Why the War Came: The Sectional Struggle over Slavery in the Territories

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Modern scholarship has thoroughly documented the central role of slavery in the sectional controversy and the outbreak of the civil war. As James McPherson says in Battle Cry of Freedom: The Civil War Era (1988), "the greatest danger to American survival at midcentury . . . was sectional conflict between North and South over the future of slavery." Indeed, from the 1840s on, every major sectional conflict involved the complex slavery problem, especially the expansion of slavery into the western territories and any future territories the United States might acquire. By 1848, in the words of Richard H. Sewell, slavery had become "the issue in American politics."

As we saw in the portrait of Henry Clay (selection 18), the Union almost dissolved over the status of slavery in the territory acquired from Mexico. The Compromise of 1850 averted disaster at that juncture, and many Americans regarded it as "a final settlement" of all sectional hostilities, particularly over slavery in the national lands. That divisive issue did indeed appear to be settled. The new southwestern territories, Utah and New Mexico, had been organized without congressional conditions on slavery, which meant that the two territories could decide the issue as they wished. Utah went on to legalize the institution in 1852, and New Mexico did likewise seven years later (in 1860, however, Utah had only twenty-nine slaves and New Mexico had none). Oregon Territory, on the other hand, had outlawed slavery, and it remained prohibited by the Missouri Compromise line in the vast northern section of the old Louisiana Purchase territory, which included Minnesota Territory and an immense unorganized section.
In 1854, Congress organized that section by creating the new territories of Kansas and Nebraska. Had the Missouri Compromise line remained in effect, slavery would have been prohibited in both territories. But the Kansas-Nebraska Act overturned the Missouri Compromise and decreed that the people of each territory would decide whether to legalize or outlaw slavery. This formula was called popular sovereignty. Until the settlers of the two territories voted on the issue, southerners were free to take their slaves into a vast domain once preserved for freedom. What had caused Congress to enact such a disastrous measure? David Donald argues that southerners on Capitol Hill maneuvered Stephen A. Douglas, chief architect of the measure, into the explicit repeal of the Missouri Compromise line, because they believed that slavery would die out if it could not expand into new territory.

As it turned out, the Kansas-Nebraska Act was a monumental fiasco that reopened the divisive issue of slavery in the territories and inflamed sectional hostilities worse than ever. The measure led to the disintegration of the Whig party, to the emergence of the new all-northern Republican party, dedicated to stopping the spread of slavery, and to civil war on the Kansas prairies. Because slavery was a national problem that affected both sections of the country, armed pioneers from North and South alike poured into Kansas, establishing rival settlements and rival constitutions and governments. Lying in the nation’s heartland, Kansas became the battleground for the sectional struggle over the territories and future states, a struggle that would determine whether the free states or the slave states would control the Union. Abraham Lincoln captured the sectional polarization perfectly when he wrote a southerner: “You think slavery is right and ought to be extended; while we think it is wrong and ought to be restricted. That I suppose is the rub.” It was the rub indeed. And no event better illustrates that rub than the struggle over Bleeding Kansas. When Americans started killing Americans there over the future of slavery, it was a dress rehearsal for the national cataclysm a few years later.

In the selection that follows, Pulitzer prize-winning historian David Donald discusses how the combustible issue of slavery in the territories, revived by the Kansas-Nebraska Act, divided the nation into hostile sections. He places special emphasis upon how peoples’ perception of reality dictated the course of the North and South over the territorial issue. The successive clashes set in motion by the Kansas-Nebraska Act, Donald writes, eroded “the traditional bonds of Union” — national political parties, a faith in the Constitution, and nationalistic oratory — and sent the country hurtling toward civil war.

Donald’s account is best read with the first half of the next selection on Lincoln. As you reflect on the two readings, consider a couple of crucial questions. Why did the process of compromise break down after 1854? Was the breakup of the Union inevitable?
GLOSSARY

AMERICAN PARTY (OR KNOX NOTHINGS) An anti-Catholic, anti-foreign party that appeared briefly on the national stage in the mid-1850s.

"APPEAL OF THE INDEPENDENT DEMOCRATS IN CONGRESS" Issued by Salmon P. Chase, Joshua R. Giddings, and other antislavery leaders, the appeal denounced the Kansas-Nebraska Act as part of a sinister plot to spread slavery into the territories.

BORDER RUFFIANS Proslavery Missourians who invaded neighboring Kansas, terrorizing free-state communities and voting illegally in Kansas elections; in 1855, they helped elect a proslavery territorial legislature.

BROOKS, PRESTON S. South Carolina member of Congress who in 1856 assaulted Republican senator Charles Sumner in the Senate chamber, beating him brutally with a cane; in a recent speech, Sumner had impugned the honor of Brooks's relative, Senator Andrew Pickens Butler of South Carolina. Brooks then resigned his seat and returned home in triumph. South Carolina gave him a new cane and defiantly sent him back to Congress.

