PARTY, PROCESS, AND POLITICAL CHANGE IN CONGRESS

New Perspectives on the History of Congress

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Conclusion

The point of calling for the Annapolis Convention in 1786 was the widely shared belief that the rules of procedure specified in the Articles of Confederation rendered its Congress ineffective. Unit voting, the size of the required majority, and the finality of its decisions—the rules and procedures we have considered here—were precisely some of the central features that the delegates and others expressed frustration over, in virtually the same words that scholars of the new institutionalism might use today. In the end, it took change in each of the three rules—to individual voting, simple majority rule, and sovereignty (within the domain specified in the new Constitution and as amended by the Bill of Rights)—before the two central issues of the day were able to be resolved.

One final note is in order. Some observers believed that only minor revision of the Articles was necessary to make them effective, and indeed that was the charge to the delegates in the Constitutional Convention. Others—a majority of these delegates, it turned out—believed that a whole new and radically altered constitution was necessary. They believed that a confederation was infeasible and that a federal republic was required. The issue was what Aldrich (1993) calls the "Great Principle," the balance of power between the central government and the various states. Our findings indicate that federation was necessary or at least that confederation was insufficient.

Whether one trade was made among Hamilton, Jefferson, and Madison, as Bowling believes, or whether there were many, as Cooke would have it, no trade or set of trades would have been possible under the Articles. Under the Constitution, Carroll, Gale, White, and Lee were collectively decisive. But there would have been no ability to make a trade if the states were sovereign, as they were under the Articles and would have been if the Articles had been revised only slightly. The federal government had to be effective and act with finality for the trade or trades to have been possible, and with no trades, there almost certainly would have been no effective fiscal plan adopted and perhaps no site for the capital would have been selected. The crisis of the Articles would therefore have continued into the 1790s and possibly the Great Experiment in representative democracy in an extended republic would have failed.8

Chapter 13

Agenda Manipulation, Strategic Voting, and Legislative Details in the Compromise of 1850

SEAN M. THERIAULT AND BARRY R. WEINGAST

Three crises threatened antebellum America, all intimately involving the expansion of slavery: the crisis over the admission of Missouri (1818–20), the crisis over the land gained in the War with Mexico (1846–50), and the crisis triggered by the Kansas-Nebraska Act (1854–61). Americans resolved the first two crises with what comparative political scientists call "pacts," agreements among contending elites to resolve mutual differences (Higley and Gunther 1992). The first two pacts became known as the Missouri Compromise and the Compromise of 1850, respectively. Americans failed to resolve the third crisis, and the result was the Civil War.

Historians widely regard the first pact as a success, ushering in sectional peace for much of a generation. Efforts to resolve the third crisis obviously failed. Historians give mixed reviews to the Compromise of 1850. Although this compromise ended a four-year state of crisis, for several reasons historians do not judge it a long-term success. Circumstantial evidence, for example, appears to weigh against this compromise's success: not only did the Civil War break out a decade later, but the next sectional crisis erupted only four years later. More important, factors internal to the crisis have led some historians to question whether the Compromise of 1850 settled anything. Potter (1976) argues that the 1850 pact is not rightly called a compromise but should instead be thought of as a "truce" or "armistice" between the sections. Regarding the compromise's several components, passed as separate bills, Potter argue the "armistice thesis":

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Consistently, the preponderant strength of one section opposed the preponderant strength of the other; yet in each case the measure passed. . . .

These facts raise a question of whether the so-called Compromise of 1850 was really a compromise at all. If a compromise is an agreement between adversaries, by which each consents to certain terms desired by the other, and if the majority vote of a section is necessary to register the consent of that section, then it must be said that North and South did not consent to each other's terms, and that there was really no compromise—a truce perhaps, an armistice, certainly a settlement, but not a true compromise. Still, after four years of deadlock, any positive action seemed a great accomplishment. (113–14)

McPherson (1988: 71) states a similar conclusion: “The ‘Compromise’ that finally emerged was not really a compromise in which all parties conceded part of what they wanted. . . . The Compromise of 1850 undoubtedly averted a grave crisis. But hindsight makes clear that it only postponed the trauma.” In short, these historians question the ultimate value and success of the Compromise of 1850.1

In this chapter, we take issue with the armistice thesis. This thesis and its underlying logic hinge in large part on a dramatic set of events at the center of the compromise’s passage, including the central role of Henry Clay and Stephen A. Douglas in creating the compromise.

The conclusion reached in the armistice thesis rests on inferences about how the compromise was passed. Clay sought compromise along six dimensions, attempting a delicate balance of benefits to each section. His proposal included organizing the Utah and New Mexico territories, admitting California as a state, resolving the Texas boundary and debt issues, abolishing the slave trade in the District of Columbia while affirming the existence of slavery there, and improving the enforcement of the Fugitive Slave Law. Clay combined the first four components—Utah, New Mexico, California, and Texas—in an omnibus. By the end of July, Clay and many others thought he had succeeded. In a dramatic moment on July 31, however, Clay’s omnibus unraveled. Exhausted, Clay left Washington in defeat. Stephen A. Douglas then assumed leadership of the compromise. By dividing Clay’s omnibus into its components, Douglas steered the passage of the compromise as six separate bills.2

The logic underlying the armistice thesis hinges on the inference that Douglas could pass Clay’s measures only by separating the omnibus into its components. The implication, often made explicit, is that the entire compromise could not command a majority. By inference, had the Senate faced the choice of approving the whole package, a majority would have voted against the complete compromise.

Proponents of the armistice thesis argue that the Compromise of 1850 did not resolve the underlying sectional tensions (Potter 1976: 120). As such, the compromise only delayed the inevitable. The unstated counterfactual in this argument appears to be that had the Compromise of 1850 been a true compromise, it would have done more than delay the Civil War; it would have forestalled it.

Because these arguments hinge on this critical set of congressional events, we focus on the question of why the effort by Clay failed but Douglas’s leadership succeeded. This question lies at the intersection of congressional politics and the larger politics of fashioning compromise. We now turn to a range of possible answers to our central question, intimately involving congressional procedure, agenda control, strategic voting, and manipulation of the legislative content.

Historians provide three different explanations for Douglas’s success following Clay’s defeat. By far the most common is what we call the procedural hypothesis or omnibus-unites-the-opposition hypothesis:

Procedural hypothesis: Clay failed because he sought to pass his measures as an omnibus. Instead of uniting the friends of compromise, the omnibus united its enemies, leading to defeat. Douglas succeeded because he broke the omnibus into its components and then passed each component as a separate bill.

The procedural hypothesis holds that the omnibus would not pass, in part because it contained too many controversial components. Extremists in both sections united against the omnibus, opposing any legislation containing benefits to the opposite section, even if this risked losing benefits for their own section. By separating the measures, Douglas divided the extremists. Although they continued to oppose measures benefiting the other section, many extremists supported Douglas’s measures that exclusively gave benefits to their section.

One of the principal proponents of the omnibus-unites-the-opposition hypothesis was Douglas himself, who said in a letter on August 3, 1850, “I regret [the failure of the omnibus] very much, although I must say that I never had very strong hopes of its passage. By combining the measures into one Bill the Committee united the opponents of each measure instead of securing the friends of each” (quoted in Johannsen 1973: 294).3

A second hypothesis in the literature is the abstention hypothesis:
Abstention hypothesis: Clay failed because the omnibus could not pass. In order to pass the separate measures, Douglas and others persuaded sufficient opponents to abstain rather than vote against a measure benefiting the opposite section.

According to the abstention hypothesis, the omnibus would not pass. Douglas, perhaps with the help of President Millard Fillmore, used an intermediate strategy for passage. Instead of persuading opposing senators to vote for compromise, Douglas divided the measures and induced some of the opponents to abstain from particular measures so that the measures could pass. Consistent with this view, Hamilton (1964: 142) suggests that "nothing is more arresting than the enormous number of abstainers" (see also McPherson 1988: 75).

A third hypothesis, perhaps the least developed in the literature, is at first glance an obvious one: Douglas’s sequence of measures passed because they differed in substance from Clay’s measures. We call this the pivot misjudgment hypothesis:

Pivot misjudgment hypothesis: Clay lost because the substance of his measures failed to attract the pivotal senator necessary for passage. Douglas succeeded not because he divided Clay’s omnibus but because several of his bills differed substantively from Clay’s.

According to this hypothesis, Clay failed to assess accurately the pivotal senator’s views. His omnibus came close, but not close enough, to obtaining the pivotal senator’s support. Douglas succeeded because he gained the pivotal’s support by adjusting the content of several measures, especially legislation dealing with the potentially explosive issue of the Texas boundary (Stegmaier 1996; Smith 1988) and with the fugitive slave law (Frederling 1990: 501). Holt (1973: 72–86) comes closest to articulating this hypothesis when he argues that Douglas and the Democrats sought to put their own stamp on the compromise so as to differentiate themselves from Clay and the Whigs. He concludes that “it is important to note that Clay’s resolutions differed from the final Compromise in several significant respects.” Further, “what began as a congressional Whig alternative to [President Zachary] Taylor’s California plan was changed by the Democratic majority into a Democratic compromise” (82, 86).

Although the literature advances these three different explanations for why Clay failed but Douglas succeeded, it provides no means for adjudicating among them.

We evaluate the three hypotheses theoretically and empirically. The analysis supports the misjudgment hypothesis. Our theoretical results show the existence of a true compromise. Clay failed to reach this, not because he used the omnibus, but because his legislative provisions failed, if barely, to attract the support of a majority. The key to Douglas’s success was that he adjusted the details of several of the bills to attract the support of more senators. We also show that although there were conditions under which the procedural hypothesis would be true, these circumstances did not hold for the 1850 Senate.

Our perspective also shows that the Potter test for a true compromise is inadequate. Using standard models of legislative voting, we show that if a true compromise exists, it can be reached either in one step (as an omnibus) or in a sequence of steps (as a series of separate bills). Yet the patterns of voting coalitions differ markedly under these two agendas. The omnibus unites the broad middle of the political spectrum against the extremes, so that a true compromise gains a majority of both sections. In contrast, passing that same compromise as a series of separate measures, each benefiting one section, consistently unites a majority of one section against a majority of the other. The omnibus agenda therefore satisfies the Potter test while the sequential agenda fails this test. Because both agendas reach the same outcome, a true compromise, the Potter test cannot be used to judge whether a set of measures was a true compromise.

Our empirical results support our theoretical contentions. First, we show how the contents of several measures differed in critical details between the Clay and Douglas versions, notably the Texas, New Mexico, Utah, and fugitive slave bills. Second, we show the existence of regular and predictable voting blocs. Voting behavior by these blocs corresponds to that predicted by our voting model. Third, we derive predictions about the change in coalition structure for the bills voted on under both Clay and Douglas (the New Mexico, Texas, and California bills). This analysis supports the misjudgment and not the procedural hypothesis. Finally, we also provide evidence against the abstention hypothesis.

Our conclusion emphasizing the substantive differences between Clay’s and Douglas’s measures questions the logic underlying the armistice thesis of the Compromise of 1850 (see also Stegmaier 1996: 321). At several key junctures during the debate on the Douglas bills, opponents of compromise could have foiled Douglas through a variety of means: by voting no on the first Douglas measure, a filibuster, a cross-sectional extremist pact, or a plethora of damming legislative procedures. Because a majority could have prevented compromise but did not do so, voting theory implies that a majority preferred compromise to no compromise. Although mutual sectional
acceptance may not have occurred on any of the six bills, we argue that it
did occur on the compromise in toto. Consistent with this argument is
the observation that two years later, the House passed a resolution calling
the Compromise of 1850 a "finality." The resolution enjoyed the support
of a majority of Whigs, Democrats, Northerners, and Southerners (Holt
1978: 97).

