

Congress, Constituents, and Compromise in Antebellum America

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Recent failures of Congressional leaders to solve consensus problems through compromise across party lines have prompted comparison with the celebrated Compromises of 1820 and 1850, both of them conventionally attributed to Henry Clay.³ The sides then were regions rather than parties, though the outcomes shaped our party system. The issue that divided them was one that would continue to divide them and to threaten and eventually sunder the Union: slavery in new states and territories. Both compromises gave each side something it had sought, and that supposedly helped to save the Union for a while. Our examination of the history and structure of those episodes will show, however, that familiar summaries understate their strategic complexity, overstate their achievement, and reveal an interesting diversity in the very concept of compromise: in one important sense, the two sides actually failed to compromise, a failure that helped set the stage for 1860. The underlying problem was that voters would not let their representatives cast compromise votes: they seemed to see their representatives not as statesmen contending and cooperating to solve big problems but as delegates subject to instruction, with instructions to concede nothing.

In 1820 and 1850, the issues before Congress were similar. Recently acquired territory had to be organized, governed, and protected. In 1820 it was the Louisiana Purchase, or the northern part of it. In 1850 it was the Mexican Cession, the vast region conquered in the Mexican War then ceded to the United States by treaty. In both cases Congress was divided over slavery, over where to allow it if

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³ See, for example, Brands 2019; Lane 2018; Lehigh 2015; Mutnick 2022; and Tannen 2011.

at all. Owing to westward migration, the issue could not be put off forever, although Congress could “decide” it by silence, thereby defaulting to local conflict.

1. The Missouri Compromise

Start with 1820. The Missouri Compromise of that year has three familiar parts: the admission of Maine, then a noncontiguous part of Massachusetts, as a free state; the admission of Missouri, by then a well-established, self-governing slave territory, as a slave state; and a ban on slavery everywhere else in the Louisiana Purchase north of 36°30′, the latitude of Missouri’s southern border. But that combination of decisions was reached otherwise than by compromise. It did contain something for each contending side, but the two sides did not get what they got by compromise, by conceding something to the other side. Instead what happened was the following.

The Missouri Crisis was initiated in 1819 by Republican Representative James Tallmadge of New York. A long-time opponent of slavery, he proposed two anti-slavery amendments to a statehood bill for Missouri. One barred “the further introduction of slavery” into Missouri after statehood. It passed the House with a vote of 87 to 76, almost perfectly dividing North from South.⁴ The other amendment provided for gradual emancipation by freeing slaves born after statehood at the age of 25. It passed too, by a vote of 82 to 78, with two border state representatives siding with the North.⁵ In response to Southern threats of disunion, Tallmadge remained unyielding on behalf of his constituents: “standing here as the representative of others, no choice is left me. I know the will of my constituents, and regardless of consequences, I will avow it.”⁶ Southern Republicans were surprised

⁴ Annals of Congress, House, 15th Congress, 2nd session, 1214. Of the 87 votes in favor of restriction, just one came from the South. And ten northerners could be counted among the 76 votes opposed to restriction.

⁵ Annals of Congress, House, 15th Congress, 2nd session, 1170 and 1214-15.

⁶ Annals of Congress, House, 15th Congress, 2nd session, 1204-5.

to see that it was their partisans in the North, not the dwindling Federalist ranks, who led the effort to ban slavery in Missouri.⁷ Biregional parties would become ever more fragile until they disappeared in 1860.

When the Senate received the Missouri bill, it rejected both of Tallmadge's amendments – the ban on slavery after statehood, by a vote of 22 to 16, and gradual emancipation, by a vote of 31 to 7.⁸ The House refused to concur with those decisions and the Fifteenth Congress adjourned in stalemate.⁹

Nine months would pass before the Sixteenth Congress convened, its northern members having faced a groundswell of opposition to compromise. The slavery-restriction issue was kept alive by northern newspapers and mass meetings stretching from Massachusetts to New York and from New Jersey to Illinois.¹⁰ Legislatures in New Jersey, New York, Pennsylvania, and even Delaware unanimously instructed their state's congressmen to prohibit the admission of new slave states. And the few northern senators who opposed Tallmadge's amendments returned home to hostile constituents. Senators Harrison Gray Otis of Massachusetts and David Daggett of Connecticut “publicly repudiated their votes against restriction.”¹¹ As the Sixteenth Congress approached, William Plumer, Sr., a former New Hampshire governor, U.S. senator, and U.S. representative, remarked that it was “political suicide” for northern members of Congress “to tolerate slavery beyond its present limits.”¹²

⁷ Annals of Congress, House, 15th Congress, 2nd session, 1191-1193.

⁸ Annals of Congress, Senate, 15th Congress, 2nd session, 273. On the vote rejecting a ban on slavery after statehood in Missouri, the South stood united and won a single Senator from each of the following states Vermont, Massachusetts, and Pennsylvania along with both Senators from Illinois and Delaware.

⁹ Annals of Congress, House, 15th Congress, 2nd session, 1434. As before, 76 House members supported striking the slavery restriction. And, this time, 78 opposed striking it.

¹⁰ Forbes 2007, 63.

¹¹ Forbes 2007, 53.

¹² Wilentz 2004, 380.

When the Sixteenth Congress convened in December 1819, John Taylor of New York proposed that the House postpone consideration of a Missouri bill until a committee could report a “compromise of opposite opinions.”¹³ The House agreed, but less than two weeks later Taylor’s committee called it quits. They could not “come to any conclusion, or agree to any report which could promise to unite in any degree the conflicting views of the House on this question.”¹⁴

The House did pass a Maine statehood bill, which the Senate amended to admit Missouri without any restriction on slavery (see Vote A in Table 1).¹⁵ Illinois Senator Jesse Burgess Thomas added another amendment, to bar slavery in the remainder of the Louisiana Purchase north of 36°30′ (see Vote B in Table 1). The Senate then approved of the entire package (see Vote C in Table 1), the “Missouri Compromise.”

The House was strongly opposed to tying those components together in a single bill, even when members accepted the outcome. Their arguments are preserved in the *Annals of Congress*, the principal record of congressional debate in that period, which was written in the third-person.¹⁶ For instance, upon receiving the Senate proposal, Republican Arthur Livermore of New Hampshire declared that he “strongly disapproved of the connexion of the bills as they came from the Senate; but he saw something in the amendments which seemed likely to put an end to the disagreeable subject which now occupied the House. He wished the subjects separated, and then some course might be adopted similar to the compromise proposed by the Senate, and the matter ended happily and

¹³ *Annals of Congress*, House, 16th Congress, 1st session, 732

¹⁴ *Annals of Congress*, House, 16th Congress, 1st session, 801.

¹⁵ In the House, there was no recorded vote on the Maine bill (*Annals of Congress*, House, 16th Congress, 1st session, 849).

¹⁶ In this era, there was no comprehensive verbatim account of congressional proceedings as we have today with the *Congressional Record*. Instead, we must rely on the *Annals of Congress*, which provides third-person accounts of congressional debate that can otherwise be interpreted as direct quotations.

harmoniously.”¹⁷ Likewise, Federalist Ezekiel Whitman of Massachusetts’s Maine delegation “disapproved most pointedly and emphatically the connexion of the bills.”¹⁸ Federalist Henry R. Storrs of New York added that “no man was more in favor of a compromise,” but he viewed compromise as “compulsion”: “the object of the connexion was to coerce this House, by operating on those members particularly interested in the admission of Maine to the Union. ... He was in favor of the compromise but he would not give up the right of giving a distinct and unshackled vote for the admission of Maine.”¹⁹ Finally, Federalist Louis McLane of Delaware “opposed the union of the bills” for Missouri and Maine and “would vote to disunite them whenever the subject should come distinctly before the House.”²⁰ McLane added that if he “were now forced to vote upon the rejection of the amendments of the Senate, opposed as he was to the union of Maine and Missouri, he should be compelled to vote against both provisions, and thus aid in defeating a compromise which he was so anxious to effect.”²¹

The House rejected all Senate amendments to its Maine bill.²² The Senate, in turn, reaffirmed its support for linking Missouri and Maine and for imposing Thomas’s 36°30′ line, and it sent a message to the House to “*insist* on their amendments to the bill for the admission of Maine into the Union.”²³ The House then voted to “*insist on its disagreement* to said amendments” and removed the

¹⁷ Annals of Congress, House, 16th Congress, 1st session, 1406-7. Livermore voted against striking the slavery restriction from the Missouri bill, but voted in favor of the 36°30′ line.