BROWN, JOHN Northern abolitionist who in May 1856 directed the massacre of five proslavery men on Pottawatomie Creek in eastern Kansas. He did so in retaliation for the atrocities of proslavery forces: they had murdered six free-state men in cold blood and had sacked the free-state settlement of Lawrence, killing several others. The Pottawatomie massacre ignited a civil war in Kansas that left two hundred people dead and cost some $2 million in destroyed property.

BUCHANAN, JAMES Democratic president, 1857–1861, who tried to force Congress to admit Kansas as a slave state, a move that further split the national Democratic party.

BUFORD, JEFFERSON Alabamian who led 350 southerners to Kansas to save it for slavery.

DAVIS, JEFFERSON United States senator from Mississippi who demanded a federal slave code that would protect slavery in all the territories.

DOUGLAS, STEPHEN A. United States senator from Illinois and architect of the Kansas-Nebraska Act, who for the rest of the 1850s would defend popular sovereignty as the solution to the slavery question in the territories; known as the Little Giant.

DRED SCOTT DECISION (1857) Handed down by a proslavery Supreme Court, it held that neither Congress nor the territories (as creatures of Congress) could outlaw slavery, on the ground that this would violate the property rights clause of the United States Constitution. The decision also ruled that blacks could not be United States citizens.

FRÉMONT, JOHN CHARLES The Republican party's first nominee for president, he ran against Democrat James Buchanan in 1856; Frémont lost.

NEW ENGLAND EMIGRANT AID COMPANY Under its auspices, bands of armed northerners went to Kansas to make it a free territory and ultimately a free state.

PIERCE, FRANKLIN Democratic president, 1853–1857, who signed the disastrous Kansas-Nebraska Bill into law.

POPULAR SOVEREIGNTY The doctrine, incorporated in the Kansas-Nebraska Act, that the settlers of a territory would determine the status of slavery there by voting it in or out.

POTTAWATOMIE MASSACRE See Brown, John.

SECESSIONISTS Southerners who believed that only by seceding from the Union and forming an independent confederacy could the South preserve its slave-based way of life.

SUMNER, CHARLES Prominent Republican senator from Massachusetts, he was brutally beaten by Preston S. Brooks after delivering a speech on the "crime against Kansas" committed by proslavery forces.
TANEY, ROGER BROOKE  A Maryland Democrat and a former slaveholder, Chief Justice Taney wrote the majority opinion in the Dred Scott decision, handed down by the Supreme Court in 1857.

WILMOT PROVISO  Introduced in Congress by David Wilmot of Pennsylvania, the proviso called for the prohibition of slavery in the territory acquired from Mexico in the Mexican-American War (1846–1848); the proviso was adopted in the House, but failed in the Senate.

YANCEY, WILLIAM L.  Best-known of the southern secessionist orators, this Alabama hotspur hated the North and warned that slave insurrections would result if abolitionists there got their way.

What led to the breakdown of the Compromise of 1850... was... the further agitation of the question of slavery in the national territories. This had been a central issue in the crisis of 1849–1850, until the compromise brought about what President [Millard] Fillmore praised as a settlement “in its character final and irrevocable.” Finality and irrevocability lasted just long enough to see that amiable mediocrity, Franklin Pierce, installed in the White House in 1853, when the territorial question erupted again. The Kansas-Nebraska Act of 1854, the rise of the Republican party, the Dred Scott decision of 1857, the Lincoln-Douglas debates of 1858, the split between the Northern and Southern wings of the Democratic party, the election of Abraham Lincoln in 1860, and the secession of the Southern states—all directly stemmed from the renewed dispute over the status of slavery in the territories.

☆ I ☆

In order to understand why this issue was, and remained, such a central one, it is necessary to recognize that, to a considerable extent, it was a surrogate. Under the Constitution there was nothing that the federal government could do about matters that most deeply troubled Southerners. Washington could not keep their section from falling behind the free states in wealth and in numbers. The South lost control of the House of Representatives in the 1840s; with the admission of Wisconsin (1848) and California as free states, it no longer had a majority in the Senate; and, after the death of Zachary Taylor, no Southern man could realistically aspire to become President. But the Constitution gave the federal government no author-

ity over these matters. The one field of legislation affecting the sectional balance in which the government clearly had power to act was the regulation of the national territories. Similarly Northerners, many of whom were deeply troubled by the moral, economic, and political consequences of slavery, recognized that the Constitution gave the federal government no power over the peculiar institution within the states where it existed. The national territory constituted one of the few areas where the federal government unquestionably did have authority to act adversely toward slavery.

