political Science Review, (1991), 85: 1303-20.

the South effectively allowed the section to enjoy an uninterrupted stream of absolute and collectively-produced benefits under the existing constitutional order. The secession of the states of the lower South, thus, was resisted by the North because it effectively diminished the North's expected stream of future constitutional benefits. But why not purchase the South's return with concessions? Figure 9.1 offers an answer in terms of the relative differences between the sections (expressed as the increase in the distance X' over time compared to Y' over time). For each time the North granted concessions under the shadow of Southern demands or threats, the North conceded an increasingly greater potential gain. As a result, maintenance of the original constitutional parity between the sections became too costly for the North. And as the North grew self-conscious of its numerical supremacy, it also no longer perceived an immediate basis or longer-term benefit from acknowledging the South as an equal at the negotiation table.

Figure 4: Absolute and Relative Utility Streams under Constitutional Contract



A Game Theoretic Analysis of the Secession Crisis

Given that the configuration of political expectations by the end of 1860 made some form of constitutional change possible, what were the immediate conditions that transformed the long-term relationship between the Northern and Southern states into the American Civil War? Three game-theoretic models will aid this account's explanation of this final puzzle. Unlike many normal form game-theoretic models, a temporal dimension is integrated into each of these models.

The first model, the decision-tree in Figure 9.2, represents the process that ultimately yielded the Civil War as a sequence of decisions between two principal actors: the "North" and the "South." In this model, both actors are motivated to act in response to their relative representational positions: a positive representational position prompts a response for the status quo; a negative representational position prompts a response for alternatives to the status quo.⁴⁷ On the far left of this model, the South is depicted in a negative representational position after the 1860 election. At t_1 (or between November 1860 and January 1861), the South rejects the status quo by declaring its intention to secede from the Union--note emboldened path. Indeed, between December 20, 1860 and February 1 1861, seven lower South states formally declared their intentions to secede. The remaining upper South states did not issue similar declarations, although none formally renounced the possibility of secession. As signified after t_1 , the South's decision to disrupt the status quo threatened to diminish the relative value of the North's representational superiority under the existing rule of apportionment. At t_2 , the North responded by refusing to recognize the legitimacy of unilateral declarations for secession.

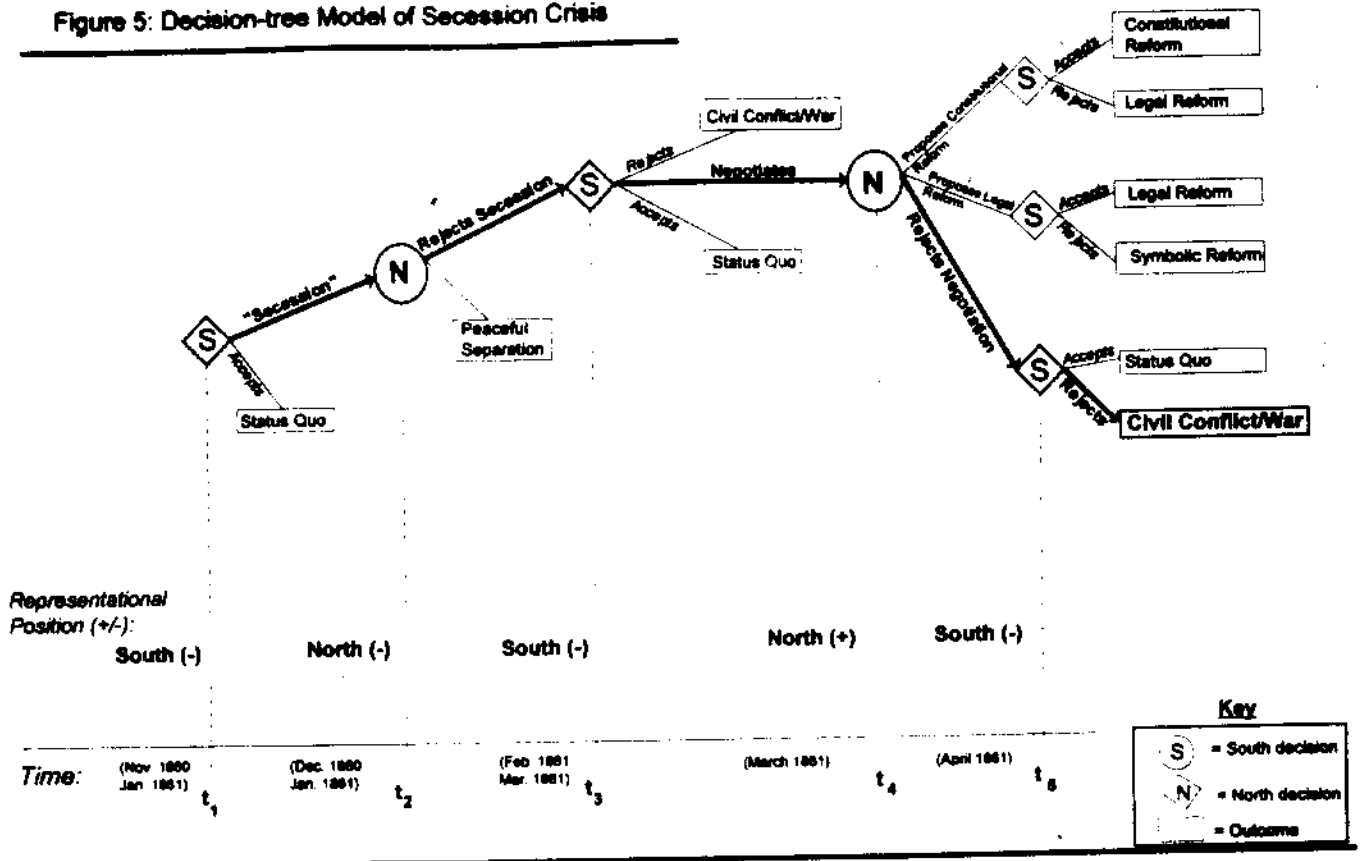
The North's *de facto* invalidation of the original secessionist declarations returned the South to its initial negative position--that is, under the Constitution's rule of apportionment--and forced the Upper South states to reconsider the goals and likely consequences of secession. For these undecided states, three options emerged: 1) acceptance of the political status quo; 2) negotiation of a settlement to the crisis; or 3) rejection of the status quo and its likely effect of inducing some kind of civil conflict with the North, possibly even a civil war.⁴⁸ Faced with these options, the states of the upper South repeatedly refused to join the lower South in secession. At the same time, however, these states did not