A final observation weighs against the armistice thesis. We show that the
Missouri crisis had precisely the same characteristics that proponents of the
armistice thesis use to claim that the Compromise of 1850 was not a true
compromise. First, in the 1820 House of Representatives, a majority never
voted on the entire package, which like the Compromise of 1850 had to be
split into separate components to pass (Moore 1953: 102); second, sectional
majorities consistently opposed one another on the separate provisions in
the House; and third, in the Senate, the vast majority of Northerners voted
against the package. Because historians widely agree that the Missouri
Compromise was a success, these same factors cannot be used to suggest that
the Compromise of 1850 failed.

We develop our argument in a series of steps. The next part of the chap-
ner provides a narrative of events in the compromise's passage as well as some
preliminary statistical results. We end this part by considering the important
differences between Clay's and Douglas's measures. We then turn to the
main theoretical results about voting on an omnibus measure versus a series
of separate measures, proving our main results. After that, we provide the
empirical tests of our hypotheses, showing considerable support for our
pivot misjudgement hypothesis against both the procedural and abstention
hypotheses. We conclude with a discussion of the larger meaning of the
compromise.

A Description of the Compromise of 1850

Here we briefly review the events leading to Clay's failure and Douglas's
success in passing the Compromise of 1850. It is not our intention to com-
pete with the historians' descriptions but rather to provide a foundation for
our theoretical and empirical work.

The Wilmot Proviso initiated a national crisis in 1846. For a variety of
reasons, Northerners insisted on the proviso, requiring that any new terri-
try gained from Mexico be free from slavery (Holt 1978: chap. 3; Potter
1976: chap. 4). In the House of Representatives, where Northerners had a
majority, the proviso passed on a purely sectional vote. Deadlock occurred
when the proviso failed in the Senate, where equal representation with

Northerners allowed Southerners to reject it. As the war was initiated in part
to gain more territory for slavery, Southerners considered the proviso an
anathema. Despite numerous attempts at compromise, the crisis worsened.
As 1850 began, the compromise's passage was not obvious (Silbey 1967: 108).

COMPROMISE UNDER CLAY'S LEADERSHIP

Remarkable for its "unusual brilliancy" (Hamilton 1957: 332), the Senate in
1850 included the venerable Henry Clay, Daniel Webster, and John C. Cal-
houn, as well as two intelligent and articulate younger leaders, Stephen A.
Douglas and Jefferson Davis. Not surprising, the Senate overshadowed its
political counterparts. The inexperienced House had trouble organizing, re-
quiring fifty-nine ballots to elect a Speaker. The president, whose election
hinged in part on his opaque views, was a political neophyte.

When the attempt to resolve the sectional crisis took center stage in the
Senate, all eyes focused on Henry Clay, the architect of peace in the Mis-
ouri Compromise. On January 29, Clay offered an outline for sectional
peace. After debating his and other proposed solutions, the Senate delegated
the responsibility of fashioning a compromise to the specially established
Committee of Thirteen, who chose Clay as its chair. The committee's final
report included compromise along six separate dimensions: organizing the
Utah and New Mexico territories, admitting California as a state, recon-
structing the poorly administered Fugitive Slave Law, assuming the bonded
debt that Texas had accumulated as an independent republic between 1836
and 1845 in exchange for the withdrawal of Texan claims to disputed land,
and prohibiting the slave trade while reaffirming slavery's existence in the
District of Columbia. As noted earlier, Clay, in a fateful move, wrapped the
portions dealing with Utah, New Mexico, California, and Texas together
into an "omnibus" bill.

In the eleven weeks following the committee's report, the Senate became
theater, its members posturing and grandstanding to the delight of the
Washington audience. Through July 23, twenty-seven roll calls were taken
on amendments to the omnibus; only three succeeded. Each altered the abil-
ity of the territorial legislatures to affect slavery. Although Clay succeeded
in protecting his omnibus from amendment—Clay lost only one of the
twenty-seven roll call votes—an unholy alliance between compromise op-
ponents from both regions seemed to control enough votes to defeat it.
Stegmaier (1996: 177) explains, "Clearly, any amendment satisfactory to
most Southerners would have lost more votes for the Omnibus than the
Southerners it attracted to the bill." The same held in reverse for an amend-
ment satisfactory to most Northerners.
Beginning on July 23 Clay and the compromisers set out on an ambitious effort to obtain the votes of pivotal members. They appealed to border and Northern senators by proposing the establishment of a commission to hammer out an agreement between Texas and the federal government on the former's western and Southern boundary. After two votes ended in ties on July 29, however, the compromisers realized that although they had come close to gaining majority support, they were still short. Setting their sights on the two moderate senators from Texas, the group proposed amending the Texas boundary commission legislation in favor of Texas by preventing New Mexico from setting up a government east of the Rio Grande until the commission had completed its work. Offered by William Dawson (Whig-Ga.), the amendment passed, 30–28. Following this close vote, the commission amendment passed by the same margin (although several senators switched sides). With this delicate balance achieved, historians agree that Clay believed he had won (Hamilton 1964: 109; Stegmaier 1996: 193).

Clay's buoyant mood, however, did not last long. By the end of the following day, Clay's omnibus was "smashed—wheels, axles and body—nothing left but a single plank termed Utah" (from Horace Greeley, quoted in Hamilton 1964: 111). The commission solution to the Texas boundary proved to be the omnibus's vulnerable link. Although James A. Pearce favored the commission solution, he maintained that Dawson's amendment tilted the delicate balance too much toward Texas and the South (Appendix to the Congressional Globe, July 31, 1850: 1473).6

In an attempt to remove the Dawson provision, Pearce embarked on an intricate and seemingly foolhardy strategy. He proposed first to delete the Texas and New Mexico parts from the omnibus and then to reinstate them without the Dawson amendment.7 Clay feared that the Pearce maneuver would destroy the fragile balance achieved the previous day. He scolded Pearce on the floor: "I certainly cannot repress my regret and surprise at this motion. What is its effect? It is to destroy one of the most valuable features of the bill" (Appendix to the Congressional Globe, July 31, 1850: 1473). Other senators joined Clay in arguing Pearce to withdraw his motion, warning that it would cause its defeat. Pearce retorted with a striking statement of principle before compromising: "If it does [cause the bill's defeat], then I cannot help it. . . . No, sir, when we are engaged in a work of compromise, I am not to be overwrought and told that I must pursue a given course. If the thing is in my judgment right, I will sustain it—if not, I shall do my duty" to defeat it (1474). Pearces first motion to delete the Texas and New Mexico parts of Clay's bill passed, 33–22.

Having succeeded with the first half of his intricate move, Pearce then moved to reinsert the Texas and New Mexico language without the Dawson provision. At this point, Northern and Southern extremists sabotaged Pearce's efforts. Before permitting another vote, they offered an amendment to delete everything having to do with Texas from Pearce's second motion. It passed by one vote, causing the omnibus to unravel (Poage 1936). According to Stegmaier (1996: 199), "Thus imbalanced, the whole edifice of the bill came tumbling down." Two votes later, the amended Pearce amendment, now only establishing the commission to resolve the boundary dispute, was defeated, 25–28. Eight votes later, California was removed from the omnibus. By the end of the day, only the Utah portion of the omnibus remained: it passed, 32–18. Journalist Lizzie Blair Lee wrote, "The Mormons alone got thru' living—the Christians all jumped out" (Stegmaier 1996: 201).

COMpromise UNDER DOUGLAS'S LEADERSHIP

Defeated, Clay left for his seaside resort. Most moderate senators blamed Clay's defeat on the omnibus. Clay's fellow senator from Kentucky, Joseph Underwood, complained that it was a serious "error to attempt to unite . . . the various measures . . . in one bill. That course arrayed all the malcontents . . . into a formidable phalanx against the whole" (Hamilton 1964: 117). Stephen A. Douglas also advocated this view. In addition to commencing a new procedural strategy that separated what was unified under the omnibus, he also initiated several substantive changes. Five days after Clay's defeat, Douglas worked with Pearce—who "was very anxious to shake off the yoke of being known as the principal destroyer of the Omnibus"—to propose a new solution to the Texas boundary dispute (Stegmaier 1996: 205). Leaving the commission solution in the ashes of the omnibus, their new proposal altered the border in such a way that both North and South could claim victory. The new proposal granted Northerners their desire to remove the Mexican communities North of El Paso from Texas's claim. In exchange, Southerners got a new tract of land, the Texas panhandle. Three days later, after some last-minute minor alterations, the bill passed, 30–20.

With the passage of the pro-Southern Utah portion8 on the fateful July 31 and after achieving a genuine compromise on the Texas boundary dispute, Douglas next brought up the pro-Northern California statehood bill. With exactly the same language as that proposed by Clay's Committee of Thirteen, the bill passed on August 13, by a vote of 34–18. Two days later,

The House adopted each measure, making only minor changes. In addition to removing some appropriations, the House joined the Texas and New Mexico bills. The creation of the "little omnibus" attempted to keep Southern moderates on the side of compromise. Southerners feared that the Texas debt forgiveness would never reach the Texans but would be used to "make splendid fortunes" for the "speculators in Wall Street and boorish in Washington" (Hamilton 1964: 155). By combining the Texas and New Mexico bills, Southerners knew for certain that the latter would benefit the South even if the former did not. Most of the compromise debate in the House centered on the little omnibus. Once it passed on September 6, the House approved the remaining four bills in the succeeding eleven days. On September 9, 18, and 20, President Fillmore signed the disparate parts of the Compromise of 1850 into law.

PRELIMINARY VOTING ANALYSIS

Before analyzing the substantive changes made to fashion compromise, we first present scores that summarize Senate voting on legislation under the leadership of both Clay and Douglas.

To provide an understanding of how the compromise passed, we compute a series of different voting scores to summarize senators' voting behavior. Voting scores have a long history in political science and in political history. Alexander (1967) and Silbey (1964) represent pioneering roll call voting applications of quantitative methods to the antebellum era.9

As we have described, in a series of votes, three of the four components were stripped from the omnibus on July 31. We use these three votes to compute our first compromise support score; each senator's score reflects the proportion of time he voted the pro-compromise position.10 Table 13.1 shows the mean of the compromise support scores by region and party. For example, the mean pro-compromise score of Northern Democrats was 80 percent. Clay's own Southern Whigs were somewhat less supportive, at 60 percent. Southern Democrats and especially Northern Whigs led the effort to defeat Clay's compromise in both strategy and votes. In fact, Northern Whigs cast only three of thirty-seven votes in favor of compromise (all three were in favor of California statehood). Reflecting Clay's failure, the average support among all senators was 44 percent.

Table 13.2 parallels Table 13.1, providing pro-compromise scores for the passage of the six individual bills that succeeded the failed omnibus. Again, Northern Democrats and Southern Whigs were most supportive of compromise, though both at increased levels. Under Douglas, however, Southern Democrats cast more pro-compromise votes than anti-compromise votes, while Northern Whigs, at just under .50, were nearly evenly divided. In fact, under Douglas's leadership, both major parties and both regions cast more votes for compromise than against.