But even this perspective on the territorial question is too narrow. When Northern spokesmen vowed to resist at all costs the further extension of slavery into the national territories, they were not merely expressing their general aversion to slavery; they were voicing a condemnation of the whole Southern way of life as being fundamentally un-American. Increasingly, many Northerners viewed the South, which they considered monolithic, as a barrier to the achievement of the American ideal of democratic equality. While the rest of the United States was making great economic progress, the South exhibited the symptoms of "premature and consumptive decline." In contrast to the thrift, industry, and prosperity of the free states stood the "worn out soil, dilapidated fences and tenements, and air of general desolation" of the South. Northerners were sturdy, equal, free men; Southern whites belonged either to a so-called aristocracy or they were "poor, shiftless, lazy, un instructed, cowed non-slaveholders."

In this Northern view, slavery was responsible for the backwardness of the South. Condemnation of the peculiar institution did not derive primarily from the abolitionists' moral abhorrence of slavery. Indeed, David Wilmot explained that he and his fellow free-soilers had "no squeamish sensitiveness upon the subject of slavery, no morbid sympathy for the slave." Northern hostility toward the South and slavery stemmed, instead, from a sense that a distinctive culture was rising in that region, one that rejected the basic and hitherto shared American values of individualism and democracy.

Simultaneously, Southerners were developing a set of stereotypes concerning the North. They found it hard to distinguish between abolitionists and free-soilers and viewed all Northerners, with the exception of a few political allies, as enemies of the South, bent upon the total destruction of its society. In Southern minds it was the free, not the slave, states that were losing sight of the basic, cherished American values. The growth of Northern manufacturing and commerce, the rise in the North of cities as large and as pestilent as those of Europe, and the influx of vast numbers of Irish and German immigrants changed the character of Americans in the free states. "The high-toned New England spirit has degenerated into a clamorous feeling of profound Yankeeism," lamented a Tennessee historian. "The masses of the North are venal, corrupt, covetous, mean, and selfish." The "Yankee-Union," agreed another Southerner, had become "vile, rotten, infidelic, puritanic, and negro-worshiping." Considering themselves as a permanent, self-conscious minority in the United States, Southerners felt they were daily threatened by an alien and fundamentally hostile Northern majority.

It is, on the whole, beside the point that neither of these opposing stereotypes bore much relationship to reality. Political democracy was about as prevalent in one section as in another. Most Southern whites were sober, hard-working yeoman farmers who had little or nothing to do with slavery; they were, in most respects, comparable to the small farmers of the North and West. There were very few large slaveholders in the South, just as there were very few wealthy Northern manufacturers; and the great Southern planters were, like their Northern counterparts, hard-driving, tight-fisted, and usually prosperous businessmen. But, as so often is the case, facts have less to do with determining the course of history than [peoples'] perceptions of them.

Even so, the existence of these obverse stereotypes of North and South did not necessarily lead to conflict
except for the fact that, ironically, both value systems shared one fundamental belief: that slave society had to expand or perish. The origin of this idea is obscure. Perhaps it stemmed from the American experience that as the fertility of Eastern lands was depleted the center of agricultural production moved steadily West. The accuracy of this belief is debatable. Some historians argue that Southern lands were becoming exhausted, that the best tracts were being engrossed by large planters, and that small farmers had no choice but to emigrate to new territories where, perhaps, they might become great slaveowners. If there were no further slave territories into which they could move, they would be obliged to remain at home, where they would form a discontented element ultimately subversive of the slave-plantation system. Moreover, these historians add, the slave population in the United States was rapidly increasing; by 1890, it was predicted, the South would have ten million slaves. Since these could not all be profitably employed, their value would drastically drop unless they could be taken to new territory.

Other historians question this internal dynamic of slavery expansion. They point to the modern quantitative studies showing that the Southern economy during the 1850s was in very good condition, not merely in the recently opened lands of the lower Mississippi Valley but also in the older seaboard slave states. The rate of economic growth in the South, taken as a whole, was greater during the 1850s than the national average, and that section suffered far less than did the North from the panic of 1857. The per capita income of Southern white farmers (which is, of course, very different from the per capita income of all whites and blacks in the region) was not significantly lower than it was in the North. On the whole, they conclude, slavery was a very profitable institution where it already existed, and there was no special reason why — apart from the generally expansive temper of all Americans — for economic reasons it had to be extended into additional territory. But, once again, in history fact is often less important than belief.

Certain it is that virtually every Southern spokesman believed that slavery must expand or die. The same arguments for expansion appeared so frequently in the political rhetoric of the period that they became standard fare. Jefferson Davis perhaps best expressed two of the major doctrines. "We of the South," he explained, "are an agricultural people, and we require an extended territory. Slave labor is a wasteful labor, and it therefore requires a still more extended territory than would the same pursuits if they could be prosecuted by the more economical labor of white men." Restriction of slave territory, Davis noted in a secondary argument, would "crowd upon our soil an overgrown black population, until there will not be room in the country for the whites and blacks to subsist in, and in this way [it would] destroy the institution [of slavery] and reduce the whites to the degraded position of the African race."

