



## The Quandaries of Slavery and Civil War in the US

Norman Schofield

Center in Political Economy, Washington University, St. Louis, USA  
(e-mail: schofld@wueconc.wustl.edu)

**Abstract** The key theoretical idea underlying this paper is that an institutional equilibrium can be destroyed or transformed by rapid belief changes in the population. The changes in electoral beliefs in the period prior to the election of Lincoln in 1860 and the commencement of the Civil War are examined in an attempt to understand the political transformation that occurred at that time, as well as its ramifications until the present. I argue that Lincoln made the case to the Northern electorate that the South posed a threat to free labor. The *Dred Scott Opinion* of the Supreme court in 1857 made credible a belief that the South did intend to force the extension of slavery to the free Northern States, and to the Territories. Slavery would then cover the Republic as far as the Pacific. Lincoln thus created a belief cascade in the North, which destroyed the intersectional political equilibrium or balance between land and capital that had persisted in the US since the election of Jefferson in 1800. The equilibrium had depended on the suppression of the issue of slavery. Lincoln's election in turn created a belief cascade in the South that induced secession. I then relate the events of 1860 to Madison's argument in "Federalist X" on the "probability of a fit choice" in the extended Republic. I argue that Madison was influenced by both Condorcet and Montesquieu, and that the US Constitution was designed to facilitate the election of a risk taking President, at a time of social quandary.

*JEL Classification* D71, D74, D81

*Keywords* political quandary, elections, valence, fit choice, civil war

### 1. Introduction

The political conflicts between Whigs and Democrats until 1856 had concentrated on economic concerns (Riker 1982). The Whig industrial and commercial interests of the East focused on protection and trade regulation, whereas Democrats, concentrated in the South and West, were concerned with issues of land and agriculture. Rogowski's model of factor endowments can be used to sketch the

basis for these differing preferences (Rogowski 1989). Since the U.S. can be assumed to be relatively poor in capital (in contrast to Britain) and poor also in the supply of labor (in contrast to Europe generally), a natural protectionist coalition of capital and labor could form. Such an electoral coalition formed the basis for the Federalist party, later called the Whigs. However, land was relatively abundant, so agricultural interests (whether based on slave or free labor) would favor increased trade and decreased tariffs. This common interest was the basis of the Jeffersonian Republican Party, or Democrat Party. Moreover, landed interests are generally capital poor, and so favor a soft-money principle, and, in particular, low interest rates. The Whig and Democratic parties may then cohere around quite different policy positions on single axis which puts capital and land in opposition. Both northern and southern regions depended on agriculture, so the two electoral coalitions would necessarily be “intersectional.” Presidential elections, for example, from 1836 up to 1856, gave no clear indication that the Democrat vote was concentrated in the South (See Table 1 for the distribution of electoral college votes in the elections from 1836 to 1860). In the House and Senate both party coalitions were intersectional. The one occasion when a Northern coalition formed was in the House in December 1844, when 55 Democrats (from the North) and 53 Northern and border Whigs voted against the gag-rule. This temporary coalition formed to express the anger of Northern Democrats that their favored candidate, Martin Van Buren, had been blocked by the 2/3 rule imposed during the Democrat nominating Convention. This 2/3 rule proved to be an effective veto device by Southern Democrats, both in 1844 and later in 1860.

By 1852, however, the Whig popular presidential vote had fallen to 44%. The plurality mechanism of the electoral college meant the Whig candidate, Scott, took only 42 seats (out of 296, or 14%). It was obvious that the great expansion of available western land resulting from the war with Mexico and the Treaty of Guadalupe Hidalgo (1848) essentially guaranteed that the Democrat coalition, if it held together, would become dominant. However, this coalition depended on a compromise between western farmers and landed slave interests. As long as slavery did not threaten free labor, this coalition was stable.

From an economic point of view, the rapid development of a new northern trade route through the Erie Canal had led to a dramatic fall in transport costs. This created the potential for an export-oriented coalition of eastern capital and labor-intensive western farmers (Fogel 1994).

Frémont, the first Republican presidential candidate in 1856, had, in a sense, tried to construct this new coalition against the Democrat Party. His moderate success (33% of the popular vote) suggested it was possible. Nonetheless, Fillmore, essentially a Whig candidate, took 22%, while the Democrat, Buchanan, won 45% of the popular vote, and 174 seats (or 59%) of the electoral

college. Stephen Douglas, a Democrat, was well-positioned, in 1856, to maintain the Democrat landed coalition and gain the presidency in 1860. For Douglas to win in 1860, however, he had to preserve a coincidence of interests, based essentially on an ideology of expansion, by overcoming an implicit, but only potential, conflict of interest between free labor and slave owners, over whether the west was to be free or slave.

For those Southern interests that depended on slave labor, the maintenance of this particular institution was paramount. For free labor, whether in the south or north, the institution would only impinge on their factor reward if the products of the two kinds of labor were competitive. However, as long as labor was relatively scarce, there was little *economic* effect on free labor. The westward expansion of slave labor could change this “equilibrium”. Moreover, any dramatic change in the economic and constitutional equilibrium on the labor axis, particularly over the use of slave labor in the north, would clearly affect free labor. For Douglas, it was critical to separate the issue of land and labor, and it was for this reason that he proposed the notion of “popular sovereignty”. By leaving the decision over slavery to the electorate of each territory (once it became populous enough for statehood), he hoped to placate southern interests.

However, on March 6, 1857, the Supreme Court, under Chief Justice Taney, made its decision on *Dred Scott v. Sanford*, effectively asserting that blacks had no rights as citizens. In essence, the decision declared that the Federal authority had no right to deny slavery in the Territories. This destroyed what had been a long-standing compromise over slavery on the *labor* axis, and seemingly legitimized the expansion of slave interests into all western Territories. While the factor of *land* was relevant, it was so only because of the implicit conflict between free and slave labor in the West.

Riker (1986) argued that Lincoln’s victory in the presidential election of 1860 stemmed from an “heresthetic” move by Lincoln in 1858 against Stephen Douglas, at Freeport, Illinois, during their contest for the Illinois Senate seat. By posing a question that forced Douglas to appear anti-slavery to the Illinois voters, Lincoln effectively gave the election to Douglas. According to Riker, Douglas’s reply to Lincoln’s question induced southern pro-slavery voters, in the later presidential race of 1860, to reject Douglas. Riker contended that the resulting split in the Democratic Party, between Breckinridge and Douglas, gave Lincoln the presidency. I shall argue for a different interpretation of these events. First of all, the South was deeply hostile to Douglas even prior to the Freeport debate. For example, *The Mobile Register* (20 August, 1858) in an editorial argued that to reject the Douglas compromise would mean permanent destruction of the Democratic Party. To accept the compromise would mean “demoralization as well as disaster”.

Table 1 US elections 1836–1860

Year	Popular vote			Electoral College Votes				
	Candidate	Party	Vote %	North	West	Border	South	Total
1836	Van Buren	Democrat	51	101	8	4	57	170
	Harrison	Whig	37	15	30	28	0	73
	White	Whig	10	0	0	0	26	26
	Webster	Whig	2	14	0	0	0	14
<i>Total</i>								294
1840	Harrison	Whig	53	123	33	28	50	234
	Van Buren	Democrat	47	7	5	4	44	60
	Birney	Liberty	.3	-	-	-	-	-
<i>Total</i>								294
1844	Polk	Democrat	49.5	77	36	7	60	170
	Clay	Whig	48	35	23	23	24	105
	Birney	Liberty	2.5	-	-	-	-	-
<i>Total</i>								275
1848	Taylor	Whig	47	97	0	23	43	163
	Cass	Democrat	43	15	57	7	48	127
	Van Buren	Free Soil	10	-	-	-	-	-
<i>Total</i>								290
1852	Pierce	Democrat	51	92	66	20	76	254
	Scott	Whig	44	18	0	12	12	42
	Hale	Free Soil	5	0	0	0	0	0
<i>Total</i>								296
1856	Buchanan	Democrat	45	34	28	24	88	174
	Fremont	Republican	33	76	38	0	0	114
	Fillmore	Whig"	22	0	0	8	0	8
<i>Total</i>								296

Table 1 cont.

Year	Candidate	Popular vote		Electoral College Votes				
		Party	Vote %	North	West	Border	South	Total
1860	Lincoln	Republican	40	107	73	0	0	180
	Douglas	N. Democrat	29	3	0	9	0	12
	Bell	Whig"	13	0	0	12	27	39
	Breckinridge	S. Democrat	18	0	0	11	61	72
<i>Total</i>								303

From Ransom (1989, pp. 103, 156)

The South clearly understood that accepting Douglas could give them a victory, but one which would leave their particular institution undefended. This intransigence became quite apparent at the Democratic convention in Charleston in April 1860. Before nominating their Presidential candidate, the convention decided to adopt the platform for the party. The Southern platform, supported by the delegates of fifteen slave States (together with Oregon and California) asserted that Congress had no power to abolish slavery in the Territories, and that the national government had the duty to defend the right of property in slaves everywhere. The opposing Douglas platform included as its second plank the declaration that decisions over slavery should be left to the Supreme Court. Realizing that passing this plank would force the dissolution of the convention, many of Douglas's supporters voted against it. At the same time, Southern delegates saw that their "slave-code" platform would not pass and the delegates of eight slave States retired from the convention. It was then decided that no man be nominated without a two-thirds vote of the original 304 delegates. Douglas took 145.5 in the first ballot (the 0.5 being a split vote), against five other contenders, and eventually reached 152.5. However, it was impossible, even after sixty-five ballots, to obtain the required supra-majority of 203 of the delegate votes. By 148 to 100 the convention agreed to adjourn (Nevins 1950). As *The New York Times* (May 3, 1860) editorial remarked, "[T]he South believes sincerely that the North seeks power in order to crush slavery" but it must instead "make up its mind to lose the sway it has exercised so long."

In essence, the South forced the split between the two wings of the Democratic Party, because it believed, correctly, that Douglas would not give it what it wanted, namely the spread of slavery throughout the Republic. Jefferson Davis, soon to be President of the Confederacy, expressed a typical Southern attitude to Douglas's party when he called it "the spurious and decayed offshoot of democracy" (Cooper 2000).

Table 2 The election of 1860

State	Percentage of Vote				Electoral College Votes			
	LN	BR	BL	DG	LN	BR	BL	DG
Vermont	78.99	0.51	4.60	15.90	5	–	–	–
Maine	63.97	6.49	2.08	27.46	8	–	–	–
Minnesota	63.42	2.15	0.18	34.25	4	–	–	–
Massachusetts	62.97	3.51	13.20	20.32	13	–	–	–
Rhode Island	61.37	0.00	0.00	38.63	4	–	–	–
Michigan	57.18	0.52	0.26	42.04	6	–	–	–
New Hampshire	56.89	3.20	0.67	39.24	5	–	–	–
Connecticut	56.69	18.95	4.26	20.09	6	–	–	–
Wisconsin	56.58	0.58	0.11	42.73	5	–	–	–
Pennsylvania	56.26	37.54	2.68	3.52	27	–	–	–
Iowa	54.87	0.82	1.37	42.94	4	–	–	–
New York	53.71	0.00	0.00	46.29	35	–	–	–
Ohio	52.35	2.58	2.76	42.32	23	–	–	–
Indiana	51.09	4.52	1.95	42.44	13	–	–	–
Illinois	50.68	0.71	1.45	47.16	11	–	–	–
New Jersey	48.15	0.00	0.00	51.85	4	–	–	3
Oregon	36.57	34.74	1.27	27.42	3	–	–	–
California	32.96	28.89	5.74	32.41	4	–	–	–
Delaware	23.75	45.74	24.09	6.38	–	3	–	–
Missouri	10.29	18.92	35.27	35.53	–	–	–	9
Maryland	2.48	45.93	45.14	6.45	–	8	–	–
Virginia	1.15	44.45	44.66	9.74	–	–	15	–
Kentucky	0.93	36.35	45.18	17.54	–	–	12	–

Table 2 cont.