The conventional wisdom among historians is that the Compromise of 1850 passed because of the support of Northern Democrats and Southern Whigs.11 Hamilton (1964: 143) is a primary defender of the Democratic party:
Table 13.3
Difference in Compromise Scores
Under Douglas and Under Clay,
by Party and Region

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<th>REGION</th>
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<th>All</th>
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<td>Party</td>
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<td>Free Soil</td>
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<tr>
<td>Democrats</td>
<td>.05</td>
<td>.27</td>
<td>.18</td>
</tr>
<tr>
<td>Whigs</td>
<td>.38</td>
<td>.09</td>
<td>.24</td>
</tr>
<tr>
<td>All</td>
<td>.20</td>
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A tabulation of the roll calls on the various Compromise measures shows...the positive contribution made by the Democratic party and by individual Democrats...In the totality of affirmative ballots cast on the six tests, the numerical difference [between Democrats and Whigs] is 46 and the percentage difference 26. Both figures favor the Democrats quantitatively in the role of compromiser, vis-à-vis the Whigs.

Although we do not dispute this finding, a more careful examination of the votes reveals a subtlety missed by this judgment. An examination of the voting behavior shows that these groups also supported the omnibus. Because it failed and because these two groups voted similarly on the omnibus and on individual measures, they did not make the difference between success and failure. A closer examination reveals that the conversion of Northern Whigs from their anti-compromise position under the omnibus to their pro-compromise position under Douglas's leadership primarily accounts for the latter's margin of victory.

Table 13.3 highlights our point that Northern Whigs and, to a lesser extent, Southern Democrats were pivotal. The table reports the difference between the compromise scores under the leadership of Douglas and Clay. It shows that the Free Soilers, Northern Democrats, and Southern Whigs voted similarly under both Clay and Douglas. Northern Whigs, however, were much more supportive of compromise under Douglas. So too were Southern Whigs, though not to the same extent as their Northern partisans.

**The Compromise of 1850**

**Substantive Changes in the Legislation**

We now examine the principal difference between the failed and the passed measures. In this endeavor, we follow Holt (1978: 72–86), who suggests that in addition to Douglas's procedural changes, we attend to the differences in the legislation. "Almost every measure was altered and realigned," Holt notes (86).

Our first observation is that the changes under Douglas's leadership were at the margin. Although these changes altered important components of several bills, with the exception of the Fugitive Slave Bill, they did not alter the bill's main character. Perhaps that is why most historians have not analyzed or even described these differences—the changes seem like details rather than the essence. And yet as the new literature on "pivotal politics" suggests, the critical difference between success and failure is often in exactly these details (see Brady and Volden 1998; Krehbiel 1998; and McNollgast 1994). These critical differences may alter at the margin who supports the legislation. This implies that small legislative changes can sometimes swing the pivotal legislator from opposition to support, thus changing the fate of the legislation from failure to success.

Four bills had significant changes: the Texas, New Mexico, Utah, and Fugitive Slave bills. The California statehood bill had minor changes, and the District of Columbia legislation had none.

**Utah and New Mexico Territory Organization.** The Douglas measures organizing the Utah and New Mexico territories differed from Clay's omnibus measures in one important respect. The difference involved the heart of the debate of congressional legislation over the territories from the mid-1840s through the Civil War, namely, the future of slavery in the territories, including the specific question of at what stage and by whom could this decision be made. These questions were central to the Wilmot Proviso, the Compromise of 1850, the Kansas-Nebraska Act of 1854, and the controversy over the attempt to admit Kansas as a slave state in 1858. As noted earlier, the Wilmot Proviso represented the extreme Northern view on slavery in the territories, while Calhoun's common property argument represented the Southern extreme.

In the late 1840s, some Northern Democrats, such as Lewis Cass, attempted to articulate a middle ground between the two extremes. Douglas became a major champion. Sometimes known as popular sovereignty, the doctrine reserved the right to determine slavery's status in a territory to the people of the territory. Of course, members of Congress still...
debated whether this decision could be made by the territorial legislature or whether the territory could decide only when it proposed a constitution as part of the statehood process. The answer to this question had significant implications for the future of slavery. A newly organized territory was unlikely to have any slaves. If the territorial legislature could prohibit slavery, it could prevent any chance for slavery to take hold. Absent slaveholders, the territory would lack any political commitment to slavery. In contrast, prohibiting the territorial legislature from legislating on this topic would allow slaveholders to bring their slaves into the territory, potentially establishing support for making slavery legal.

The Committee of Thirteen's language on both the Utah and New Mexico bills held that "no law shall be passed interfering with the primary disposal of the soil, nor in respect to African slavery" (Congressional Globe, May 8, 1950: 944). Russell (1972), who calls the slavery provisions of the territorial acts the "ones most frequently misunderstood," suggests that "this wording recognized that slavery was a 'rightful' subject of legislation but forbade the territorial legislatures to touch it" (S, 7). On June 5, the Senate agreed to the Berrien amendment, which struck out "in respect to" and inserted "establishing or prohibiting." This change was deleted from the bill on July 31 when the entire phrase was removed from the omnibus. Following this action, "it was understood by all concerned that the territorial legislatures were left entirely free to legislate on slavery" (10). Douglas’s version that became part of the compromise did not include the controversial phrase (see Table 13.4).

**Texas Legislation.** The Douglas measures concerning the Texas boundary and debt portion differed from Clay’s in two ways. First, the Committee of Thirteen left blank the amount paid to Texas debtors. Eventually, the sum became $10 million. On August 9, Pearce successfully offered an amendment that stipulated how the money would be distributed. This amendment also transferred the authority for distributing part of the money from Austin to Washington (see Table 13.4). Although both Texas senators voted against the amendment, it did not stop them from ultimately supporting the bill.

The second set of substantive changes had to do with Texas’s western and southern boundaries. No less than ten different solutions were proffered to resolve the boundary dispute. Figure 13.1 displays some of the proposed solutions. As is readily apparent from the map, these solutions differed significantly. Clay originally proposed cutting Texas in half (the horizontal dashed-and-dotted line in Figure 13.1). The Committee of Thirteen considered at least five different solutions, three of which proposed dividing Texas into at least two states.

The Committee ultimately proposed a diagonal border from just north of El Paso to the intersection of the Red River and the 100th longitude (the short dashed line in Figure 13.1). After lengthy debates showed the inability of that line to garner a majority, the compromisers opted to delegate the decision to a commission. In the meantime, New Mexico sought statehood with an eastern boundary relatively far to the east (the boundary from its proposed constitution is represented as the dotted line in Figure 13.1). After the commission solution led to the collapse of the omnibus, Pearce with Douglas’s help proposed the long-dashed line. In an attempt to appease both regions, he altered the line to the thick line, which he then introduced on August 5. This border eventually passed and remains in effect today.

**The Fugitive Slave Measure.** The Fugitive Slave Law also exhibited major changes (Basinger 1999; Freling 1990). As is so often the case with congressional legislation, the devil is in the details of enforcement. Clay’s wording favored the North. Enforcement involved fines for wrongly accusing an African American. Also included was a provision involving juries. The leg-

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**Table 13.4**  
**Changes Made by Douglas to the Six Measures**

<table>
<thead>
<tr>
<th>Measure</th>
<th>Clay Provision</th>
<th>Douglas Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah and New Mexico</td>
<td>Prohibited the territorial legislature from legislating on slavery</td>
<td>Allowed the territorial legislature to legislate on slavery</td>
</tr>
<tr>
<td>Texas</td>
<td>(1) Delegated the boundary decision to a commission</td>
<td>(1) Settled the boundary</td>
</tr>
<tr>
<td></td>
<td>(2) Granted Texas the authority to distribute funds</td>
<td>(2) Transferred authority to distribute funds to Washington</td>
</tr>
<tr>
<td>Fugitive slaves</td>
<td>Fines for wrongful accusations; Northern juries may be involved</td>
<td>Court appointee to be paid $10 if he ruled that the accused was a runaway, $5 if not</td>
</tr>
<tr>
<td>California</td>
<td>Statehood</td>
<td>Minor change involving the Eastern border</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Abolished slave trade but retained slavery</td>
<td>No change</td>
</tr>
</tbody>
</table>
The Compromise of 1850

District of Columbia Legislation. The District of Columbia portion of the Compromise of 1850 was unlike the other components in two respects. First, the language adopted by the Senate on September 16, 1850, did not differ from the language initially proposed by the Committee of Thirteen on May 8. Second, significantly fewer amendments were offered and voted on in the Senate relative to the other components of the compromise.

Conclusions

By focusing on Douglas's procedural changes as necessary for passing the Compromise of 1850, most historians de-emphasize the substantive changes in the legislation. Following Freeling (1990), Holt (1978), and Stegmaier (1996), we argue that these changes were not insignificant in understanding how Douglas formulated the compromise. Although the individual legislation steered to success under Douglas did not provide wholesale revisions to any legislation, in four cases—the Texas boundary and debt bill, Utah, New Mexico, and the Fugitive Slave Bill—the legislation differed in important respects from Clay's omnibus.

Theoretical Evaluations of the Hypotheses

Here we present a model of Senate's votes on the Compromise of 1850. The model helps assess the plausibility of the various hypotheses discussed earlier in the chapter. First, we develop a spatial model illustrating the strategic political dynamics facing the Senate. The model suggests a set of circumstances under which the pivot judgment hypothesis holds but the procedural hypothesis does not. The model also yields a range of predictions about voting behavior, which we test later in the chapter. Second, we delineate the circumstances under which the procedural hypothesis holds. We then argue that the circumstances for the procedural hypothesis were unlikely to have held for the 1850 Senate.

The Spatial Model

To help visualize the strategic problem facing the Senate under Clay and Douglas, we employ the well-known spatial model of legislative voting (see, for example, Shepsle and Bonchek 1997; Hinich and Munger 1997). We represent the policy options facing the Senate with two dimensions, benefits to Northerners along the horizontal axis and benefits to Southerners along the vertical axis in Figure 13.2.

We represent each type of legislator as an ideal point, or a policy that he prefers to all other policies, and a preference function giving his preference ranking over all policies. For the moment, we assume standard prefer-
The Compromise of 1850

In each section, the extremist prefers the most for his section and is the least tolerant of benefits going to the other section. We thus place the extremist's ideal policy highest on his section's dimension and lowest on the other's section's dimension than the ideal point of any of the other five types.

We represent compromisers in both sections as having ideals that are less extreme concerning policies favoring their own section than extremists and considerably more favorable than extremists to policies benefiting the other section. These senators prefer compromise policies that benefit both sections to extreme policies benefiting their section alone. The difference in location between the SC and NC ideal policies shows that each set of compromisers holds a bias for compromise toward its section, but this bias is modest in comparison with their preference for compromise over extreme policies.

We represent moderates from both sections with ideal points that are less extreme on the dimension benefiting their section than extremists; that is, they are more willing to tolerate benefits going to the other section. In contrast, compromisers would rather have policies benefiting solely their section over compromise; nevertheless, they will tolerate benefits to the other section if they gain sufficient benefits to theirs.

The legislator's ideal points are located along a convex curve representing the set of feasible alternatives. Any policy alternative on or below the curve is possible; those above and to the right of the curve are not feasible.

