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# Constitutional Rules, Political Accidents, and the Course of History

## New Light on the Annexation of Texas



JENNIFER ROBACK MORSE

**P**ersonalities of such dramatic dimensions so dominated the struggle over the annexation of Texas that one can hardly imagine the events without these particular characters. The proponents, John Tyler and John C. Calhoun, worked furiously toward the immediate annexation of Texas, for what they regarded as the good of their country, their party, their constituents, and their own political careers. Their political opponents, Thomas Hart Benton and Martin Van Buren, resisted forcefully, not only over Texas with all its implications and symbolism, but also for control of the Democratic party. From the very beginning of the American debate over Texas, the opponents of slavery contributed passion and color to the drama: Benjamin Lundy with his fiery pamphlet, John Quincy Adams with his heroic filibuster, and ultimately David Wilmot with his proviso to divide the territory acquired through the war that the annexation provoked.

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And yet, as colorful and influential as these larger-than-life characters were, it was not so much the individual actors as the Constitution that determined the outcome of this great drama of American history. For the Constitution, by stipulating permissible actions, defines how Americans make collective decisions. More important with regard to the annexation of Texas, the Constitution actively encourages certain types of strategies. Even if we grant the premise of Manifest Destiny—that the territory of Texas was destined to become part of the United States—we still need to consider when, how, by whom, and under what terms this absorption was accomplished. Reflecting upon the governing structure established by the Constitution can help us answer these questions. We can even show how constitutional rules called certain types of people onto the political stage.

Of course, many modern students of the political process appreciate that institutions matter. Rational-choice theories of politics—law and economics, public choice, and the new institutional economics—deal with exactly this point. But because so much of this work is abstract, it is especially valuable to demonstrate the critical influence of constitutional rules on issues of decisive importance in determining the course of American history.

Without doubt, the annexation of the Republic of Texas by the United States was a critical event in North American history. In the view of many historians, the annexation of Texas marked the point at which the Civil War became unavoidable. The annexation itself provoked partisan polarization, sectional acrimony, and political upheaval serious enough to prompt a realignment of the political parties. The Mexican War followed quite directly from the annexation. The Compromise of 1850 arose from the attempts to allocate between free and slave states the territory acquired from both the annexation of Texas and the Mexican War. This compromise was so fragile that very small events could easily disrupt it, and in the following decade many large and dramatic changes occurred.

Institutions matter directly, as when the policy a group chooses changes with changes in the voting rules, but institutions may also matter indirectly. Politicians, in both the legislative and the executive branches, may react to the incentives and constraints created by institutions. In particular, the constitutional rules may shape the choice of issues on which to campaign. The decision-making rules in the U.S. Constitution shaped many of the details of the annexation of Texas in this way. The Constitution allowed particular strategies for winning elections and achieving policy outcomes. And these strategies, in turn, invited politicians to frame the issues surrounding the annexation of Texas in distinctive ways. So profound was the influence of the Constitution on the selection of issues that we may make the following bold statement: if the constitutional rules had been dif-

ferent, the outcome would have differed in predictable ways.

In the first section of this article, I lay out the variety and complexity of the issues presented by the annexation of Texas. Politicians had substantial latitude in their choice of issues to emphasize or ignore. The rich menu of choices invited politicians to frame the debate over Texas for particular kinds of political advantage.

In the second section, I defend the claim that Texas, which was barely annexed by a simple majority rule, could have been annexed under a supermajority procedure.<sup>1</sup> Moreover, the process would have gone more smoothly and with less acrimony if some supermajority procedure had been used. On the face of it, this claim appears to be false—after all, if 66 percent of the voters prefer A to B, then trivially, 51 percent do also.

The resolution of this apparent paradox lies in recognizing that the decision to annex Texas was not a simple yes-or-no choice. The voting rule determines the size of the winning coalition. Under simple majority rules, the winning 51 percent of the voters could be put together from many different possible constituencies, supporting the annexation for many different possible reasons. Most of the time, politicians cannot find issues that will attract new voters without repelling old voters. But repelling one set of voters while gaining another set of voters may be a cost-effective strategy in some circumstances. For instance, one set of voters might be more committed to a particular party or candidate for president. Some politicians might have found it advantageous to annex Texas on terms that appealed strongly to a particular set of voters, willingly sacrificing the support of other voters. With simple majority rules, politicians can quite readily find more issues around which to split up and reconfigure coalitions.

On the other hand, with a supermajority rule such as a two-thirds rule, politicians must convince a larger number of people to support them. Politicians will have little if any incentive to raise divisive side issues or to frame the major issue in a divisive way. Under supermajority rules, a politician who alienates coalition partners cannot achieve his main objective.

Americans could negotiate with each other, and with the Texans, along many different margins over the transfer of Texas to the United States. Under a supermajority rule, no politician who ultimately wanted the annexation to occur would have raised some of these issues. On the other hand, under a simple majority rule, there were plenty of possible sets of terms under which the annexation could take place.