¹⁸ Annals of Congress, House, 16th Congress, 1st session, 1407. Whitman voted against striking the slavery restriction from the Missouri bill and did not vote on the 36°30′ line.

¹⁹ Annals of Congress, House, 16th Congress, 1st session, 1407. Storrs voted in favor of striking the slavery restriction from the Missouri bill and also voted in favor of the 36°30′ line.

²⁰ Annals of Congress, House, 16th Congress, 1st session, 1409.

²¹ Annals of Congress, House, 16th Congress, 1st session, 1409. McLane voted in favor of striking the slavery restriction from the Missouri bill and also voted in favor of the 36°30′ line.

²² Annals of Congress, House, 16th Congress, 1st session, 1455-7. The House deleted Missouri from the Maine bill by a vote of 93 to 72, the Thomas proviso by a vote of 159 to 18, and the “residue of the amendments” by a vote of 102 to 68.

²³ Annals of Congress, Senate, 16th Congress, 1st session, 457. Annals of Congress, House, 16th Congress, 1st session, 1552-3.

Missouri provisions from the Maine bill by a vote of 97 to 76 and the 36°30′ business by a vote of 160 to 14.²⁴

Faced with bicameral deadlock, what Speaker of the House Henry Clay then did to enact his “Compromise” was create a House-Senate conference committee.²⁵ It recommended severing the Maine bill from the package, dropping the House’s slavery ban for Missouri, and adopting the 36°30′ compromise line. On its face that would restore the “Compromise,” already rejected by the House. So how did get Clay get his way?

He did it by dividing the question. The House did vote to admit Missouri as a slave state and to adopt the 36°30′ “compromise” line, but as two separate bills.²⁶ Only 53 congressmen voted for both (see Table 2). The other 126 opposed the package, the Missouri Compromise. Its content was enacted anyway because each of the 126 voted for one part of the package—but against the other part. That worked because each of the two sides added to the 53 who favored the whole package made a majority. Ambiguity helped. Southern senators interpreted the 36°30′ restriction as banning slavery before but not after statehood. Northerners read a perpetual ban. Clay got his “Compromise,” but a majority would not compromise.²⁷ Table 2 has the details. It shows the regional division on the two key elements of the compromise. The vote to allow slavery in Missouri almost perfectly divided southern and border-state members from northerners. The 36°30′ compromise line was a bit less

²⁴ Annals of Congress, House, 16th Congress, 1st session, 1553.

²⁵ The conference committee was formally proposed by the Senate on 28 February and concurred in by the House the next day. Jenkins and Stewart (2013, 65) argue that under the direction on Henry Clay, “the Speaker was beginning to acquire parliamentary tools that could make this office the most influential policy post in the nation.”

²⁶ See Votes F and G in Table 3. The House had previously approved of Maine statehood (Annals of Congress, House, 16th Congress, 1st session, 849) and that portion of the compromise only needed Senate approval.

²⁷ The Senate accepted the conference committee report (see Annals of Congress, Senate, 16th Congress, 1st session, 468-9, 471-2). It did so with just one recorded roll call vote – a division of 27 yeas and 15 nays on striking the slavery restriction in the Missouri bill.

divisive: the north opposed it by a solid but non-unanimous majority, and the rest of the House supported it by a wider majority. No majority had to compromise to pass the Missouri Compromise. The Richmond *Enquirer* made the same point more derisively, calling the package of bills “displeasing to the majority of the House” and its passage a “parliamentary *coup de main*” that “has been in fact palmed upon the nation, without having fairly the consent of its representatives.”²⁸

Our story reveals an ambiguity that will prove most consequential. The word “compromise” can refer to process or product, to the joint act of supporting each other’s position or to the combination (legislative package) of the two positions. The process would produce the product, but in 1820 the product was produced without the process. The only position on which North and South could agree was opposition to compromise.

In Congress there had to be compromisers, of course, members who joined the North on one vote and the South on another to create two majorities. Most came from mid-Atlantic states, but quite a few were from North and South. Their voters punished them. In the North, compromise meant either voting against abolition of slavery in Missouri or abstaining from that vote, and the names of those who did so were circulated in northern newspapers on “black lists,” shown in Figure 1.²⁹ In northern House elections the re-election rate was 25 percent for compromisers compared to 43 percent for those who voted to abolish slavery in Missouri. In the South, compromise meant supporting the 36°30′ compromise line, and those who did so also fared poorly at the ballot box. Two-thirds of compromise opponents were re-elected, compared to just two-fifths of compromise supporters.³⁰

²⁸ L.P. 1820. “For the Enquirer.” Richmond *Enquirer*. 10 March. pg. 3.

²⁹ Moore 1966, 201.

³⁰ Wilentz 2004, 391.

Although northern and southern voters opposed compromise, we do not know if they opposed only the process or the product too, but we do know that they held their representatives accountable bill by bill for their individual votes. If those voters ignored consequences, voting “sincerely” rather than “strategically,” they may have had good reason to do so. For one thing, congressional votes on bills are what they saw, not backroom deals, and they must have realized that no one’s vote was ever pivotal. They may even have seen adamant refusals to compromise as small steps in a larger process of moving history in a just direction – ending human bondage or guaranteeing property rights. At any rate they certainly saw their elected representatives as mere delegates, subject to instruction and recall, rather than statesmen trusted to find best feasible solutions.

Why all that fuss about Missouri? Congress had routinely admitted new slave states, each paired with a free state, as Missouri was with Maine (see Table 4). But those other slave states were all east of the Mississippi River except for unpaired Louisiana, and south of the Ohio. Some had been parts of original slave states, which would not have hived off new free states. Others came from the Louisiana Purchase, and later that of Florida. Those were contiguous with slave states and had no natural borders to keep slaves from escaping or being lured into insurrection, which even abolitionist congressmen thought was an unacceptable danger to white residents. But Missouri was west of the Mississippi and North of the Ohio, and it was contiguous with free-soil Illinois and with still unorganized western lands. That is what made it different.

2. The Compromise of 1850

In 1850 the attempt at compromise was more fraught, owing to increased agitation over slavery, greater migration into the new territory, and more competing parties. By 1820 the Federalist Party of Hamilton and John Adams had practically disappeared, many of its adherents joining its old rival, the Republican Party of Jefferson and Madison. But in 1850, the two main successor parties,

Democratic and Whig, had begun to suffer internal cracks and external challenges over slavery. The Free Soil party, founded in 1848 to oppose the extension of slavery and limit the influence of the Slave Power over national government, was quite strong throughout the North. In 1848 it polled 14 percent of the free-state presidential vote and elected twelve representatives and one senator.³¹ In many northern states, this third party held the balance of power between Whigs and Democrats. To win state elections, both major parties sought Free Soil alliances by supporting territorial organization with the Wilmot Proviso, the ban on slavery in Western territories. Consequently, fourteen of the fifteen northern state legislatures instructed their representatives to the Thirty-First Congress (1849-1851) to prohibit slavery when organizing territories in the Mexican Cession, making it impossible for them to compromise.³² Instead of reacting to compromise with punishment, as in 1820, voters and state legislators anticipated compromise with instructions.

In 1848 and 1849, most of the successful fusion attempts were with the Democratic Party, ensuring enlarged ranks for the anti-slavery Democrats. This must have been part of what put the South on edge.³³ Before 1846, anti-slavery third parties had allied with Whigs, not Democrats, but starting in 1846 they allied mostly with Democrats and achieved greater electoral success.

Agitation over slavery had begun to weaken the Federal Union. The Democratic Party polarized on slavery in 1848 and 1849, between Zachary Taylor's election and the meeting of the Thirty-First Congress. Southern Democrats began demanding "equal access to the Mexican

³¹ Connecticut, Indiana, Massachusetts, Michigan, New York, New Hampshire, Ohio, Pennsylvania, and Wisconsin sent Free Soil representatives to the Thirty-First Congress. Half of the Free Soil members of the U.S. House represented fusion tickets: two with the Democrats (Connecticut and Pennsylvania) and four with the Whigs (Massachusetts, Michigan, New Hampshire, and Ohio). See Dubin 1998, 151-157 and Sewell 1976, 168. In Ohio, a Democratic-Free Soil coalition organized the state legislature, delivering state jobs and policy to the Democrats and the U.S. Senate seat to Salmon P. Chase, one of the Free Soil leaders.