Figure 13.2 also shows the location of the status quo, Q. We locate Q well below the set of ideal points, reflecting the crisis following the Wilmot Proviso. All types of senators could be better off than the status quo if only they could resolve the crisis and move policy from Q upward and to the right. For example, Southern extremists (SA) are worse off when policy moves horizontally from Q toward the Northerners. A similar argument holds, mutatis mutandis, for Northern extremists (NA). Compromisers prefer compromise, a move from Q toward their ideal points. In contrast to extremists, moderate senators also prefer compromise to the status quo. Figure 13.2 also shows the indifference curve of a Northern moderate (NM) through the status quo. Such a senator prefers all policy alternatives within this circle to Q.

The purpose of the model is not to make exact predictions about the legislation's content but to make predictions about which senators should favor various measures. As is common in these models, what matters for our predictions is not the exact location of the various policy alternatives but their location relative to one another and to the status quo.

To demonstrate the veracity of our model, we examine the preferences...
The Compromise of 1850

of the three types of senators over the various policy combinations. In Figure 13.3, we depict three policy alternatives to the status quo: a move from Q to S provides benefits solely to Southerners, while a move from Q to N provides benefits solely to Northerners. We represent the combination of both components as the potential compromise policy, SN.

Consider first the extremists. Although each set of extremists prefer the proposal benefiting their section alone to the status quo, each is worse off under compromise than under the status quo. Of the four policies, an extremist least prefers the policies benefiting the other section alone. SA therefore prefers the policy alternatives in the order S, Q, SN, N. For similar reasons, NA ranks the alternatives N, Q, SN, S. Because compromise inevitably provides too much benefit to the other side, both sets of extremists dislike it.

Next consider the moderates. As with extremists, moderates are best off under the policy benefiting solely its section. In contrast to extremists, a moderate is better off under compromise than under the status quo. Similarly, each moderate group is worse off with the policies that benefit the other section alone. SM orders the alternatives S, SN, Q, N, while NM orders them N, SN, Q, S.

Third, although compromisers from each section prefer policies benefiting their own section to the status quo, they prefer the combined policies to the other three alternatives. In contrast to all other senators, compromisers prefer policies that benefit solely the other section to the status quo. To summarize, SC prefers the alternatives in the order SN, S, N, Q, while NC orders them SN, N, S, Q.

A final result, implicit in the foregoing discussion, is the existence of a true compromise, SN. We discuss this possibility next, along with Clay’s failure to attain it.

VOTING BEHAVIOR GIVEN STANDARD PREFERENCES

The model’s payoff derives from a series of implications about voting behavior and coalition formation. Because the model assumes that legislators prefer policies closer to their ideal point to those farther away, a simple geometric principle allows us to predict how the various senators will vote when faced with a choice between two alternatives. For a given pair of alternatives, the perpendicular bisector between them separates legislator ideal points for those who vote for one alternative from those who vote for the other. The reason is that the ideal points on one side of the bisector are closer to the alternative on its side, so these legislators thus favor it over the other alternative. In contrast, legislators on the other side of the bisector are closer to the second alternative and thus favor it over the first.

Consider the two sectional proposals, S and N. A choice between N and Q yields a perpendicular bisector or cutting line, as in Figure 13.4. The figure shows that the ideal points of all Northerners are closer to N than Q, so they are better off under N. The figure also reveals that Southern compromisers prefer N to Q. The other two groups of Southern senators, SA and SM, are worse off under N and so oppose a move from Q to N. The model predicts that when facing the decision of N against Q, all Northerners and Southern compromisers would vote for N, while Southern extremists and moderates would vote for Q.

Similarly, suppose that S is posed against Q. The perpendicular bisector in Figure 13.5 shows that all Southerners are better off under S than Q, as are Northern compromisers. Northern extremists and moderates, by contrast, are worse off under S than Q. The model predicts that when facing the decision of S against Q, all Southerners and Northern compromisers
Figure 13.4. Predicted vote for a pro-Northern measure.

**NOTES:** SA, Southern anti-compromiser; SM, Southern moderate; SC, Southern compromiser; NA, Northern anti-compromiser; NM, Northern moderate; NC, Northern compromiser.

Figure 13.5. Predicted vote for a pro-Southern measure.

**NOTES:** SA, Southern anti-compromiser; SM, Southern moderate; SC, Southern compromiser; NA, Northern anti-compromiser; NM, Northern moderate; NC, Northern compromiser.

Figure 13.6. Predicted vote for a compromise measure.

**NOTES:** SA, Southern anti-compromiser; SM, Southern moderate; SC, Southern compromiser; NA, Northern anti-compromiser; NM, Northern moderate; NC, Northern compromiser.

would vote for S, while Northern extremists and moderates would vote against it.

Next consider a choice between the compromise package SN and Q. The perpendicular bisector is now a line that slants down from the upper left to the lower right (see Figure 13.6). This shows that both sets of compromisers and both sets of moderates have ideal points closer to SN than to Q, and so they favor the compromise package over the status quo. In contrast, the extreme senators from both sections are worse off under the compromise and will oppose it.

With the addition of two assumptions, we can calculate majorities among various proposals: the number of Northerners equals the number of Southerners; extremists are a minority of both sections and therefore in the Senate.
Several important implications follow for the Compromise of 1850. First, the procedural hypothesis is false. There exists a compromise proposal, SN, favored by a majority of both sections. Further, the Senate can move to the compromise combination, SN, either directly in one step or indirectly in a two-step sequence of votes. To consider the Clay agenda, which pits the compromise package SN against Q. Then all moderates and compromisers, a majority of the Senate, vote in favor of SN, so the compromise passes outright. The support coalition that forms under this vote is the broad middle of the political spectrum, which is opposed by the two (seemingly united) groups of extremists.

Second, suppose the compromise is considered under the stepwise SAD agenda—that is, a vote between Q and S and then a vote between S and SN. Under the SAD agenda, the voting pattern differs from that under the Clay agenda. A majority of Southerners support the move from Q to S, while a majority of Northerners vote against a move from S to SN, while a majority of Northerners vote in favor of it. At no time under the SAD agenda does a majority of both sections support any piece of legislation or the entire compromise.

Our first two implications yield a third and more important one. As is standard in legislative voting models, our model reveals that the observed coalition pattern is in part a function of the agenda, or how the alternatives arise for a vote. Under the Clay agenda, a majority of both sections supports compromise, and SN passes as an omnibus. Voting under this agenda thus meets the Potter test for a true compromise. You will recall that a true compromise, according to Potter, requires majority support from both sections. Under the SAD agenda, a majority of one section consistently opposes a majority of the other; never do majorities of both sections support the same measure. The SAD agenda for attaining compromise thus fails the Potter test for a true compromise.

This discussion demonstrates that the Potter test provides an inadequate guide to whether a set of measures is a true compromise. Under both the Clay and SAD agendas, the final legislative solution is the same, SN, the true compromise. Yet the coalition formation under the two agendas differs sufficiently that voting under one passes the Potter test while voting under the other fails it. Because both agendas yield the same outcome, the model demonstrates that we cannot use the Potter test or the underlying coalition pattern to make inferences about whether a true compromise was achieved.

Next we test these predictions of coalition formation and voting behavior against the actual patterns of data.
fervid. Clay did not realize how badly he had overestimated his control over Southern votes” (193).

A supporter of compromise until the Bradbury amendment, Pearce chose this moment to defect. A long-standing critic of Texas in its boundary dispute with New Mexico (see Stegmaier 1996: 195; Steiner 1921–22: 18: 260, n. 169), Pearce disliked the Dawson amendment sufficiently that he sought to remove it. Although Clay believed that Pearce’s amendment began the unraveling, paralleling Stegmaier’s analysis, our model suggests instead that Clay never had a majority in favor of his omnibus. Clay’s maneuvers may have gained him the Texas senators, but they also lost Pearce and some Southerners.

To provide additional insights into Clay’s misjudgment, we translate these details into the spatial model. We represent Clay’s omnibus as it stood on the morning of July 30, prior to the critical amendments of that day and the next, at the point CO in Figure 13.7. Again, what matters for the model is not the exact location of the alternatives but their location relative to one another. Because we can analyze the net effect of each amendment, we can easily specify the alternatives’ relative location.

We represent the various amendments as movements in particular directions from CO. Consider Bradbury’s amendment on the Texas boundary. We model this amendment as a small movement in the pro-South direction (i.e., upward from CO to CO + B). This provision provides Southerners with a modest benefit, as it also involved some uncertainty that might be resolved in one or the other section’s favor. Dawson’s amendment was more complex. This benefited Texas and harmed New Mexico. By tacitly granting Texas rights over the disputed area, the amendment increased the likelihood that this land would become part of Texas and the slaveholding South. By reducing the size of New Mexico, Dawson’s amendment also reduced the prospects that New Mexico would become a free state in the near or intermediate future. We thus model this amendment as a movement upward and to the left (CO + BD). Norris’s amendment moved policy at once away from Southerners and gave to Northerners, hence a movement toward the lower right (CO + BD – N).

Clay’s last minute maneuvers largely moved the contents of the compromise along a 45° line moving from the upper left to the lower right. Although the addition of the Bradbury amendment moved the compromise toward the compromisers (CO to CO + B), the next two amendments moved along the 45° line (CO + B to CO + BD and then to CO + BD + N).

This sequence of amendments has a direct consequence for the groups who would potentially support a compromise in the form of the omnibus. The model shows that attempting to gain support by moving toward one section’s compromisers and moderates risks losing support from the other section’s compromisers and moderates. Movements along this line are therefore not likely to result in net gains in support. Put simply, Clay’s final maneuvers were not focused in the right way to gain more support.

We underscore this conclusion by contrasting Clay’s maneuvers with Douglas’s legislative changes. Douglas omitted the Bradbury and Dawson provisions but retained that of Norris. In Figure 13.8, this represents a move downward and to the right (from CO to CO + N). Douglas’s next two changes, however, moved policy off the 45° line along which Clay maneuvered toward the ideal points of all four compromise support groups. First, Douglas gave more territory to New Mexico, a benefit to Northerners and thus a movement to the right (from CO + N to CO + N + NN). Second, in compensation for Texas’s loss of territory to New Mexico, Douglas gave Texas the panhandle, a movement benefiting the South and thus upward in the figure (from CO + N + NM to CO + N + NM + TX). Douglas’s last major change provided a considerably more pro-Southern Fugitive Slave Bill than Clay (from CO + N + NM + TX to D = CO + N + NM + TX + FSL). We represent the net effect of Douglas’s major changes by the arrow, a movement from CO to D. In combination, Douglas’s changes moved policy upward and to the right. These changes made compromisers
and moderates from both sections better off, thus solidifying the majority in favor of compromise.

The model implies that the key to Douglas's success was his finding a better combination of provisions than Clay to solidify support for compromise. Whereas most of Clay's last-minute legislative changes maneuvered policy along the zero-sum line from the upper left to the lower right, Douglas's major changes moved policy upward and to the right.

Clay had come quite close to securing a majority for compromise. This "near miss" allowed Douglas to make marginal but essential modifications in the legislation and thus succeed. Clay's fault was not in the omnibus strategy. Although often repeated by participants in the compromise and by historians, the issue of the omnibus versus separate measures is a red herring. Instead, Clay's flaw was in failing, just barely, to assemble a set of provisions that would garner majority support. The extremist coordination against the omnibus is epiphenomenal because the coalition pattern generated by Clay's omnibus united the middle against the extremes. Clay lost not because the omnibus inevitably made the extremes stronger but because his provisions were slightly off. Extremists were insufficient in number to defeat Clay. Failure instead required that sufficient numbers of moderates and compromiser senators vote against the omnibus. Historians' appeal to the omnibus uniting the extremes fails to explain the defection of the moderates and compromisers. Instead, their logic about the swing voters, as with our analysis here, supports the pivot misjudgment hypothesis as the explanation.