⁴⁷ This account of events after the 1860 election parallels the historical accounts of Daniel W. Crofts, Reluctant Confederates: Upper South Unionists in the Secession Crisis, (1989); David M. Potter, The Impending Crisis, 1848-1861, (1976), pp. 485-554; William Barney, The Road to Secession, (1972), 161-209; and David M. Potter, Lincoln and His Party in the Secession Crisis, (1942), pp. 156-375.

⁴⁸ Most historians agree that the introduction of force to the secession crisis was not understood at the time as necessarily inducing a protracted civil war. See David Potter, The Impending Crisis, (1976), pp. 223-24; and William Barney, The Road to Secession, (1972), p. 197.

disavow the secessionist states or their alleged right to secede. At t_3 (or, between February and March 1861), the South continued to support secession but implicitly signalled its willingness to negotiate an end to the crisis. Because it is plausible to assume that the North would have controlled the negotiation process, the North is represented as having a positive representational position at t_4 (or March 1861).

Figure 5: Decision-tree Model of Secession Crisis



Why then civil war? The division of the states of the South into two distinct subgroups was a critical development because it undermined the section's capacity to bargain for constitutional changes (especially, changes in the rule of apportionment). Not surprisingly, few Northern leaders were motivated to engage the South in negotiating an end to the secession crisis.⁴⁹ By April 1861, or at t_5

⁴⁹ Before adjourning, the 36th Congress proposed a constitutional amendment prohibiting interference with slavery in the states where it then existed. Lincoln endorsed this amendment during his First Inaugural Address. The amendment, at bottom, was only a *symbolic* reform because it promised only to constitutionalize the political status quo in which the South was and could expect to remain a national representational minority.

on the decision tree, Southern leaders therefore faced the options of either accepting what they considered "the hated badge of a [minority] section" or testing the North's willingness to resolve this standoff with coercion.⁵⁰ Ultimately, the South elected to endure the latter trial with history.

As portrayed in this first model, the South's final decision was not only rational and irrepressible but the North's response and the subsequent initiation of the American Civil War seem inevitable. If, however, such gross violations of the civil peace require a more precise assignment of political accountability, this model clearly offers only a partial solution for the still puzzling civil war outcome. A second model supplements this account by providing a fuller elaboration of the indeterminacy and tragedy of the final decisions made by the North and South. To construct this model, consider the ordinal-level ranking of each section's preferences among six possible outcomes for resolving the secession crisis.⁵¹

Privately, President-elect Lincoln reluctantly endorsed one additional reform by which the territory of New Mexico would be admitted as a slave state. Again, the effect was primarily symbolic because the territory's population was minuscule. Moreover, few expected New Mexico to remain a slave state. Thus, the political or economic benefits of this concession were foreseeably small.

From the South's perspective, an example of an appealing legal reform with representational consequences was the westward extension of the 36°, 30' line. With this reform, the South would not receive immediate representational parity with the North, but it opened the possibility for admission or acquisition of additional states south of the line. Early in the crisis, according to historian William Barney, "Southern leaders indicated that this blank check for future expansion of slavery was the one plan that might possibly forestall secession." (The Road to Secession, p. 192).

Examples of constitutional reforms discussed during the crisis include a "double" or "rotating" Executive, a concurrent sectional veto, and a broad reinterpretation of the constitutional right to own and to acquire enslaved persons.

⁵⁰ James Scott, The Lost Principle, (1860), p. 127.