State	Percentage of Vote				Electoral College Votes			
	LN	BR	BL	DG	LN	BR	BL	DG
Tennessee	0.00	44.52	47.67	7.81	–	–	12	–
North Carolina	0.00	50.44	46.75	2.81	–	10	–	–
Georgia	0.00	48.78	40.32	10.90	–	10	–	–
Louisiana	0.00	44.90	40.00	15.10	–	6	–	–
Florida	0.00	59.55	37.9	2.56	–	3	–	–
Arkansas	0.00	53.16	37.17	9.67	–	4	–	–
Mississippi	0.00	59.02	36.23	4.75	–	7	–	–
Alabama	0.00	54.04	30.85	15.11	–	9	–	–
Texas	0.00	75.49	24.51	0.00	–	4	–	–
South Carolina*	0.00	0.00	0.00	0.00	–	8	–	–
	39.8	18.2	12.6	29.4	180	72	39	12

BR = Breckinridge; BL = Bell; DG = Douglas; LN = Lincoln. \* Electoral College vote allocated by the state legislature.

Had the split between Douglas and the Southern Democrat candidate, Breckinridge, not occurred, a combined Douglas-Breckinridge platform in 1860, even with 59.2% of the popular vote, could only have increased the total Democratic electoral college vote from 84 to 91. (Table 2 gives the popular and electoral college votes by state in 1860, and makes it clear that only in Oregon and California did the combination of Douglas and Breckinridge give them a majority against Lincoln). Lincoln would still have had a majority of 173 of the Electoral College out of 303. Rather than engage in “heresthetic” maneuvers, Lincoln’s strategy, from as early as June 26, 1857, was to examine the logic and possible consequences of the *Dred Scott* decision in order to assess the future intentions of the South over slavery. At the Freeport debate in 1858, the most important question Lincoln asked Douglas was whether Douglas would acquiesce to a Supreme Court decision, if it were made, that decreed “that states cannot exclude slavery from their limits” (Fehrenbacher 1989a, p.542). In later speeches in 1860, Lincoln implied that the eventual consequence of the *Dred Scott* decision could

be the legal use of slave labor in Northern free states.

To put Lincoln's logic in terms of an expected utility calculation, the *status quo*,  $A_2$ , was associated with a high probability, ( $p$ ), that the South did intend to implement such a threat against the North. The cost, ( $T$ ), to free labor would clearly be very high indeed. The machinations of southern delegates at the April Democratic Convention, and their refusal to accept Douglas as a compromise candidate, must have had the effect of increasing the subjective estimate of  $p$ . A vote for Lincoln would, in all likelihood lead to a change from  $A_2$  to a new constitutional equilibrium,  $A_1$ , possibly necessitating war. The probability  $q$  that the threat would dissipate under a Lincoln presidency must have been difficult to determine. Compromise to avoid the threat might entail a cost, ( $C$ ). However, there would be some real probability, ( $r$ ), of war under a Lincoln presidency, at cost  $F$ . A necessary reason for a voter to choose Lincoln was the credible belief that the eventual cost of the *status quo*,  $pT$ , would be high.

Approximately 1.3 million voters had chosen Frémont, the Republican candidate in 1856. At that point, any expectation of a real threat, or of war, would have been low. After 1856, however, many Republicans were uncompromising in their rejection of slavery. William Seward, who was to be one of the contenders for the Republican Presidential nomination in 1860, asserted that slavery was a "blight", a "pestilence", an "element of national debility and decline" (Foner 1970, p.44). "Prophets of chaos", such as Seward, only increased the depth of the quandary facing the northern electorate. In his speeches between 1857 and 1860 Lincoln focused on the threat facing the North, making it real and credible. At the same time he asserted that his intention was to contain Southern slavery, not destroy it. This held out the promise of a constitutional compromise between North and South that might at least remove the threat implied by *Dred Scott* and avoid war. It is for this reason that the Republican delegates chose Lincoln as their Presidential candidate. In the election, the Republican vote increased by 520,000 (over the 1856 figure). All fifteen states north of a line from New Jersey to Springfield, Illinois, gave Lincoln an outright majority. (see Table 2).

By clarifying the nature of the southern threat, Lincoln may well have created a dilemma for members of the northern electorate, since neither the *status quo* nor the possibility of war could have been deemed attractive. As in the earlier "electoral" decision over the ratification of the Constitution, the degree of risk, associated with the election and the probable consequences, was very high. The fact that a clear majority of the northern electorate chose Lincoln (and this choice was reflected in a majority of the electoral college) can be interpreted in terms of the creation of what I shall call a "core belief" in the necessity of a constitutional transformation. Lincoln was the architect of this transformation. Figure 1 is taken from Dixon and Schofield (2001) and is intended to indicate that Lincoln's success in 1860 depended on the transformation of Northern

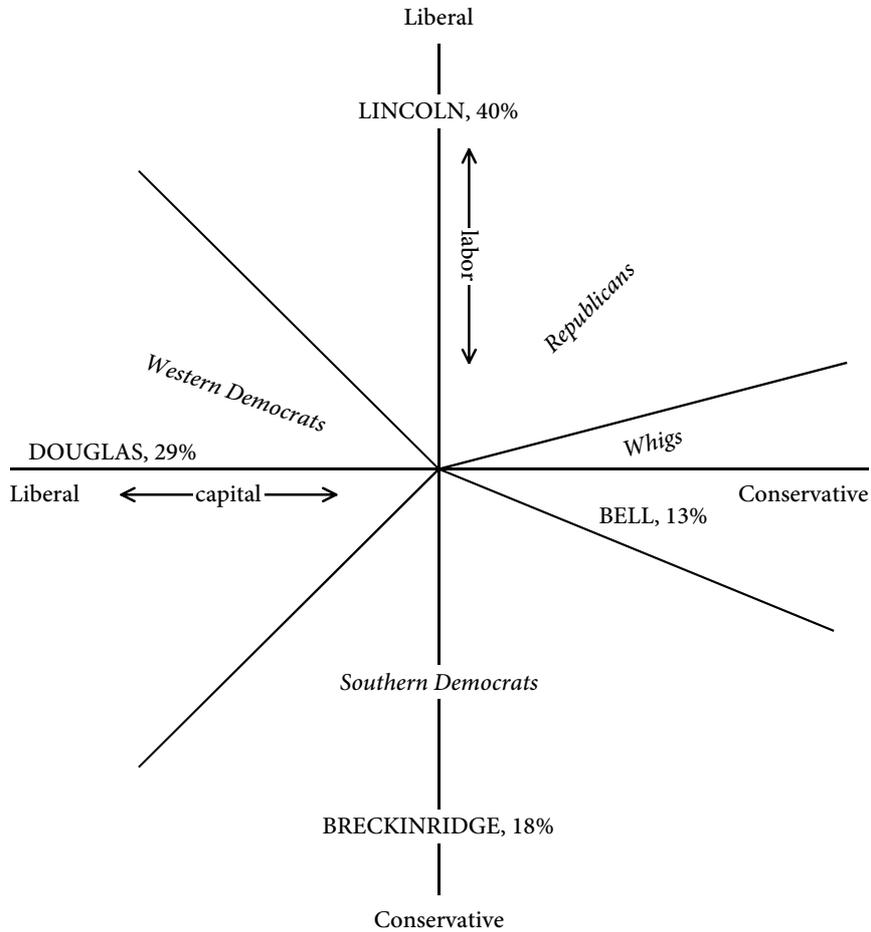


Figure 1 A schematic representation of the 1860 election in a two-dimensional policy space

electoral beliefs, through the acknowledgement of the relevance of the second labor (or slave) axis in addition to the primary land/capital axis that had governed US politics until then.

The southern view, in contrast, was that the election destroyed the “Madisonian” logic of the federal bargain of 1787. A tyrannical majority, the North, had come into being through the institutional device of the electoral college. This gave the South the constitutional authority to secede. After the election, an attempt was made in the form of the Crittenden Resolution of January 16, 1861, to

allocate all land south of the Missouri Compromise line of 36 deg 30' to slave interests. This would have given the South less than the *Dred Scott* decision implied, but almost all that could have been desired by the slave-owning élite. Lincoln's veto of the compromise confirmed to the South that the North did, indeed, threaten the institution of slavery. South Carolina was the first state to secede on December 29, 1860. As more Southern states seceded, the costs for the remaining states, such as Virginia, of remaining in the Union, obviously increased. Although institutional rules over the secession vote varied from state to state, the "belief cascade" so generated in the south led eventually to secession by eleven states (Gary's work on the secession decision in Southern states suggests that the belief in the necessity of secession was not necessarily supported by a majority in the seceding States. None the less, I shall refer to this belief as a "core" or equilibrium belief in the South, because it was indeed held by those who had the power to institute the choice. (See Gary 2004)

Lincoln, in his inaugural address of March 4, 1861, asserted that the fundamental document of the Union was the Declaration of Independence. Moreover, the compact implied by the Declaration made secession unconstitutional. For the Confederacy, the Constitutional compact of 1787–8 was broken because of the tyrannical threat of the North. Since these beliefs were incompatible, war became inevitable.

Thus the constitutional transformation that occurred before and after the Civil War was the consequence of the creation of two incompatible beliefs that depended on differing interpretations of the Constitutional changes of 1776 and 1787. We now turn to these to assist in understanding Lincoln's conception of the intentions of the Founders.

## 2. The constitution and collective decision-making under risk

To understand the interaction of *interests* (as represented by the factors of land, capital and labor) and *beliefs* about internal and external threats, we can do no better than start with Beard's classic book, *An Economic Interpretation of the Constitution* (Beard 1913). The book argued "that many Fathers of the Republic regarded the conflict over the Constitution as springing essentially out of conflicts of economic interests, which had a certain geographical or sectional distribution." (Beard 1913, p.17). Beard was writing just before World War I, and his argument obviously reflected the natural concerns of an historian with a memory of the political conflicts in the 1890's between populist Democrats, like William Jennings Bryan, and pro-capital Republicans like McKinley. Beard focused on the conflict of interest in 1787 between adherents of a hard money principle (namely "merchants, money lenders, security holders, manufacturers, shippers,

capitalists, and financiers”) and those favoring soft money, “non-slaveholding farmers and...debtors”.

Beard’s interpretation follows directly from Madison’s assertion in “Federalist X”, on the existence of fundamental, and divergent, economic interests in a society.

From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensures a division of society into different interests and parties. (Rakove 1999, p.160)

It was obvious in 1787 that property interests, particularly conflicts between creditors and debtors, were politically relevant. Beard had observed that the total unredeemed debt of the Confederation in 1789 was of the order of \$57 million, plus approximately \$25 million of state debt.<sup>1</sup> More significantly, approximately \$10 million of this was money borrowed from abroad.

It was very clear in 1787 that, to survive, any state needed to adopt a careful fiscal stance. The British success in the various eighteenth century wars with France (at least until the British victory at the close of the Seven Years War of 1756–63) obviously depended on its ability to manage its debts. France, the principal ally and financial supporter of the Confederation during the Revolutionary War, had doubled its debt between 1775 and 1784 to approximately 2600 million *livres* (about 600 million dollars). France’s inability to fund this debt (essentially because it lacked “credible commitment” and was required to pay higher interest rates than the Bank of England) led to the French fiscal crisis of 1788 and eventually to the French Revolution.<sup>2</sup>

Beard’s work has been very influential on the attempts during the last fifty years to construct models of political competition. For example, Kenneth Arrow has commented that he “took for granted that the idea that an individual chooses in the polity with regard to his economic choices and status was already part of

---

<sup>1</sup> A more recent analysis by Perkins(1994) estimates the total indebtedness of Congress and the States after the War of Independence at 54 million pounds sterling or over \$200 million.

<sup>2</sup> A more recent analysis by Perkins(1994) estimates the total indebtedness of Congress and the States after the War of Independence at 54 million pounds sterling or over \$200 million. On Britain, see Brewer (1988). British government debt in 1784 was over 240 million pounds sterling, approximately 1 billion dollars, or 20 years average government revenue. On the origins of British fiscal prudence after 1688, see North and Weingast (1989) Weingast (1997) and Stasavage (2003). As an indication of British prudence, during the first half of the eighteenth century, note that the interest rate paid on British debt dropped from 14% in 1693 to 3% in 1731. For a discussion of French fiscal problems in the period prior to 1789, see the references in Schofield(2000a). Sterling was worth about four Spanish dollars and about eighteen French *livres*.

general knowledge. It was a staple of ordinary discourse ... deriving from Charles Beard's *An Economic Interpretation of the Constitution of the United States*" (Arrow 1999, p.51). Indeed, Anthony Downs, Arrow's student, proposed a formal model of election that in many respects was based on Beard's conception of a single dimension of economic interests (Downs 1957).