To state the proposition more strongly: under simple majority rule, no

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1. A supermajority procedure is any voting rule that requires a vote of a larger than majority in order to pass. For instance, ratification of a treaty requires two-thirds affirmative vote of the Senate (U.S. Constitution, art. 2, sec. 2), and amendments to the Constitution must be ratified by three-fourths of the states (U.S. Constitution, art. 5).

set of terms for the annexation could dominate every other set of terms in pairwise competition; that is, no “Condorcet winner” existed over this domain of issues.<sup>2</sup> Therefore, the vote-cycling deadlock would have to be broken by the decision-making rules.<sup>3</sup> A supermajority requirement for the addition of new territory or new states would have eliminated a significant set of possible terms of annexation from the political bargaining table.

In the third section, I discuss the four Constitutional rules that were relevant to the annexation. First, the Constitution assigns to the president the power to set the agenda for treaties with foreign powers. Second, the Constitution requires the Senate to ratify treaties by a margin of two-thirds. Third, the Constitution allows new states to be admitted to the Union by a simple majority. And finally, the House of Representatives resolves presidential elections in which no candidate wins by a majority. I show how these rules determined the broad outlines of the timing and terms of the annexation.

In the conclusion, I show that President John Tyler used annexation as a political issue, to extract the greatest advantage possible for himself and his constituents. As president, he had the power to set the foreign policy agenda. As a potential third candidate in the presidential election of 1844, he had an incentive to divide the polity in order to throw the election into the House. And because the Constitution allowed the admission of new states by simple majority, he could frame the Texas issue to improve his prospects as a third-party candidate as well as to achieve the greatest benefit for his Southern constituents.

## Foreign Policy Issues in the Annexation of Texas

The Republic of Texas came into existence in 1836, after separating itself from the Mexican Republic. Several questions immediately arose. Could Texas maintain itself as an independent country? If so, with which other countries would it be most likely to ally? If Texas could not remain independent, which other country might ultimately absorb it?<sup>4</sup>

Part of the value of Texas to all the possible contenders arose because of the vast expanse of Mexican territory west and north of Texas. Mexico’s ability to hold and govern this territory was extremely limited, even before the Texas revolt. Mexico simply did not have the wealth to reconquer the

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2. A Condorcet winner is defined as a voting alternative that can beat every other alternative in pairwise competition.

3. In the terminology of rational-choice voting theory, there was no preference-induced equilibrium; there could be only a structure-induced equilibrium.

4. For general histories of the annexation of Texas, see Pletcher (1973), Merk (1972), and Smith (1911).

heart of Texas or to maintain effective control over its other northern provinces. Therefore, the owner of Texas might ultimately possess present-day California, Utah, Nevada, New Mexico, and Arizona as well. For both Mexico and the United States, Texas had intrinsic and strategic value.

Although it quickly became obvious that Mexico could not reconquer the heart of its former province of Texas, the Texas revolutionaries and the Mexican government continued to dispute a large area, over which neither could exercise decisive and final military control. In these circumstances a truly independent Texas would probably consist of roughly the old Mexican province of Texas rather than the entire area in dispute. So, an independent Texas would be a truncated Texas (see map). In that event, Texas would lie between its powerful American neighbor and an unstable Mexican neighbor. Although many Texans cherished hopes of independence, the likelihood that independence would last very long seemed small to most contemporaries.

An independent Texan republic might survive, however, by allying itself with Great Britain. The British were interested in Texas for several reasons. First, Britain had commercial interests in the Caribbean and wanted access to ports in the Gulf of Mexico. Second, Britain hoped to develop a source of cotton supply independent of the United States. Texas had the potential to become a huge cotton supplier, and Britain hoped that an independent Texas would trade cotton for manufactures on terms more favorable than the U.S. ones. Much of the U.S. market lay behind tariff barriers imposed at the behest of manufacturers in the Northeastern and Midwestern states. An independent Texas would not have such constituencies for protectionism. Hence, Britain could reasonably expect an independent Texas to be a better trading partner.<sup>5</sup> Finally, and perhaps most important, Britain wanted to check the expansion of the United States. A viable independent nation on the southwest frontier would serve that objective of British foreign policy at lower cost than most other strategies. For all these reasons, Britain threw its weight behind Texan independence.

The British exerted diplomatic pressure to keep Texas and Mexico at peace, and Texas independent. They offered to mediate between Texas and Mexico. They also offered to guarantee the boundary between Texas and Mexico if Mexico would accept a settlement that gave it only nominal sovereignty over Texas. The British made preliminary efforts to persuade the Tex-

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5. Ephraim Douglass Adams (1910, 138-44, 150). The U.S. minister to Britain, Edward Everett, claimed that Britain's interest in Texas was not an abolitionist interest, but rather a purely commercial interest. This report was not particularly reassuring to Southerners, as an attack on their commercial interests was exactly what they feared. They believed that abolitionism was an indirect means to their commercial ruin, so that Britain could dominate the world cotton trade. See the discussion among John C. Calhoun and his correspondents, during the years 1842 and 1843, in *The Papers of John C. Calhoun* (1959-1996) throughout volumes 16 and 17.