⁵¹ This model is a means of representing the totality and complexity of a train of political decisions and their ultimate consequences in an historically accurate and logically consistent manner. These particular ordinal rankings were the result of the following method. First, the set of viable outcome possibilities was identified as they commonly were perceived by the relevant political actors who became engaged in the secession crisis between December 1860 and April 1861. Second, for each set of actors these outcomes were divided into categories reflective of their net values as they were contemporaneously perceived: the general values of "positive," "neutral/indeterminate," and "negative" are sufficient for this general purpose. Thirdly, within each of these categorical subsets, an ordinal ranking of the outcomes was completed. In many cases, this method of ranking will require an interpretive judgment based upon the available historical evidence and the relevant secondary literature--for example, the ordinal elevation of the North's preference for the "Status Quo" over the "Symbolic Reform" outcome is supported by both evidentiary and interpretive warrants. In other cases, these warrants will not be sufficient to produce a definitive ordinal ranking between two outcomes. Under these conditions, logical relational inferences can be drawn to support a ranking--for example, it can be inferred from the expected costs of even a limited military engagement with the North that the South preferred a "Peaceful Separation" outcome to the "Civil Conflict/Civil War" outcome, although there is ample support that both outcomes generally were perceived as having net positive values. Finally, to ensure the utility of this methodology, the ordinal rankings of outcome preferences was completed prior to their application within the subsequent game theoretic matrices.

Table 2: North and South Outcome Preferences

| <u>Preference:</u> | <u>Actor:</u> | <u>North</u> | <u>South</u> |
|--------------------|---------------|------------------------|---|
| | Most | | 6. Status Quo 5. Symbolic Reform 4. Legal Reform 3. Civil Conflict/Civil War 2. Constitutional Reform |
| Least | | 1. Peaceful Separation | 1. Status Quo |

For the North, in brief, four of the six outcomes had positive net values. Of these, the North's most preferred outcome was the constitutional status quo because the terms of the original Constitution promised both immediate and future benefits for the section. Its second and third outcome preferences were to end the secession crisis with either a symbolic or legal reform for these solutions offered incentives for the South to abandon secession without necessarily or fundamentally altering the North's relative representational advantage. By contrast, the remaining two outcomes had negative net values for the North. Of these, the North's least preferred outcome was the peaceful separation of the South because it not only undermined the North's constitutional authority to govern the nation, it squandered the section's superior capacities to coerce the South to capitulate.

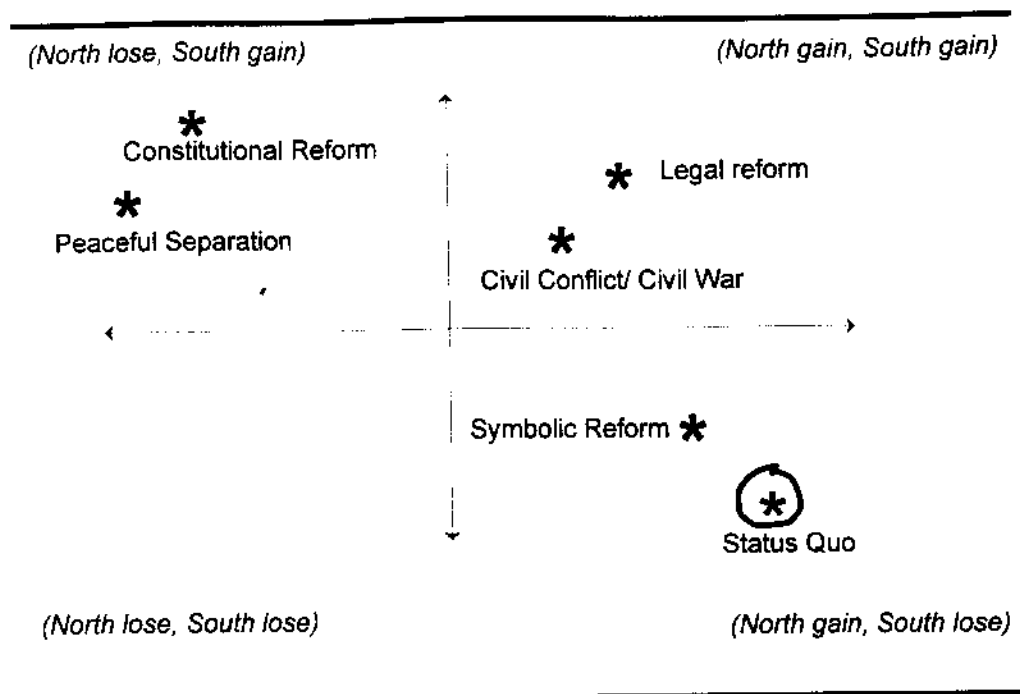
The order of the South's outcome preferences was conspicuously different than for the North. The South's most preferred outcome was to remain within the Union and to end the secession crisis with a constitutional reform that offered more permanent representational guarantees for the section's principal interests. A legal reform with representational benefits was the South's second best outcome because--as Northern leaders feared--it also invited attempts to gain additional representational concessions in the future.⁵² Unlike the North, the status quo was the least preferred outcome because this outcome promised a long-term decline in the South's national representation.