However, there is no fundamental reason to suppose that political decision making is necessarily restricted to a single dimension of policy. Clearly, political and economic choice has consequences both for the utilization of land, capital and labor. Implicit in the constitutional bargain of 1787–8 was a decision to retain the institution of slavery. This had obvious consequences both for free labor. Moreover, there was no necessary correlation between a preference on the *capital* axis, say for hard money, and a particular preference on the *labor* axis, for or against slavery.

One of the themes of this paper is that any understanding of U.S. political history requires an acknowledgment that the *two* fundamental economic axes of labor and capital are necessary for understanding constitutional change over the long run.<sup>3</sup> Indeed, in the period discussed here the third axis of *land*, is also crucial. To illustrate, William Riker's work on U.S. federalism (Riker, 1964) took issue with Beard's interpretation and argued that it was the concern, expressed by the U.S. elite (particularly by James Madison), over the possibility of Spanish intrusion into the Mississippi Valley after 1783 that was the direct cause of the constitutional move in 1787. The writings of Jay and Hamilton in *The Federalist*, and Madison's letters to Jefferson and Washington add support to Riker's argument.<sup>4</sup>

Indeed, Riker proposed an inductive generalization that a *necessary* cause of any move to federation is the perception of an external military or diplomatic threat that can only be countered by political union, or of an opportunity that only union can realize (Riker 1964, p.13). In this work, Riker attempted a political analysis of the move from what he called the "peripheralized federalism" of the Confederation of 1783–1789 to the "centralized federalism" of the U.S. after 1789.<sup>5</sup> In later work he attempted to study the process of ratification by aligning the voting élite, in Downsian fashion, along a single "federalism" axis.<sup>6</sup> In his last work, Riker (1996) developed this idea by examining the rhetorical devices of persuasion used by Federalists and anti-Federalists in 1787–8. By examining

---

<sup>3</sup> To illustrate, a recent empirical analysis for 1968–1980, based on the National Election Survey for the U.S., suggests that at least two dimensions, defined essentially by capital and labor, are currently necessary to interpret voter beliefs and party policy positions. See Schofield, Miller and Martin, (2003).

<sup>4</sup> See Rakove (1999, p. 60); Smith (1995, p. 341).

<sup>5</sup> See also Riker (1953) for a discussion of this change in constitutional structure.

<sup>6</sup> Fink and Riker (1989, pp. 220–55) and Riker (1984a)

rhetoric, Riker implicitly focused on the *beliefs* of the participating elite, rather than on the economic preferences that so preoccupied Beard.<sup>7</sup>

Twenty years before Riker's *Federalism*, Douglass Adair (1943), in his doctoral thesis, also mounted an attack on Beard's mode of economic analysis. For Adair, the key element of the debate in 1787 over Union was Madison's argument in *Vices of the Political System of the United States* (April 1787) and "Federalist X" about the capacity of the extended republic to mitigate the effect of factions.<sup>8</sup> In Adair's opinion, Madison's argument drew on Hume's speculations about the "Perfect Commonwealth" (Hume1985a, p.512). Adair's inferences have had great influence on historians seeking to understand the constitutional debates over Union.<sup>9</sup>

The first purpose of this paper is to attempt to integrate the economic perspective of Beard, the political viewpoint of Riker and the historical focus of Adair, in order to interpret key Constitutional transformations in U. S. political history brought about by revolution and particularly by the Civil War. My theoretical perspective is that any description of the economy must generally pay attention to the three factors of capital, land, and labor.<sup>10</sup> However, decisions on the nature of the institutional equilibrium of the economy are made in a parallel political realm. Instead of assuming with Beard and Riker that choices are the result of preferences, I shall focus on the beliefs of the participants to these constitutional choices.

The relevance of beliefs can be illustrated by considering the process of Constitutional Ratification in 1787. The constitutional choice was between Union, in some form (which I shall denote by  $A_1$ ) and the *status quo* ( $A_2$ ) of the Confederation. Under  $A_2$  there was some probability,  $p$  (a subjective belief), that Spain would implement the threat of closing the Mississippi (at a cost  $T$  to the American elite). Under  $A_1$ , the likelihood of such a threat would be much reduced. To sustain  $A_1$  over the long run it would be necessary to build an efficient fiscal apparatus, to guarantee the economic health of the new federation. As Beard observed, such a choice could benefit holders of capital while hurting debtors. For simplicity, let  $q$  be the subjective probability of the occurrence of such a fiscal system under Union, and  $C$  the imputed cost (or benefit) of the system. Anti-federalists argued that any federal system would lead, with high probability ( $r$ ) to pervasive factional chaos, with high cost ( $F$ ). Thus any individual's choice between  $A_1$  and  $A_2$  turned on estimates of  $(q, C)$  and  $(r, F)$  against  $(p, T)$ .

<sup>7</sup> Indeed Riker had expressed surprise that Beard could consider "that the main issues at Philadelphia were domestic matters of the distribution of income". See Riker (1964, p.19).

<sup>8</sup> See Rakove (1999, pp. 69 and 160); Adair (2000, p. 120), and Adair (1974, p. 132)

<sup>9</sup> For example, see Banning (1995, p. 467), for a comment on this mode of constitutional analysis.

<sup>10</sup> A similar emphasis can be found in Rogowski (1989).

Individuals with identical fundamental preferences, and indeed identical cost estimates, could differ in their desired choices if they differed in their subjective beliefs (the probabilities  $q$ ,  $r$ ,  $p$ ) or in their risk preference. A holder of capital, who regarded fiscal prudence as a likely consequence of Union, would tend to choose Union even if the threat by Spain was considered to be of small consequence.

However, what Beard failed to consider was that a holder of capital might fear the consequence of Union if the expected cost, ( $rF$ ), of factionalism in the Federal system, was high. Riker's point, in contrast, was that the essays by Jay and Hamilton in *The Federalist* emphasized the high expected cost ( $pT$ ) of the threat to the land in the Mississippi Valley. Riker's last work on rhetoric (Riker 1996) did indeed consider the effects of Madison's constitutional argument (as expressed in the *Federalist*) but did not fully examine its credibility.

For the Federalist argument to work, it was clearly necessary that the expected factional cost, ( $rF$ ), had to be seen to be low. Adair may have been correct in noticing the influence of Hume's essay on Madison. However, for the Madison argument to carry weight, it had to be persuasive against the accepted interpretation of Montesquieu that democracy would not work in a "large" polity.<sup>11</sup>

Madison was aware that any decision, such as the ratification of the Constitution, involved risk of failure, as well as possibility of success. The logic of Madison's argument in "Federalist X" is in the following 'theorem'

that if the proportion of fit characters be no less in the large than in the small republic, the former will present a greater option, and consequently a greater *probability of a fit choice*. (Rakove 1999, p.165:my italics)

The use of the term "probability of a fit choice" in a situation of risk is very reminiscent of Condorcet's result, *Essai sur l'application de l'analyse a la probabilité des décisions rendues a la pluralité des voix*, now known as the "jury theorem" (Condorcet 1785).

As Condorcet's biographer, Keith Baker, has emphasized, Hume's notion of probable belief had great influence on Condorcet's ideas. Condorcet was led to consider the situation where a jury makes a decision, using majority rule, under risk.<sup>12</sup> His jury theorem showed that such a jury was more likely to make a "fit choice" than an average juror.<sup>13</sup>

<sup>11</sup> Madison himself comments indirectly on Montesquieu's argument that only in a "small" democracy could turbulence be avoided. See Beer (1993, p. 164).

<sup>12</sup> See Baker (1975, pp. 135-155), and Hume (1985b). Baker regards Condorcet as a link between Hume and Keynes's early work on probability (Keynes, 1921) On the transformation to the later view

Although Madison made no mention of Condorcet in “Federalist X”, it is plausible that the credibility of his argument derived from its underlying logic. A voter, accepting Madison’s argument that the constitutional arrangements of the extended republic would lead to a fit choice, would also acknowledge that the expected political cost,  $rF$ , would be low. A “utility” calculation would tend to imply that the expected cost of the *status quo*,  $pT$ , would exceed the expected cost of Union,  $qC + rF$ . It is obvious from this expected utility calculus why a threat, which could only be mitigated by Union, was a *necessary* cause (to use Riker’s terminology). The threat could not be a *sufficient* cause by itself, however, since a majority, winning coalition could well believe, *contra* Madison, that the costs of Union were much higher. This raises the question of contingency, the degree to which the social choice, *pro* or *con*, depends on trivial or unpredictable occurrences.

Riker’s own work after 1980 was, to a degree, influenced by the chaos theorems of social choice and voting theory.<sup>14</sup> Indeed he argued that “nearly anything can happen in politics”. (Riker 1980). Riker used the term “heresthetic” for the study of the strategic “manipulations” that lead to particular political outcomes.<sup>15</sup> His emphasis on such a study stemmed from the belief that the “determinism” of, say, economic theory, was sterile in that it admitted “no element of choice”. In contrast, the “indeterminism [of the chaos theorems] while provid[ing] for choice and chance deni[es] the possibility of generalizing about social outcomes”. (Riker 1984b, p.1)

The second purpose of this paper is, in a sense, to combine these two aspects of Riker’s reasoning based on expected utility calculation and contingency in order to understand constitutional transformations. On the one hand, Riker’s own argument about the necessary cause of Federalism was based on an expected utility calculus, in the sense that an individual’s choice over the rationality of a move to Union depended on estimated costs and benefits, calculated by using beliefs (or subjective probabilities) of probable outcomes.<sup>16</sup> We can use the same

---

that Keynes(1936) had on belief see Schofield(1999a)

<sup>13</sup> For a partial translation of Condorcet (1785) and other aspects of his work see McLean and Hewitt (1994). See Schofield(2002,2003a,2004) for a discussion of the possible influence of Condorcet’s theorem on Madison’s argument in “Federalist X.”

<sup>14</sup> See Schofield (2001), for a discussion of Riker’s ideas. For an exposition of the so-called chaos theorems, see Schofield (1985).

<sup>15</sup> His ideas on this study were advanced in Riker (1982, 1984b, 1986). The word heresthetic comes from the Greek root *αιρετικος* meaning “to choose”.

<sup>16</sup> The above outline of these costs and benefits concentrated on expectations, and therefore implicitly assumed risk-neutral agents. In fact, in his first study of rhetoric in the ratification process, Riker argued that the protagonists were risk averse. See Riker (1991).The question of risk is discussed in the Appendix.

expected utility analysis to examine the American Revolution of 1776–1783 as well as the Ratification of 1787–89 (see Schofield, 2000b, 2002, 2003a,b, for various attempts at this). Since the purpose is to better understand the election of 1860, I shall also comment on the intersectional coalitional balance between the parties that characterized US politics between 1800 and 1856 and on the creation of this balance at the time of the election of Jefferson in 1800.

While an expected utility calculation may clarify these important episodes in American political history, there will necessarily be highly contingent events which transform the beliefs of the protagonists. Such contingency may change the utility calculation, and thus the eventual social outcome. Whereas Riker (1980) saw contingency arising out of voting “disequilibrium”, I shall argue that it arises out of uncertainty.<sup>17</sup> In the political realm, constitutional transformations may themselves be the consequence of a process by which initial uncertainty gives way to a “core belief” in the rationality of some social option, which is held by a decisive coalition of members of the society

I suggest that these constitutional transformations all exhibit a common structure. Prior to the transformation, the society is beset by a “constitutional” quandary – a state of extreme perplexity or uncertainty. The quandary becomes more pronounced, as various protagonists argue over how the society should address the underlying problem. An “architect of order” then reconfigures the quandary, so that the expected costs, and fundamental probabilities, can be brought into clearer perspective. Even after this reconfiguration, however, the social decision problem often has the form of a dilemma, since neither option under consideration is risk-free. However, given the institutional decision-making rule, a winning coalition accepts a common belief over the best social option to adopt.

The transformation within a society from a state of uncertainty to one of a commonly held belief has been termed an “information” or belief “cascade”. The idea behind such a cascade is that once a subset of the population has formed an opinion over the superior option, then other groups in the population are influenced, in turn, to choose the same option. In the earlier applications of this notion, it was assumed that the underlying form of the social game was that of a prisoner’s dilemma, but with differential expected costs distributed in the population.<sup>18</sup> In the constitutional transformations considered in this paper, it is not

---

<sup>17</sup> See also Schofield (1999a) again for a discussion of the *political* relevance of the notion of uncertainty particularly in the work of Keynes (1936).