ans to abolish slavery. Furthermore, they offered Texas a free-trade treaty with the British Empire, and they tried to involve France in a common cause against the annexation. Finally, when all else failed, they tried to bully the

Map



Mexicans into recognizing Texas independence. When all their diplomatic efforts failed, they withdrew and acquiesced in the annexation.<sup>6</sup> Although the British wanted an independent Texas, they were not willing to go to war to prevent a merger between two countries that wanted unification.<sup>7</sup>

The Texan Congress voted to petition for annexation to the United States almost immediately after declaring independence. This action suggests that the Texans regarded their territory as having more value if attached to the United States. As part of the United States, Texas would belong to the free-trade league and mutual defense pact that characterized the government of nineteenth-century America. Texas would have full access to the U.S. market. Slaves could be moved back and forth across the Texas border without violating the prohibitions on the international slave trade. And, most significantly, Texas could call upon the military might of the entire United States for its defense against potential enemies, the most immediate of whom was Mexico.

So the contemporary claim that the annexation of Texas was “inevitable” rings true. But this gives us no guidance in answering other important questions, because it tells us nothing about the distribution of the gains from the exchange, either between the countries or within the polity of each country. Even if the United States could outbid all other competitors for Texas, the “price” could be paid along multiple dimensions, because the countries might negotiate along many margins.<sup>8</sup> Of course, the claim that Texas would “ultimately” go to the highest bidder tells us nothing about the timing of the annexation, and accounting for the timing of events is a significant part of the historian’s job.

The Texan Congress voted almost unanimously to petition for annexation to the United States, which suggests that the interests of Texans were reasonably uniform with regard to the annexation question. The same cannot be said of the United States. Thus far this analysis has treated the United States as if its government were a single all-powerful individual, able to make any trade it chooses. But the government of a democratic country

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6. See Adams (1910). For British offer of mediation, see pp. 128–36; for offer of boundary guarantee, see pp. 146–50; for efforts to abolish slavery, see pp. 138–44; for common cause with French, see pp. 158–60; for ultimate acquiescence, see pp. 171, 188.

7. Adams (1910) quotes a highly placed British official to this effect: “Undoubtedly, we will both use our best efforts for that purpose, and will even refuse to recognize the annexation of Texas to the United States; but as a Question of Peace or War, I am not prepared to say that its junction with the American States is of sufficient importance to us to justify our having recourse to arms in order to prevent it” (191).

8. Sam Houston played coy with the United States on several occasions. It is evident from his behavior that he was attempting to extract concessions from the United States by holding out on annexation. See Adams (1910, 156, 161, 201).

consists of numerous individuals with conflicting and competing goals. Even if the annexation of Texas were “inevitable” in some ultimate geopolitical sense, the interests of specific Americans were so many and varied that it is difficult to define a single “U.S. interest.”

## The Condorcet Problem and the Texas Question in American Politics

I shall now defend the following proposition: Texas, which was barely annexed by a simple majority rule, could have been annexed under a supermajority procedure. Moreover, the process would have been smoother and less acrimonious if some supermajority procedure had been used.

One supermajority procedure came close to being used. Texas could have been annexed by a treaty, which would have required the assent of two-thirds of the Senate. The United States had used the treaty procedure to make its two previous territorial acquisitions, the Louisiana Purchase and the acquisition of Florida. The first attempt to acquire Texas involved the treaty process. In January 1844, Texas diplomats reported to their superiors that two-thirds of the Senate was likely to ratify a treaty. Yet in June 1844 the treaty failed to gain the support of even a simple majority. What happened in those six months to create such a change?

The answer lies in understanding that “annexing Texas” is not a simple, well-defined proposition. Texas could be annexed on a variety of terms, with differing consequences for the benefits of various American interest groups. Thus, it is crucial to understand the different ways in which the issue could be framed. Let us examine these in turn.

### Foreign Policy Issues

An independent Texas would have the need and the ability to pursue its own foreign relations. The most ominous possibility from the American point of view was that Texas might become, in the words of one of its diplomats, “in some form or other a dependency of Great Britain.”<sup>9</sup> Certainly, Americans differed among themselves, both in their projection of the likelihood of such dependency and about the consequences of Texan dependency on Britain, should it occur.

The rankings of preferences among the American political parties on this issue would feature the Southern Democrats as the most hostile to British designs in Texas, followed by the Northern Democrats, the Southern Whigs, and finally the Northern Whigs. With these preference orderings and

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9. Isaac Van Zandt to Anson Jones, 20 January 1844, in Garrison (1911, 2:240–42).

with no other major issues on the table, Texas could be annexed. Moreover, Texas could be annexed by a treaty—that is, it could obtain the support of two-thirds of the Senate—because only the Northern Whigs would be likely to hold out against the annexation if the issue were framed in this way. The Texan diplomats reported:

The impressions, which exist here in regard to the State of Affairs, have induced the opinion that Texas must either be annexed to this Union, or become in some form or other a dependency of Great Britain. This view of the case has had an important influence upon many of the Senators of the non-slaveholding states. Were the question deprived of this feature I should despair [sic] of its success. It is believed that any undue influence, obtained by Great Britain whether in a commercial or other point of view, in Texas, must sooner or later prove dangerous to the institutions and prosperity of this country and therefore ought to be resisted.... This subject I believe is well understood and fully comprehended by both northern and southern men.<sup>10</sup>

A favorable informal vote count taken in January 1844 occurred in a context in which both Northerners and Southerners considered the British threat credible and serious.