³² Hamilton 1964, 8.

³³ This is similar to 1820, when fellow Northern Republicans more so than Federalists pushed the Missouri restriction.

Cession.”³⁴ Northern Democrats continued to fuse with Free Soilers and to back the Wilmot Proviso. In both regions, these Democratic maneuvers yielded great success in the state and congressional elections of 1849, which determined the final seat division in President Taylor’s first Congress. Many new seats were filled with adamantly anti-slavery Democrats from the North and adamantly pro-slavery Democrats from the South. That made the task of compromise all the more difficult. Then in 1850, South Carolina Senator and former Vice President John C. Calhoun wrote a final speech, read to the Senate by James Mason of Virginia because the terminally ill Calhoun, bundled in flannels, was too weak to speak. It warned that the South would secede if Northern agitation against slavery did not stop. For Calhoun, the South’s continued participation in the Union required *state equilibrium*, or balance between the sections, and *state equality*, the ability of southerners to bring slave property into the commonly owned territories and have the opportunity to create new slave states.³⁵ If *state equilibrium* and *state equality* were not upheld by the federal government, Calhoun believed that the South would exit the Union, albeit in peace.

In the Thirty-First Congress (1849-1851), the Democrats controlled the organization of both chambers. Senate Democrats commanded a clear majority with 33 Democrats to 25 Whigs and 2 Free Soilers. That enabled Democrats to chair and occupy a majority of seats on all committees and to deny seats to the most fervent anti-slavery men. In the House, no party had a working majority, owing to third-party representation. After months of inaction, the House agreed to elect a Speaker by a plurality rather than a majority. The Democrats elected Howell Cobb of Georgia, thanks, in part, to five Southern Whigs known as the “Impracticables” who were disappointed in their caucus’s failure to

³⁴ Holt 1978, 70.

³⁵ Calhoun’s unrealized vision was to have a northern and southern president, each of whom could veto congressional legislation. Calhoun argued that sectional balance had been upset by northern aggression embodied in legislation that kept the South out of the territories (the Northwest Ordinance, the Missouri Compromise, and the creation of the Oregon Territory) and encouraged northern economic growth (tariffs and internal improvements).

oppose the Wilmot Proviso.³⁶ While hailing from a slave state, Speaker Cobb was a moderate “compromise” supporter who did not sign Calhoun’s Southern Address. As was the practice in those days, the speaker dictated the composition of committees, and many of the important committees were chaired by Democrats opposed to their party’s Free Soil alliances.

Now look at the issue before this congress. The Mexican Cession consisted of California, Utah, and New Mexico, the latter including the current states of Arizona, Nevada, and Colorado. Encouraged by President Taylor, California had adopted its own free-state constitution, elected two senators and a representative, and asked for immediate admission to the Union, skipping territorial status. Meanwhile the Mormons established a polity, Deseret, in Utah and sought its recognition as a state or territory under a constitution that allowed slavery. More controversial was New Mexico, where Mexican law, which still prevailed, barred slavery. The South sought to change that, of course, fearing an ever greater imbalance between free and slave states, especially with California and Oregon adding to the free-state total. The South also saw the Mexican Cession as the common property of all Americans, fought for by men of both regions, none of whom should be barred from bringing in any species of property. It was opposed, of course, by all those northern delegations instructed by their legislatures to oppose slavery.

Then there was Texas. After the war it claimed a large part of New Mexico, including Santa Fe. President Taylor had used modest force to rebuff Texas’s feeble attempt to invest that region, whose inhabitants did not welcome Texas rule. Yet Texas’s claim, supported by the South, persisted. At the same time, Texas sought federal assumption of its debt. Before joining the Union in 1845,

³⁶ Congressional Globe, 31st Congress, 1st session, 66. Jenkins and Stewart (2013, 155-74) argue that Georgia Whig Robert Toombs injected slavery into the 1849 speakership election and defected from his party’s nominee for the speakership in order to take a strong pro-slavery position that would please his constituents back home and ensure his future re-election.

independent Texas had borrowed against future customs revenues, but since 1845 those revenues were collected by U.S. Customs.

In 1820 passage of the Missouri Compromise had followed a series of failed votes in the House. In 1850 it was the Senate's turn to drag the process out, this time for nine months. During that time this chamber dealt with little else. What occupied the Senate were not failed votes on compromise motions but inconclusive debates and the passage of amendments to bills that never made it to a final vote.

Debates about slavery in New Mexico took center stage. Proposals included saying nothing, explicitly prescribing popular sovereignty, banning slavery, and protecting slavery with a territorial slave code. The issue of slavery in New Mexico broadened debate to encompass other slavery-related issues in the quest for compromise. The most notable was a strengthened fugitive-slave law. The old one, passed in 1793, followed the wording of the Constitution's Article IV (on interstate comity) by requiring states to capture and return any escaped slaves within their borders. But ever more northern states had refused to do that and had even enacted personal-liberty laws to protect refugees from slavery. Meanwhile Senator Stephen A. Douglas's Committee on Territories wrote two bills, one to admit California and allow popular sovereignty on the slavery issue in Utah and New Mexico, the other to grant Texas part of New Mexico and pay its debt. Those bills would lie on senators' desks for months.

Enter Henry Clay. The Great Pacificator, as he was called following his success in 1820, and "my beau ideal," as Lincoln called his fellow Whig, had retired from public life after losing the 1844 presidential election to Polk. But at 73 he reentered the Senate to "propose an amicable arrangement of all questions in controversy between the free and slave States, growing out of the subject of slavery,

upon a fair, equitable, and just basis.”³⁷ Much of what Clay proposed was not new. His resolutions affirmed ideas contained in bills already introduced in the Senate. They combined legislative demands of North and South: California statehood under its free-state constitution (for the North), territorial organization of Utah and New Mexico without the Wilmot Proviso (for the South) but also without a territorial slave code (for the North), a much-strengthened fugitive slave law (for the South), and the settling of the Texas boundary and debt issues with a boundary that excluded most of New Mexico (for the North) and with the payment of Texas’s debt (for the South). To these he added the abolition of slave auctions in the District of Columbia (for the North), a declaration of support for slavery where it already existed (for the South), and an explicit sanction of the slave trade between the states (for the South). Slavery in New Mexico was addressed with ambiguity: “No law shall be passed ... in respect to African slavery.” Northerners could read that as maintaining Mexican law, southerners as banning anti-slavery laws.

Clay’s resolutions sparked two and a half months of debate but no legislative action. Senators took turns issuing multi-day responses to Clay’s proposal. Their speeches focused on the territorial questions and were, on balance, critical of Clay’s larger package.³⁸

Senator Henry S. Foote of Mississippi, the principal advocate of an omnibus, as multi-measure package bills were first called by Clay at that time, proposed that the Senate create a select committee, dubbed the “Committee of Thirteen,” chaired by Henry Clay, to deal with all aspects of the slavery question and turn Clay’s resolutions into a single bill. Foote’s proposal attracted little support. A diverse array of senators publicly rejected the idea of bundling the various issues under debate,

³⁷ *Journal of the Senate* 31st Congress, 1st session, 118.