Figure 6 plots these sectional outcome preferences and, thereby, offers a partial glimpse of the difficulties and possibilities of achieving a consensus between the North and the South. Whereas the outcomes located in the northwest and southeast quadrants suggest outcomes that were not likely bases for a negotiated settlement, the two outcomes in the northeast quadrant (that is, "North gain, South gain") were perceived by both actors as mutually beneficial. Again, however, it must be noted that the North's

⁵² See, for example, "Abraham Lincoln to Rep. James T. Hale," (January 11, 1861), John G. Nicolay and John Hay, eds., Works of Abraham Lincoln, (1905), 6: 93; as quoted in David M. Potter, Lincoln and His Party in the Secession Crisis, (1942), p. 160, n.11; 218-24.

most preferred outcome was the "Status Quo" which appeared obtainable either through the consent or coercion of the South, or upon the collapse of the secessionist movement.

Figure 6: Expected Relative Outcome Values for North and South



In addition to the configuration of outcome preferences, the decision matrix model presented in Table 3 presents the range of decisionmaking options available to each section during this crisis. The South's options were limited to "No Action" (column 1) or "Secession" (columns 2, 3, 4). Because the South was not capable of unilaterally effecting a final outcome to the crisis except by initiating some form of civil conflict, the option of "Secession" is depicted as a means to a range of intended outcomes.⁵³ More specifically, secession is portrayed as a means for attaining one of three intended outcomes: legal reform, constitutional reform, or separation. The range of the North's responses are defined as: "Reject," "Negotiate," or "Affirm" (rows 1, 2, 3).

Table 3 also identifies the most likely outcomes derived from the intersection of Southern and Northern options. When an outcome is not immediately suggested and the historical record provides

⁵³ There is strong historical support for this treatment. See, for example, the statement of Alexander H. Stephens in David M. Potter, *Lincoln and his Party of Secession*, (1942), p. 230.

inconclusive guidance, the outcome selected reflects the North's superior negotiation and enforcement powers. If, for example, the South is perceived as using the threat of "Secession" to achieve only a legal reform (column 2) and the North "rejects" this outcome (row 1), then the probable outcome is the "Status Quo" because the South has neither the will nor the means to effect another outcome. Similarly, if the South is perceived as committed to using "Secession" to achieve separation (column 4) and the North decides to "negotiate" (row 2) to preserve the Union, then the final outcome likely will fall short of the South's intended goal because of the North's superior resources to secure negotiations with a majority of the Southern states.

Table 3: Secession Decision Matrix

| SOUTH: | No Action | "Secession" to gain: | | |
|-----------|-----------------------|----------------------------|----------------------------------|----------------------------------|
| | | --Legal Reform | --Constitutional Reform | --Separation |
| NORTH: | | | | |
| Reject | 6 , 1 [Status Quo] | 6 , 1 [Status Quo] | 6 , 1 [Status Quo] | 3 , 3 [Civil Conflict/War] |
| Negotiate | 6 , 1 [Status Quo] | 5 , 2 [Symbolic Reform] | 4 , 5 [Legal Reform] | 2 , 6 [Constitutional Reform] |
| Affirm | 6 , 1 [Status Quo] | 4 , 5 [Legal Reform] | 2 , 6 [Constitutional Reform] | 1 , 4 [Peaceful Separation] |

Key:

{X, Y} = {North, South}

6 = Most Preferred Outcome

1 = Least Preferred Outcome

By narrowing the options of the North and the South to those most reflective of the final stages of the secession crisis, the decision matrix can be streamlined and made even more historically realistic. Specifically, the South's decision to take "No Action" (column 1) and the North's decision to "Affirm" (row 3) can be eliminated. In addition, because the North's superior negotiation and enforcement powers effectively deny the South representational benefits if it is perceived as using "secession" only as a threat for "legal reform," this option (column 2) also can be eliminated.

As Table 4 illustrates, the South's final options were restricted to "Constitutional Reform" or "Separation," and the North's options were "Reject" or "Negotiate." After an ordinal reranking the preferences of the North and South, the tragedy of the Civil War becomes readily apparent. For the

logical resolution of the crisis given this set of options and outcome preferences is civil conflict/civil war (row 1, column 2) because the North's highest outcome preferences (its "dominant strategy") are obtainable only if it continues to "reject" (row 1), and the South's highest preferences are obtainable only as long as it is perceived as committed to "separation" (column 2). The tragedy of the civil war outcome, therefore, is that the North and South both could have attained more preferred outcomes if only they had agreed to compromise to effect a legal reform of the political status quo (row 2, column 1).