## Domestic Issues

Expansion of slavery into the territory acquired from Texas was the issue that came to dominate the political stage. This, in turn, was linked to two other issues: the party positions on Manifest Destiny (not called that at the time) and the sectional positions on representation in the Senate. The constituents of the Democratic party favored cheap land policies and territorial expansion, whereas the Whig party favored slow-growth policies and the compact development of the eastern seaboard.

The admission of new states complicated these relatively simple positions and aggravated every existing sectional issue. Politicians in both the North and the South calculated the likely effect of any new state on the voting strength of their particular block. The issue of the expansion of slavery into newly acquired territory was explosive precisely because it affected the likely political sympathies of the new states more than any other constitutionally acceptable rule. A rule explicitly prohibiting Southerners or Democrats from migrating into the territories would surely have been unconstitutional. In fact, however, the people most likely to migrate into

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10. Isaac Van Zandt to Anson Jones, 20 January 1844, in Garrison (1911, 2:240–42).

territory suitable for plantation agriculture were Southern Democrats. So the attempt to prohibit slavery in newly acquired territory had the effect of governing the sympathies of future voters who would be sending senators to participate in partisan politics.

In practice, the most important sectional issues included the whole complement of issues surrounding slavery itself (fugitive slave provisions, slavery in the District of Columbia, the gag rule, and the like) as well as commercial issues such as free trade and federally funded internal improvements.

In general, the partisan/sectional positions were as follows: Democrats wanted large territorial expansions, whereas Whigs wanted the country to grow in a compact and modest way, if at all. Southerners preferred the introduction of slave states; Northerners preferred free states. The annexation of Texas raised two questions: Would the United States annex a large or small amount of territory? and Would the states admitted from the territory permit slavery or not? With these alternatives, the rank ordering of the various groups was as shown in table 1.

Assuming that these four groups have roughly equal numbers of voters, we can see that no one outcome can dominate the political process. Each policy option can be equally matched by any other policy option. For instance, if the question were between annexing a large amount of territory, all to be made free states, versus annexing a small amount of territory, all to be made slave states, the vote would show Northern Democrats and Whigs pitted against the Southerners of both parties. The deadlock could be broken only by some arbitrary event or by someone's crossing over party and sectional lines.

Table 1. Rank Ordering of Preferences for Four Groups

Party	Large/ Free	Large/ Slave	Small/ Free	Small/ Slave
Northern Democrat	1	2	3	4
Southern Democrat	3	1	4	2
Northern Whigs	2	4	1	3
Southern Whigs	4	3	2	1

The Senate in 1844 was remarkably balanced, so this assumption of even numbers of voters holds. The 52 senators included 24 Democrats and 28 Whigs. The Democrats divided evenly, with 12 Northern and 12 Southern. Likewise, the Whig party divided evenly, with 14 Northern and 14 Southern. And of course, if we divide the Senate on purely sectional lines, the carefully crafted balance of slave and free states appears, with 26 senators from the slaveholding states and 26 from the states committed to free labor.

Another policy option could have dominated any of these four choices. The slavery issue could have been neutralized by bringing in territory suitable for either slavery or free labor and then dividing the territory into an equal number of slave and free states. And politicians did attempt to promote this option. Bringing in equal numbers of slave and free states would push the domestic and partisan issues to the periphery and allow the Senate to focus on the foreign-policy issues. As argued previously, the Senate probably would have ratified a treaty with Texas if foreign policy were the overriding consideration.

This approach had special appeal to two groups: Northern Democrats who hoped to gain the support of Southern voters in presidential races, and Southern Whigs who hoped for the support of Northern voters. A substantial subset of the Northern Democrats, along with a few Southern Democrats, strongly supported former President Martin Van Buren for the Democratic nomination in 1844. These Van Buren Democrats championed a distinctive combination of positions on the Texas annexation question. They proposed that the United States annex a modest amount of territory and carve it equally into slave and free states.<sup>11</sup> The Jacksonian Democratic party, which Van Buren had been instrumental in creating, drew its support from agriculturists, large and small, Northern and Southern. In addition, many members of the urban working class voted Democratic. The party was held together by its support of cheap land and low taxes and its opposition to monopoly and privilege. As the leaders of the largest national political coalition, the Van Buren Democrats had more to lose than any other single group from the introduction of explosive sectional issues. Therefore, this subset of the Democratic party did its best to mute the sectional aspects of the Texas question.