**The Theory of Procedural Hypothesis: Principled Voters**

The analysis thus far has relied on standard assumptions about preferences in which legislators vote for alternatives instrumentally—to achieve the best policy outcome. Other forms of preferences imply a different form of voting behavior. Some students of the modern Congress argue that in certain circumstances, elections constrain representative voting behavior in a way that violates the standard assumptions. Federal aid to education in the 1950s provides a classic example. According to Denzau, Riker, and Shepsle (1985), Republicans defeated Democratic proponents of this legislation by attaching a civil rights amendment, saying that none of the money could go to segregated schools. Northern Democrats felt compelled to vote for civil rights even though this doomed the bill because it caused Southern Democrats to defect. We call this form of preferences "principled" because legislators vote on principle, sometimes at the expense of their own interests.

In the 1850 Senate, principled preferences correspond to a senator who opposed any measure that contains benefits to the opposite section, regardless of how much he valued the legislation's component benefiting his section. This type of preference distinguishes principled from standard legislators' preferences because the latter will favor an alternative containing benefits to the other section, provided that benefits to their own section are sufficiently large.

Several conclusions follow when all senators have principled preferences. First, in a direct vote against the status quo, the omnibus cannot pass—every legislator votes for Q over the package SN because the omnibus contains benefits to the other section. Second, under the SAD agenda, each measure fails by virtue of a tie. For a Senate divided exactly in half between two groups with principled preferences, Q is the equilibrium choice under both the Clay and the SAD agendas. Third, it is possible to use the SAD agenda to get to the compromise, but this requires that some legislators from each section abstain instead of voting against benefits to the other group. This also implies that no measure garners absolute majority support: measures benefiting Southerners pass by plurality (not a majority) N/2 votes to N/2 – A.
votes, where $A_i$ is the number of Northerners who abstain; and measures
benefiting Northerners pass by a plurality of $N/2$ votes to $N/2 - A_i$ votes,
where $A_i$ is the number of Southerners who abstain. Under principled pre-
ferences and strategic abstention, no measure gains any support from the
other group, and none gets more than a plurality of support.

Third, the results so far have assumed that all legislators had principled
preferences. Suppose instead that each section still contains three types of
senators—extremists, moderates, and compromisers—but only the extremis-
tists are principled. Under these conditions, we obtain two further results.
Fourth, for the moment, suppose that the Senate contains extreme and
moderate preferences from each section but no compromisers. Then pass-
ing the measures under the SAD agenda requires strategic abstention by
some members of the opposite section, and no measure garners an absolute
majority of votes. Without compromisers, all members of one section op-
pose legislation benefiting the other, so the only way legislation benefiting
one section can pass is if at least one of the opponents abstains. The omnibus
will pass if the number of moderate legislators exceeds that of extreme leg-
islators: all moderate legislators vote for the omnibus, while all extreme leg-
islators vote against.

Fifth, suppose that all six types are represented in the legislature and that
extreme senators are a minority in each section. Then under the SAD
agenda, measures benefiting each section pass with an absolute majority: all
senators from the benefiting section plus the compromisers from the other
section vote in favor while the remaining senators from the other section
vote against. The omnibus will pass by a vote of $N - p$ to $p$, where $p$ is the
number of extreme senators. All moderate and compromise legislators sup-
port the omnibus while all extreme legislators oppose it. No measure re-
quires abstaining to pass. Alternatively, if the number of extreme legislators
is an absolute majority, the omnibus cannot pass.

These conclusions bear directly on our hypotheses. First, given our esti-
mates, the Senate of 1850 contained too few extreme senators for strategic
abstention to be necessary to pass the compromise measures. The strategic
abstention hypothesis therefore seems theoretically false. Second, because
passage of the package under the SAD agenda implies that the omnibus will
also pass, the procedural or omnibus-unites-the-opposition hypothesis is
also false. As will soon be made clear, we estimate the number of extreme
senators $p$ at twenty-one, too few to produce the circumstances where ex-
treme senators affect voting outcomes.

The Compromise of 1850

Implications

Our theoretical results favor the pivot misjudgment hypothesis. We derive
seven major implications to support this thesis. First, the model implies that
the 1850 Senate preference configuration afforded a true compromise. A
fair-sized, absolute majority of the Senate favored compromise.

Second, we show that the true compromise could be reached using ei-
ther the Clay or the SAD agenda. The issue of the omnibus as the source of
Clay’s failure is a red herring.

Third, Clay’s failure was not in using the omnibus but in failing to arrive
at the right combination of legislative provisions; he barely failed to
attract the pivotal senator’s support. Under different circumstances, Clay
might have adjusted his measures so that they would have succeeded. His
last-minute maneuvers, designed to increase support, failed to do so: In pass-
ing the Bradbury and Dawson amendments, Clay lost Pearce, and—in pass-
ing the Norris amendment—Clay appears to have lost a few critical South-
ern votes. The counterfactual prediction is that had Clay used the same
provisions as Douglas, the unraveling would not have taken place.

Fourth, Douglas’s legislative adjustments proved superior to Clay’s. Clay’s
final maneuvers were such that provisions benefiting one section harmed the
other. Douglas’s adjustments made compromise supporters better off, gain-
ing him the support of the majority and hence passage of the compromise
measures.

Fifth, our approach also suggests why, despite the existence of a true
compromise, Clay seemed to have been defeated so decisively on July 31.
By coming very close to attracting the pivot, but not quite, Clay’s measure
failed by one or a few votes. Pearce sought to make a unilateral change in
one of the measures. The Pearce and Norris amendments made Southern-
en feel that part of their benefits were being cut out. Once Pearce had be-
gan his maneuvers, the entire package unraveled at first Southerners and
then Northerners took out other pieces. The unraveling should be seen as a
series of mutual defections from compromise, not as massive dissatisfaction
with the omnibus. Defecting is perfectly rational once the first step was
taken. Our prediction is that had Clay attracted the pivot, the first step in
the unraveling would not have succeeded.

Sixth, we showed that there are circumstances under which the proced-
dural hypothesis is true. But we are also convinced that these circumstances
did not hold for the 1850 Senate.

Finally, we showed that the Potter test is inappropriate for gauging a true
compromise. Our construction of the Senate preference configuration, with
the existence of a true compromise, implies that moving from the status quo to the compromise under the Clay agenda would satisfy the Potter test while moving there under the SAD agenda would fail that test. Since the two agendas arrive at the same outcome, this proves that the Potter test is inconsistent and ineffective.

Statistical Results

We shall now test the hypotheses developed at the start of the chapter. The results suggest that Clay failed to pass the omnibus because he critically, but just barely, misjudged the preferences of the pivotal legislators. Douglas succeeded by altering the legislation consistent with their wishes. Our test has five components. First, we offer evidence against the strategic abstention hypothesis. Second, through an examination of senator roll call behavior, we present evidence substantiating the spatial analysis presented in this chapter. Third, we present divergent predictions resulting from the pivot misjudgment and procedural hypotheses. Fourth, we provide evidence validating the misjudgment hypothesis. Fifth, we argue that Clay's omnibus might have passed if it had contained Douglas's solution to the Texas boundary dispute.

Evidence Against the Strategic Abstention Hypothesis

Historians have long speculated about the high number of abstentions on the final passage votes of the bills comprising the Compromise of 1850. Several claim that Douglas achieved passage only because he convinced the opponents of particular components to abstain rather than voting against the measures (Hamilton 1964: 142; McPherson 1982: 67; 1988: 175). Fewer yes votes would be needed for passage if Northern senators who opposed, for example, the New Mexico bill abstained rather than voting against it. Likewise for the Southern senators on pro-North components.

Table 13.5 offers some evidence supporting the strategic abstention argument. Half of the final Compromise of 1850 measures did not gain an absolute majority of senators (these votes are highlighted in bold in the table). On these three bills, an average of 18 senators abstained. Had all 10 Texas abstainers, 17 New Mexico abstainers, and 15 Fugitive Slave abstainers voted against these measures, they could have defeated the compromise. As our theoretical discussion indicates, a defeat on any one of these bills could have unravel the entire compromise.

An analysis of who abstained and when, however, seriously undermines the strategic abstention hypothesis. Consider the Texas bill. Only one of the ten abstainers would have needed to vote in favor of the bill for it to achieve an absolute majority. All present Southern senators voted in favor of Texas, and four of the six who were absent supported Texas under Clay's omnibus. It is therefore unlikely that all six abstaining Southern senators would have voted against it (incidentally, one of the absent senators was Clay, who most assuredly would have voted for it). These observations suggest that the Texas measure certainly would have passed had all senators voted.

The other two bills, New Mexico and the Fugitive Slave Law, are more difficult to disprove. We therefore turn to more sophisticated statistical tests to provide evidence against the abstention hypothesis. A logistic regression equation containing two independent variables accurately predicts both of these votes: the two Poole-Rosenthal scores for the senators in the 31st Congress. These two variables predict 34 of the 37 votes on New Mexico and 37 of the 39 votes on the slave law. Furthermore, the pseudo $R^2$ is a resounding 0.73 and 0.81, respectively.

We can use these estimations to predict the probability that each of the absent senators would vote in favor of the compromise bills had they been present. These parallel tests allow us to assess the probable voting behavior of the absent senators. For the New Mexico bill, we predict that 13 of the 23 abstainers have probabilities greater than .997 of supporting the bill. An additional 3 have probabilities greater than .88. It is doubtful that the remaining 7 would have supported the bill, but even if they had, the opponents of New Mexico would still have only secured 17 no votes. For the opponents to have been victorious, they would have had to convince all of the senators with probabilities of supporting the bill below .9999999 to vote against it. With a high degree of certainty, we can be sure that abstention on New Mexico did not change the result.
The evidence for the Fugitive Slave Bill is nearly as convincing. We predict that five of the abstainers had probabilities of supporting the bill of over .97. An additional six have probabilities greater than .75. Even if all the other abstainers had voted against the bill, the opponents would still have fallen short by 8 votes. For the opponents of compromise to have defeated the bill, they would have had to attract the votes of all the senators who had below .98 probability of supporting the bill. Again, this analysis suggests that abstentions did not affect the outcome of the compromise.

These results cast doubt on the hypothesis that the high number of abstentions altered the outcome on the final passage votes under Douglas's leadership. The results are consistent with the theoretic predictions of Cohen and Noll (1991). They suggest that abstainers typically come from the winning side. In this theory, abstainers have constituents on both sides of the issue. Abstention allows these legislators to give something to each side: the bill passes, so constituents favoring the bill get what they want, and for constituents who are opposed, the legislators can argue that by abstaining, they did not help the bill pass.

CATEGORIES OF SENATORS

Our theoretical model used six categories of senators, three each for both the North and the South. We now develop these categories by analyzing the senators' roll call votes on the three Clay leadership and six Douglas leadership votes discussed earlier. This exercise has two purposes. First, we demonstrate that the theoretical categories make sense by showing that senators are easily categorized. Second, we draw some conclusions from the analysis.

To the extent that categories of senators were distinct and readily identifiable, they would likely be visible to the participants. Although there may be some doubt as to a few senators, by and large, well-defined categories correspond to visible voting blocs. We consider these two purposes in turn.