<sup>18</sup> For example, the notion of an information cascade transforming the prisoner’s dilemma has been used to account for the rapid breakdown of the regimes in Eastern Europe in 1989. See Kuran (1991); Karklins and Petersen (1993); Lohmann (1994). For further discussion on this theme, see Schofield (2000a,b)

the case that the entire society comes to a common belief about the appropriate course of action. Instead, it is usually the case that the society bifurcates into two sections holding mutually incompatible beliefs: one section, a winning coalition, holding the “core belief”, dominates over a losing coalition.<sup>19</sup>

### 2.1 *Constitutional Transformations*

(a) *The decision to declare independence from Britain in 1776* Using the formalism introduced above, we can regard the choice as one between  $A_1$ , the Declaration, and  $A_2$ , the *status quo*. Under  $A_1$  there is a (high) probability,  $q$ , that the British will attack, win the resulting conflict, and exact a high punishment cost,  $C$ . For a declaration to be “rational”, it is necessary that this expected cost,  $qC$ , be balanced by a high cost of accepting the *status quo*,  $A_2$ . The expected cost of  $A_2$  must be based on the subjective probability, ( $p$ ), that the British intended to restrain the American colonies from expansion into the Ohio Valley.<sup>20</sup> The cost of this, ( $T$ ), was equivalent to the value of the land in the entire region. Thomas Paine estimated this to be of the order of twenty-five million dollars.<sup>21</sup> Given the efficiency of the British military apparatus, it would be rational to regard both  $q$  and  $C$  as high. Schofield (2000b, 2002) has argued that the crucial, and contingent, element in the decision was the choice of the Louis XVI of France to offer aid to the Colonies, prior to June 1776.<sup>22</sup> Benjamin Franklin can be seen as the architect of this promise of aid, and his effort had the effect of reducing the expected cost of the choice of  $A_1$ . The decision by the Continental Congress to declare independence triggered a belief cascade in the population, so that this social choice was deemed rational by a majority. The loyalists, a substantial but “losing” proportion of the population, still regarded this decision as irrational, and many fled to Canada. From this perspective, the social decision implicit in the Declaration of Independence was based on a “core belief” that the risk of defeat was worth taking. The critical factor underlying the decision was *land*. French

<sup>19</sup> I use the term “core belief” by analogy with the social choice theoretic idea of a “core outcome”, namely an outcome that is unbeaten. Contrary to the reasoning underlying the chaos theorems, I suggest that the constitutional transformations are the result of a change from some earlier *status quo* to a new constitutional equilibrium associated with this core belief of the winning coalition.

<sup>20</sup> The British implemented this threat by passing the Quebec Act in 1774. The purpose was to restrict colonial advance into the Ohio Valley, and was, in effect, the consequence of their attempt to resolve a constitutional quandary over the appropriate treatment of the Indian tribes in the territory. This is discussed further in Schofield(2002)

<sup>21</sup> Foner (1995, p. 49). To put this estimate for  $T$  in perspective, total British annual tax revenue at this time was of the order of fifty million dollars. See Brewer (1988).

<sup>22</sup> Louis XVI promised aid of 10 million *livres*, just over \$2 million, in May 1776.

aid was of course crucial in providing *specie* without which the Colonies would have been unable to prosecute the war.

(b) *The ratification of the Constitution, 1787–8* As discussed above, the expected cost  $pT$  of the *status quo*,  $A_2$ , was high. Anti-Federalists, however, regarded the expected cost,  $qC + rF$ , of Union to be even higher. Madison's logic, as expressed in "Federalist LI", was that the probability of a tyranny of the majority was much reduced under the Constitutional form adopted at the Philadelphia convention. His prior argument in "Federalist X" was that the expected cost,  $rF$ , of factional turbulence would be low in the heterogeneous republic. It is also plausible that Madison's argument about the "probability of a fit choice" carried additional weight because of the success of the earlier risky decision to declare independence from Britain. From the perspective proposed here, Madison was the crucial architect of the Constitutional decision. In line with the above discussion, the Constitutional decision involved both *land* (the threat by Spain) and *capital* (the degree of fiscal prudence of the federal apparatus).

(c) *The Election of Jefferson in 1800 and the contest of land and capital* While the threat from Spain declined in the period after 1788, the Republic faced a difficult choice between the options offered by Hamilton on the one hand and Jefferson on the other. For Hamilton, the future lay in copying Britain's fiscal and technological development and in the creation of a commercial empire. The creation of the Bank of the United States by Hamilton in 1791 and its success in managing US debt were comparable to Walpole's fiscal achievements in Britain in the earlier part of the eighteenth century. Jefferson, in contrast, believed that the US should become an agrarian empire. In the election of 1800, these two options would be seen in fundamentally different ways depending on the economic interests and beliefs of the individual. For commercial interests and industrial labor, the Hamiltonian policy of economic development and trade protection would be highly advantageous, at least in the short run. Schofield (2003c), follows Beard (1915) to argue that this policy would in fact have been costly to both agricultural free labor and the slave owning landed interests. Modern trade theory (as used by Rogowski 1989, for example) suggests that Jefferson was correct in his interpretation of the harmful consequences of the Hamiltonian scheme for agrarian interests. The element of uncertainty arose because of the long term consequences for the political economic development of the Republic. To create a winning Republican coalition it was necessary for Jefferson to overcome the potential conflict of interest between agrarian slave owning interests and free agrarian labor. One way to resolve this conflict was to focus on westward expansion. Figure 2 is meant to indicate that Jefferson's success in 1800 was due to the suppression of the issue of slavery, and thus of the labor axis. Indeed his strategy led to the creation of a long term "intersectional equilibrium" based

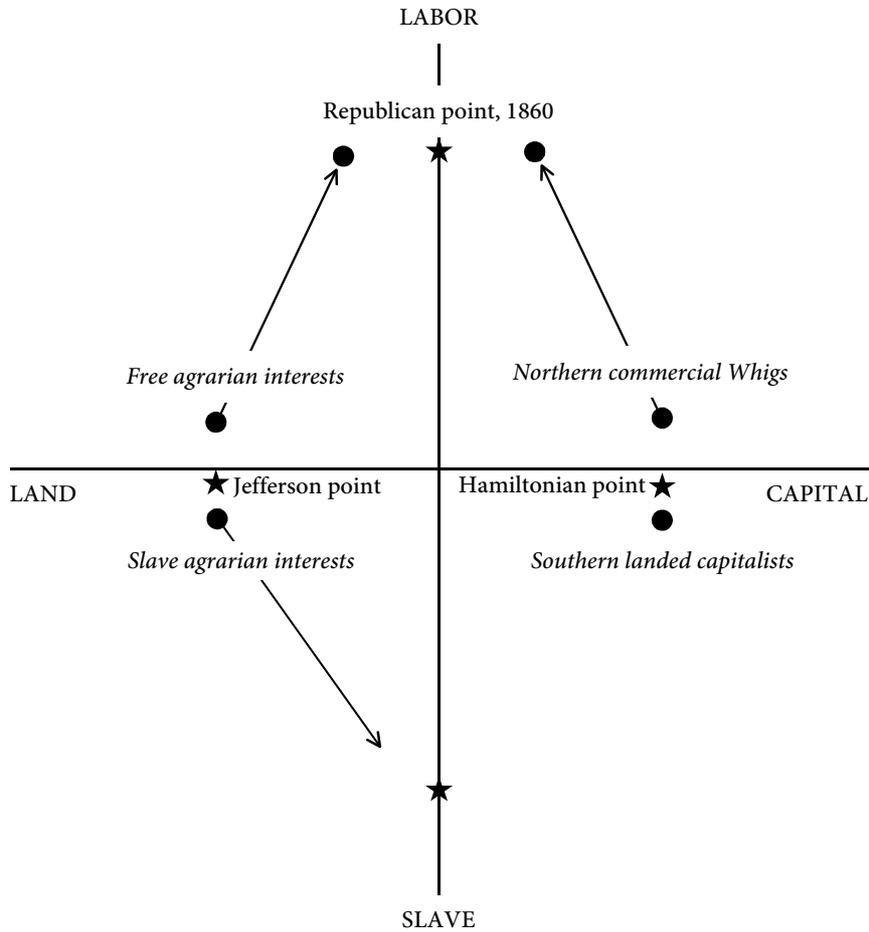


Figure 2 A schematic representation of land and capital in the US (1800–1860)

on the two-party system of Republicans versus Federalists (and later the Democratic Party versus the Whigs) that was stable until 1854, and focused on competition on the land/capital axes.

(d) *The intersectional party balance from 1800 to 1856* In 1796, John Adams just barely won the Presidential election against Jefferson, Pinckney and Burr, on the basis of his electoral support in the North East. In 1800, the Federalists, Adams and Pinckney, won the North East, but lost New York to the Democrat Republicans, Burr and Jefferson. In fact, it has been pointed out that John Adams lost the 1800 election because of the Constitutional rule that a slave was counted

as 3/5 of a person in calculating the electoral college strength of each State (Wills, 2003a, b). The suppression of the issue of slavery led to the string of Republican Presidents, all from Virginia, that lasted until 1824. John Quincy Adams of Massachusetts was able to win that year with a plurality of just 32% of the electoral college vote against Jackson, Crawford and Clay, but lost to the Democrat, Andrew Jackson in 1828. The issue of slavery did become important, briefly, in 1840 over the Amistad affair, and the efforts by John Quincy Adams to break the gag-rule against discussion of slavery in the House (Schofield 1999b). A possible consequence of this was the success, in 1840, of the Whig, William Harrison, against the incumbent Democrat president, Martin van Buren. As Table 1 suggests, electoral support for the Democratic Party, from 1836 until 1852, was not solely concentrated in the South. Indeed, by 1852, it looked as though the intersectional Democratic Party would dominate both North and South. Riker (1982, pp.212–232) saw the creation of the Republican Party and the candidacy of John Frémont in 1856 to be an attempt to recreate the Whig Party and oppose Democrat Party dominance. While there may be some truth to this perspective, the electoral support for the new Republican Party in 1852 came from very different sources than support for the Whig Party. For example, ever since attaining statehood, Illinois had, until 1860, voted Democrat. This is consistent with the assertion made here that the Jeffersonian Republican Party and then the Democrat Party was a coalition of agrarian interests. To take Illinois in 1860, the Republican Party in the form of Lincoln had to change the perceptions of the electorate about the nature of the underlying political space, so that the issue of slavery and its significance for labor was fully appreciated.

In order to provide an account of how Lincoln created the belief cascade to this effect in the Northern electorate I shall turn again to Madison's argument about the "probability of a fit choice". I shall argue that Madison's conception of the US constitution was that it was designed to balance "risk taking" by the President against "risk aversion" by Congress. I shall then consider the election of Lincoln in 1860 from this perspective, and argue that he was indeed a "fit choice". Finally in an Appendix I shall present a formal model that attempts to extend the Condorcetian/Madisonian logic of elections to situations where both preferences (or interests) and beliefs are involved.

### 3. The probability of a fit choice

Madison made his famous argument, in the Constitutional Convention, on June 6, 1787, that the extended republic mitigated factionalism. The basis for the ar-

gument was his earlier essay on *Vices of the Political System of the United States*, written in April.<sup>23</sup> Madison's argument was very much refined by the time of writing "Federalist X" in November.

The key to the argument was Madison's contention that any representative, elected by a heterogeneous body of voters, could not, in any natural sense, represent their interests. Rather, the representative would necessarily be obliged to seek the public, or collective, good appropriate to the electorate. This is what Madison meant by a "fit choice". In the same fashion, the representatives themselves, each differing in their conception of a fit choice, would, in making their collective choice, be incapable of basing a decision on private interests. It has been contended that the heterogeneity argument of "Federalist X" contradicts Madison's own argument of "Federalism LI" on "balance of power".<sup>24</sup> In fact the two arguments are compatible, and complement one another. The "fit choice" of a Senate, a House and a President will surely differ if different methods of selection are used in those three institutions. Compromise between the branches may then be a "risk-averse" technique to refine the decision.

I have argued above that Madison was directly influenced by Condorcet's *Essai* of 1785. Madison had certainly received a copy of the *Essai* from Jefferson, in Paris, in 1786, together with chapters by Condorcet entitled *Lettres d'un bourgeois de New Haven*. It is well known that Madison did, in fact, reject Condorcet's preference for a unicameral assembly. This does suggest, however, that he had at least read the work and understood the logic of Condorcet's theorem.<sup>25</sup>

"Federalist X" and "LI" essentially put together ideas from Montesquieu, on the virtue of parallel institutions (the upper and lower house and executive, as in Britain) and from Condorcet, on political decision-making under risk. As I have indicated, Madison's thesis was designed to add plausibility to the contention that the expected cost ( $rF$ ) of factional turbulence in the Republic would be low.