But Van Buren and his supporters were not the only ones to grasp the importance of neutralizing the slavery issue. Henry Clay, the most prominent of the Southern Whigs, also understood this point. As Clay ran his

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11. The principle advocate of this position was Thomas Hart Benton, Democratic senator from Missouri and Van Buren's chief Senate operative. See his 16, 18, and 20 May 1844 speeches in the *Congressional Globe* (28th cong., 1st sess., appendix, pp. 474–86). His position will be analyzed in detail later.

campaign for the presidential nomination of the Whig party, he did his best to keep the slavery issue neutralized. Indeed, both Van Buren and Clay wrote public letters on the Texas question, outlining just such positions.<sup>12</sup>

Let us define these Northern Democrats and Southern Whigs as Crossover voters. Competition for these voters formed the heart of political competition because the sectional/partisan blocks were completely deadlocked. As William Riker (1982) has pointed out, the heart of the game of politics is to reconfigure the issues to create winning coalitions. Let us assume for the sake of analysis that the Crossover politicians succeeded in luring away half of the Southern Whigs and half of the Northern Democrats.

With the possibility of neutralizing the slavery issue as a fifth policy, and the Crossover voters as a fifth voting block, the configuration of preferences of the various groups was as shown in table 2. It is evident by inspection that the annexation of a modest amount of territory, with the slavery issue neutralized, is a Condorcet winner. The last column can beat any other of the columns in pairwise competition. That is, annexing a modest amount of territory with the slavery question neutralized receives 2' voting blocks, whereas each other alternative receives only 1' voting blocks.

The reason for the dominance of this position is clear. Every one of the sectional/partisan blocks preferred that states be admitted in pairs, one free

Table 2. Rank Ordering of Preferences for Five Groups

Party	Large/ Free	Large/ Slave	Small/ Free	Small/ Slave	Modest/ Neutral
Northern Democrat ( ' )	1	2	4	5	3
Southern Democrat	4	1	5	2	3
Northern Whigs	2	5	1	4	3
Southern Whigs ( ' )	5	4	2	1	3
Crossover	3	5	2	4	1

12. Remarkably enough, both letters appeared in different newspapers on the same day. Clay's letter appeared in the National Intelligencer and Van Buren's in the Washington Globe on 27 April 1844.

and one slave, rather than risk complete annihilation by the admission of unfriendly states. Both of the national candidates, Van Buren and Clay, argued for the admission of Texas on terms favorable to the entire Union rather than on terms tilted too far in favor of one section or the other. Van Buren was a Northern Democrat who relied on the support of Southerners. Clay was a Southern Whig who relied on the support of Northerners. Neither of them could afford to alienate a substantial portion of his constituency. No matter what his personal ideology, no candidate for the presidential nomination of one of the national parties could afford to run on a strictly sectional platform.

Even John C. Calhoun hid from the Texas question while seeking the Democratic nomination for President. Calhoun was and is known as the most radical defender of Southern interests. Later, as secretary of state, he played a central role in annexing Texas on the terms most favorable to the South. But as a presidential candidate, he avoided framing the Texas issue in sectional terms. Indeed, one of his confidants explicitly advised him to dodge the Texas question:

the discussion of the Texas question at this time is injudicious.... No such issue should be made between Mr. Van Buren and yourself, because the admission of Texas into the Union would be regarded as a measure intended to strengthen the slave-holding interest of the South, and in this view of the question, the non-slave-holding States would oppose your election. The South itself is greatly divided upon this subject.<sup>13</sup>

As long as he was an active candidate for the Democratic party nomination, Calhoun could not afford to alienate his supporters outside the South.

This analysis of partisan and sectional preferences allows us to answer one of the questions posed at the outset: Why was Texas annexed in 1845 rather than earlier? Texas had petitioned for annexation in 1836, in the immediate aftermath of its revolution, and broached the subject on several occasions later. But the United States remained aloof until 1844. Why?

Partisan politics is surely a major part of the answer. Andrew Jackson was President in 1836. Considering his personal ideology as well as the interests of his constituents, one might have expected Jackson to snap up Texas at the first possible opportunity. Nevertheless, he not only denied the annexation petition but delayed even the recognition of Texan independence until the last day of his administration. Our analysis suggests that Jackson would have wanted to wait for an opportunity to annex Texas without creating a sectional and partisan uproar. Contemporary evidence supports

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13. Edward Dixon to John C. Calhoun, 25 July 1843, in Calhoun (1959–1996, 17:314–15).

this supposition. The Democratic Congress shared Jackson's reluctance to enter the sectional fray. As the Texas diplomats explained to their superiors,

some of the members (of Congress) have openly avowed to me their reasons for wishing to postpone our recognition until the next Congress. It all proceeds from the Van Buren party. They are afraid that the subject of annexation will be pressed immediately after recognition;—that annexation or no annexation will be made the test of the elections for Congress during the ensuing summer;—that the North will be opposed and the South in favour of annexation, and that Mr. Van Buren will of course have the support of either the South or the North in mass accordingly as he favours or opposes annexation. The fear then of throwing Mr. Van Buren into a minority in the next Congress induces his friends to desire a postponement of recognition at present, thereby keeping down the exciting question of annexation at the next elections and giving Mr. Van Buren more time to manage his cards and consolidate his strength.<sup>14</sup>

The annexation question lay dormant throughout Van Buren's administration. He immediately became embattled by the Panic of 1837, a financial crisis brought on by actions of the Bank of England but for which he was largely blamed.<sup>15</sup> He never was able to consolidate his strength and manage his cards sufficiently to risk dealing with a divisive sectional issue like Texas.