The spatial analysis from Figures 13.5, 13.6, and 13.7 can be used to predict the voting behavior of the categories based on the votes' content. As long as benefits to one region were tied to benefits from the other region, both anti-compromise groups will oppose compromise. They will be aligned with the regional moderate group that does not get the benefit. For example, on the vote to delete the California language from the omnibus, for example, both anti-compromise groups will join with the Southern moderate group. On the omnibus's New Mexico and Texas votes, however, it should be the Northern moderates who join with the anti-compromisers to defeat Clay's plan.

When each of the components are voted on separately, the compromisers should be joined by the anti-compromise and moderate groups from the region receiving the benefit. For example, the compromisers should be joined with the Southern anti-compromisers and Southern moderates for the Utah, Texas, New Mexico, and Fugitive Slave portions of the compromise. Conversely, anti-compromisers and moderate Northerners will vote with the compromisers on California and the D.C. slave trade. These predictions are summarized in Table 13.6.

By matching these voting predictions with the actual votes, the senators can be divided into the six categories by implementing an algorithm. For each senator, we computed the number of voting errors between the prediction for each category and his actual votes. We then placed the senator in the category that minimized the number of errors. For example, Senator Houston voted in favor of compromise on every vote except Texas under Clay. A comparison of this voting record against each of the three Southern categories' predictions reveals the following: he had four prediction errors in the Southern anti-compromise category (Clay's New Mexico and California votes and Douglas's California and D.C. votes), four errors in the Southern moderate category (Clay's Texas and California votes and Douglas's California and D.C. votes), and one error in the Southern compromiser category (the vote against Texas under Clay). We therefore placed Houston in the Southern compromiser category, which best fits his voting record.
The fewest-errors classification criterion leads to relatively clean and accurate categories. The classification method accurately predicts 415 out of 449 votes (92.4 percent), for an error rate of only 7.6 percent.

Further evidence for this conclusion arises when we compare our fewest-errors criterion with extant roll call analyses. Stegmaier (1996: app. B) develops regional pro-compromise and anti-compromise groups based on twenty-five roll call votes centered around the border dispute between New Mexico and Texas. His four categories and our six categories have a correlation coefficient of .371. Furthermore, Poole and Rosenthal (1997) calculate multidimensional voting scores by analyzing all roll call votes within a Congress. During the antebellum period, they argue that economic issues cluster on the first dimension and that slavery issues cluster on the second dimension. Our analysis suggests that the Compromise of 1850 involved both dimensions nearly equally. Our categories correlate with the first dimension at .671 and the second dimension at .667. Again, these results suggest that voting under the Compromise of 1850 occurred within explicit and consistent patterns.

The main conclusion of the analysis is that the infrequency of errors suggests that senators voted according to visible patterns during the debate, patterns that were highly likely to be visible to participants. These results call into question the historians' claims that the votes on the Compromise of 1850 were "kaleidoscopic" (Hamilton 1964: 109; Remini 1991: 757) or exhibited "considerable confusion" (Smith 1988: 177). To the contrary, the voting blocs must have been quite visible to Clay as he tinkered with the legislation in July 1850.

**Voting Block Predictions**

We now combine our predictions of voting behavior by category and our categorization of senators illustrated in Table 13.6. We compare these predictions with the actual senators' votes on the specific components of the compromise.

Table 13.7 shows the accuracy of the categories predicting each of the Compromise of 1850 votes. The cells contain the proportion of senators who voted in favor of compromise out of the total number who voted (we again exclude abstentions). The proportions that are boxed are those predicted by our spatial model to be in the pro-compromise voting coalition.

We highlight in bold the proportions that are inconsistent with our predictions. In total, the spatial model correctly predicted the voting majority for 52 out of the total 54 categories (six categories multiplied by nine votes). The difference in voting between the categories just inside the pro-compromise coalition is stark. On average, .90 separates these proximate groups. These results, again, suggest that the Senate voting blocs were quite clearly defined in the 31st Congress.

**Predictions by the Omnibus-Unites-the-Opposition and the Misjudgment Hypotheses**

According to historians who support the omnibus-unites-the-opposition hypothesis, the strategy to defeat the compromise depended entirely on including benefits to both regions in the same bill. By combining Northern and Southern benefits, the omnibus united the extremists against the compromise. When the measures were separated, coordination between the extremists became more difficult. Cooperation between Northern and Southern extremists broke down as the sequencing of votes replaced the omnibus mechanism that had allowed extremists to coordinate to defeat the compromise. By offering exclusive benefits to one region at a time, Douglas made it difficult for the extremists to vote against benefits to their respective regions. When these extremists, according to the procedural hypothesis, switched to supporting benefits to their region, the compromise was forged.

The misjudgment hypothesis, by contrast, suggests that the actual process by which the compromise was fashioned is irrelevant. Rather, the key to understanding why Douglas succeeded after Clay failed depended on the substance of the compromise. This argument suggests that if Clay had found the appropriate language, he could have passed the omnibus with a coalition of moderates and compromisers against the extremists (see Figure 13.7). Ear-
lier we outlined several changes that Douglas made to Clay’s proposals. It was only after the language was changed that the compromise was achieved.

The procedural hypothesis predicts that the New Mexico and Texas voting coalitions under Douglas would become more pro-Southern. The reason is that the Southern extremists would not vote for any measure containing benefits for Northerners. Southern extremists would favor New Mexico and Texas once they were separated from the California provisions. Likewise, the procedural hypothesis predicts that the California coalition would become more pro-Northern as the Northern extremists vote for passage.

The misjudgment hypothesis, however, predicts that the coalitions change as a result of changes in legislation’s substance. Earlier we argued that Douglas proposed nearly the exact same language as Clay for the California and New Mexico bills. The Texas measure, however, underwent major changes. If the support coalition for Texas was more pro-Southern, we would not be able to deduce if the procedural change or the change in legislative provisions led to its passage. A pro-Northern tilt in the support coalition, however, can only be explained by the substantive changes made in the Texas measure.

Testing the Hypotheses’ Predictions

We use the senator category analysis to adjudicate among these hypotheses. Consider first the compromise coalition on the New Mexico bill. According to Table 13.7, the Southern moderates and the Northern and Southern compromisers supported Clay on the New Mexico vote. The Southern extremists voted against the pro-Southern New Mexico component because it was tied to the pro-Northern California statehood provision. This latter component was anathema to Southerners because it would destroy regional balance in the Senate. The procedural hypothesis suggests that if the New Mexico language were isolated from pro-Northern benefits, the Southern extremists would join this coalition, and New Mexico would pass. According to Table 13.7, this predicted scenario played out. Not only did Clay’s supporting coalition become proportionately more supportive of compromise, but every Southern extremist who had previously voted against New Mexico voted for it. We see a similar result for California, except this time with Northern extremists joining the pro-compromise coalition. The ten votes against compromise under Clay became nine votes in favor of compromise when Douglas separated California from the pro-Southern benefits.

If the language changes enacted by Douglas on the Texas bill were immaterial to the passage of the compromise as the procedural hypothesis sug-

Table 13.8

<table>
<thead>
<tr>
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<th>Probability That the Difference Is Insignificant</th>
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<td>Opponents</td>
<td>Difference</td>
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<td>.000</td>
<td>1.000</td>
</tr>
<tr>
<td>California</td>
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<tr>
<td>Texas</td>
<td>.667</td>
<td>.429</td>
<td>238</td>
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* indicates that the statistical significance cannot be ascertained because of a lack of variability in one or both of the groups.

...gists, then the same voting pattern that was present with New Mexico should be present again with Texas. The supporting coalition for Texas under Douglas, however, does not resemble the coalition under New Mexico. Every Southern extremist continued to vote against Douglas’s Texas, just as they had under Clay. Northern extremists, by contrast, gave six out of their ten votes for its passage. These six votes were pivotal for its passage. If all six Northern extremist senators who supported Texas under Douglas had again opposed the bill as they had under Clay, this component of the compromise would have lost, 24–26. As Holt (1999; 535) argues, the Texas component was “the key to the passage of all the other compromise measures.” The procedural hypothesis cannot explain why these pivotal senators would have switched sides. Not only does the pivotal misjudgment hypothesis explain this switch, but the historical record of Douglas’s making wholesale changes in the Texas language substantiates this explanation. Indeed, during the debate, Senator Winthrop, one of the pivotal Northern extremists, claimed, “I desire to say, in a word, that it is my earnest desire to vote for this [Texas] bill. I do believe that it is the precise measure, and that it is more calculated to bring peace to the country, to reconcile the differences which have so long divided it, and to restore it to unity and concord, than almost any bill which has been proposed” (Appendix to the Congressional Globe, August 9, 1850: 1568).

Table 13.8 offers a comparison of the hypotheses’ predictions on the three Douglas votes that were also voted on under Clay. It shows that for
New Mexico and California, the difference in the proportion voting in favor of Texas between the predicted supporters and the predicted opponents is stark. In fact, we cannot compute a statistic measuring the probability of difference because of the lack of variation in one or both predicted groups (no predicted supporter of California and New Mexico voted against them, and no predicted opponent of New Mexico voted for it). The difference in the proportion between the two groups for Texas, however, is much smaller. Although it still achieves a high degree of statistical significance, it indicates that a different voting dynamic may underlie the Texas component—the only component that may be used to differentiate the hypotheses.

We offer another visual depiction of how the supporting coalitions for Texas, New Mexico, and California changed under the leadership of Clay and Douglas. Using the votes analyzed in Table 13.5, we ordinally ranked the senators from the greatest supporter of the South to the least supporter of the South (and hence greatest supporter of the North). Barnwell, who never voted for a Northern benefit, is first in the ranking, and Upham, who never voted for a Southern benefit, is last. Southerners Clay and Spruance and Northerners Sturgeon and Cass, all of whom never cast a vote against the compromise, are in the middle of the ranking.

Using these rankings, we can determine the supporting coalitions for each of the three pieces of compromise that were voted on under Clay and Douglas. The supporting coalition is determined by minimizing the number of errors dividing the supporters and the opponents into two groups. In Figure 13.9, the supporting coalitions under Clay are represented by the thin line and the supporting coalition under Douglas by the thick line. The respective lines in the middle of the coalitions are the midpoints of the coalitions, defined as the points at which exactly half of the supporters are above the line and half are below the line (these may not necessarily be the midpoints of the coalitions due to rampant abstentions).

According to the procedural hypotheses just outlined, the New Mexico and Texas components should become more pro-Southern as these pieces are separated from the anti-Southern California statehood issue. Inversely, California should become more pro-Northern when it is separated from the pro-Southern components. Yet the pivotal misjudgment hypothesis predicts that the coalition will change as the substance of the compromise changes. Table 13.9 summarizes the visual depiction in Figure 13.9.

Our findings in Table 13.7 are confirmed. Again, the New Mexico coalition becomes more pro-Southern and the California coalition becomes more pro-Northern. The hypotheses cannot distinguish between these findings. Texas, on the other hand, becomes much more pro-Northern. The midpoint shifts down five senators and the coalition extends in the pro-Northern direction by fourteen senators while not changing on the Southern side of the rankings. These findings again are only consistent with the pivotal misjudgment hypothesis.