Acting on such imperatives, Southern leaders had constantly to seek new areas into which slavery might be extended. Southerners were behind the numerous filibustering expeditions in the Caribbean during the 1850s . . . [Their failure] made Southern leaders the more insistent that slavery must be given a chance in all the territory already part of the United States, since the peculiar institution must expand or die.

Northern free-soilers accepted this premise of slavery expansion but drew from it a conclusion exactly opposite from the Southerners'. If the extension of slavery could be prevented, they concluded, the whole slave system must collapse. Charles Sumner, the Massachusetts antislavery spokesman who succeeded in 1851 to [Daniel] Webster's place in the Senate, was confident that if slavery was restricted to the states where it presently existed it would soon die, "as a poisoned rat dies of rage in its hole." Then, Sumner predicted, the slaveholding oligarchy that now ruled the South would sink into impotence, and nonslaveholding whites would come to realize that just as a "blade of grass would not grow where the horse of Attila had trod," so could no "true prosperity spring up in the foot-prints of the slave." They would
ultimately force “open the gates of Emancipation in the Slave States.” Containment, in short, really meant abolition.

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These rival sectional stereotypes, with their shared conclusion about the importance of the expansion of slavery, are what made the political controversies of the 1850s such intense struggles over what appears to be a very narrow issue. In every instance the pattern was the same: a powerful and growing majority based in the North opposed an entrenched and increasingly unified minority in the South. The consequence of the successive clashes was to weaken, one after another, the traditional bonds of Union.

After the enactment of the Compromise of 1850, the first great territorial question to come before Congress concerned Kansas—a vast area including not merely the present states of Kansas and Nebraska but most of the rest of the Louisiana Purchase west of Iowa. There were pressing reasons for creating a territorial government for this area. Settlers were already pushing into Kansas from Missouri and Iowa, but they could secure no valid titles to their farms until the federal government extinguished the Indian claims and made a land survey. Territorial organization was also necessary before a transcontinental railroad could be built through the region. Ever since the acquisition of California, the need for direct rail connection with the Pacific coast had been obvious. Some preferred a Southern route, and in order to facilitate its construction the Pierce administration in 1853 purchased an additional tract of land, known as the Gadsden Purchase, from Mexico. Others looked for a railroad connecting Lake Superior with the Oregon country. Stephen A. Douglas, the chairman of the powerful Senate Committee on Territories, was not opposed to either of these plans, but he also wanted a middle route, connecting San Francisco with St. Louis and Chicago. But before Congress could authorize such a road, it had to provide a government for the territory through which it would run.

By the 1850s any proposal to organize a new territory immediately raised the question of the status of slavery in that territory. In the case of Kansas, the answer at first seemed simple and obvious: the Missouri Compromise had excluded slavery from this region. But by this time Southerners, convinced that slavery must expand or die and unable to acquire further foreign soil, were unwilling to abide by that restriction. Perhaps few Southern congressmen, who were better informed than most of their constituents, ever thought Kansas would become a slave state, but they knew that if they accepted a prohibition on slavery they would be assailed at home. In Mississippi, John A. Quitman thundered that the expansion of slavery was a question of conscience, on which no compromise was ever possible. . . . The South Carolina fire-eater, Robert Barnwell Rhett, declared that Southern rights had to be maintained even if not a single Southern planter ever set foot in the territory. “But the right is important,” Rhett insisted, “because it applies to future acquisitions of territory; and by refusing to acknowledge the obligations of the Missouri compromise, you force open the whole question of power.” With such war drums beating in the background, Southern votes in 1853 defeated a proposal to organize Kansas as a free territory.

Douglas cared little about slavery one way or the other, but he cared a great deal about the organization of Western territories and the construction of a transcontinental railroad. In 1854, hoping to create a territorial government in Kansas, he sponsored a bill that discreetly failed to mention either slavery or the Missouri Compromise. When Southern senators, whose votes were needed to pass the bill, pointed out that his measure would, because of its silence, leave the Missouri Compromise restriction against slavery in effect, the “Little Giant” discovered that, through “clerical error,” an essential section of his bill had been omitted, one that gave the inhabitants of the Kansas terri-
The Kansas-Nebraska Act, 1854, exacerbated sectional tension over slavery in the territories. The measure nullified the Missouri Compromise line, which had prohibited slavery in the old Louisiana Purchase above the latitude of 36° 30'1. Two new territories were now carved out of that northern region, and Southerners were free to extend slavery there until such time as the residents voted to outlaw it.

tory the power to deal with slavery. Southern congressmen claimed that not even this resort to popular sovereignty was enough, and Douglas further amended his proposal to declare explicitly that the Missouri Compromise was “inoperative” and “void.” At the same time he agreed to divide the huge region into two territories, Kansas and Nebraska.