<sup>23</sup> In preparing for writing this essay, Madison read through a great collection of books sent to him by Jefferson in Paris. See Ketcham, 1971.

<sup>24</sup> See McLean (2003), and his comments on Dahl (1956).

<sup>25</sup> In addition to obtaining Condorcet's material, sent by Jefferson, Madison also discussed these matters with Franklin, prior to the Constitutional Convention in 1787. Until late 1785, Franklin had been minister to France, where he had become a close friend of Condorcet. Indeed, both had been members of the Academy of Science, where Condorcet's *Essai* had been read. On his return to Philadelphia, Franklin founded a Society for Political Enquiry, which Paine, Washington and Madison attended. Condorcet also wrote a *Eulogie* after the death of his friend Franklin. A recent biography on Franklin by Isaacson (2003) comments on the Franklin-Condorcet friendship, but there has been little research, to my knowledge, on the mutual influences. On the complex intellectual relationships between Condorcet, Madison and Jefferson see McLean and Urken (1992), Urken (1991) and McLean (2003).

While the foreign threat was a necessary cause of Union, I contend that Madison's argument was the sufficient cause. In this sense, Madison was the architect of the new Federal Constitution.<sup>26</sup>

The threats from Britain, from Spain and from France hardly abated after the formation of the new Federal System. The Adams administration was also plagued, from 1797, with a "quasi-war" with France, under the instigation of Talleyrand-Périgord, French minister of foreign affairs. Talleyrand realized, however, that a full scale war with the U.S. could jeopardize French plans for a later incursion into Louisiana. In fact, the XYZ affair in 1798 almost brought about an American declaration of war against France. In all probability, the American president, John Adams, calculated that the defeat of Napoleon in Egypt in 1798 and the rebellion in Sainte-Domingue (Hispaniola) would keep France occupied. However, in 1803 Napoleon dispatched a fleet and army to Hispaniola, with orders to smash the rebellion and then to proceed up the Mississippi River to St. Louis and retake Louisiana (or New France). The complete destruction of the French army in Hispaniola made the sale of Louisiana to the U.S. an obvious consequence.

Jefferson's agreement to the Louisiana Purchase, announced on July 4, 1803, was in spite of a constitutional dilemma of which he was well aware. As he wrote to John Dickinson, the Constitution did not give the central government the power of "holding foreign territory...still less of incorporating it into the Union." Instead, Jefferson decided to seize "the fugitive occurrence," urge Congress to ratify the agreement over Louisiana and then "go to the public to seek a constitutional amendment" (Randall 1993, p.567).

Jefferson's choice nicely illustrates a general point about the structural characteristics of the U.S. political system. The "balance of power" notion, as expressed by Madison in "Federalist LI" referred to a classical tradition within which monarchy, aristocracy and democracy mutually reinforced one another to prevent degeneration into either tyranny or anarchy. As Adair (1974, p.173) has suggested, democracy, government by the people, was understood to possess "fidelity to the common good," but not wisdom. Both monarchy and aristocracy tended to "serve the...selfish interests of the one or the few...." However, aristocracy did offer wisdom, while monarchy "promised the necessary *energy, secrecy, and dispatch* for executing policy" (Adair's italics)

---

<sup>26</sup> I have emphasized here the rôle played by Madison in the ratification process, without commenting on his contributions in the Federal Convention. These are discussed in Rakove (1996), for example. One point made by Riker was that the agreement in the Convention, over the form of the Constitution, was highly contingent on the success of various heresthetic maneuvers. Without the agreement, the Confederation would probably have collapsed into numerous weak states. See Riker (1984a)

As I have emphasized throughout this paper, political decision making, at any crucial juncture, involves risk. Expected utility calculation is, of course, one aspect of the determination of an appropriate choice. My analyses of the Declaration of Independence by the Continental Congress and the decision in the Constitutional Convention have, in a sense, emphasized the risk-aversion of the delegates. Risk-aversion in matters of such great weight is an essential characteristic of wisdom. However, a country may require, at certain critical decisions, the ability to make risk-preferring choices.

Hamilton's speech at the Philadelphia Convention, June 18, 1787, apparently arguing for a British style monarchy, can be taken to be Hobbesian, in insisting on the necessity of order (Schofield 2003b). Given Hamilton's fear of foreign threat, it is more plausible that he believed that the Union required a single decision maker at its apex, able to make risk-preferring choices in times of danger. Given the degree of power invested in the president, it is obvious that candidates for such office would be selected, in some sense, for risk-preference. "Balance of power" from this perspective means that presidential "risk-preference" should be tempered by legislative "risk-avoidance".

Jefferson was well aware of this risk dilemma. News reached him in 1801, after his election, of the forced "retrocession" of Louisiana from Spain back to France, under the secret Treaty of Ildefonso (signed in October 1800). Florida, and thus New Orleans, were still under Spanish control, and in late 1802, the American privilege of deposit at New Orleans was suspended.<sup>27</sup> It seemed that war with both France and Spain was imminent. The purchase of Louisiana, the result of the completely contingent event of French defeat in Hispaniola, removed that danger. It is plausible that, for Jefferson, the likelihood of presidential risk-preference posed a danger to the newly extended "empire of liberty." In a speech to Congress in October 1803, he recommended that citizens divest "themselves of these passions and partialities [which would] embarrass and embroil us in the calamitous scenes of Europe."<sup>28</sup>

The threat from Europe did not, of course, dissipate. However, it was the threat from within that nearly destroyed Jefferson's "empire of liberty". As I have argued above, the "political equilibrium" created by Jefferson in 1800, depended for its stability on the suppression of the issue of slavery. From 1857 onwards it became increasingly impossible to suppress the issue any longer.

In early March, 1857, the Supreme Court of the United States rendered its opinion on *Dred Scott*. The opinion of the Court, written by Chief Justice Taney, was based on the conclusion that Dred Scott, as a black, had "no rights under the

---

<sup>27</sup> Meinig (1993, p. 10). Meinig devotes the first chapter of his book to Jefferson's problem with Spain.

<sup>28</sup> Thomas Jefferson, "Third Annual Message, October 17, 1803", in Peterson (1984, p. 508).

Constitution and hence no standing to sue in federal court...the conclusion was devastating to free blacks, since it deprived them of all federal rights, including access to federal court”.<sup>29</sup>

As Jaffa (2000, p.290) comments, “Taney took dead aim at the heart of the anti-slavery argument when he denied that Negroes were comprehended in the proposition of human equality in the Declaration”.

In a speech as early as June 26, 1857, at the Illinois State House, Lincoln attacked the Taney Opinion, arguing that it was based on “assumed historical facts which were not really true”. In particular, Negroes were part of the people for whom the Declaration of Independence was made, since “free negroes were voters...in five of the then thirteen states”. This matter would become “a distinct and naked issue between the friends and enemies of the constitution – the friends and enemies of the supremacy of the laws”. (Fehrenbacher 1989a, p.393).

On June 16, 1858, Lincoln was nominated Republican candidate for Senator from Illinois, and in his famous acceptance speech predicted that “this government cannot endure, permanently, half slave and half *free*. ... I do not expect the house to *fall* – but I *do* expect it will cease to be divided”. (Fehrenbacher 1989a, p.426)

Stephen Douglas, the incumbent Democrat candidate for the Senate position, retaliated on July 9, 1858, by denouncing Lincoln’s “crusade” against the Supreme Court. In the debates between the two protagonists, between August 21 and October 15, 1858, Douglas attempted to defend his “position of popular sovereignty” against Lincoln’s precise attack on the implications of the Taney Opinion. (The speeches of Douglas and Lincoln, together with their questions and answers are collected in Holzer,1993). For Lincoln, this Opinion by the Supreme Court only made sense if the South intended to extend slavery throughout the territories, as far as the Pacific. This violated the compromise implicit in the Ratification, that slavery be accepted, but only in those states that had, by tradition, been slave. In Lincoln’s later speeches on the East Coast in 1860, he seemingly argued that the intention of the South was to extend slavery throughout the entire Union. I contend that the credibility of Lincoln’s argument dramatically changed the beliefs, and thus the preferences of the Northern electorate.

In the Lincoln-Douglas debate at Ottawa and Freeport Illinois, on August 21 and 27,1858, Lincoln had attacked Douglas for his support of the Taney Opinion, arguing that the Opinion would lead, and was intended to lead, to the extension of slavery to all states. In referring to the Nebraska bill, Lincoln said “if another

---

<sup>29</sup> The *Dred Scott* decision and Lincoln’s election is discussed further in Dixon and Schofield (2001)from which this section is drawn. See Ehrlich (1979) and Fehrenbacher(1981) for further background

*Dred Scott* decision shall come, holding that they cannot exclude it [slavery] from a state, then we shall discover” [why the particular wording of Territory and State were used in the Nebraska Bill]. At the second debate, Lincoln asked Douglas if he would acquiesce in such a decision by the Supreme Court.[asserting that slavery could not be excluded from a state] (Fehrenbacher 1989a, p.542). Douglas had earlier declared that the Supreme Court decisions were binding, and therefore could make no reply compatible with the concept of “popular sovereignty” Lincoln’s second question to Douglas, at Freeport, asked whether citizens of a Territory could “exclude slavery prior to the formation of a State Constitution”. (Fehrenbacher 1989a, p.541) Douglas answered that they could, even though this logic appeared counter to the Taney Opinion. His argument, that local regulations would allow the people to make their own choice in this matter, obviously contradicted Federal guarantees of private property (in this case, of slaves).

At the fifth debate at Galesburg on October 7, 1858, Lincoln pursued the attack. By the Taney Opinion, “[t]he right of property in a slave is distinctly and expressly affirmed in the Constitution!” (Lincoln’s italics). Since nothing in the Constitution or laws of any State can destroy a right distinctly and expressly affirmed in the Constitution it follows “that nothing in the Constitution or laws of any State can destroy the right of property in a slave”. (Fehrenbacher 1989a, p.714). As Fehrenbacher remarks, this “new Court doctrine...could produce a ruling protecting slavery within the northern states as well as in the western territories”.(Fehrenbacher 2001, p.287)

The decision over the choice of Senator was decided in a joint session of the Illinois House and Senate in November 1858. Republican and Democrat popular votes for House representatives were almost identical, but the Republicans only won 35 seats to the Democrats 40. In the Senate, the thirteen holdovers split (8, 5) for Democrat, Republican respectively, while there were six new Senators for each party. Douglas won in the joint session with 54 votes to Lincoln’s 46. This close decision of the popular vote was reflected in the later presidential vote shares between Douglas and Lincoln in 1860, and simply mirrored economic differences between the south and the north of the state.

Although he had been defeated, Lincoln’s speeches had aroused great interest in the Northeast, and he was invited to give addresses at the Cooper Institution, New York, in February, and in New Haven in March, 1860. In the first speech Lincoln showed that by votes and words, a clear majority of the Framers of the Constitution had approved of the control of slavery by the federal government (Fehrenbacher 1989b, p.115). Moreover, they had marked it as an “evil not to be extended, but to be tolerated only because of and so far as its actual presence among us makes that tolerance and protection a necessity.”(Fehrenbacher 1989b, p.120).In New Haven, Lincoln continued the attack and asserted that he was op-

posed to slavery because he believed in the right of labor to strike.

As discussed in the Introduction, the nominating convention of the Democrat Party in Charleston broke up in early May and met later in Baltimore. Even though Jefferson Davis still hoped for a compromise candidate, the Southern wing nominated Vice President Breckinridge while the ‘western wing’ naturally chose Douglas. On May 10, the National Union Party (what was left of the Whigs) nominated John Bell (of Tennessee) and Edward Everett (of Massachusetts).