To ensure that the results from the Texas votes are not an artifact of our
senator category and ordinal ranking analyses, we present an additional perspective on which senators switched their votes. Twenty-one senators supported Texas under both Clay's and Douglas's leadership; seventeen senators opposed it under both. Two senators—a Southern moderate (Atchison) and a Southern compromiser (Underwood)—switched from the pro-compromise side under Clay to the anti-compromise side under Douglas. Eight other senators switched in the opposite direction. Six of the eight were Northern Whigs. The only two Southerners were both senators from Texas. These switches, in combination with the analyses from Table 13.7, 13.8, and 13.9 and Figure 13.9, show that Douglas's Texas bill was decidedly more Northern than Clay's bill. Only the misjudgment hypothesis is consistent with this result.

To summarize, the procedural and misjudgment hypotheses make predictions about the coalition shifts on the New Mexico, California, and Texas measures. Because they predict the same shift on New Mexico and California bills, the key to differentiating them is the Texas bill. On this measure, our empirical analysis clearly favors the misjudgment hypothesis over the procedural hypothesis.

A NEW EXPLANATION

Using the results and narrative presented to this point in the chapter, we offer the following new interpretation of the demise of Clay's omnibus. We argue that Clay's omnibus strategy might have worked had the substance of his measures differed modestly. We conjecture that had Clay used Douglas's solution for the Texas boundary dispute, the omnibus might have passed.

Suppose that Clay had used Douglas's text for the Texas measure and that an amendment was offered to delete Texas from the omnibus. We assert that this amendment would have barely failed. We know that the twenty-one principled senators from both regions would have voted in favor of the amendment. Assuming that the compromisers would unanimously oppose any compromise-defeating amendment, we have eighteen pro-compromise votes. The moderate senators, again, are the pivotal group. We know from observing their behavior under both Clay and Douglas that they voted for compromise when their region benefited. In fact, their voting behavior is impervious to Douglas's procedural change. Under both strategies, they supported measures benefiting their region.22 On Douglas's Texas bill, the Southern standard senators were nearly unanimous in support, voting 9–1 in favor (with four not voting); the four Northern moderate senators who were present voted against Texas (three abstained). Even if we assume that Atchison and Underwood as well as all the Northern moderate senators would continue to oppose Texas, the amendment to strip it from the omnibus still would have failed on a tie vote, 30–30. As Holz suggests, if compromise on this component was struck, so was the comprehensive compromise package.

Clay's omnibus came within a hair of passing, failing first by one vote on the amendment to delete the Texas provisions. Even with his compromise solution, Clay almost kept the omnibus intact. Suppose that Pearce's first procedural motion to delete all the New Mexico and Texas provisions passed as it did on July 31. The following motion to delete Texas from Pearce's commission—without-Dawson—amendment initially passed, 29–28, with three abstentions. The abstainers were Bodland, who missed the entire compromise debate; Cooper, who was classified as a Northern compromiser; and Hale, a Northern moderate. If only one of these senators had been present to vote against the amendment, it would have failed. The amendment to bring New Mexico back into the omnibus (Pearce's revised amendment) was defeated, 25–28. The seven abstentions came from one Southern extremist, one Southern moderate, one Southern compromiser, three Northern compromisers, and one Northern moderate. The pivotal four votes necessary for the amendment to have succeeded could have come exclusively from the compromisers. This analysis supports our contention that Clay came close—very close—to winning the votes on Texas and New Mexico. Had he done so, he could have stopped the omnibus from unraveling. Revisions in the Texas boundary solution might have saved Clay and the omnibus.

Our purpose here is not to argue that Clay's omnibus was the best mechanism for achieving compromise. Instead, we analyze historians' claim that Clay failed because of his omnibus strategy. Seen in light of the spatial model, these empirical results suggest that the procedure of fashioned compromise was not nearly as important as the substance of the legislation.

Conclusions

In this chapter, we challenge Potter's armistice thesis, the predominant interpretation of the Compromise of 1850. The armistice thesis relies on inferences drawn from congressional voting behavior. Proponents of this thesis advance three related arguments to support it. First, they argue that the failure of Clay's omnibus shows that no majority favored the compromise. Second, Douglas succeeded where Clay had failed because he divided the measures, avoiding a vote on the entire package. Finally, Potter suggests that the compromise fails what he suggests should be a necessary condition for a
true sectional compromise, that members from both sides grant mutual recognition to the concessions granted to the other side. The compromise fails this condition, Potter argued, because a preponderance of strength from one side consistently opposed the preponderance of strength from the other side. Neither side accepted the concessions to the other with majority support.

Because of the central role of inferences from congressional voting behavior and agenda setting in the armistice thesis, we undertook an in-depth analysis of Clay's failure and Douglas's defeat. With a few notable exceptions—our close look at the differences between the Clay and Douglas measures and some of our voting analysis—much of the debate is not about facts. By and large, everyone agrees on the drama and votes. Instead, the debate is about what we infer from what we observe.

This conclusion is nowhere more evident than in the three separate hypotheses for explaining Clay's failure and Douglas's success. Historians have failed to adjudicate among these different explanations; moreover, it is not obvious that the traditional methods of research are sufficient to do so. The central role of congressional voting in ascertaining these hypotheses implies that doing so is ripe for social science analysis, particularly using the modern tools from political science of voting theory and statistical analyses of congressional voting behavior.

We summarize our contribution as follows. First, we articulate the logic underlying the three separate hypotheses about why Clay failed and Douglas succeeded. The **procedural hypothesis** holds that Clay failed because he combined several separate measures together in an omnibus (Hamilton 1964; McPherson 1988; Milton 1934; Rennin 1991). Douglas succeeded because he divided the omnibus into its separate components, allowing a majority to form on each bill. The **abstention hypothesis** argues that Douglas succeeded because he and others persuaded sufficient opponents of these measures to abstain rather than oppose each measure (Hamilton 1964; McPherson 1988). Finally, the **pivot misjudgment hypothesis** holds that Clay failed because he did not quite gain the pivotal senator's support. Douglas succeeded by altering Clay's measures, picking up sufficient additional support to command a majority for his measures (Holt 1978; see also Freeling 1990; Stegmaier 1996).

We also provide a more careful analysis of the differences between the Clay and Douglas measures. This reveals significant differences in four of the six measures, the Utah and New Mexico territorial bills, the Texas debt and boundary measure, and the Fugitive Slave Bill. On the Texas bill, Douglas's measure substituted a specific boundary solution for Clay's clause delegating the boundary issue to a commission, thus avoiding possible violence between Texas and New Mexico, possibly with the intervention of the federal government (Stegmaier 1996). The territorial bills differed on one of the hottest issues of the time, whether the territorial legislature in a territory organized without reference to slavery could prohibit the introduction of slaves. Clay's measures prohibited the territorial legislature from legislating on slavery, whereas Douglas's measures allowed the territorial legislature to do so. On the Fugitive Slave Bill, Douglas's measure substituted enforcement provisions biased in favor of slaveholders for those biased against.

Although none of these changes altered the overall outline of Clay's compromise, they altered sufficient details to induce a few senators to switch sides. Given that the omnibus unraveling began on an amendment defeated by a single vote, marginal changes could easily have induced a small number of senators to switch from opposition to support. Indeed, this behavior is commonly observed in the literature on Congress.

Our theoretical approach favors the misjudgment hypothesis. The model shows that given the preference configuration of the 1850 Senate, a true compromise existed. Further, this compromise could be reached via the omnibus or through a sequence of separate measures. Clay failed because he just barely failed to attract the support of the pivotal senator. By adjusting four of the six measures, the individual bills under the guidance of Douglas succeeded because the new language gained the support of the pivot. In this view, the issue of whether the omnibus doomed to failure Clay's efforts is a red herring.

Our theory implies that the conditions under which the sequence of votes led to the final compromise also allow the omnibus to pass. This implies that had Clay's omnibus contained the substance of Douglas's measures, it would have passed. Thus had Douglas used the omnibus instead of his sequential agenda, it too would have passed.

Our statistical results combine with the theoretical results to test the various hypotheses explaining why the omnibus failed and the individual bills succeeded. We found little support for the strategic abstention hypothesis. Although we agree with many historians that certain senators probably strategically abstained, we argue that their votes were never pivotal. We also found some support for the procedural hypothesis. Consistent with its prediction, the California measure enjoyed more Northern support and the New Mexico measure enjoyed more Southern support under Douglas than Clay. It does not adequately explain why the omnibus necessarily failed, however.

Our statistical tests strongly point to the pivot misjudgment hypothesis. To differentiate between the procedural and pivot misjudgment hypotheses,
we examine votes where they make differential predictions about the coalitions supporting each measure, namely, the three measures voted on under both legislative procedures. The procedural hypothesis says that the coalitions supporting each bill should be largely the same under Clay and Douglas. The pivot misjudgment hypothesis, in contrast, argues that Douglas's adjustments to the measures should lead to somewhat different support coalitions. We find significant changes in the support coalition from Clay to Douglas on the Texas measure, which underwent substantial changes. This supports only the pivot misjudgment hypothesis. Clay's omnibus came within a razor's edge of passing. Our evidence suggests that had he offered a slightly different proposal—for example, that later proposed by Douglas—it is likely that the Texas portion of the omnibus would not have been defeated, which would have stopped the omnibus from unraveling. In combination, this series of theoretical and empirical results support the pivotal misjudgment hypothesis.

Before turning to the larger implications of the analysis, we raise a fourth hypothesis, the partisan sabotage hypothesis. Did the omnibus fail because the Democrats sabotaged the efforts of Clay (a Whig) so that they could pick up the pieces, save the compromise, and then claim political credit? This hypothesis has a surface plausibility: if Clay had built the coalition to support the omnibus, a few well-placed Democrats could have withheld their support on the key votes so that the Democrats could then take over.

Circumstantial evidence provides some support for this hypothesis. The Democrats rode the wave of the compromise's success in both the 1850 and 1852 elections, not only recapturing the presidency but amassing their largest-ever proportion of members among all Northerners in the House. Had Clay instead succeeded, the Democrats' electoral prospects would have been dampened. Johannsen (1973) makes an intriguing comment on this last point: "The identification of the omnibus bill with Henry Clay, Douglas felt, had been one factor in its defeat. The Taylor administration was jealous of Clay's leadership, and some democats feared his presidential ambitions if his bill should succeed" (295). Whether Douglas or the Democrats intentionally attempted to kill Clay's compromise is debatable; that Clay failed and Douglas succeeded is not. On the fateful last day of July in 1850, when Clay's omnibus unraveled, Douglas voted against Clay twice during the debate on the compromise (on Dawson's provision that increased the power of the Texas legislature in their ongoing territorial dispute with New Mexico and Pearce's motion to delete all the New Mexico and Texas portions of the omnibus).

Yet besides these votes and the fact that Douglas was an early critic of Clay's omnibus strategy, we have uncovered no evidence suggesting that Douglas quietly or explicitly sabotaged Clay's efforts. The most likely place to uncover substantiating evidence is in various personal archives, especially Clay's and Douglas's. Given that the papers of each have been thoroughly examined, we doubt that further efforts would prove valuable. Moreover, had there been any hint of partisan sabotage, it is likely that Clay would have mentioned it.

Further, one piece of evidence casts doubt on the partisan sabotage hypothesis. The data from Table 13.3 show that Northern Whigs more than any other group switched from voting against Clay's omnibus to supporting Douglas's individual bills. Although the idea of a partisan or Douglas sabotage may appeal to conspiracy theorists, they must come up with an explanation of why Whigs would conspire with Douglas to defeat Clay. Indeed, the Northern Whigs' switch in support remains a major puzzle in the compromise.