### The Hazards of the Annexation Issue

The reluctance of both Van Buren and Jackson to pursue Texas annexation testifies to the political dangers inherent in the issue. Still, this reluctance may seem odd in light of my previous argument that terms existed under which Texas could have been annexed even under a two-thirds rule. However, because the slavery issue could be framed in an inherently divisive way, politicians who operated on the fringes of the major national parties could use it to their advantage. A Northern Democrat such as Van Buren had to campaign for the nomination against Southerners who might accuse him of excessive timidity with regard to the annexation question. And a Southern Whig such as Henry Clay had to beware of Northerners within his own party who might resist the annexation of Texas on any terms.

Indeed, radicals from both sections did inflame the sectional aspects of the question from the moment of Texas independence until the annexation

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14. William H. Wharton to Samuel Houston, 2 February 1837, in Garrison (1908, 1:179–80).

15. For this interpretation of the Panic of 1837, see Temin (1969).



was finally consummated. In the North, Whig John Quincy Adams was the principle proponent of the view that the annexation of Texas would provide grounds for the dissolution of the Union by the Northern states.<sup>16</sup> In the South, Democrat John C. Calhoun, except when campaigning for the Democratic presidential nomination, pressed for bolder measures toward the recognition and annexation of Texas.<sup>17</sup> Promotion of these positions had the potential to siphon off support from the candidates nominated by the national parties.

Thus, in spite of the potential for annexing Texas as a “great national measure,” the danger always existed that the issue would be transformed into a sectional and partisan battleground. A supermajority procedure would have blocked this strategy, at least for the Southern radicals. For these Southerners desperately wanted the incorporation of Texas into the Union, and dividing the polity would have killed the annexation.

Under a simple majority rule, on the other hand, a great many factors had to coincide in order to consummate the annexation without domestic political bloodshed. The possibility of British interference had to be appreciated as a real threat. The slavery issue had to be neutralized. And political party discipline and unity had to be sufficient to overcome the tendency for sectional factions to splinter within the national parties.

But two constitutional rules combined to offer a great temptation for third-party candidates to exploit the Texas question. We shall see that these constitutional rules drove the outcome in very specific ways. The annexation of Texas, which could have taken place under a two-thirds requirement, became far more contentious and was almost undermined by the availability of simple majority procedure.

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16. See entry for 19 May 1838, in John Quincy Adams ([1795–1848] 1876, 9:535, 538; see also 10:20, and 11:71, 87, 101, 109, 114). See, as well, the discussions in the *Congressional Globe* (28th cong., 1st sess., pp. 64, 179–80, 194–95, 205, 229–30), for the discussions of the Massachusetts attempt to eliminate the three-fifths clause for apportioning representatives. During these discussions, Adams predicted that without such an amendment to the Constitution, “this Union would tumble into pieces.” In the previous session, he had introduced a resolution calling for the peaceful dissolution of the Union. For Adams’s most spectacular speech calling for the dissolution of the Union in the event of the annexation of Texas, see Adams ([1838] 1969, 14).

17. Calhoun’s activism during the period after his candidacy for the presidency will be discussed in detail in the remainder of this article. For the period between 1836 and his term as secretary of state, see the following: For a discussion of his resolutions of 1836, see Benton (1854, 1:665–67). For his response to the resolutions offered by Swift of Vermont in December 1837, see *Congressional Globe* (25th cong. 2 sess. p. 55). For the impact of South Carolina politics on the Texas question during the early 1840s, see Wilson’s introduction to volume 14 of Calhoun (1959–1996, xviii–xxiii). See also Calhoun’s letter to his daughter, 29 April 1840 in Calhoun (1959–1996, 15:187–88).

## The Constitution and the Annexation of Texas

Every historical episode includes a large element of chance, and the annexation of Texas was no exception. John Tyler, the president who ultimately annexed Texas, came to be known as “His Accident” to his enemies and posterity alike. He ascended to the presidency only because his running mate, William Henry Harrison, contracted pneumonia on inauguration day and died within a month of taking office. John C. Calhoun became the secretary of state under whom annexation took place only because his predecessor at the State Department, Abel Upshur, was killed in a freak accident on board a gunboat.

Notwithstanding the randomness associated with the ascension of these two men to office, the institutional framework in which they operated exerted decisive influence on the events. The Whigs had chosen Tyler as their vice-presidential candidate to balance the ticket. Tyler, a states'-rights Virginian, was a Whig principally because he hated Andrew Jackson. In other words, the choice of Tyler as a vice-president was part of the Whig effort to patch together a national coalition big enough to win.