³⁸ Southern Senators rejected the idea that Mexican laws against slavery were valid in the territories and defended Texas’s full 1836 land claim. And Senator William H. Seward spoke of “a higher law than the Constitution” that granted equality to all. This is one of two speeches that branded Seward as an extremist and prevented his nomination in 1860. See Hamilton 1964 and Maizlish 2018.

including Roger S. Baldwin (CT-W), Thomas Hart Benton (MO-D), Salmon P. Chase (OH-FS), Stephen A. Douglas (IL-D), and Hannibal Hamlin (ME-D).³⁹ As New York Senator William Henry Seward put it: “I shall vote for the admission of California directly, without conditions, without qualifications, and without compromise.”⁴⁰ The Senate did agree to Foote’s select-committee proposal, but only after Foote raised the specter of disunion by pulling a loaded gun on omnibus-opponent Thomas Hart Benton in the Senate chamber.⁴¹ With the select committee finally turning Clay’s resolutions into draft legislation, disunionist sentiment temporarily subsided.⁴²

Before issuing the committee report, Clay consulted Douglas, who told Clay “that the bills could not pass Congress as a single measure, since uniting them would also unite their opponents.”⁴³ Senators did not even get to vote on Clay’s omnibus.⁴⁴ Instead they destroyed it piece by piece in a series of negative amending votes, votes “to strike” text, over a nine-hour session. Table 5 shows the votes by region and illustrates that senators from New England and the Solid South consistently provided most of the votes for dismantling the Omnibus. Horace Greeley reported in the *New York Tribune*: “And so the Omnibus is smashed—wheels, axles and body—nothing left but a single plank termed Utah.”⁴⁵

³⁹ Initially, Clay himself was skeptical. On 14 February 1850, he remarked to his fellow Senators: “I do not know that I should have risen at all, had not the worthy senator from Mississippi [Henry S. Foote] made a sort of omnibus speech, in which he introduced all sorts of things and every kind of passenger, and myself among the number. [Laughter.] ... There is not a syllable which the senator has read of the speech made by me on that occasion, nor in any speech that I ever made, which declares that all these subjects should be incorporated into one bill” (*Congressional Globe*, 31st Congress, 1st session, 367). Clay softened his stance in June, when he claimed that his omnibus had no incongruous members (although he still preferred the option of separate bills).

⁴⁰ *Congressional Globe*, 31st Congress, 1st session, Appendix, 269.

⁴¹ Freeman 2018.

⁴² Wilentz 2005. 240.

⁴³ Johannsen 1973, 286.

⁴⁴ Clay’s omnibus included California statehood, territorial organization for Utah and New Mexico, and the settling of the Texas boundary and debt issues. The remaining compromise measures, abolition of slave auctions and a revised fugitive-slave law, were dealt with as stand-alone bills.

⁴⁵ Hamilton 1964, 111.

Douglas was right: the Omnibus, the compromise product, went down to defeat only because the attempt to unite all of its components also united all of its opponents. To put Humpty Dumpty together again he would do it one piece at a time – and in the right order. Over the next six weeks, he would pass six bills that covered all aspects of the slavery question deemed important by Clay’s Committee of Thirteen. See Table 6 for the votes. On August 1, Douglas moved the remnant of the Omnibus and renamed it the Utah Territory bill.⁴⁶ Next, realizing that Southerners would block action on California statehood and New Mexico territoriality until Texas received a favorable boundary-debt settlement, he and James A. Pearce of Maryland constructed a new settlement (S. 307) and brought it by unanimous consent to the Committee of the Whole. It offered Texas some of the disputed land (the Big Bend), while keeping all populated areas and cultivatable land within New Mexico, provided \$10,000,000 for Texas’s bondholders, and required Texas’s consent to the final deal. Compared with Clay’s Omnibus, this proposal was also far more attractive to Texas and the South, as it offered Texas an additional 33,333 square miles of land and specified the amount of money that bondholders would receive.

With the South satisfied that its rights were upheld in Texas, Douglas passed the California statehood bill (S. 169) and the New Mexico Territory bill (S. 170) reported by his Committee on Territories back in March (see *California* and *New Mexico* in Table 6). The New Mexico bill said nothing about slavery. It could be read by the North as prohibiting slavery and by the South as permitting slavery. Two non-territorial “Compromise” bills followed: the Fugitive Slave Act and the District of Columbia slave-auction bill.

⁴⁶ On final passage, the Utah bill passed without a recorded vote. Table 6 reports the last recorded vote on Utah. On July 31, after the Senate dismantled the omnibus, all that remained was the Utah Territory Bill. That remnant was engrossed for a third reading by a vote of 32-18. Ten Senators were not present and did not vote (Holt 1999, 532).

As before, each vote separated north from south, with compromisers joining either side to make a majority. Who were the Senate compromisers? Many senators missed at least one of the “Compromise” votes, including Douglas, who had a financial matter to attend to in New York during the vote on the Fugitive Slave Act, though he publicly announced his support for the measure. Table 7 lists all fourteen senators who either voted yes or did not vote for each of the six “compromise” bills. They mostly came from the mid-Atlantic and midwest. But in a sixty-person chamber, they were not a majority. As in 1820, no majority would compromise. And even among the compromisers, most abstained from voting for the Fugitive Slave Act. In fact, eight of the fourteen compromisers were absent for that vote—too many for that to have been a coincidence.

The House quickly ratified Senate action. That is surprising. For the past several months, southern obstruction to a stand-alone California bill had prevented the House from taking any action on compromise measures. There, as in the Senate, legislative success required approving the Texas boundary-debt settlement before moving on to other issues. The House combined the Senate’s Texas settlement and the New Mexico bill in a “little Omnibus.” It passed and the Senate concurred. The House then approved the Senate bills for California, Utah Territory, the strengthened Fugitive Slave Act, and abolition of D.C. slave auctions. By September 20th, President Fillmore had signed all of these bills, declared that “the long agony is over,” and called the legislation “final and irrevocable.”⁴⁷

3. In Retrospect

In 1850, as in 1820, there was no compromise process. But this time even the product was not much of a compromise. The legislation created a vast New Mexico Territory, then gave slavery the silent treatment. It did not make New Mexico all slave or all free, did not divide it into slave and free

⁴⁷ Maizlish 2018, 219; Fillmore 1850.

parts, and did not prescribe popular sovereignty. The Senate could not deliver what a popular majority did not want, and a majority of the public, although not prepared for a break-up of the Union, appeared not to want their elected representatives to compromise. But instead of reacting to compromise by punishing compromisers, as in 1820, this time the public anticipated compromise by instructing their representatives not to compromise.

What were the consequences? The South was not immediately disadvantaged by the admission of California or the organization of Utah and New Mexico without a territorial slave code. California tipped the balance toward free states in the Senate. But California, and later Oregon, elected Democratic senators with pro-Southern sympathies. Prior to the Civil War, the South kept its Senate veto on slave policy with the support of California and Oregon. Oregon's constitution stated that "no free negro or mulatto not residing in this state at the time of the adoption of this constitution, shall come, reside or be within this state."⁴⁸ And Utah and New Mexico did not become states until 1896 and 1912, respectively. Utah Territory actually recognized slavery, and a few dozen slaves lived there into the 1860s. And New Mexico, a territory full of natural resources, was seen as a prospective site for slave labor. In fact, New Mexico Territory enacted a slave code in 1859 and a few dozen enslaved women served there as domestic servants for federal officials. And when Lincoln was president-elect, William Seward would try to conciliate the South by proposing the immediate admission of New Mexico as a slave state.

An enduring consequence of the "Compromise" was unforeseen by its authors. The Fugitive Slave Law, which had occasioned very little congressional debate (Lincoln supported it as a constitutional obligation), intensified and broadened the anti-slavery movement. Throughout the North, abolitionist societies resisted recapture attempts, and news coverage of these often violent

⁴⁸ Oregon Const. art. VII, sec. 4.

encounters “dramatized the Slave Power’s threat to Northern freedom.”⁴⁹ The Fugitive Slave Act prompted Harriett Beecher Stowe to write *Uncle Tom’s Cabin* with its unforgettable depiction of young Eliza hopping barefoot from ice flow to ice flow to carry her baby to freedom. The book sold a million copies in sixteen months and became the most commercially successful book of the 1850s. It transformed public opinion toward the anti-slavery movement, the domestic slave trade, and the Fugitive Slave Act, making it increasingly difficult for northern politicians to remain silent or to compromise on the slavery issue. Upon meeting the author a decade later, President Lincoln allegedly greeted her as “the little woman whose book made such a great war.”⁵⁰

The laws passed in 1820 and 1850 were not the only compromise outcomes on slavery in antebellum America. The Northwest Ordinance of 1787 banned slavery in the western territory north of the Ohio River. Lincoln would cite that as evidence that the Founding Fathers opposed slavery in all new territories and states. He was wrong. That law merely divided future slave states from future free states at the Ohio River. As we said earlier, many new slave states were created south of that boundary. They were admitted in pairs with free states from the north. Each pairing was like the “compromises” of 1820 and 1850, a compromise product without a compromise process. Mid-Atlantic congressmen and senators, later joined by some colleagues from the new western states, voted with the north to admit the free state in each pair and with the south to admit the slave state. Over and over, no majority would compromise by voting for any pair.