Table 4: The Paradox of Civil War

| | SOUTH | |
|-----------|---|------------------------------------|
| | "Secession" to gain: Constitutional Reform | "Secession" to gain: Separation |
| NORTH | | |
| Reject | 4 , 1 [Status Quo] | 2 , 2 [Civil Conflict/War] |
| Negotiate | 3 , 3 [Legal Reform] | 1 , 4 [Constitutional Reform] |

Key:

{X, Y} = {North, South}

4 = Most Preferred Outcome

1 = Least Preferred Outcome

Political crises, to be sure, are not as easily or as favorably resolved as hindsight and the logic of a rational choice analysis might imply. Among other impediments, political actors regularly underestimate the intentions or resolve of those with whom they are negotiating. Decisionmakers also can become confused by their options or miscalculate the costs of coalition-building, and all invariably are embedded within the horizons of their imaginations. Despite these impediments to achieving a consensus for optimal outcomes, deliberative politics generally tends to slow down the decisionmaking process to ensure that most political conflicts are not resolved with outcomes which are perceived as generally inferior than others available. The process of deliberation accomplishes this by encouraging repeated consideration of the full set of outcomes possibilities. Over time, those outcomes mutually less preferred by the negotiating parties are eliminated and the remaining outcome possibilities continue to cycle in debate until a consensus is reached for implementing what is considered the best of the remaining solutions. If this is the norm of deliberative politics, why were the North and the South not able to agree to some type of legal reform in order to avoid the mutually less preferred outcome of civil war?

Several impediments clearly made resolution of the 1860-1861 secession crisis more difficult than

prior sectional crises. In prior crises, the options and outcomes were repeatedly debated and considered within Congress and in the state legislatures. No doubt, therefore, the withdrawal of many Southern state members from Congress (and from the political community within the District of Columbia) restricted the effectiveness of the institutional procedures and social norms that arguably were best suited for resolving this particular political conflict. Even without the full benefit of Congress and of Washington's salon coterie, proposals and negotiations to end the crisis continued through other public and private channels.⁵⁴ Moreover, fragmentation of the deliberative process would not necessarily hasten decisions for civil war—especially when the benefits of avoiding civil war were unimpeachable to all but a handful on both sides. The paradox of the Civil War consequently remains: if both sections perceived they would receive better outcomes through compromise, how was it that the secession crisis ended in civil war when prior sectional crises did not?

A final model of the secession crisis addresses this vexing question by framing the sectional conflict in terms of its three most salient dimensions. On the first and most familiar dimension, the North and the South are divided according to their numerical representation under the original Constitution's rule of apportionment. Faced with a seemingly permanent minority status on this dimension, Southern leaders used their threats and declarations of secession to open a second dimension within which they could engage the North more equally. On this second dimension, Northern and Southern statesmen divided more evenly according to their commitments to the constitutional ideals of Union or Separation. The states of the lower South clearly declared their preferences for Separation, while the North declared its preference for Union. The states of the Upper South were undecided, declaring for neither Union nor Separation: as a consequence of this indecision, there was no immediate consensus for resolving the crisis on this second dimension.

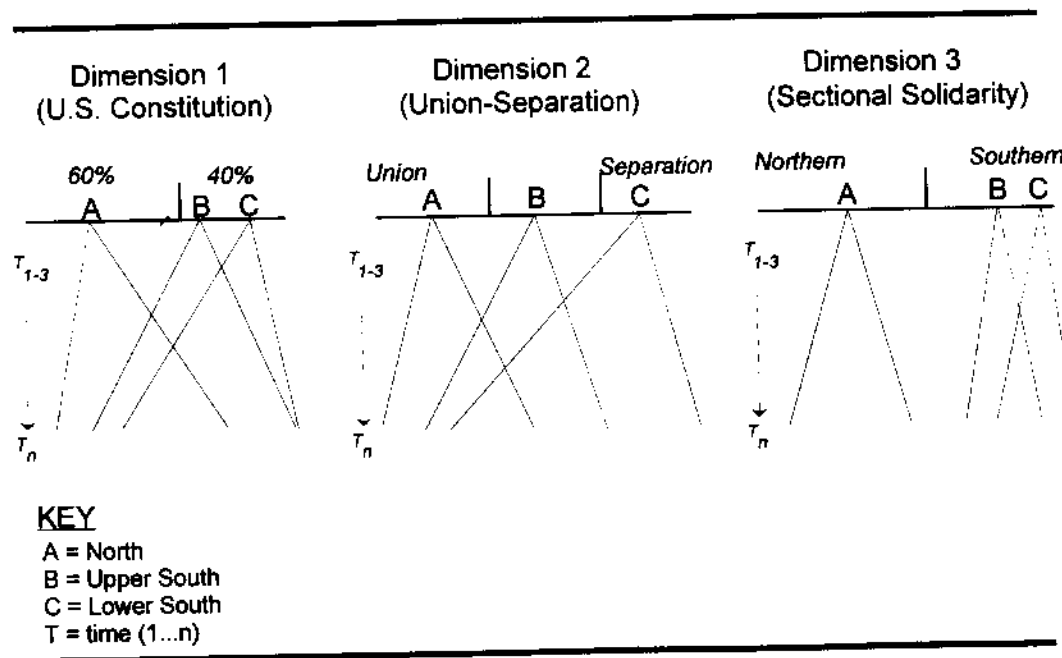
As support for the ideal of Separation weakened the longer the Upper South states vacillated between Separation and Union, the most zealous advocates of secession increasingly appealed to a third and more highly divisive dimension. On this third dimension, the North and South divided according to their distinct historical and ideological experiences. For Northern leaders, the experiences of sectional identity were diffuse, or (where especially intense) isolated around sub-sectional moral, economic or social commitments and practices. For Southern leaders, however, the invocation of this dimension was a highly-charged and effective emotional appeal for Southern unity based upon a common set of cultural experiences and a widespread fear of Northern domination.