The Republican Party Convention met in Chicago on May 16, and before moving to nomination, adopted a platform of seventeen “planks”. The second plank argued for the maintenance of the Union, as bound by the principles of the Declaration of Independence and the Federal Constitution. The eighth denied “the authority of Congress, or a Territorial Legislature – to give legal existence to slavery in any territory of the United States”. The twelfth argued for an increase in the tariff “to encourage the development of the industrial interests of the whole country” and “to secure to the working man, to mechanics and manufacturers an adequate reward for their skilled labor and enterprise”. Two further planks demanded “the passage by Congress of the complete and satisfactory Homestead measure” and a “railroad to the Pacific Ocean”. (*The New York Times*, May 18, 1860) The policy position of the party was quite precisely located at a compromise position on the capital and land axes, moderately protectionist but expansionist in outlook. On the labor axis, the platform was obviously anti-slavery. The policy proposals were designed to appeal to voters of the Northeast who might have voted Whig, as well as to voters of western states (Iowa, Ohio, and Indiana, for example) who saw a coincidence between their own “expansionist” interests and those of Douglas. The choice of presidential nominee was crucial for the Republicans. As Donald (1995, p.243) has noted, had a unified Democratic Party chosen Breckinridge then the anti-abolitionist Seward would have been a plausible choice. However, as an Easterner, Seward would probably do poorly in western states, especially if he had to compete against Douglas. Had Douglas been chosen as the single Democrat candidate, then Lincoln, with his support in Illinois, would have been the obvious choice. Because of the uncertainty due to the break-up of the Democratic Convention, Seward gained 173.5 (about 37%) of the total delegates, compared to Lincoln’s 102, in the first ballot at the Republican Convention. Less popular candidates then dropped out, giving Seward 184.5 to Lincoln’s 181. On the third ballot Lincoln took 231.5 (not quite a majority). Some Ohio delegates switched to Lincoln, giving him 235.5, and the Convention then voted for Lincoln unanimously (Donald 1995, p.259).

The differences in the views of Seward and Lincoln over slavery were subtle, but important. For Seward, slavery implied “an irrepressible conflict between opposing and enduring forces [that meant] that the United States must or will,

sooner or later, become entirely a slave-holding nation, or entirely a free labor nation”(quoted in Foner 1970, p.69).

Lincoln had been careful to hold out the possibility of a compromise with the South. In the address at the Cooper Institute, he said: “Even though the southern people will not so much as listen to us, let us calmly consider their demands, and yield to them, if in our deliberate view of our duty, we possibly can”. (Fehrenbacher 1989b, p.128)

Lincoln’s speeches had been designed to persuade the northern electorate that the threat of the South (at expected cost,  $pT$ ) was real. Under Lincoln this threat would be faced, either by some compromise measure (at cost  $qC$ ) or, if the South refused conciliation, possibly through war (at cost  $rF$ ).

In November there were four candidates, Lincoln, Douglas, Breckinridge and Bell. As Table 2 shows, Douglas took about a third of the popular vote in twelve of the thirty-three states, all in the Northeast and West. Bell’s policy of the *status quo* gave him the electoral college votes of Virginia, Kentucky and Tennessee, while Breckinridge won all nine states of the deep South. (South Carolina allocated its electoral college vote by a session of the legislature.) Lincoln won a majority (over 50%) in fifteen states, and pluralities in Oregon and California. Only in the last two states did Douglas and Breckinridge gain between them a majority. New Jersey was equally divided between Douglas and Lincoln, and split its college vote. With almost 40% of the popular vote, Lincoln won 180 (out of 305) votes in the electoral college.

Between December 29, 1860, and January 25, 1861 six Southern states seceded. Congress proposed the Crittenden Resolutions, in January 16, 1861, and Lincoln rejected this attempt at compromise. In a letter to Seward, he wrote “I am for no compromise which *assists* or *permits* the extension of the institution [of slavery]”(Fehrenbacher 1989b, p.197, letter of February 1, 1861)

In his inaugural address on March 4, 1861, Lincoln spelled out his view of the contract on which the Republic was based. The perpetual union was created by the people in the Articles of Association in 1774, and reconfirmed in the Declaration of Independence. The Articles of Confederation of 1778 pledged that this contract be perpetual, while the Constitution was designed “to form a more perfect union”.

A majority, held in restraint by constitutional checks, and limitations, and always changing easily, with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people. Whoever rejects it, does, of necessity, fly to anarchy or to despotism. .... This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exer-

cise their *constitutional* right of amending it, or their *revolutionary* right to dismember, or overthrow it.<sup>30</sup>

In this speech, Lincoln proposed a new constitutional understanding, based, in a sense, on Madison's "Federalist X", but without the required intervention of representatives.

For the elite in the southern states, secession was legitimate because the Constitution itself was regarded as the founding compact between *states*. Lincoln's election had destroyed the heterogeneity of the republic, creating a tyrannical majority, the North, that directly threatened the South. This violated Madison's logic in "Federalist X". Moreover, Madison had expressed the opinion, in "Federalist XLIII" that

a breach committed by either of the parties [to a compact between independent sovereigns or states] absolves the other; and authorises them, if they please, to pronounce the compact violated and void.(Rakove 1999, p.251).

The share of the popular vote in 1860 for Bell (and his policy of the *status quo*) had been significant in Virginia, Tennessee, Arkansas, and North Carolina. This suggests that a majority, possibly, of the electorate in these states, saw no reason to secede. Gary (2004) contends that delegate elections and the secession conventions in 1861 were manipulated by the slave-owning elite to force the secessions that did occur between February and June 1861. It is, in any case, difficult to understand the logic of secession. Lincoln had made it clear that their institution would be preserved, but would not be allowed to envelope other states. It is consistent with the logic of risk discussed here that Lincoln was perceived as a threat to the expansion of slave-owning elite interests towards the Pacific. To prevent this, secession and the very considerable risk of war (implied by Lincoln's inaugural speech), appeared worth accepting. For this calculation to be rational it must have been believed that Lincoln would acquiesce to some compromise that would have given the western territories to slave interests. For Lincoln, however, the expansion of slavery would have destroyed the Empire of Liberty crafted by Jefferson. His argument was accepted by the majority of the Northern electorate. However, it required the terrible cost of Civil War to prove that this belief was a *core belief*, in the sense that it was held by a *winning* subset of the population. It is compatible with my interpretation of the intent of the Founders, in constructing the constitutional apparatus in 1787, that Lincoln thus proved to be the decisive risk taker who saved the Union.

---

<sup>30</sup>Fehrenbacher,(1989b, pp.220-222. See also Wills(1999, p.184) and Fletcher(2001, p2).

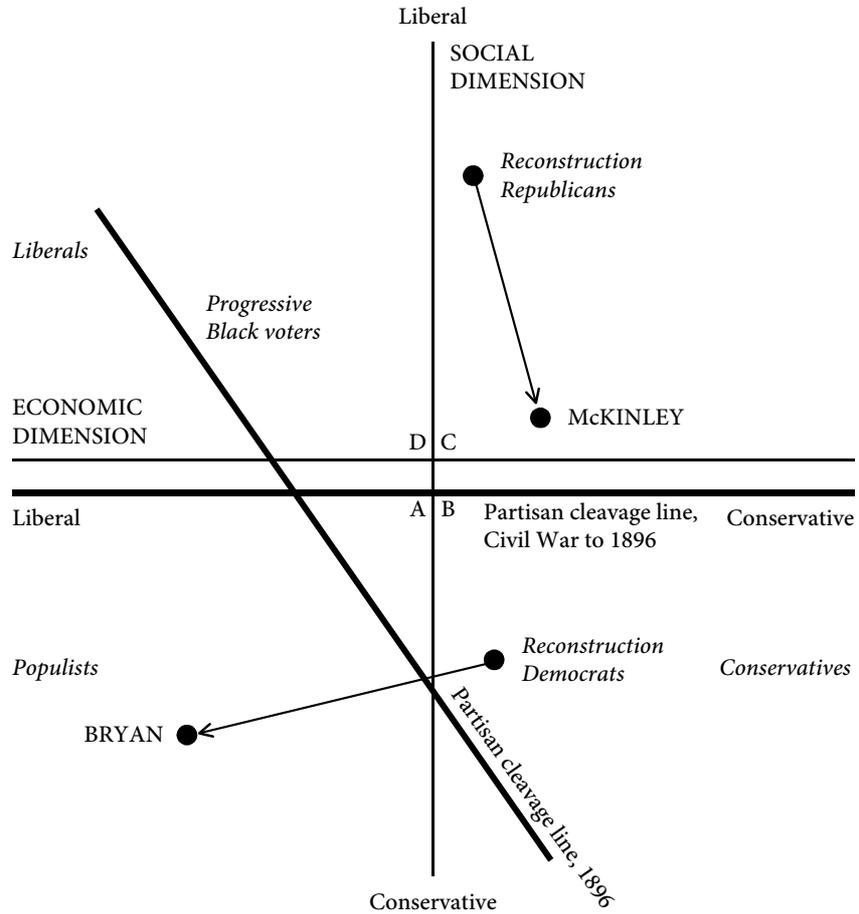


Figure 3 Policy shifts by the Republicans and Democrats, circa 1890–6

**4. Concluding remarks**

In this essay I have emphasized that constitutional transformations are brought about by the resolution of a quandary intrinsic to the society. Although electoral preferences may be described within a policy space of relatively low dimension, the way these preferences are aggregated at crucial junctures depends on how uncertainty and risk are interpreted by social architects of the eventual decision. At these junctures, contingency may play a rôle in how the quandary is under-

stood. Since the consequences of the decision can be only dimly perceived, the architect must undertake two related tasks. The first, which I have characterized by the term “expected utility calculus”, is to lay out as clearly as possible the various eventualities and the associated probabilities. The second is to acknowledge the risk associated with the decision, and to offer an argument for what seems to be the correct choice. The acceptance of this choice by the electorate not only legitimizes the eventual decision, but adds weight to the belief that it is indeed “fit”. This conception of the Constitution, founded on the free choice of all members of the society, was expressed by Lincoln in his first inaugural address.

Although the logic of societal choice that I have presented here has focused on elections, there is no intrinsic reason why the model must be so interpreted. As I hope I have made clear, the notion of belief cascade leading to a core belief may be able to shed light on the decision to declare Independence in 1776, as well as the collective decision for Civil War in 1861. It should be obvious, however, that the degree of risk and uncertainty associated with such profound constitutional decisions are much greater than at the normal elections. One interpretation of the conflict of the Civil War was that it was an indirect consequence of the political economic compromise established in the period from 1787 up to the election of 1800. The aftermath of the Civil War generated a “dynamically stable” political economic equilibrium governing the use of capital, land and labor that persisted until the early 20th Century.

Figure 3 (reproduced from Schofield, Miller and Martin,2003) gives a schematic representation of the political economic transformation that took place in the two-dimensional factor space between 1860 and 1896. For electoral reasons, the Republican party moved slowly after 1870 from its civil rights position on the labor axis to a “hard-money position” on the capital axis, by the late 1890’s. It was only in response to the depression quandary of the 1930’s that F. D. Roosevelt could construct a majority coalition that was relatively liberal on both the capital and labor axes. The theme of dynamic stability, of a slow transformation of the political equilibrium in the two dimensional factor space, from 1860 to the present, is pursued further in Miller and Schofield (2003). From this perspective, the embedding of the labor axis in the policy space as a consequence of Lincoln’s election and the Civil War, has deeply affected US politics to the present day.

#### **Appendix: A model of belief aggregation**

In this paper I have introduced the notion of collective decision making under risk. The idea was to formulate the costs of the various options facing a society, together with the subjective probabilities of the eventualities. However estimates

of costs and subjective probabilities will differ across the members of the society. I propose now to adapt the standard apparatus of the spatial model of voting so that it can incorporate both preferences and “beliefs”. The former are what Madison referred to as interests, while the latter are essentially subjective probability judgements. Recent formal models of voting have also made use of the “Condorcetian” idea that voters may form judgements about the validity of various political propositions. Unlike Condorcet’s notion that these propositions are “universally true”, the kind of propositions that we consider here have the form “The South does indeed intend to extend Slavery to the Pacific”, and “The North is indeed based on capitalist expansion that is inimicable to the South”. Evidence can be given as regards these propositions and, depending on the interests of voters, the beliefs so generated will affect the choices of voters. For results on the general model see Austen-Smith and Banks, 1996; Feddersen and Pesendorfer, 1997; McLennan, 1998; Martinelli, 2003. Also see the earlier work by Wittman, 1989.

The “stochastic” variant (Hinich 1977) of the spatial model allows voters to be uncertain in their choice, and it is this model that I shall adapt.