Then came the Kansas-Nebraska Act, introduced again by Douglas. By allowing popular sovereignty in newly organized territories north of 36°30’, it effectively rescinded the Missouri Compromise. But that was not enough for southern senators, at whose insistence Douglas added an

⁴⁹ Brooks 2016, 167. As Sewell (1976, 236) put it: “Except for the awful spectacle of the auction block, no scene in slavery’s chamber of horrors so aroused Northern moral sensibilities as did the image of the panting fugitive, struggling to escape his captors and their dogs.”

⁵⁰ Reynolds 2011, x.

explicit declaration that the Missouri Compromise was “inoperative and void.” It looks like the South got its way without even a compromise product, but in a sense the Act was a procedural measure to divide the question again, and this time to divide it three ways: there would be separate votes on slavery in the two territories, they would be taken by separate voting bodies, and then Congress would take separate votes on statehood.

Here we see the fallacy of using popular sovereignty as a compromise device: an electorate would choose policy but policy would choose the electorate. A prohibition against slavery, or the likelihood of one, attracts settlers who then vote against slavery, but prospective protection of slave property attracts settlers who vote to allow slavery. In Kansas, where the populace was sovereign but still small, settlers of both types, especially New England abolitionists and Missouri “border ruffians,” created the local civil war known as “Bleeding Kansas” by attempting to flood the polls and terrorizing each other.⁵¹

The inability of North and South to compromise on the dominant issue of the times made it ever harder to sustain bi-sectional parties. By the mid 1850s the Whigs would all but disappear, while many northern Democrats first allied with the Free Soil Party, then fled to the new, strictly northern Republican Party, and in 1860 the Democratic Party broke in two.

4. Compromise in General

Let us abstract. In a two-sided legislative compromise, each of two factions gets some measure that it seeks and concedes something to the other faction. Let the two factions be N and S , each a minority but together a majority, and let C be the remainder of their chamber. If N seeks measure n while S seeks s , the possible outcomes are four:

⁵¹ Etcheson 2004.

ns	both measures pass (compromise outcome)
$n\bar{s}$	n alone passes (N 's favorite)
$\bar{n}s$	s alone passes (S 's favorite)
$\bar{n}\bar{s}$	neither passes (status quo)

What happens depends on C . Suppose C favors $\bar{n}\bar{s}$: it opposes compromise. Then ns can still pass, but only if N and S both prefer ns to $\bar{n}\bar{s}$, ensuring mutual gains from trade. In that case N and S will both support ns , either in separate votes (explicit vote trade) or in one package vote (implicit vote trade). That quintessential vote-trade scenario is not what happened, of course, in 1820 or 1850.

So suppose instead that C favors ns , the compromise outcome, above all. We may think of C as the compromise faction. In 1820 and 1850, C coincided roughly with the mid-Atlantic and later some Western states. Then ns would be realized even if N and S both opposed compromise, preferring $\bar{n}\bar{s}$ to ns . For N 's preference ordering is now: $n\bar{s}$ to $\bar{n}\bar{s}$ to ns to $\bar{n}s$. Hence, N prefers ns to $\bar{n}s$ and also $n\bar{s}$ to $\bar{n}\bar{s}$. That is, N now prefers n to \bar{n} unconditionally – regardless of what is done about s . Likewise, S prefers s to \bar{s} unconditionally. Consequently, $N + C$ is a majority that would vote for n as a separate bill, as $S + C$ would for s . The result is ns although no majority voted for it and a large majority ($N + S$) opposed it – compromise product without compromise process.

Is that what happened in 1820 and 1850? There is a more benign possibility. Suppose again that C favors ns above all, but now suppose that N and S would trade votes if necessary: both prefer ns to $\bar{n}\bar{s}$. That gives ns , the compromise product, the strongest possible support. Paradoxically, however, it makes the process of compromise less likely. For $N + C$ would still support n in a separate vote; likewise $S + C$ and s . That would again secure the compromise product without the process, allowing N and S to tell their constituents: we passed your favored measure and opposed the other,

albeit unsuccessfully. They could take credit for what their constituents sought and shirk responsibility for what they opposed.

Which of the last two scenarios better fits the facts of 1820 and 1850? One cannot tell from votes alone. In both scenarios N voted for n and against s , S voted for s and against n , and C voted for both bills. But in 1820 members of Congress from north and south were punished for casting compromise votes, and in 1850 northern members were instructed not to compromise.

We suspect that more radical members did not even welcome the product: they preferred \overline{ns} to ns . But suppose not. Even so, C 's support of ns discouraged N and S from embracing compromise and selling it to their constituents. Their message home was: catastrophe has been avoided but let's keep opposing the other side. Or maybe that attitude originated back home. Then the regions remained very much at odds over slavery. Worse, the refusal of politicians to compromise may have encouraged their constituents to remain apart. Yes, the two sides might have compromised if necessary. But they were far enough apart that they did not think their constituents would reward them for getting together to close their breach. Maybe some of them would have done so, but those constituents were pleased with the product anyway, and the others were pleased with the process.

So far we have portrayed the process of compromise as a vote trade: N supports s in return for S 's support of n . Other familiar conceptions of compromise fit our framework. Often compromisers are said to "compromise," or lessen their initial demands, in order to reach agreement. But n and s might well be modifications of what N and S had earlier sought, most easily constructed by adding the phrase "at least": n is now free soil at least in a certain reduced area, and likewise s and slavery. Sometimes compromises are described as mutual concessions. In our framework, each side, N and S , concedes something to the other: N concedes s , and S concedes n . Sometimes compromisers are said to "split the difference," or more accurately, to split a claimed asset. That fits too: in 1820 the asset was territory, divided into free and slave segments, and in 1850 it was

a bundle of legal protections. Compromisers are also said to meet in the middle of some issue – rather than insisting on extreme positions. In this case the issue was tolerance of slavery: ns mixed a degree of tolerance with a degree of intolerance.

Assuming no differences within N , S , or C , we have examined three scenarios. Here they are again, now shown with the preference orderings of each faction and the consequent relation of majority preference:

Scenario 1. Incentive to compromise, or mutual gains from trade:

N	S	C	
$n\bar{s}$	$\bar{n}s$	$\bar{n}\bar{s}$	
ns	ns	$n\bar{s}$ or $\bar{n}s$	
$\bar{n}\bar{s}$	$\bar{n}\bar{s}$	ns	
$\bar{n}s$	$n\bar{s}$		

The only way to enact ns is to package the two measures in one bill or keep them separate and trade votes.

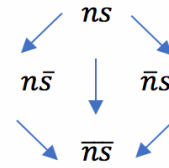
Scenario 2. Strong incentive not to compromise although compromise product achievable by dividing the question.

N	S	C	
$n\bar{s}$	$\bar{n}s$	ns	
$\bar{n}\bar{s}$	$\bar{n}\bar{s}$	$n\bar{s}, \bar{n}s, \text{ or } \bar{n}\bar{s}$ in any order	
ns	ns		
$\bar{n}s$	$n\bar{s}$		

Now the only way to enact ns , the compromise product, is to take separate votes on n and s . No majority supports ns , but N and C would vote for n separately, as S and C would for s .

Scenario 3. Weak incentive not to compromise, but overwhelming support for ns .

N	S	C
$n\bar{s}$	$\bar{n}s$	ns
ns	ns	$n\bar{s}, \bar{n}s, \text{ or } \bar{n}\bar{s} \text{ in any order}$
$\bar{n}\bar{s}$	$\bar{n}\bar{s}$	
$\bar{n}s$	$n\bar{s}$	



In this case all three factions would vote for ns if compelled to vote the package up or down, but $N + C$ would vote for n in a separate vote, as $S + C$ would for s . So long as the outcome is ns , N had rather vote only for n , as S would for s .

In the first two scenarios there is a cyclic majority preference. That is always true when, as in Scenario 1, vote trading or issue packaging is essential to the outcome. This is well known. Less well known is that the opposite is also true: like vote trading, divisions of the question also necessitates a cycle.⁵² It does not block the compromise outcome in either case but does block the compromise process in the second case.