Given these three dimensions or discourses of the secession crisis, consider the sectional

⁵⁴ See Potter, *The Impending Crisis*, (1976), pp. 551-65.

alignments illustrated in Figure 7. For each dimension, the immediate preferences of the North, Upper South and Lower South are arrayed on a horizontal axis. The temporal diffusion of the preferences of each section are represented vertically within a two-dimensional area bounded by the expected range of intrasectional preferences. In terms of the previously-described decision tree model, *immediate* preferences of each section correlate approximately to the first three time periods in Figure 4 (or between December 1860 and March 1861). Immediate preferences are assumed to be highly compact. *Posterior* preferences, by contrast, reflect the expected diffusion and differentiation of intrasectional opinion after the secession crisis deadlocked in March 1861. As far as reasonable speculation from the available historical evidence allows, the breadth and direction of this differentiation are illustrated as extending into the future (that is, from t_1 to t_n). It, therefore, follows that--barring any intervening action--movement beyond the sectional stalemate on Dimension² was probable only where there was a consensus for action--that is, where the preference ranges of at least two of the three sections intersected.

Figure 7: The Diffusion of Interests over Dimensions and Time



As illustrated on the horizontal axis of Dimension¹, the North (denoted as "A") is a representational majority; the Upper South and Lower South (respectively denoted as "B" and "C") are a minority. Given the customary practice of majority rule, the South's capacities to protect its interests during intersectional conflicts of interests consequently depend upon either the North's magnanimity or

the South's success in preventing Northern statesmen from enacting their immediate sectional preferences. For decades, the latter had been aided by the mitigating effects provided by the constitutional traditions of federalism, separation of powers, rights and constitutional revision as well as by the mediation provided by credible trans-sectional political parties.⁵⁵

On Dimension² (the Union-Separation discourse) neither section possessed the capacity to act without a majority among the three principal sectional actors. The temporal diffusion of preferences of each of the three sections on Dimension² was important because they forecast short and long-term possibilities for resolving the secession crisis. As illustrated, the North ("A") and the Lower South ("C") do not share immediate preferences for Union or Separation--although the range of longer-term preferences of the Lower South extend to include support for the Union. The Upper South ("B"), by contrast, has no immediate preference for either Union or Separation: notably, its long-term range of preferences exhibits a strong tendency for Union over Separation.⁵⁶

On Dimension³ (the Northern-Southern discourse), the three sectional actors divide more clearly. The immediate and longer-term preferences of the North ("A") center around the Northern pole. By contrast, the immediate and longer-term preferences of the Upper South ("B") and the Lower South ("C") are anchored decisively around the Southern pole.

Given the North's representational majority on Dimension¹ and the unlikeliness of an immediate resolution of the conflict on Dimension², a small but committed group of Southern separationists repeatedly attempted to force a final resolution of the sectional conflict on Dimension³. Northern leaders clearly adopted a different strategy which President Lincoln publicly articulated in his First Inaugural Address in March 1861. In unequivocal terms, Lincoln promised he would not use coercive force to resolve the conflict *unless* "violence and bloodshed" were "forced upon the national authority."⁵⁷ In striking contrast to the rhetoric of secessionist leaders, Lincoln repeatedly defended the Constitution's system of majority rule (in other words: Dimension¹); described "the Union of these States" as "perpetual" and secession as "the essence of anarchy" and "despotism" (Dimension²); and dismissed the salience of sectional distinctions (Dimension³). Indeed, Lincoln appealed to the South:

⁵⁵ See Barry R. Weingast, "American Democratic Stability and the Civil War: Institutions, Commitment, and Political Behavior," in Bates, Greif, Levi, Rosenthal and Weingast, eds., Analytic Narratives, (1998).