Charged by critics with caving in to proslavery interests, Douglas was, in actuality, attempting to repeat in 1854 the coup he had brought off in the Compromise of 1850. He was willing to add to his bill almost any amendments concerning slavery because he thought them irrelevant and inconsequential. Since, as he believed, “the laws of climate, and of production, and of physical geography have excluded slavery from that country,” the wording of the legislation was a “matter of no practical importance.” Douglas would, therefore, give the South the language it wanted and the North the substance. To make this compromise palatable, Douglas sought to sweeten it for all parties—just as he had done in 1850—by sponsoring not one but at least three transcontinental railroad projects, which would give speculators, builders, and politicians in all sections urgent practical reasons for backing his measure.

But the strategy that had succeeded in 1850 failed in 1854. To be sure, Southerners, after an initial period of indifference, came out in support of Douglas’s
bill and they bullied President Pierce into endorsing it. Following one of the bitterest debates ever to occur in Congress, during which Douglas demonstrated again his superb gifts as a parliamentary tactician, both the Senate and the House passed the bill, and it received the President's signature on May 30. But this time there was no hurrahing that Douglas had saved the Union, no vast public celebration of the new compromise. Instead, when Douglas returned to Illinois at the end of the hard-fought session, he found his way from Washington to Chicago lighted by bonfires where he was being burned in effigy.

Three things had gone wrong with Douglas's calculations. First, the congressional debates on the Kansas-Nebraska bill were so protracted and intricate, so demanding on his time, that he was unable to give sufficient attention to his railroad proposals, which were bottled up in committee, where they died. In 1854, therefore, he could not rally behind his new compromise the powerful influence of America's first big business, the railroad. Second, by permitting Southerners to maneuver him into outright repeal of the Missouri Compromise, Douglas, as many Northerners believed, came close to tampering with the Constitution. Of course, the Missouri Compromise was not part of the written Constitution, but it was an agreement that had almost constitutional status, having been observed loyally for more than three decades and having acquired, as Douglas himself declared in 1849, respect as "a sacred thing which no ruthless hand would ever be reckless enough to disturb." Third, the congressional maneuvering on the Kansas-Nebraska bill suggested to many Northerners that the great national political parties, which had hitherto served as agents of national unity and sectional conciliation, could instead be exploited to ensure minority rule rather than majority rights. Given a free choice, virtually all Northerners in Congress would have opposed the Kansas-Nebraska bill, but the Pierce administration, using every appeal, from party loyalty to political patronage, applied pressure so intense that a majority of the free-state Democrats voted for it.

To many, this unprecedented misuse of a national party to promote a sectional interest served as a signal that a general political realignment in the United States was long overdue. As early as 1848, early moves in this direction had been made when young Northern Whigs opposed to slavery, disaffected Democratic followers of Martin Van Buren, and former Liberty party men coalesced to form the Free-Soil party. The Compromise of 1850 had weakened traditional parties in the South....

...In the years after the passage of the Kansas-Nebraska Act, increasing numbers of Southern Whigs, whose state parties were already in disarray, slipped... into the Democratic party. As a consequence, all but one of the slave states voted for James Buchanan, the successful Democratic candidate for President, in 1856. But what the Democratic party gained in the South it lost in the North. Of the 86 Northern Democrats in the House of Representatives, 42 voted, despite all the pressure Pierce could bring to bear, against the Kansas-Nebraska Act. Though many of these remained in the Democratic party, others defected. As a result of these shifts, the center of gravity in the Democratic party shifted sharply to the South after 1854. The party that had once served as a strong bond of national unity now became an equally powerful force for divisive sectionalism.

Meanwhile a major new party opposed to the Democracy was emerging in the North. Early in the debates on Douglas's Kansas bill, antislavery leaders in Congress, including Salmon P. Chase and Joshua R. Giddings of Ohio and Sumner of Massachusetts, issued a widely circulated "Appeal of the Independent Democrats in Congress to the People of the United States," which denounced Douglas's measure "as a gross violation of a sacred pledge; as a criminal betrayal of precious rights; as part and parcel of an atrocious plot to exclude from a vast unoccupied region..."
immigrants from the Old World and free laborers from our own States, and convert it into a dreary region of despotism, inhabited by masters and slaves.” Skillfully incorporating two basic free-soil beliefs—that free labor and slave labor could not coexist within the same territory and that slavery blighted the economy wherever it was introduced—the Appeal served as a rallying point, during the protracted debates, for a protest movement throughout the North, in which antislavery Whigs, former members of the Liberty party, and free-soil Democrats joined. Initially given the awkward designation of the “anti-Nebraska” party, the coalition soon accepted the name “Republican.”...