The tricky scenario is the third. It alone has no cycle, and ns is not only the predictable choice regardless of whether N and S compromise, but the Condorcet winner: majorities prefer it to every other outcome.

The “Compromises” of 1820 and 1850 fit scenario 2 or 3. In Scenario 2, separate votes are necessary: N and S would not compromise. In Scenario 3, separate votes are not necessary but N and S would both prefer them: they welcome the compromise product but had rather not compromise. That is why it is hard to distinguish scenarios 2 and 3 by observing votes.

Representatives in 1820 and senators in 1850 refused to compromise. In 1850 some senators were quite adamant about it, and most senators would have found compromise a hard thing to justify back home.

⁵² The full range of cycle conditions, under majority rule and other regimes, is shown in Schwartz (2018).

Owing to the cycle, ns , the predicted outcome in Scenario 2, is unstable in one sense: a majority, $N + S$, prefer \overline{ns} to ns . Because ns did endure until the Civil War, this suggests that Scenario 2 did not prevail. But consider the procedural problem facing $N + S$ under that scenario. To overturn ns in favor of \overline{ns} , it would have to coalesce in a public way, a near impossibility in such a divided Congress and country and a violation of state instructions. Then it would have to set the agenda (1) to call for a vote on a single motion to rescind two recently passed laws, and above all (2) to prevent a division of the question, or the sort of unravelling that had killed Clay's ns : senators would have to be forbidden from moving amendments. We do not see how those obstacles could have been surmounted. The rescission of s would of course be welcomed by N but not by S or C ; likewise n and S .

The overall lesson of our story is that a compromise outcome does not always require or even allow a compromise process, or package vote. Too often in recent times such a process has seemed to be the only way to enact a complex of measures sought by as many minorities.⁵³ But that is true only in Scenario 1. Scenarios 2 and 3 are just as likely on their face as 1. Remember Douglas's insight: uniting diverse components might unite their opponents.

In our framework the role of C is critical. It is a pro-compromise faction, favoring ns . To be effective it does not have to be large, just pivotal: just large enough to form a majority with either of the two (or more) contending factions, enabling them not to compromise while ensuring a compromise outcome. In scenario 2, a compromise process is impossible, in 3 it is unnecessary and unlikely, and in both scenarios even a compromise product is impossible without a compromise coalition that pivots between the contending sides.

⁵³ Sinclair 2016.

5. Conclusion

In the first half-century of the Republic the commercial and industrial north differed from the agricultural south over central banking, protective tariffs, public works, and imperial expansion, but also over slavery, especially its westward extension. But over time, and especially following the Mexican War, slavery became by far the dominant issue. Because the division was deep, regional, and resistant to compromise, it threatened and then sundered the Union, but first it divided and eventually destroyed the two biregional parties. In every presidential election from 1844 to 1860, the losing party was split over slavery.

One can see why. Parties are long coalitions if they are anything; unlike other coalitions, they stick together on all or most issues, or at least they are created, organized, and elected to do that.⁵⁴ They are omni compromises. The problem facing the Democrats and Whigs was that the attempt to be biregional kept failing because northern and southern voters and their elected representatives would not compromise on the issues surrounding slavery. Party platforms are proposals that party representatives are expected to support. But on slavery-related issues, partisan support meant intra-party compromise, and that meant inter-regional compromise within the parties. That failed. What eventually eliminated the problem was Lincoln's appreciation that inter-regional compromise was no longer needed to hold a winning party together. By 1860 northern population growth made it arithmetically possible for a strictly northern party to win the presidency and the House of Representatives – and politically feasible if the opposing party was regionally divided.

Following the Civil War, the Republican Party acquired some toeholds in the South, but Jim Crow squeezed them out until the 1970s, and the Republican Party was not fully competitive there until the 1990s. The Democratic Party remained biregional, but by the 1950s it was not much of a

⁵⁴ Schwartz 2021.

party. Not only was it divided north from south on civil rights, but its southern wing was divided liberal from conservative on other issues, owing to the absence of an opposition party in that region.

Today the absence of slavery and segregation from political competition has made interregional compromise possible, and with it the existence of a robust two-party system. Before that, lawmakers acted to a considerable extent as agents of their constituencies, unbound by party discipline, as in Mayhew's electoral connection model.⁵⁵ Compromises were common. As classical vote trades they fit Scenario 1.⁵⁶ Often they were universal and porcine – prodigiously inefficient but enjoying unanimous support.⁵⁷

Today we are bombarded with complaints that the two parties cannot compromise. That can create deadlock rather than majority rule when the Senate is closely divided or when the chambers or branches are divided by party.

Even so, bipartisan compromise outcomes are quite possible if either of two conditions is met. One is a desire by a majority of legislators, backed by their constituents, to compromise across party lines, to back the likes of *ns*. The other condition is the existence of a bi-partisan but minority compromise coalition, a version of *C*, together with an agenda that divides the question, or provides separate votes on *n* and *s*. Nowadays we occasionally see the former, a genuine compromise. But we also see adamant intra-party opposition not only to compromise as a process, as in the nineteenth century, but to divisions of the question. The belief seems to be that all good things must be bundled

⁵⁵ Mayhew 1974.

⁵⁶ Not that they were always easy even then. The Agriculture Act of 1977, a classic vote trade between rural and urban members of Congress that packaged farm subsidies with food stamps, clearly fit Scenario 1, but a great deal of artful strategizing was needed to keep rural conservatives who resisted compromise from unravelling it, whereof see the legislative history in McCubbins and Schwartz (1988).

⁵⁷ For distributive legislation this actually follows from a formalization of the Electoral Connection, a model of legislators as perfect agents of their constituencies, ones who maximize their marginal products for those principals, whereof see Schwartz (1984).

into one bill on pain of losing them. The reality, learned in the 19th century, is that too much bundling can sink the bundle. As Stephen A. Douglas said to Henry Clay, uniting legislative components can also unite their opponents.

Tables

Table 1: Missouri Compromise Votes in the U.S. Senate

	Vote A: Add Missouri to Maine Bill (16 Feb. 1820)	Vote B: Add Thomas's 36°30' Proviso to Maine Bill (17 Feb. 1820)	Vote C: Missouri Compromise Omnibus (17 Feb. 1820)
New England (CT, MA, NH, RI, VT)	0y, 10n	10y, 0n	2y, 8n
Mid-Atlantic (DE, NJ, NY PA)	0y, 8n	8y, 0n	2y, 6n
East North Central (IL, IN, OH)	3y, 3n	4y, 2n	2y, 4n
Solid South (AL, GA, LA, MS, NC, SC, VA)	14y, 0n	6y, 8n	12y, 2n
Border State (KY, MD, TN)	6y, 0n	6y, 0n	6y, 0n
All	23y, 21n	34y, 10n	24y, 20n

Table 2: Separate Votes on Missouri Compromise Components in the U.S. House

	Yes to both (Compromisers)	Support removal of slavery ban from Missouri bill, Reject 36°30′	Support 36°30′, Reject removal of slavery ban from Missouri bill	Support 36°30′, Abstain on removal of slavery ban from Missouri bill	No on both	Reject removal of slavery ban from Missouri bill, abstain on 36°30′	Abstain on both
New England (CT, MA, NH, RI, VT)	7		26		4	3	1
Mid- Atlantic (DE, NJ, NY PA)	8		45	2	1		2
East North Central (IL, IN, OH)			8				
Solid South (AL, GA, LA, MS, NC, SC, VA)	19	32					2
Border State (KY, MD, TN)	19	5					1
All	53	37	79	2	5	3	6

Proposal 1 = Remove the slavery ban from the Missouri bill

Proposal 2 = Add 36°30′ compromise line to Missouri bill

Table 3: Missouri Compromise Votes in the U.S. House

	House Missouri Bill with Slavery Restriction (1 Mar. 1820)	House Missouri Bill, Strike Slavery Restriction (2 Mar. 1820)	House Missouri Bill, Add Thomas's 36°30' Proviso (2 Mar. 1820)
New England (CT, ME, MA, NH, RI, VT)	33y, 4n, 4nv	7y, 33n, 1nv	33y, 4n, 4nv
Mid-Atlantic (DE, NJ, NY PA)	50y, 6n, 2nv	8y, 46n, 4nv	55y, 1n, 2nv
East North Central (IL, IN, OH)	8y, 0n, 0nv	0y, 8n, 0nv	8y, 0n, 0nv
Solid South (AL, GA, LA, MS, NC, SC, VA)	0y, 49n, 4nv	51y, 0n, 2nv	19y, 32n, 2nv
Border State (KY, MD, TN)	0y, 23n, 2nv	24y, 0n, 1nv	19y, 5n, 1nv
All	91y, 82n, 12nv	90y, 87n, 8nv	134y, 42n, 9nv