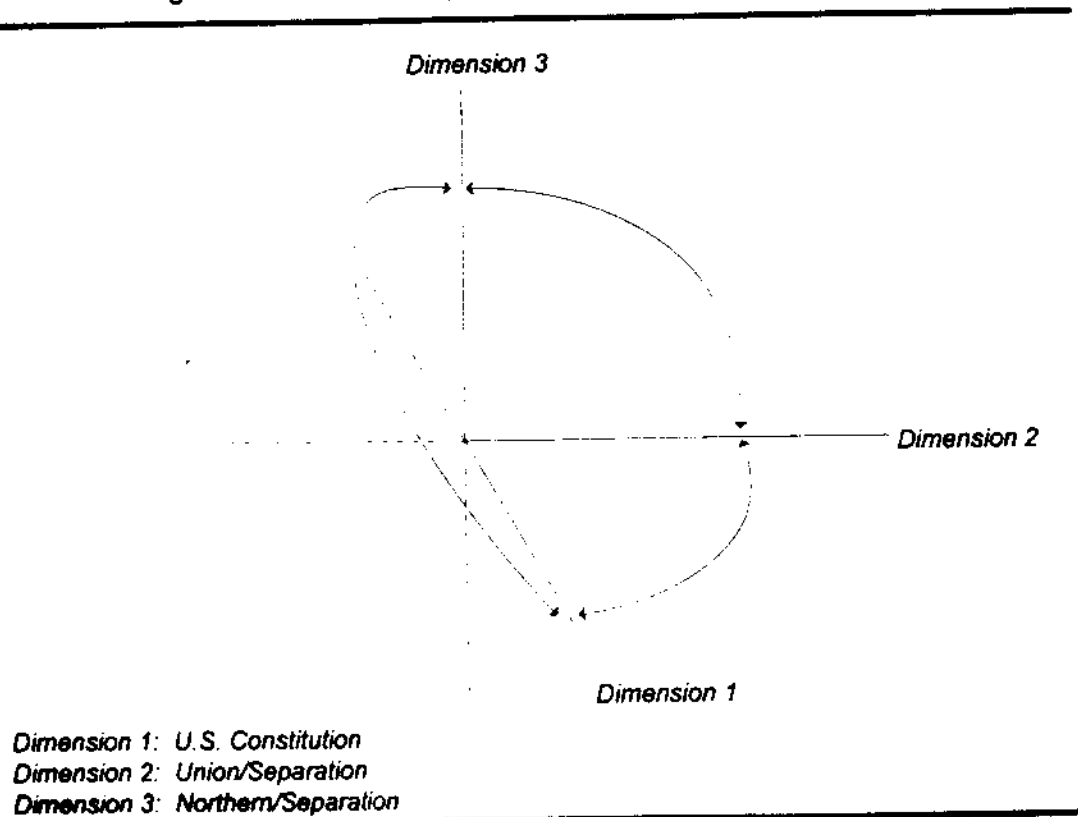
⁵⁶ For support of the proposition that the longer-term preferences of the Upper and Lower South included a return to the Union, see David M. Potter's description of the inherent weaknesses of secession sentiments in Lincoln and his Party in the Secession Crisis, (1942), pp. 210-18; 230-32.

⁵⁷ Lincoln, "First Inaugural Address," 6: 7, 11.

We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.⁵⁸

Neither Lincoln nor the most radical secessionists were particularly successful in determining the rhetorical dimension on which the secession crisis would be resolved. After Lincoln's Inaugural Address, for example, no additional state seceded nor did a single upper South state fully renounce the renegade secessionist states. The simultaneous advocacy of these different rhetorical strategies, however, was not without effect: as illustrated in the three-dimensional space in Figure 8, these various appeals effectively ensured a cycling of the terms of the sectional conflict.

Figure 8: Dimension Cycling and the Secession Crisis



⁵⁸ Lincoln, "First Inaugural," 6: 11-12.

Although this cycling of discourses could be expected to induce a highly unstable political environment, the persistency and predictability of the various rhetorical appeals produced a type of stability which clearly benefitted the North's commitment to resolve the sectional conflict on Dimension¹. For the longer the secession crisis remained unresolved, the more the North could anticipate the states of the Upper South and several of the Lower South voluntarily returning to the Union rather than enduring the stalemate on Dimension² or the uncertain consequences of forcing a resolution of the conflict on Dimension³.

Given the special dynamics of this constitutional stalemate, congressional Republicans not surprisingly did not become actively engaged in resolving the secession crisis before Lincoln's inauguration. Indeed, as early as January 10, 1861, Southern leaders like Mississippi Senator Jefferson Davis conceded to the Republicans that "we have come to the conclusion that you mean to do nothing."⁵⁹ Lincoln also perceived benefits from a slower, more deliberate method of reconciliation.⁶⁰ In his First Inaugural Address, Lincoln advocated assembling a constitutional convention at an unspecified future date and he appealed directly to his fellow "[c]ountryman, one and all" to "think calmly and *well* upon this whole subject. Nothing valuable," he insisted, "can be lost by taking time." Lincoln additionally implored Southern leaders that even if their cause was "the right side of the dispute, there still is no single good reason for precipitate action."⁶¹

Lincoln's admonition, of course, was not only prophetic of how the Confederate attack upon Fort Sumter in April 1861 precipitated a constitutional cascade into civil war, it also revealed his acute understanding of how easily a single act of violence could irrevocably alter the anticipated course of the sectional stalemate. For the introduction of coercive force by the North--the option Lincoln specifically renounced--likely would unify the Upper South and Lower South in defense against a common aggressor, thereby strengthening the South's capacity to secure secession or representational concessions from the North. A similar unilateral action by the Secessionist states likely would unify the Northern states. For if the North did not collectively respond in kind, the authority of the Union would be diminished and the uncommitted states of the Upper South could expect greatly reduced costs from issuing their own

⁵⁹ Jefferson Davis, "Remarks on the Special Messages on Affairs in South Carolina," in Wakelyn, ed., Southern Pamphlets on Secession, (1996), p. 133.