The 1856 presidential election revealed even more decisively the shift in Northern voting patterns. Though Buchanan was elected, he carried only five of the free states and received fewer votes than the combined totals of the American party candidate, Fillmore, and the Republican nominee, the explorer and adventurer John C. Frémont. When voting returns are analyzed on a county-by-county basis, it becomes evident that in most of the free states the Republicans were neither simply former Whigs nor former Democrats masquerading under a new guise; the Republican party was a genuine fusion of free-soil elements from all the earlier parties. The new party was even more strongly sectional than the Democracy, for it had virtually no strength in any slave state. Thus in the North as in the South the party system, once a strong unifying bond for the nation, became a powerful divisive force.

III

Equally ominous was the weakening of the American faith in the Constitution that resulted, though less promptly, from the Kansas-Nebraska Act. Almost immediately it became apparent that Douglas’s measure, designed to settle the problems of Kansas, aggravated them. Many of the difficulties in that territory were those of other frontier regions: disputes over land titles, controversies over lucrative governmental contracts for trading with the Indians and carrying the mails, rivalries over the location of county seats, and struggles for the multiplying number of public offices paying generous salaries and profitable fees. But in Kansas these questions took on added significance, because the vehement congressional debates had singled out this territory as the battleground of slavery and freedom. (Everybody conceded that Nebraska would become a free state. Significantly the usual frontier difficulties in that territory received little general attention and were readily settled.)

Since everybody agreed that slavery had to expand or die, and since Kansas was the only national territory into which it could conceivably expand, proslavery and antislavery forces girded up for Armageddon. Throughout the North, organizations such as the New England Emigrant Aid Company recruited quasi-military bands of settlers and sent them to Kansas to help make it a free state. In the South, Jefferson Buford of Alabama sold forty of his slaves to help finance a 350-man expedition designed to save Kansas for slavery. Buford’s followers carried Bibles provided by citizens of Montgomery and raised aloft banners that read “The Supremacy of the White Race” and “Kansas, the Outpost.” Most of these systematic efforts to colonize Kansas were not successful, and most immigrants to the territory drifted in independently, looking for land and fortune. The Southern contingent of settlers had a ready reserve force in the proslavery inhabitants of Missouri, who were prepared whenever called to pour over the border to cast ballots in territorial elections or to harass free-soilers.

Something close to a state of civil war in Kansas resulted from the frequent conflicts between the free-state settlers and the Southern immigrants reinforced by these Missouri “border ruffians.” Both proslavery and free-soil groups held elections for constitutional
conventions, and each faction boycotted the election sponsored by its rival. Rival conventions met and drew up constitutions, one guaranteeing slavery in Kansas, the other excluding it; and contending delegations sent to Washington sought congressional approval. A series of territorial governors sent by the federal government could do nothing to bring the opposing sides together.

The danger grew that the usual frontier lawlessness in Kansas might turn into organized blood-letting. On the night of May 24–25, 1856, John Brown, a dedicated, single-minded abolitionist who had emigrated to Kansas after an unsuccessful career in the East as a tenant sheep raiser, and land speculator, opened hostilities. Without warning, he led a small party, consisting mostly of his own sons, in an attack on the cabins of two Southern families who lived on Pottawatomie Creek and murdered five men, leaving their gashed and mutilated bodies as a warning for other proslavery families to leave Kansas. In revenge, Southern immigrants organized and attacked Brown at Osawatomie, where Brown’s son Frederick was killed. Only Brown’s departure for the East prevented further slaughter.

At this unpriety moment, the Supreme Court of the United States decided to risk its prestige and the enormous respect that Americans gave to its exposition of the revered Constitution, in an effort to resolve the snarled question of the status of slavery in the national territories. The events leading up to the Dred Scott decision of 1857 were enormously complex, and no purpose is served by reviewing here the legal intricacies of the case before the Court. At issue was the legal status of Dred Scott, a Missouri slave, who had been taken in the 1830s by his owner, an army surgeon, first to Rock Island, Illinois, a state where slavery was prohibited by the Northwest Ordinance and its own constitution, and subsequently to Fort Snelling in what is now Minnesota, part of the Louisiana Purchase from which slavery had been excluded by the Missouri Compromise. Scott returned with his owner to Missouri, but later he sued for his freedom on the ground that he had been resident first of a free state and then of a free territory. After complex and contradictory rulings in the lower courts, his case came before the Supreme Court for the definitive determination of two broad questions: (1) Was a Negro like Scott a citizen of the United States, who was, therefore, entitled to initiate a suit in the federal courts? (2) Was the congressional prohibi-

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*Dred Scott in 1858, a year after the Supreme Court decision that bore his name. Originally called "Sam," Dred Scott, a slave, sought his freedom on the grounds that he had lived for a time in a free state and a free territory. His case led to the most infamous Supreme Court decisions in American judicial history. Bought and freed by a white benefactor in 1857, Scott became a porter at a St. Louis Hotel and died in 1858. (Missouri Historical Society)*

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*Brown instigated the Pottawatomie massacre in retaliation for atrocities committed by proslavery forces in Kansas. See the John Brown entry in the glossary. — Ed.*

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tion of slavery in federal territories, whether in the Missouri Compromise or in subsequent legislation, constitutional?