Table 4: Free and Slave State Pairings and Balance After Ratification of the United States Constitution

State	Year	Slave	Slave:Free Ratio	Cumulative # of Slave States	Total States In Union	Pairs
Vermont	1791	No	0.43	6	14	Vermont/Kentucky
Kentucky	1792	Yes	0.47	7	15	Vermont/Kentucky
Tennessee	1796	Yes	0.50	8	16	
Ohio	1803	No	0.47	8	17	
Louisiana	1812	Yes	0.50	9	18	
Indiana	1816	No	0.47	9	19	Indiana/Mississippi
Mississippi	1817	Yes	0.50	10	20	Indiana/Mississippi
Illinois	1818	No	0.48	10	21	Illinois/Alabama
Alabama	1819	Yes	0.50	11	22	Illinois/Alabama
Maine	1820	No	0.48	11	23	Maine/Missouri
Missouri	1821	Yes	0.50	12	24	Maine/Missouri
Arkansas	1836	Yes	0.52	13	25	Arkansas/Michigan
Michigan	1837	No	0.50	13	26	Arkansas/Michigan
Florida	1845	Yes	0.52	14	27	Florida/Iowa
Texas	1845	Yes	0.54	15	28	Texas/Wisconsin
Iowa	1846	No	0.52	15	29	Florida/Iowa
Wisconsin	1848	No	0.50	15	30	Texas/Wisconsin
California	1850	No	0.48	15	31	
Minnesota	1858	No	0.47	15	32	
Oregon	1859	No	0.45	15	33	
Kansas	1861	No	0.44	15	34	

Table 5: U.S. Senate Votes to Dismantle Clay's Omnibus, by Party and Region

Region	Strike NM (Jul. 31)	Strike TX (Jul. 31)	Restore NM (Jul. 31)	Strike CA (Jul. 31)
Mid-Atlantic (DE, NJ, NY, PA)	A: 4y, 3n, 1nv W: 4y, 1n, 1nv D: 2n	A: 3y, 4n, 1nv W: 3y, 2n, 1nv D: 2n	A: 3y, 3n, 2nv W: 2y, 3n, 1nv D: 1y, 1nv	A: 1y, 7n W: 1y, 5n D: 2n
New England (CT, MA, ME, NH, RI, VT)	A: 10y, 1n, 1nv W: 8y D: 1y, 1n, 1nv FS: 1y	A: 9y, 2n, 1nv W: 8y D: 1y, 2n FS: 1nv	A: 2y, 9n, 1nv W: 8n D: 2y, 1n FS: 1nv	A: 8y, 4n W: 8y D: 3n FS: 1n
East North Central (IL, IN, MI, OH, WI)	A: 6y, 3n, 1nv W: 1y D: 4y, 3n, 1nv FS: 1y	A: 4y, 6n W: 1y D: 2y, 6n FS: 1y	A: 5y, 4n, 1nv W: 1n D: 5y, 2n, 1nv FS: 1n	A: 1y, 9n W: 1y D: 8n FS: 1n
West North Central (IA, MO)	A: 1y, 3n W: n/a D: 1y, 3n	A: 1y, 3n W: n/a D: 1y, 3n	A: 3y, 1n W: n/a D: 3y, 1n	A: 2y, 2n W: n/a D: 2y, 2n
Border States (IN, KY, MD)	A: 3y, 2n, 1nv W: 2y, 2n, 1nv D: 1y	A: 1y, 5n W: 5n D: 1y	A: 4y, 1n, 1nv W: 4y, 1nv D: 1n	A: 4y, 2n W: 3y, 2n D: 1y
Solid South (AL, AR, FL, GA, LA, MS, NC, SC, TX, VA)	A: 9y, 10n, 1nv W: 2y, 3n D: 7y, 7n, 1nv	A: 11y, 8n, 1nv W: 1y, 4n D: 10y, 4n, 1nv	A: 8y, 10n, 2nv W: 4y, 1n D: 4y, 9n, 2nv	A: 18y, 1n, 1nv W: 5y D: 13y, 1n, 1nv
All regions	33y, 22n, 5nv	29y, 28n, 3nv	25y, 28n, 7nv	34y, 25n, 1nv

Table 6: U.S. Senate Roll Call Votes for the 1850 “Compromise” Bills, by Party and Region

Region	Utah (Jul. 31)	Texas (Aug. 9)	California (Aug. 13)	New Mexico (Aug. 15)	Fugitive Slave Act (Aug. 23)	D.C. Slave Trade (Sep. 16)
Mid-Atlantic (DE, NJ, NY, PA)	A: 4y, 3n, 1nv W: 2y, 3n, 1nv D: 2y	A: 5y, 1n, 2nv W: 3y, 1n, 2nv D: 2y	A: 7y, 1nv W: 5y, 1nv D: 2y	A: 3y, 1n, 4nv W: 2y, 1n, 3nv D: 1y, 1nv	A: 3y, 2n, 3nv W: 2y, 2n, 2nv D: 1y, 1nv	A: 7y, 1nv W: 5y, 1nv D: 2y
New England (CT, MA, ME, NH, RI, VT)	A: 2y, 9n, 1nv W: 7n, 1nv D: 2y, 1n FS: 1n	A: 8y, 3n, 1nv W: 6y, 2n D: 2y, 1nv FS: 1n	A: 11y, 1nv W: 7y, 1nv D: 3y FS: 1y	A: 2y, 6n, 4nv W: 5n, 3nv D: 2y, 1n FS: 1nv	A: 7n, 5nv W: 6n, 2nv D: 1n, 2nv FS: 1nv	A: 8y, 4nv W: 5y, 3nv D: 2y, 1nv FS: 1y
East North Central (IL, IN, MI, OH, WI)	A: 5y, 4n, 1nv W: 1n D: 5y, 2n, 1nv FS: 1n	A: 6y, 4n W: 1n D: 6y, 2n FS: 1n	A: 10y W: 1y D: 8y FS: 1y	A: 6y, 3n, 1nv W: 1nv D: 6y, 2n FS: 1n	A: 3n, 7nv W: 1nv D: 2n, 6nv FS: 1n	A: 10y W: 1y D: 8y FS: 1y
West North Central (IA, MO)	A: 4y W: n/a D: 4y	A: 1y, 2n, 1nv W: n/a D: 1y, 2n, 1nv	A: 3y, 1n W: n/a D: 3y, 1n	A: 3y, 1nv W: n/a D: 3y, 1nv	A: 3y, 1nv W: n/a D: 3y, 1nv	A: 3y, 1n W: n/a D: 3y, 1n
Border States (TN, KY, MD)	A: 3y, 2n, 1nv W: 2y, 2n, 1nv D: 1y	A: 2y, 2n, 2nv W: 2y, 1n, 2nv D: 1n	A: 2y, 2n, 2nv W: 2y, 1n, 2nv D: 1n	A: 2y, 4nv W: 2y, 3nv D: 1nv	A: 4y, 2nv W: 3y, 2nv D: 1y	A: 2y, 3n, 1nv W: 2y, 2n, 1nv D: 1n
Solid South (AL, AR, FL, GA, LA, MS, NC, SC, TX, VA)	A: 14y, 6nv W: 4y, 1nv D: 10y, 5nv	A: 8y, 9n, 3nv W: 3y, 2n D: 5y, 7n, 3nv	A: 1y, 15n, 4nv W: 3n, 2nv D: 1y, 12n, 2nv	A: 11y, 9nv W: 4y, 1nv D: 7y, 8nv	A: 17y, 3nv W: 4y, 1nv D: 13y, 2nv	A: 1y, 15n, 4nv W: 5n D: 1y, 10n, 4nv
West (CA)	-	-	-	-	-	A: 2y W: n/a D: 2y
All regions	32y, 18n, 10nv	30y, 20n, 10nv	34y, 18n, 8nv	27y, 10n, 23nv	27y, 12n, 21nv	33y, 19n, 10nv