Tyler, however, proved to be more Southern than Whig. The leadership of the Whig party regarded him as a loose cannon almost from the moment he took office.<sup>18</sup> Tyler therefore quickly became a president without a party. Because of this alienation from his party, Tyler was certainly not a potential presidential nominee for the Whig party. Still, he possessed the advantages of incumbency. Hence, because of combination of the prominence of his office and his isolation from his party, Tyler had the potential to become a credible third-party candidate in the election of 1844.

When Tyler chose Calhoun as his secretary of state, the Senate unanimously confirmed his choice. Senators of all parties agreed that Calhoun was eminently qualified for the post. When Calhoun took office, the Senate expected that his major responsibility would be to handle the sensitive negotiations with Great Britain over the division of the Oregon Country. The treaty with Texas seemed to be a foregone conclusion at the time. Indeed, as Calhoun was considering whether to accept the secretaryship, one of his friends wrote to him:

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18. For instance, Tyler's positions on money and banking issues were at variance with the mainstream of the Whig party. Most of Tyler's cabinet resigned en masse early in his administration (Pletcher 1973, 87).

I mention to you in confidence that the Texas question is in such a state, that in ten days after your arrival the Treaty of annexation, would be signed, and from poor [deceased Secretary of State] Upshur's count 40 senators would vote for it. The President says he has hopes of the acquiescence of Mexico.<sup>19</sup>

No one anticipated the intensity of the political uproar that the Texas issue would create.

### The Temptations of the Constitution: Plurality Elections and the New-States Clause

Surprisingly, the treaty faltered in Calhoun's usually capable hands. To understand why, one must appreciate the temptations for political fragmentation created by the conjunction of two constitutional rules. First, the Constitution requires that the House of Representatives resolve presidential elections won by a plurality instead of a majority. This procedure provides an inducement for third parties who have no hope of winning a majority, or even a plurality, to campaign nonetheless. A third-party candidate occupies a very powerful position during the House deliberations: He can be the "president maker," extracting substantial concessions from the winner, even if he has no hope of winning himself.

By itself this provision could not have transformed the Texas issue. Tyler also needed an issue on which to run. The ideal issue would be sufficiently appealing to a significant subset of the polity, and one on which his position would be distinct. Article 4 of the Constitution—"New States may be admitted by the Congress into this Union"—allowed him to use Texas in this way. Admitting Texas directly to statehood, by a simple majority of both houses of Congress, bypassed the treaty process.

The importance of this possibility for Tyler's political future was that he could frame a treaty so that it strongly favored the South, thereby creating a Southern and expansionist constituency for himself. He could siphon off the most proexpansion members of the Democratic party, from both North and South. He might also attract the support of some of the Southern Whigs. And he could use Texas to create this constituency for himself without ultimately endangering the annexation.

"Southern Democratic candidate" was a viable third-party position, one that Calhoun's advisors suggested Calhoun himself try to attain when it became apparent that Calhoun would lose the national Democratic nomination. The Texas issue would be critical to the creation of this political niche, stated Calhoun's advisor, and the convention

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19. George McDuffie to Calhoun, 5 March 1844, in Calhoun (1959–1996, 17:815).

nomination will still have such force, even in the Southern States as to preclude the hope, that a rally can be made against Mr. V[an].B[uren]. on the Anti-tariff protective principle alone, there are so many even of Southern men, who yield to the Doctrine of discrimination for incidental protection being admitted into a Revenue Tariff. It is necessary therefore to have some more exciting topic connected with it and this will be the Annexation of Texas....

...this is the only matter that will take sufficient hold of the feelings of the South, to rally it on a southern candidate and weaken Clay and Van Buren so much there as to bring the election into the House, where the Southern States would not dare to vote for Mr. V. B. and C[lay].<sup>20</sup>

But with Calhoun out of the race, Tyler immediately began to move himself into position. After Calhoun's address in which he publicly withdrew from consideration as a third-party candidate, one of Calhoun's friends wrote to him: "Since the appearance of your Address, the President's weak brain has been more disturbed than ever with the hope of the Presidency."<sup>21</sup> Indeed, one of Tyler's motives in appointing Calhoun to the State Department was to move Calhoun and his circle of radical Southerners securely into Tyler's political orbit. Robert Barnwell Rhett wrote to Calhoun:

It is understood that the office of Secy of State will be offered to you. It was plainly stated to me by one in the President's confidence, that the honours of the Cabinet would be placed at our disposal provided we would go into Tyler's convention in May, and support him for the Presidency. Of course the President will not intimate any such conditions to you, but that he and his friends will expect should you take any appointment from him, that you and your friends should support him for the next Presidency, I have no doubt.<sup>22</sup>

If the Constitution had required a two-thirds majority for the admission of new states, as well as for the ratification of a treaty, the Texas issue would not have been available as an issue for a third-party candidate such as Tyler or Calhoun to use. For to divide the polity would have been to defeat the annexation.

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20. Virgil Maxcy to Calhoun, 10 December 1843, in Calhoun (1959-1996, 17:600-602).