Initially the justices of the high court planned to avoid these sweeping issues and to deliver a limited opinion, following numerous precedents, declaring that the status of Scott, who continued to be a resident of Missouri, was determined by Missouri state law. Such a decision would have left Scott a slave, but it would have avoided initiating broader controversy.

...[But] the aged, high-minded Chief Justice, Roger B. Taney, believed that the American public wished it to settle, once and for all, the critically divisive question of slavery in the territories. In the years since the introduction of the Wilmot Proviso, there had been numerous proposals that the Supreme Court be asked to decide the whole territorial issue...

Consequently, in March 1857, the Court gave such a decision. To be more accurate, it issued nine separate opinions, for each justice made a separate statement. Since these did not all address the same problem, it was not altogether easy to determine just what the Court had decided, but the chief justice seemed to speak for the majority of his brethren on the two essential issues. First he ruled that Scott, as a Negro, was not a citizen of the United States. Neither the Declaration of Independence nor the Constitution, he alleged, was intended to include blacks. The Founding Fathers, claimed Taney with a cheerful disregard of much historical evidence, lived at a period when Negroes were "regarded as beings of an inferior order, and altogether unfit to associate with the white race, ... and so far inferior that they had no rights which the white man was bound to respect." As a noncitizen, Scott had no right to bring suit in United States courts. Addressing the second major issue, the chief justice announced that when Congress made regulations for governing the territories, its power was restrained by the Fifth Amendment to the Constitution, which prohibits the taking of property without "due process of law." All citizens had an equal right to enter any of the national territories with their property, and slaves were a variety of property. It followed that any congressional enactment — and specifically the Missouri Compromise — that excluded slavery from any national territory was "not warranted by the Constitution" and was "therefore void."

With the advantage of hindsight, it is easy to argue that the Dred Scott decision was of no great practical consequence. Four months after the Court's ruling, Scott's owner manumitted him and his family. The Missouri Compromise, which the Court struck down, had already been repealed in the Kansas-Nebraska Act. The Dred Scott decision did not open vast new areas for the extension of slavery, simply because since 1854 slavery was already permitted in all the territories into which it might conceivably go.

If the practical results of the Dred Scott decision were negligible, its consequences for the American faith in constitutionalism, hitherto one of the strongest bonds of Union, were fateful. As was to be expected, Southerners generally welcomed the decision as a vindication of their rights, and a good many agreed with Jefferson Davis that it meant Congress must enact a slave code that gave positive protection to slavery in all the territories. Southern enthusiasm was tempered, however, by a recognition that most Northerners would not accept the Court's ruling as definitive.

In truth, there was virtually universal condemnation of the decision in the North. Douglas and his Northern Democratic following were hard hit, because the Court appeared to have announced that popular sovereignty was unconstitutional. If Congress could not exclude slavery from a territory, a handful of settlers clearly could not do so either. Attempting to respect the Court, to preserve his doctrine of popular sovereignty, and to keep the Democratic party intact, Douglas devised an elaborate straddle. He conceded the abstract right of the slaveowner to take his chattels into the national territory but pragmatically noted that it was "a barren and worthless right, unless sustained, protected and enforced by appropriate po-
lice regulations and local legislation..." Republicans, who had no Southern constituency, did not suffer from the same constraints as Douglas and angrily denounced the Court's "false and wicked judgment," which, as the New York Tribune claimed, was "entitled to just as much moral weight as would be the judgment of a majority of those congregated in any Washington bar-room."

☆ IV ☆

At just the time that the great unifying belief in constitutionalism was being eroded, the third great bond of Union, nationalistic oratory, was losing its force. In the South the death of Calhoun removed the last great orator for Union. Though Calhoun was a proponent of nullification and an advocate of Southern sectionalism, he always spoke of the Union with veneration. Even in his final address, explaining why he thought it too late in 1850 for meaningful compromise, he lamented the breaking of national ties.

Calhoun’s successors had no such regrets. The most notable of the Southern sectionalist orators was William L. Yancey of Alabama, who was as unswerving in his hatred for the North as he was in his devotion to slavery. With spell-binding rhetoric, Yancey alerted his Southern audiences to the dangers that would result from the success of Northern abolitionism. The South, he predicted, would see a repetition of scenes from the Sarto Domingo slave rebellion of the 1790s, “where wives were violated upon the bodies of their slaughtered husbands, and the banner of the inhuman fiends was the dead body of an infant, impaled upon a spear, its golden locks dabbled in gore, and its little limbs stiffened by the last agony of suffering nature.” Openly an advocate of secession, Yancey explained the purpose of his orations: “All my aims and objects are to cast before the people of the South as great a mass of wrongs committed on them, injuries and insults that have been done, as I possibly can... All united may yet produce spirit enough to lead us forward, to call forth a Lexington, to fight a Bunker’s Hill, to drive the [Northern] foe from the city of our rights.”