The primitives of the model are:

1. Some “policy” space  $X$  which characterizes both voter interests, and possible eventualities.
2. The population or “electorate”,  $N$ , of size  $n$ , is described by a set  $\{x_1, \dots, x_i, \dots, x_n\}$  of “bliss points”, one for each “voter”,  $i$ . An individual’s bliss point describes the location of the voter in the space  $X$ , and represents that voter’s interests..
3. The set of options,  $S$ , of size  $s$ , is a set  $\{z_1, \dots, z_j, \dots, z_s\}$ , each one being a point in  $X$ . In the situation of an election (say, in 1800 or 1860), each element of  $S$  is a declaration of intended or proposed policy. There is one for each candidate,  $j$ .
4. In the simplest model, the “latent utility”,  $u_{ij}(x_i, z_j)$  of voter  $i$  for candidate  $j$  has the form

$$u_{ij}(x_i, z_j) = -A_{ij}(x_i)(z_j) + \varepsilon \quad (1)$$

Here,  $A_{ij}(x_i)(z_j)$  is some function of the “disutility” to  $i$  because of the difference between  $x_i$  and  $z_j$ . Thus,  $A_{ij}(x_i)(z_j) = 0$  if and only if  $x_i = z_j$ . The last term in (Eq. 1) is a stochastic error. In this early version of the model, the source of the error was not made explicit.

$A_{ij}$  is usually taken to be some quadratic function based on “distance” between  $x_i$  and  $z_j$ . In a recent version of this model (Miller and Schofield 2003) individuals

were allowed to have different salencies for different “axes” of  $X$ .

The set  $X^N$  of bliss points is fixed, and the elements of  $X^S$  (the set of possible declarations or options) are chosen by the candidates. In the spatial model, it is usual to assume that each candidate chooses an option strategically, possibly to maximize expected vote share or probability of winning. Given the data  $X^N$ ,  $X^S$ , each voter,  $i$ , is characterized by the probability  $\rho_{ij}$  that  $i$  votes for  $j$ . This probability is defined to be

$\text{Prob}(u_{ij} > u_{jk})$ , for all  $k \neq j$ . This stochastic feature involves the “errors”  $\{\varepsilon_j\}$ , for  $j \in \{1, \dots, s\}$ . It was initially assumed that these errors were drawn from a normal distribution, each distribution characterized by its variance  $\sigma^2$  (perhaps also involving co-variance terms).

Hinich (1977) assumed each candidate,  $j$ , adopted a declaration  $z_j$  to maximize  $V_j$ , the expected vote share (obviously given by  $(1/n)\sum p_{ij}$ ).

He argued (in the special case of  $s = 2$ ) that the resulting “Nash equilibrium” would be one in which both candidates adopted the same position,  $z_j^*$  at the mean of the voter distribution  $(1/n)\sum x_i$ . This “mean voter theorem”(MVT) has recently been extended to the case of arbitrary  $s$ . However, there is one proviso. For the theorem of Lin et al (1999) to be valid, it is necessary that the errors be independent, with variance  $\sigma^2$  “sufficiently large”.

However, there is a second, more serious, difficulty with the mean voter theorem.

Empirical analyses of voter behavior show clearly that a superior model has the form

$$u_{ij}(x_i, z_j) = -A_{ij}(x_i)(z_j) + \bar{\lambda}_j + \varepsilon_j \tag{2}$$

Here, the term  $\bar{\lambda}_j$  has been called the “valence” of candidate  $j$  (Stokes 1992). In the empirical analyses,  $\lambda_j = \bar{\lambda}_j + \varepsilon_j$  is a stochastic valence, with expectation  $\bar{\lambda}_j$ , where the stochastic component is described by  $\varepsilon_j$ , with expectation 0. Thus,  $\bar{\lambda}_j$  can be regarded as the average or expected “evaluation” of candidate  $j$ , throughout the electorate. In this model the “stochastic error” is used to describe the variation in the electorate of this evaluation of candidate  $j$ .

Schofield (2004) has examined the validity of the mean voter theorem when these electoral judgements are involved and shown that “sufficiently large” can be interpreted in terms of a “constraint which can be expressed in terms of the model parameters. To illustrate, suppose we assume that the “spatial component is given by  $A_{ij}(x_i)(z_j) = \beta \|x_i - z_j\|^2$ .

Suppose further that the electoral evaluations can be ranked, so that  $\bar{\lambda}_1 > \bar{\lambda}_2 > \dots > \bar{\lambda}_s$ , say. Let  $\sum^2$  be the empirical variance of the electoral ideal point about the mean of these points. Then a sufficient condition for the validity of the MVT is that  $\beta(\bar{\lambda}_1 - \bar{\lambda}_s)\sum^2 < \sigma^2$ . Moreover, if the space  $X$  has dimen-

sion  $w$ , then a necessary condition for the validity of the MVT is that  $\beta(\bar{\lambda}_1 - \bar{\lambda}_s) \sum^2 < w\sigma^2$ . This result follows from an examination of the Hessian of the candidates' vote share functions.

Obviously, if candidate  $s$  has much lower valence than candidate 1, and if  $\sigma$  is sufficiently small, then this necessary condition will fail. The consequence is that low valence candidates will not locate near the electoral mean. On the other hand if the error variance is sufficiently large (so that voter choice is effectively random) then the MVT will indeed be valid.

Empirical analyses of elections in Britain, the US, and a number of polities using proportional electoral methods (Schofield 2004; Schofield, Miller and Martin 2003) demonstrate that the empirical values obtained for  $\sigma$ ,  $\beta$ , and  $\bar{\lambda}_1, \dots, \bar{\lambda}_s$  imply that the necessary condition fails.

The conclusions of this valence model suggest why convergence to an electoral center is a non-generic phenomenon. Indeed, it is only likely to occur when the election involves such a high degree of uncertainty (or high variance,  $\sigma^2$ ) that policy differences are irrelevant.

This valence model can be interpreted in terms of Madison's theorem in *Federalist X*. We may view  $\bar{\lambda}_j$  as the average electoral judgment that candidate  $j$  is a "fit choice". In the model outlined above, the particular weighting that  $i$  gives to  $j$  is a stochastic variable,  $\lambda_{ij} = \bar{\lambda}_j + \varepsilon_j$ , where  $\varepsilon_j$  is drawn from the normal distribution. The implicit logic underlying this model is that it may be, in principle, impossible to gauge precisely what weight an individual,  $i$ , gives to the arguments for the option offered by candidate  $j$ . It is clearly possible in this model for a voter to actually vote for candidate  $j$  over  $k$  even though, in terms of explicit policies, candidate  $k$  has declared an intended option that more closely matches  $i$ 's interests. The fact that candidates do not converge to an electoral mean provides a theoretical explanation why the candidate positions, represented in Figures 1 and 2 display no convergence.

The model can be extended in the obvious way, because there is no compelling reason to assume that the stochastic component is random in the manner just specified. It is more plausible that the judgement made by  $i$  of candidate  $j$  is a function of  $j$ 's stated option. Indeed, the judgement  $\lambda_{ij}$  by  $i$  of  $j$  could be a function  $\lambda_{ij}(x_i)(z_j)$  of both the preferred point  $x_i$  of the voter, and the declared option. In this case the stochastic error  $\varepsilon_j$  associated with voter  $i$  could also depend on the preferred point  $x_i$  of the voter. Moreover, judgements about different candidates could move in different directions in different subsets of the population. Such a model has been proposed by Miller and Schofield (2003) and Schofield (2003e) in order to account for the effect of activists on candidate support. The key idea in this model is that judgements are more like infections, in that they are subject to contagion. In other words, an increase in the positive judgement for one of the candidates by some subset of the electorate may trigger further

changes in such electoral judgements, positive among some members of the electorate, and negative among others. Although the model has not been fully developed, it does seem to suggest that party positions slowly evolve over time, as new activist coalitions come into being. Figures 2 and 3 for example gives a hypothetical illustrations of the transformation of party positions between 1800/1860 and 1860/1896 in the US. Schofield, Miller and Martin (2003) and Schofield (2003d) suggest that these transformations at times of critical elections are brought about by the electoral “belief cascades” discussed in the body of the paper. It seems obvious that the belief cascades in the northern and southern electorates moved in opposite directions in 1858–1860. That is, the judgements  $\lambda_{ij}$ , for  $j$ =Lincoln or Breckinridge became large depending on whether  $i$  belonged to the North or South. An electoral game of this kind would induce extreme divergence. This could account for the lack of success of a moderate candidate like Bell.

While this model involving electoral judgements has some affinities to Condorcet’s Jury Theorem and Madison’s version of it in “Federalist X”, the theorem itself cannot be used directly to argue that the selected candidate is necessarily superior. Because the probabilities  $\rho_{aj}$ ,  $\rho_{bj}$  (that voters  $a$  and  $b$  choose  $j$ ) depend on  $x_a$  and  $x_b$ , they will not be independent. However, if  $\sigma$  is large with respect to the parameters  $(\beta, \lambda_1, \dots, \lambda_s)$ , then voter choice will be almost pairwise independent. In this case, if one candidate, 1, say, has a clearly dominant valence then this candidate will win the election, with high probability.

To interpret this observation, suppose that  $\beta \rightarrow 0$  so that, in the limit, the interests of the voters become irrelevant. Suppose further that there is information available to some subset  $M$  of the electorate which is consistent with the judgment  $\bar{\lambda}_1 > \bar{\lambda}_2 > \dots > \bar{\lambda}_s$ , say. Then it will be the case that, for every voter  $i$  in  $M$ , the probabilities  $\{p_{ik}\}$  for  $k=1, \dots, s$  will be ranked  $p_{i1} > \dots > p_{is}$ . From the multinomial theorem it then follows that the majority rule preference within the set  $M$  will choose 1 with greater probability than 2,3,... If  $M$  is itself a majority under the electoral rule, as perhaps the Northern electorate was in 1860, under the electoral college rule, then candidate 1 (namely Lincoln) will win. This is an analogue of Condorcet’s Jury Theorem, in the case that both interests and judgements are involved.

If there is some linkage between information available to the electorate and the individual judgements made by voters, then the stochastic spatial model just presented can be interpreted as a generalization of the Jury Theorem (See also Schofield, 1972 for an early attempt at formulating Madison’s argument in terms of a version of the jury theorem where different groups in the society have differing notions of a fit choice).

In the case where electoral interests are relatively weak, because  $\beta$  is small, we can infer that the second aspect of the Jury theorem will also hold. In the limit, as

the population size,  $n$ , becomes large, the probability of a fit choice approaches 1. Since the model can incorporate interests, which were of concern to Madison in writing “Federalist X”, we may also view the model as a method of studying the interaction of interests and judgments in a polity.

However, when interests are involved, so  $\beta$  is significant in magnitude, we can still draw some conclusions about the equilibrium behavior of candidates as they respond to electorate incentives. Since we can infer that the relevant necessary condition for the MVT will fail it follows that candidates will adopt very different positions. If the individual judgments are correlated in some fashion, then this phenomenon will be more pronounced.

If there is a single dimension involved, as suggested by Figure 2 for the Jefferson election of 1800, then it is plausible that there exists only a unique vector of equilibrium positions for the candidates. Indeed, Figure 2 is meant to suggest that this was the case from 1800 until at least 1852, and this is why I suggested that the two-party system was in balance in this period. If there are two dimensions, as I have suggested is a plausible assumption for the election of 1860, then the equilibrium will depend on the valence characteristics of the candidates. Figure 1 positions the four presidential candidates for 1860 within a two dimensional policy space, characterized by a land/capital axis and a labor/slavery axis. In a pure stochastic model for such a situation there would be multiple possible equilibria. The activist version of the model proposed by Schofield, Miller and Martin (2003) and Schofield (2003e) suggests that if these activist valence functions are sufficiently concave in the candidates’ positions, then there will indeed be a unique equilibrium (that is a set of positions, one for each candidate).

It is implicit in this model that contention, rather than compromise, is the fundamental characteristic of politics. It should also be obvious that each candidate should do everything in his (or her) power to enhance his (or her) valence.

If my argument about the importance of judgements is correct, then the kind of deterministic instability envisaged by Riker will not occur in the election of the Chief Magistrate. Instead such elections will be affected by changes in average societal judgements, and by the possible correlation and sectional distribution of these judgements. This is, in a sense, what Beard had in mind.

I have conjectured here that the US political system tends to sustain risk taking policy options by successful Presidential candidates (and indeed by influential policy makers or “Architects of Order”, such as Franklin). I also conjecture that risk taking by candidates is enhanced by the effects of activist interest groups. This balance between Presidential risk-taking and Congressional risk aversion was seemingly intended by the Founders.