Table 7: Senators who voted yes or abstained for all Compromise bills in 1850

Surname	Party	State	Region	Utah (Jul. 31)	Texas (Aug. 9)	California (Aug. 13)	New Mexico (Aug. 15)	Fugitive Slave (Aug. 23)	D.C. Slave Trade (Sept. 16)
Douglas	D	IL	Midwest	Yea	Yea	Yea	Yea	NV	Yea
Shields	D	IL	Midwest	Yea	Yea	Yea	Yea	NV	Yea
Bright	D	IN	Midwest	Yea	Yea	Yea	Yea	NV	Yea
Whitcomb	D	IN	Midwest	NV	Yea	Yea	Yea	NV	Yea
Dodge	D	IA	Midwest	Yea	Yea	Yea	Yea	Yea	Yea
Jones	D	IA	Midwest	Yea	NV	Yea	NV	Yea	Yea
Cass	D	MI	Midwest	Yea	Yea	Yea	Yea	NV	Yea
Felch	D	MI	Midwest	Yea	Yea	Yea	Yea	NV	Yea
Norris	D	NH	New England	Yea	Yea	Yea	Yea	NV	Yea
Dickinson	D	NY	Mid-Atlantic	Yea	Yea	Yea	NV	NV	Yea
Sturgeon	D	PA	Mid-Atlantic	Yea	Yea	Yea	Yea	Yea	Yea
Houston	D	TX	South	Yea	Yea	Yea	Yea	Yea	Yea
Spruance	W	DE	Mid-Atlantic	Yea	Yea	Yea	NV	Yea	Yea
Wales	W	DE	Mid-Atlantic	Yea	Yea	Yea	Yea	Yea	Yea

* Clay was absent for the first five of six votes. He voted yea on the DC bill.

Figures

Figure 1: The Missouri Compromise Northern "Black List"

FROM THE BOSTON GAZETTE.

Missouri, or Slavery Question.
A Correspondent requests us to publish, in some *black letter*, the names of those Members of Congress, who, belonging to *free States*, have, in the Missouri Question, voted in favor of *Slavery*; or, on the final vote, vacated their seats.

In according with the wishes of our Correspondent, we add the appropriate title of

The Black List.

NEW-HAMPSHIRE.
Parrott.

MAINE.
Hill, Holmes.

CONNECTICUT.
*Edwards, Stevens, Foote,
Tannan.

MASSACHUSETTS.
Magbn, Shaw.

VERMONT.
Palmer.

RHODE-ISLAND.
Hunter, Eddy.

NEW-YORK.
Meigs, Storrs, Tompkins,
Cage.

NEW-JERSEY.
Bloomfield, Kingey, Smith.

PENNSYLVANIA.
Baldwin, Fullerton.

DELAWARE.
Vandpke, Horgsey, M'Lane.

ILLINOIS,
Thomas, Edwards.

INDIANA,
Taylor.

Source: Hartford *Courant*, 21 March 1820.

References

- Brands, H.W. 2019. "'Compromise' Wasn't Always a Dirty Word in American Politics." *Los Angeles Times*. January 6. <https://www.latimes.com/opinion/op-ed/la-oe-brands-clay-compromise-20190106-story.html> (accessed 4 June 2022).
- Brooks, Corey M. 2016. *Liberty Power: Antislavery Third Parties and the Transformation of American Politics*. Chicago: University of Chicago Press.
- Dubin, Michael J. 1998. *United States Congressional Elections, 1788-1997: The Official Results of the Elections of the 1st Through 105th Congresses*. Jefferson, NC: McFarland & Company, Inc.
- Etcheson, Nicole. 2004. *Bleeding Kansas: Contested Liberty in the Civil War Era*. Lawrence: University Press of Kansas.
- Fillmore, Millard. 1850. "First Annual Message." Miller Center, Rector and Visitors of the University of Virginia. <https://millercenter.org/the-presidency/presidential-speeches/december-2-1850-first-annual-message>. Transcript.
- Forbes, Robert Pierce. 2007. *The Missouri Compromise and Its Aftermath: Slavery and the Meaning of America*. Chapel Hill: The University of North Carolina Press.
- Freeman, Joanne B. 2018. *The Field of Blood: Violence in Congress and the Road to Civil War*. New York: Macmillan.
- Hamilton, Holman. 1964. *Prologue to Conflict: The Crisis and Compromise of 1850*. Lexington: University Press of Kentucky.
- Holt, Michael F. 1978. *Political Crisis of the 1850s*. New York: Wiley.
- Holt, Michael F. 1999. *The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War*. New York: Oxford University Press.
- Jenkins, Jeffrey A. and Charles Stewart III. 2013. *Fighting for the Speakership: The House and the Rise of Party Government*. Princeton: Princeton University Press.
- Johannsen, Robert W. 1973. *Stephen A. Douglas*. Urbana: University of Illinois Press.
- L.P. 1820. "For the Enquirer." *Richmond Enquirer*. March 10. pg. 3.
- Lane, Charles. 2018. "Americans Used to Compromise All the Time." *The Washington Post*. March 14. https://www.washingtonpost.com/opinions/national-unity-might-be-impossible-we-could-try-compromise-instead/2018/03/14/b8c0632c-279f-11e8-b79d-f3d931db7f68_story.html (accessed 4 June 2022).
- Lehigh, Scot. 2015. "Henry Clay's Lesson For Today." *Boston Globe*. March 31. <https://www.bostonglobe.com/opinion/2015/03/31/henry-clay-lesson-for-today/pvBX1u5jMZ4KP0dvbqJmjN/story.html> (accessed 4 June 2022).
- Maizlish, Stephen E. 2018. *A Strife of Tongues: The Compromise of 1850 and the Ideological Foundations of the American Civil War*. Charlottesville: University of Virginia Press.
- Mayhew, David R. 1974. *Congress: The Electoral Connection*. New Haven: Yale University Press.
- McCubbins, Mathew and Thomas Schwartz. 1988. "Congress, the Courts, and Public Policy: Consequences of the One Man, One Vote Rule." *American Journal of Political Science* 32(2): 388-415.
- Moore, Glover. 1966. *The Missouri Controversy, 1819-1821*. Lexington: University of Kentucky Press.
- Mutnick, Ally. 2022. "'Are You Going to Cave?' GOP Primaries Pit 'Fighters' Against 'Governing Wing.'" *Politico*. May 4. <https://www.politico.com/news/2022/05/04/gop-primaries-00030152> (accessed 4 June 2022).
- Oregon. 1857. *1857 Oregon Constitution*. Salem: Oregon State Archives.
- Reynolds, David S. 2011. *Mightier Than the Sword: Uncle Tom's Cabin and the Battle for America*. New York: W.W. Norton.
- Schwartz, Thomas. 1984. "Representation as Agency and the Pork Barrel Paradox." *Public Choice* 78(1): 3-21.

- Schwartz, Thomas. 2018. *Cycles and Social Choice: The True and Unabridged Story of a Most Protean Paradox*. New York: Cambridge University Press.
- Schwartz, Thomas. 2021. "Parties." *Constitutional Political Economy* 32: 462-475.
- Sewell, Richard H. 1976. *Ballots For Freedom: Antislavery Politics in the United States, 1837-1860*. New York: Oxford University Press.
- Sinclair, Barbara. 2016. *Unorthodox Lawmaking*. Thousand Oaks: Sage/CQ Press.
- Tannen, Deborah. 2011. "Why is 'Compromise' a Dirty Word?" *Politico*. June 15.
<https://www.politico.com/story/2011/06/why-is-compromise-a-dirty-word-057044>
 (accessed 4 June 2022).
- United States. 1789. *Annals of Congress*. Washington, D.C.: Library of Congress.
- United States. 1789. *Journal of the Senate*. Washington, D.C.: Library of Congress.
- United States. 1833. *Congressional Globe*. Washington, D.C.: Library of Congress.
- Wilentz, Sean. 2004. "Jeffersonian Democracy and the Origins of Political Antislavery in the United States: The Missouri Crisis Revisited." *The Journal of the Historical Society* IV(3): 375-401.
- Wilentz, Sean. 2005. *The Rise of American Democracy: Jefferson to Lincoln*. New York: W.W. Norton.