Equally ominous was the disappearance of the oratory of national conciliation in the North. Charles Sumner was not merely Webster’s successor in the Senate; he was the new voice of Massachusetts. Drawing upon his Harvard education, his broad reading, and his first-hand knowledge of European developments, Sumner deliberately set about preparing orations that would unite the North in opposition to the South. The very titles of his major addresses indicated his purpose: “Freedom National, Slavery sectional,” “The Barbarism of Slavery,” and so on. Because of its consequences, Sumner’s most famous oration was “The Crime Against Kansas,” delivered in the Senate on May 19–20, 1856, as a commentary on the continuing violence in the Kansas territory. Taking as axiomatic the argument that slavery must expand or die, Sumner claimed that the disturbances in Kansas following the passage of the Kansas-Nebraska Act were evidence of the desperate attempt of Southerners to rape that “virgin territory, compelling it to the hateful embrace of slavery.”

In his carefully prepared speech, Sumner attacked Douglas and made offensive personal references to the elderly South Carolina senator, Andrew Pickens Butler, whom he characterized as the Don Quixote of slavery, having “chosen a mistress to whom he has made his vows, and who, though ugly to others, is always lovely to him, though polluted in the sight of the world, is chaste in his sight... the harlot, Slavery.” Butler was absent from the Senate during Sumner’s speech, but his cousin, Representative Preston S. Brooks of South Carolina, seethed over the insult to his family and state. On May 22, before the Senate was called to order, Brooks entered the Senate chamber, approached Sumner, who was seated at his desk writing, and proceeded to punish him by beating
him on the head and shoulders with a stout cane. He left Sumner bleeding and insensible in the aisle. It was nearly three years before Sumner recovered from his wounds. During that period, the Massachusetts legislature reelected him to the Senate, where his vacant chair spoke so powerfully for sectionalism as ever Webster had done for Union.

During these years of Sumner’s silence, there sounded in the West an even more eloquent voice of sectionalism. [It was the voice of] Abraham Lincoln of Illinois. . . . In a series of nationally publicized debates with Douglas in the 1858 campaign [for the Little Giant’s Senate seat, Lincoln] eloquently voiced both the aspirations and the fears of the free-soilers. If, to the present-day reader, the Lincoln-Douglas debates seem to revolve repetitiously around the one limited issue of slavery in the territories, it must be remembered that virtually every political leader in the North and the South agreed that that point was of the utmost importance, since slavery had to grow or it would wither away. After a strenuous campaign, Douglas was reelected to the Senate, but Lincoln emerged as the real victor. Throughout the North, antislavery men now perceived the issues in terms of the stark contrasts Lincoln had presented in the opening address of his campaign:

“A house divided against itself cannot stand.”
I believe this government cannot endure, permanently half slave and half free.
I do not expect the Union to be dissolved — I do not expect the house to fall — but I do expect it will cease to be divided.
It will become all one thing, or all the other.

With the issue thus boldly stated, the outcome was simply a matter of time. The great forces that had once helped cement American unity — the Constitution, the political parties, the public oratory — now served to divide the people. The United States, it now appeared, was not, and never really had been, a nation; it was merely a loose assemblage of diverse and conflicting groups, interests, and peoples. By the late 1850s these had polarized into two groups, a majority in the North, and a minority in the South. Neither majority nor minority was willing to yield on what both regarded as the vital issue of the expansion of slavery. And the war came.

Donald concedes that this “sketch” is oversimplified. For clarity, he had to “gloss over the fact that neither North nor South was monolithic” and that important groups in both sections dissent from the dominant attitudes. “When a historian speaks of ‘the North’ or ‘the South,’” Donald writes, “he is using a convenient shorthand to refer to the articulate groups who gained control of the political machinery in those sections.”

QUESTIONS TO CONSIDER

1. What were the emerging visions that northerners and southerners had of each other in the 1850s? What basic belief about slavery did they share? Why does Donald say that the issue of slavery in the territories was in great part a “surrogate”? Do you agree with the implication that slavery itself was not the major issue dividing North and South? What do you think was the major cause of the Civil War?

2. When Stephen A. Douglas put forth the Kansas-Nebraska Bill in 1854, what was his position on slavery and how did he hope to solve the problem? Why was the Kansas-Nebraska Bill a failure, and how did the failure affect the major political parties? What was its effect on the political process in Kansas?

3. What were the major questions involved in the Dred Scott case, and how did the Supreme Court rule on them? What were the consequences of this decision? If Americans were losing their faith in the Constitution as Donald says, why do you think the Dred Scott decision caused such a furor?