These findings have implications for Potter's armistice thesis. We contest two inferences underlying the armistice thesis about Clay's failure and Douglas's success: first, that a majority never favored the full compromise; and second, that Douglas succeeded only by manipulating the agenda to prevent a vote on the entire package. We argue instead that a majority in the Senate did favor the compromise. This is not as strong a statement as saying a majority of senators from both sections approved the compromise. In contrast to the proponents of the procedural hypothesis, we argue that the compromise passed because a majority favored it and hence Douglas's procedural manipulation was not necessary for passage.

We now turn to a set of stronger claims about the armistice thesis. First, we argue that Potter's test for a true compromise is inadequate. We showed that when a true compromise exists, it can be reached using either the omnibus or a sequence of votes. Yet the voting patterns differ significantly under these two agendas for passage. Under the omnibus, a majority of both sections supports compromise, thus meeting the Potter test. Under a sequence of votes, however, a majority of one section consistently opposes a majority of the other, thus failing the Potter test. Because both procedures reach the true compromise, the Potter test cannot be used to judge whether a set of measures is a true compromise.

A second problem with the armistice thesis is that the succession of votes leading to the passage of the Missouri Compromise is nearly identical to those passing the Compromise of 1850. Although the 1820 compromise passed by a majority of 24-20 in the Senate, 80 percent of Northerners voted against. This observation led Moore (1953), in his classic treatment of
the Missouri controversy, to draw a conclusion similar to Potter's: "It has often been said that the compromise of 1820 was a solemn compact between the North and South. From this analysis, however, it is evident that it was merely an agreement between a small majority of Southern members of Congress and a small minority of the Northern ones" (111).

Paralleling arguments made about Clay's omnibus, Moore reports (1953) that the Missouri Compromise could not be passed in the House. Regarding a vote on the package: "Such a vote could have produced only a negative decision. . . . Only by splitting the compromise into sections and voting separately on each one was it possible to push the measure through the House" (102).2

In sum, the Missouri Compromise shares with the Compromise of 1850 the same characteristics cited by proponents of the armistice thesis as supporting their view. As with the Compromise of 1850, the Missouri Compromise fails what Potter suggests should be a necessary criteria for a true sectional compromise, that it be accepted by majorities in both sections.

Because the Compromise of 1850 is widely regarded as a success in ushering in sectional peace and because both compromises share the same characteristics, these characteristics cannot be used to explain the two compromises' differential success. In particular, these characteristics cannot explain why the Compromise of 1850 failed to create lasting sectional peace.

We thus reject the principal logic underlying the armistice thesis. The Compromise of 1850 may not have been a true compromise (though see Stegmaier 1996: 321). But if the 1850s measures failed to provide a lasting compromise, the armistice thesis does not explain why. Along with the new political historians (Holt 1978; Silbey 1964), we argue that explanation of the outbreak of the third sectional crisis and its failure in the Civil War lies elsewhere.

Although sectional conflict reemerged after the Kansas-Nebraska Act of 1854, nothing inherent in the Compromise of 1850 made that inevitable. Our interpretation is consistent with the account of new political historians who offer two interrelated criticisms of the traditional historical narrative. First, they argue that traditional historians tend to view the period from the mid-1840s through the Civil War as an inexorable move toward war (see Silbey 1964; Swierenga 1975). In contrast, new political historians argue that the peace following the compromise was more than a mere uneasy quiescence. According to Holt (1978: 102):

The historians who argue that sectional conflict over slavery disrupted the old bisectional parties detect a clear progression of events between 1848 and 1854. Hence they jump from divisions over the Proviso to the Compromise of 1850 to the uneasy acquiescence in the Compromise in 1851 and 1852 and finally to the Kansas-Nebraska Act, which polarized North against South and completed the destruction of the Whigs while fragmenting the Democrats along sectional lines. The cogency of that interpretation, however, depends largely on skipping over periods between slavery-related events and ignoring other developments in those same years.

Second, new political historians emphasize the importance of factors other than slavery for undermining the second party system and hence for the crisis that emerges in 1854. In particular, they emphasize the role of immigration and nativism (Holt 1978; Silbey 1964, 1985; Swierenga 1975).

Our argument combines with those of the new political historians to suggest a decoupling of the events in 1850 from those of the third crisis emerging in 1854. Although the Compromise of 1850 may not have resolved the sectional crisis for a generation, the reasons for this failure do not involve those given by proponents of the armistice thesis.
consent agreements for the period 1876–1940, which we will soon be reporting in greater detail. We are grateful to John La Boda for conducting much of this research.


Chapter 12

1. At least two delegates had to vote before a state's vote could be counted, and in case of a tie, the state cast no vote.

2. Much of the new institutionalism literature is about rules that, when added to pure, simple majority voting, yield equilibrium in multidimensional spaces.

3. For example, if a state has seven delegates with six divided evenly, the remaining delegate will be pivotal for the state, and the state's vote may well be pivotal for the outcome also.

4. There is always a problem with missing data when examining roll call votes. Absenteeism was a serious problem in the Continental Congress, which generally met without interruption. Although the Congress had yearly sessions, which began in November, often the states' appointments of delegates ran beyond or otherwise cut across the "congressional year." Delegates themselves often seemed to serve at their own leisure, with many appointments never served. In this analysis, individuals who did not vote on at least 25 percent of the issues for a particular congressional year were excluded from the analysis.

5. States with only a single representative present were excluded. Thus Delaware, with only one member, is never included in the analysis.

6. Delaware, with a single representative, is listed separately, but it is included as a unit vote based on how its single representative voted.

7. In fact, Carroll and Gale were decisive on sitting and the first two votes on assumption, and if they had voted differently and the second assumption vote were reversed, there would have been no third option (no A3) on which to vote.

8. The Founders were generally pessimistic about the prospects of success under the new Constitution, just as they were under the older Articles, and most generally felt that its failure would lead to selection of a nondemocratic national government or to the breakup of the Union.

Chapter 13

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1. Fehrenbacher (1980: 44) echoes some of these themes: "The Compromise legislation of 1850, though apparently resolving a number of vexatious and even dangerous problems, had scarcely touched the deeper, intractable conflict over slavery. . . . It was, in the words of one southern editor, 'the calm of preparation, and not of peace.'"

2. Throughout this chapter, we frequently refer to the "Clay" and "Douglas" bills, as though Clay and Douglas were the only authors and only promoters. We use this shortcut for expository purposes. Clay and Douglas, as the historical record makes clear, relied upon the wisdom and efforts of their allies in passing what became known as the Compromise of 1850.


5. Although Clay's decision to create the omnibus represents a major development in the success and failure of the compromise, his reason for this move remains unclear. Potter argues that Clay put together the omnibus to increase the separate bills' chances of passage in the House (Potter 1976: 103). Stegmaier (1996: 103; see also 113) suggests that Clay joined the territorial measures because some Southerners feared that if the California legislation were not bound with the other territorial measures, Northerners might impose the Wilmot Proviso.

6. Other senators in favor of the compromise felt uneasy about the Dawson amendment. Shields defended Pearce: "But since I have reflected on the effect of the vote I gave yesterday, and on the effect of that amendment, I am really gratified that my friend from Maryland has presented a mode by which I can redeem myself" (Appendix to the Congressional Globe, July 31, 1850: 1475).

7. Senator Yulee, a Southern extremist, convinced him to separate the two steps.

8. The Utah portion is considered pro-Southern because it was organized without the Wilmot Proviso.
9. For a modern methodology for computing voting scores, including a comprehensive analysis of the entire history of congressional roll call voting, see Poole and Rosenthal (1997).

10. As each of these amendments stripped sections from the omnibus, a no vote is a vote in favor of the compromise.

11. A notable exception is Holt (1999: 537), who credits the New England Whigs for securing passage of the Texas bill and subsequently the compromise.

12. Indeed, many historians claim that this ambiguity causes problems later, dividing Northern and Southern Democrats (Potter 1976).

13. Holt (1978: 81–82) argues that this issue also characterized the difference between President Taylor's plan and that of Douglas. By advocating immediate statehood for New Mexico, Taylor's proposal precluded any possibility of slaveholders' gaining a political foothold. This, in turn, caused considerable opposition among Southerners.

14. Another amendment, offered by Pierre Soulé of Louisiana on June 17, added, "And when the said Territory, or any portion of the same, shall be admitted as a State, it shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission" (Congressional Globe, June 6, 1850: 1239). This amendment "was a promise by one Congress that a later Congress would not refuse to admit" the territories as states even if they included provisions for slavery (Russet 1972: 15).

15. Other configurations of preferences are possible but less plausible. For example, we might depict extremists as extreme on both dimension: Southerners near zero on the Northern dimension but very high relative to their sectional patriots on the Southern dimension, and vice versa. The conceptual problem with this configuration is that all six groups of voters are better under a compromise, including extremists, so extremists will not work against compromise, in this configuration.

16. For the present, we consider SN a true compromise. In a subsequent subsection, we study why Clay's omnibus failed to be a true compromise.

17. Technically, there can be net gains in support if the distribution of ideal points is not symmetric.

18. Krehbiel and Rivers (1988) provide an alternative account. Since we are only illustrating the principle and not relying on a claim that this actually occurred, the debate about aid to education need not concern us.

19. Numerous scholars have developed scores and categories for representatives in Congress based on their roll call votes (see Poole and Rosenthal 1997; Alexander 1967). Inevitably, these scores will contain some anomalies when the reality of a member's voting score does not live up to his reputation. Nonetheless, these scores help serve useful purposes for exceeding the costs of some misclassified members or senators. It is with this caveat that we present our scores.

20. Because abstentions are excluded, they do not affect the categorization of the senators. Borland is placed in the Southern anti-compromise category even though he did not vote during the Compromise of 1850 debate. This placement is consistent with how historians believed he would have voted (Hamilton 1964: 116). Four senators scored evenly between two categories. Berrien, Pearce, Rusk, and Sebastian all had an equal number of errors between the Southern anti-compromise category and the Southern moderate category. If they were in fact true anti-compromisers, they would not have supported any of the votes under Clay's leadership, yet Berrien and Pearce voted for Texas, and Rusk and Sebastian voted for New Mexico. Consequently, we categorized all four as Southern moderates.

21. For purposes of determining the correlation coefficient, we coded the most extreme Southern group for both our category and Stegmaier's category as a 1. For more pro-Northern senators, the number assigned to each category increased by 1. Thus we coded the extreme Northern group for our categories as a 6 and for Stegmaier as a 4.

22. For the pro-Northern votes, Northern standard senators voted 7–0 (Clay's California), 6–0 (Douglas's California), and 6–0 (D.C. slave trade). On the pro-Southern votes, the Southern standard senators voted 11–2 (Clay's New Mexico), 12–2 (Clay's Texas), 8–2 (Utah), 10–0 (Douglas's New Mexico), and 12–0 (Fugitive Slave Bill).

23. Milton (1934) quotes Douglas as drawing the same conclusion: "If it was intended to be a compact, he commented, 'the North never agreed to it. The Northern Senators voted to insert the prohibition of slavery in the Territories; and then, in the proportion of more than four to one, voted against the passage of the bill. The North, therefore, never signed the compact, never consented to it, never agreed to be bound by it'" (136).

Chapter 14

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1. For theoretical work that formalizes many of the considerations in the remainder of this discussion, see Bolton and Roland (1997), Alesina and Spolaore (1997), and Farrell and Scotchmer (1988).

2. Since distributive issues arise in firms with regard to nepotism, gender,