⁶⁰ In Pittsburgh, Lincoln declared: "there is no crisis, such a one as may be gotten up at any time by designing politicians." "If the great American people will only keep their temper, on both sides of the line, the troubles will come to an end... just as other clouds have cleared away in due time, so will this...." (Quoted in Gabor Borritt, "Abraham Lincoln and the Question of Individual Responsibility," in Why the Civil War Came, (1996), p. 23.

⁶¹ Lincoln, "First Inaugural Address," 6: 11.

secessionist declarations--again, strengthening the South's collective bargaining position against the North. In addition, once the North retaliated the Upper South and Lower South could be expected to unite in resistance--especially, because it was commonly believed that after a few skirmishes the North would offer concessions rather than accept the costs of a protracted civil war.⁶²

The North and the South, thus, failed to avoid the tragedy of civil war because the Confederate Army's attack upon Fort Sumter and Lincoln's subsequent call for 75,000 federal troops effectively framed the sectional conflict in terms of the one discourse within which the North and South were imagined to share no immediate or long-term preferences: namely, the discourse that crudely but effectively divided the nation and its residents in terms of two sectionally distinct identities.⁶³

Part III: Conclusions

This paper served two immediate purposes. Part I of this paper identified and described the general informational and distributional characteristics of a category of meta-institutional rules known as rules of apportionment. Part I also clarified the relationship between these rules and the constitutional orders of which they individually are but a part. I argued not only that constitutional order is dependent upon some type of rule of apportionment, but also that rules of apportionment affect expectations concerning immediate and long-term decisionmaking capacities and that these decisionmaking expectations are positively related to expectations concerning levels of governmental authority. As a result, analysis of the formation, development and failure of a constitutional order--at whatever level of aggregation--necessarily requires recognition of the rule of apportionment and its immediate informational and distributional effects as well as of its elemental relationship within the development of a constitutional order.

Part II of this paper served a second purpose: it embedded the concept of apportionment rules identified in Part I within several game theoretic models in order to explain the sequence of decisions that defined and ultimately produced the American Secession Crisis and Civil War. In particular, three game theoretic models were employed to answer the following questions: Why did the South secede? Why did the North resist? and Why was the final outcome civil war? The first model combined an apportionment

⁶² See William Barney, The Road to Secession, (1937), p. 197; Potter, Lincoln and His Party in the Secession Crisis, ([1942], 1970), pp. 212-13; and Daniel W. Crofts, Reluctant Confederates: Upper South Unionists in the Secession Crisis, (1989).

⁶³ For an account of Upper South's reaction to Lincoln's call for federal troops, see Daniel W. Crofts, Reluctant Rebels, (1989); J.G. Barrett, The Civil War in North Carolina, (1963); Joseph C. Sitterson, The Secessionist Movement in North Carolina, (1939). For an analysis of the relationship between information structure shifts, fixed preferences and decisional change, see Bryan D. Jones, "A Change of Mind or a Change of Focus?: A Theory of Choice Reversals in Politics," Journal of Public Administration Research and Theory, (1994), 4(2): 141-177.

rule-derived motive with a real-time representation of the decisional path that ultimately yielded the American Civil War. The second model represented the tragedy of this historic constitutional failure by illuminating both the set of outcome possibilities and the preference structures of two collective actors: the North and the South. The third and final model completed this account's representation of the Secession Crisis by reframing the decisional opportunities of three collective actors (the North, the Upper South, and the Lower South) in terms of three competing apportionment rule logics. Whereas each of the three models illuminated only particular dimensions of the American Secession Crisis, together the models produced a fuller representation of this pivotal historical moment that not only is sensitive to empirical and temporal frameworks, but that also reflects the general indeterminacy and contingency of political choices, and the artificiality and accountability of particular political decisions and outcomes.

This paper also advanced two less immediate purposes. The first of these purposes was to demonstrate the descriptive and analytical benefits derivative of a grounded rational choice approach. This approach, in general, aims to satisfy both the historian's aspirations to recognize and to document the particular and the contingent within a narrative structure, and the political scientist's aspirations to analyze evidentiary domains and decision sequences in order to report the general logic of historical paths taken. To accomplish these parallel goals, this paper integrated historical research of the decisional sequences, the range of viable outcome alternatives, and the preference rankings of several unitary actors among these alternatives, with several game theoretic models of the Secession Crisis.

The final purpose partially served by this paper relates to the development of a general theory accounting for the formation, development and failure of constitutional order that travels and informs across time, space and level of aggregation. The American Secession Crisis, to be sure, represents both a single and highly specialized case for testing a portion of this general theory. At the same time, however, the classic questions why secession? why resistance? why civil war? that are raised by this particular case suggest a higher level of generality at which many similarly constituted cases readily appear. Nevertheless, a fuller test of this general theory requires not only comparative analysis of additional cases of constitutional failure but additional comparative analysis of the formation and maintenance of constitutional order as well.⁶⁴

⁶⁴ See Charles A. Kromkowski, The Bond of Union: Rules of Apportionment, Constitutional Change and A General Theory of American Political Development, 1700-1870, (Ph.D. dissertation, University of Virginia, May 1998). For most recent version of this work, contact me at: cak5u@virginia.edu.