### Acknowledgements

An earlier version was presented at the Conference on Revolution, Turin, Italy, June, 2003. I would like to express my appreciation for support from Washington University and from the Fulbright Foundation for the opportunity provided by my tenure of the Fulbright Distinguished Chair at Humboldt University, Berlin in 2002–2003. I am grateful to the Department of Public Policy and Public Choice, University of Eastern Piedmont(Alessandria) and the International Centre for Economic Research (Villa Gualino, Turin) for their support and hospitality during the conference. The ideas expressed in this paper are based on research funded by NSF grant 0241732. I thank Kim Dixon, Alexander Fak, Hans Christian Heinemeyer and Alexandra Shankster for assistance with the research. Kelley Gary, Roger Congleton, Mario Ferrero and Manfred Holler made a number of helpful comments on earlier versions of the paper.

### References

- Adair, D. G. (1943), *The Intellectual Origins of Jeffersonian Democracy: Republicanism, the Class Struggle, and the Virtuous Farmer*, Ph.D., Thesis. Yale University.
- Adair, D.G. (1974), *Fame and the Founding Fathers*. New York: Norton.
- Adair, D.G.(2000), *The Intellectual Origins of Jeffersonian Democracy*, Lanham, MD: Lexington Books.
- Arrow, K. (1999). “Comments”, in: J.Alt.et al (eds.), *Competition and Cooperation*, New York:Russell Sage Foundation.
- Austen-Smith, D. and J.Banks (1996), “Information aggregation, rationality and the Condorcet jury theorem”, *American Political Science Review*, 90, pp.34–45.
- Baker, K. M. (1975), *Condorcet: From Natural Philosophy to Social Mathematics*. Chicago, Illinois:Chicago University Press.
- Banning, L. (1995), *The Sacred Fire of Liberty*. Ithaca, New York: Cornell University Press.
- Beard, C. (1913), *An Economic Interpretation of the Constitution of the United States*, New York: Macmillan.
- Beard, C. (1915), *Economic Consequences of Jeffersonian Democracy*. New York: Macmillan.
- Beer, S. (1993), *To Make a Nation*. Cambridge, Mass.: Harvard University Press.
- Brewer, J. (1988), *The Sinews of Power*. Cambridge, Mass.: Harvard University Press
- Condorcet, N. (1785), *Essai sur l'application de l'analyse à la probabilité des décisions rendues à la pluralité des voix*. Paris: Imprimerie Royale.
- Cooper, Jr.W.(2000), *Jefferson Davis, American*, New York: Knopf.
- Dahl, R. A. (1956), *A Preface to Democratic Theory*. Chicago, Illinois: University of Chicago Press.

- Dixon, K. and N.Schofield. (2001), "The election of Lincoln in 1860", *Homo Oeconomicus*, 16, pp.49–67.
- Donald, D. (1995), *Lincoln*. London: Cape.
- Downs, A. (1957), *An Economic Theory of Democracy*. New York: Harper.
- Ehrlich, W. (1979), *They Have No Rights: Dred Scott's Struggle for Freedom* Westport, Conn.: Greenwood Press.
- Fedderson, T. and W. Pesendorfer. (1997), "Voting behavior and information aggregation in elections with private information," *Econometrica*, 65, pp.1029–1058.
- Fehrenbacher, D. E. (1981), *The Dred Scott Case: Its Significance in Law and Politics*. New York: Oxford University Press.
- Fehrenbacher, D.E. (ed) (1989a), *Lincoln: Speeches and Writings 1832–1858*, Vol. 1 New York: Library of America.
- Fehrenbacher, D.E. (ed) (1989b) *Lincoln: Speeches and Writings 1859–1865*, Vol. 2 New York: Library of America.
- Fehrenbacher, D.E.(2001), *The Slaveholding Republic*New York:Oxford University Press.
- Fink, E. and W. Riker (1989), "The strategy of ratification", in B.Grofman and D.Wittman(eds.), *The Federalist Papers and the New Institutionalism*, New York: Agathon.
- Fletcher, G. (2001), *Our Secret Constitution*, New York: Oxford University Press.
- Fogel, R. (1994), *Without Consent or Contract*, New York: Norton.
- Foner, E. (1970), *Free Soil, Free Labor, Free Men*, Oxford: Oxford University Press.
- Foner, E.(ed.1995), *Thomas Paine:Collected Writing*, New York:Library of America.
- Gary, K. (2004), "Social choice and southern secession in the United States", *Homo Oeconomicus* (this issue).
- Hinich, M.(1977), "Equilibrium in spatial voting: the median voter result is an artifact", *Journal of Economic Theory*,4, pp.144–153.
- Holzer, H. (ed. 1993), *The Lincoln Douglas Debates*, New York: Harper Collins.
- Hume, D. (1985a, [1777]), *Essays: Moral Political and Literary*. (Eugene Miller, ed.), Indianapolis, Ind.: Liberty Fund.
- Hume, D. (1985b, [1752]), *A Treatise of Human Nature*. London: Collins.
- Isaacson, W. (2003), *Benjamin Franklin: An American Life*, New York:Simon and Schuster.
- Jaffa, H. (2000), *The New Birth of Freedom*. Lanham, Maryland:Rowman and Littlefield.
- Karklins, R. and R. Petersen (1993), "Decision calculus of protestors and regime change: Eastern Europe 1989", *Journal of Politics*, 55, pp.588–614.
- Ketcham, R. (1971). *James Madison: A Biography*, Charlottesville, Virginia: University Press of Virginia.
- Keynes, J. M. (1921), *A Treatise on Probability*, London: Macmillan.
- Keynes, J.M.(1936), *The General Theory of Employment, Interest and Money*, London: Macmillan.
- Kuran, T. (1991), "Now out of never: the element of surprise in the East European revolution of 1989", *World Politics*, 44, pp.7–48.
- Lin, T.-M., J. Enelow and H. Dorussen. (1999), "Equilibrium in multicandidate probabilistic spatial voting", *Public Choice*, 98, pp.59–82.
- Lohmann, S. (1994), "The dynamics of informational cascades: The Monday demonstra-

- tions in Leipzig, East Germany, 1989–1991”, *World Politics*, 47pp. 42–101.
- Martinelli, C.(2003) “Would rational voters acquire costly information?” Typescript: ITAM, Mexico City.
- McLennan, A.(1998), “Consequences of the Condorcet jury theorem for beneficial information aggregation by rational agents”, *American Political Science Review*, 92, pp.413–418.
- McLean, I.(2003), “Before and after Publius”, in: S. Kernell(ed.), *James Madison:The Theory and Practise of Republican Government*, Stanford: Stanford University Press.
- McLean, I. and F. Hewitt, (1994), *Condorcet: Foundations of Social Choice and Political Theory*. Aldershot, UK: Edward Elgar.
- McLean, I. and A. B. Urken (1992), “.Did Jefferson or Madison understandCondorcet’s theory of social choice?”, *Public Choice*, 73, pp. 445–457.
- Meinig, D. W. (1993), *The Shaping of America*, Volume 2, *Continental America, 1800–1867*. New Haven, Conn.: Yale University Press.
- Miller, G. and N. Schofield. (2003), “Activists and partisan realignment”, *American Political Science Review*, 97, pp.245–260.
- Nevins, A.(1950), *The Emergence of Lincoln:Prologue to Civil War*, New York:Scribner.
- North, D. C. and B. R. Weingast (1989), “Constitutions and commitment: the evolution of institutions governing public choice in seventeenth century England”, *Journal of Economic History*, 49, pp. 803–832.
- Perkins, E.J.(1994), *American Public Finance and Financial Services 1700–1815*, Columbus, Ohio:Ohio State University Press.
- Peterson, M. D., (ed. 1984), *Thomas Jefferson: Writings*, New York: The Library of America.
- Rakove, J. (1996), *Original Meanings*, New York: Alfred Knopf.
- Rakove, J. (ed.. 1999), *James Madison: Writings*, New York: Library of America.
- Randall, William. S. 1993. *Thomas Jefferson: A Life*. New York: Henry Holt.
- Ransom, R. (1989), *Conflict and Compromise*, Cambridge: Cambridge University Press.
- Riker, W. H. (1953), *Democracy in America*, New York: Macmillan.
- Riker, W. H.(1964), *Federalism: Origin, Operation, Maintenance*, Boston, Mass.: Little Brown.
- Riker, W.H.(1980), “Implications from the disequilibrium of majority rule for the study of institutions”, *American Political Science Review*, 74, pp. 432–446.
- Riker, W.H. (1982), *Liberalism Against Populism*, San Francisco: Freeman
- Riker, W.H.(1984a), *The Development of American Federalism*, Boston, Mass.: Kluwer.
- Riker, W.H.(1984b), “The heresthetics of constitution-making: the Presidency in 1787 with comments on determinism and rational choice”, *American Political Science Review*, 78, pp.1–16.
- Riker, W.H.(1986), *The Art of Political Manipulation*, New Haven, Conn.: Yale University Press.
- Riker, W.H. ( 1991), “Why negative campaigning is rational”, *Studies in American Political Development*, 5, pp. 224–300.
- Riker, W.H.(1996), *The Strategy of Rhetoric: Campaigning for the Ratification of the Constitution*, New Haven, Conn.: Yale University Press.
- Rogowski, R. (1989), *Commerce and Coalitions*, Princeton, New Jersey: Princeton

- University Press
- Schofield, N.(1972), "Ethical decision rules for uncertain voters", *British Journal of Political Science*, 2, pp.193–207.
- Schofield, N.(1985), *Social Choice and Democracy*, Berlin.:Springer
- Schofield, N.(1999a ),"The heart of the Atlantic constitution, "*Politics and Society*.27, pp.173–215.
- Schofield, N.(1999b), "The Amistad and Dred Scott affairs: heresthetics and beliefs in the antebellum States, 1837–1860", *Homo Oeconomicus*,16, 49–67.
- Schofield, N.( 2000a), "Institutional innovation, contingency and war:a review", *Social Choice and Welfare*, 17, pp. 463–479.
- Schofield, N.(2000b), "Core beliefs and the founding of the American republic", *Homo Oeconomicus*, 16, pp. 433–462.
- Schofield, N.(2001), "Constitutions, voting and democracy: a review", *Social Choice and Welfare*, 18, pp. 571–600.
- Schofield, N.(2002), "Evolution of the Constitution", *The British Journal of Political Science*,32, pp. 1–20.
- Schofield, N.(2003a),"Madison and the founding of the two-party system", in: S.Kernell(ed.), *James Madison: The Theory and Practise of Republican Government*, Stanford, Cal.: Stanford University Press.
- Schofield, N.( 2003b), "Power, prosperity and social choice: a review", *Social Choice and Welfare*, 20, pp.85–118
- Schofield, N.(2003c), "The founding of the American agrarian empire and the conflict of land and capital", *Homo Oeconomicus*,19, pp. 471–505.
- Schofield, N. (2003d), "Constitutional quandaries and critical elections", *Politics, Philosophy and Economics*, 2, pp.5–36
- Schofield, N.(2003e), "Valence competition in the spatial stochastic model", *Journal of Theoretical Politics*, 15, pp. 371–383.
- Schofield, N. ( 2004), "Equilibrium in the spatial valence model of elections," *Journal of Theoretical Politics*, 16, pp. 447–481.
- Schofield, N., G. Miller and A. Martin. (2003), "Critical elections and political realignment in the US:1860–2000", *Political Studies*, 51, pp. 217–240.
- Smith, J. M., (ed.1995), *The Republic of Letters* (3 volumes), New York: Norton.
- Stasavage, D.(2003), *Public Debt and the Birth of the Democratic State*, Cambridge, UK: Cambridge University Press.
- Stokes, D. (1992), "Valence politics," in: D. Kavanagh (ed.), *Electoral politics*, Oxford: Clarendon Press
- Urken, A. (1991), "The Condorcet–Jefferson connection and the origins of social choice theory", *Public Choice*, 72, pp. 213–36.
- Weingast, B. (1997), "The political foundations of limited government: Parliament and sovereign debt in 17th and 18th century England", in: J. Drobak and J. Nye (eds.), *The Frontiers of the New Institutional Economics*. New York: Academic Press.
- Weingast, B.(1998), "Political stability and civil war", in R.Bates et.al.(eds.)*Analytical Narratives*, Princeton, New Jersey: Princeton University Press.
- Wills, G. (1999), *A Necessary Evil*, New York: Simon & Schuster.
- Wills, G.(2003a), "The negro President", *The New York Review of Books*,50(17), pp.45–51.

Wills, G.(2003b), “*Negro President*”: *Jefferson and the Slave Power*, New York: Houghton Mifflin.

Wittman, D. (1989), “Why democracies produce efficient results”, *Journal of Political Economy*, 97, pp. 1395–1424.