21. Maxcy to Calhoun, 9 February 1844, in Calhoun (1959-1996, 17:777).

22. Robert Barnwell Rhett to Calhoun, 5 March 1844, in Calhoun (1959-1996, 816-17).

Indeed, “poor Upshur’s count” of forty favorable votes had been premised on the absence of Tyler or any other third-party candidate. In January 1844, Texan diplomat Isaac Van Zandt gave an unusually detailed explanation of his claim that an annexation treaty could command forty votes in the Senate:

Mr. Tyler having withdrawn from the contest for Presidency the question neither is, nor will be considered in reference to him, but being supported by both whigs and democrats will not be determined as a party measure, but as a great national one, alike interesting to the whole Union....

In looking to the senate to see who can be relied upon to sustain the measure, from all the information which I have derived, I give the following as my decided opinion. There is but little doubt in the minds of many that Mr. Clay will be elected to the Presidency. Some of his particular friends, viz. the Senators from Kentucky, together with Messrs. Archer and Mangum, in prospect of that event prefer the measure postponed in order that Mr. Clay may have the credit of effecting it, but at the same time, if the treaty be now made, will support it beyond doubt. Premising this I feel confident that we may rely upon the entire vote of the south and west, regardless of party, while at the north we may calculate on the whole democratic vote, and many say Mr. Tallmadge of the Whig party, though the latter may be considered doubtful. If I am correct then in my opinion a treaty might be submitted with a confident prospect of its ratification.<sup>23</sup>

Of fifty-two members of the Senate, twenty-six represented slaveholding states, presumably considered “Southern.” In addition, there were twelve Northern and Western Democrats. These thirty-eight votes alone, without any additional Whig votes from the Northwest, provided more than the thirty-five required for two-thirds. Adding to this total the two Whig senators from Michigan and one Whig Senator from Indiana (then considered Western states) plus the doubtful Tallmadge of New York, one obtains a total of forty-two votes. Upshur’s total of forty favorable votes appears plausible.

However, with Tyler in the race, all these calculations went out the window. He could win only by throwing the presidential race into the House of Representatives. Using Texas as an issue, he could siphon off the South-

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23. Van Zandt to Anson Jones, 20 January 1844, in Garrison (1911 2:240–24). For an example of a historian befuddled by Upshur’s vote count, see Merk (1972, 37).

ern votes of both parties and the extreme expansionist votes of the North and West. By running on this issue, Tyler could force the two other candidates to deal with the Texas question whether they wanted to or not.

### The Power of the Agenda Setter

So far, this analysis might seem plausible, except for one consideration: the presence of a potential Condorcet winner. Our earlier analysis showed that a treaty annexing a modest amount of territory, with the slavery issue neutralized, could beat all the competitors in pairwise competition. So, how could the radical Southerners, under the direction of Tyler and Calhoun, frame a treaty favorable to Southern interests, divide the polity, throw the presidential election into the House, and still annex Texas under the New-States Clause of the Constitution? Could not an alternative candidate, with a moderate Texas treaty, come forward and defeat the Tyler position?

To solve his puzzle, recall the power of the agenda setter. The Constitution gives the president power to set the agenda for the making of treaties, subject to ratification by two-thirds of the Senate. Tyler used this authority in two separate ways.

First, and most obviously, he framed a treaty very favorable to Southern interests. Evidently, he knew from the outset that the treaty he drew up would probably fail in the Senate. Members of the Texas diplomatic corps wrote home in April, just before the treaty was presented to the Senate:

As it is not certain that the Senate of the United States will ratify the treaty which we have signed, the President of the United States assured us, before we agreed to sign and submit it, that he would, immediately upon its rejection by that body, should it be so disposed of, send to both Houses of Congress a message, recommending to them, in the strongest terms, the passage of a law annexing Texas as a state, under that provision of the constitution of this Government, which authorizes Congress to admit new states into the Union...it is confidently believed by the friends of Texas in the Congress of the United States, that such a law can be passed. It was under this view of the case that we agreed to frame the treaty and submit it to the Senate of the United States, under such doubtful chances for its ratification by that body.<sup>24</sup>

In the same letter, the diplomats confided that “had we been left to consult the wishes and disposition of the President and Cabinet” a much more favorable treaty could have been concluded. But those seeking the

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24. Van Zandt and J. P. Henderson to Anson Jones, 12 April 1844, in Garrison (1911, 2:269-71).

passage of the treaty, even under simple majority procedures, had to consider both parties and both sections, “avoiding on the one hand the very liberal terms which the Southern politicians would have been willing to grant us and the restrictions which the North would wish to impose.” Thus, in the words of historian Justin Smith (1911), “the expedient of acquiring Texas by a joint resolution [of both Houses]...was unquestionably in reserve all the time” (281).

But the strategic use of agenda control went beyond the simple framing of the treaty on pro-Southern terms. Tyler’s handling of the treaty also blocked the introduction of the only alternative that could defeat him. The territory he annexed could not credibly be neutralized on the slavery issue. Tyler sent the Senate a treaty that annexed the “Republic of Texas,” that is, all of the territory Texas claimed for itself. This large expanse of territory would be difficult to carve into two roughly equal parts, one allowing and the other prohibiting slavery.

Moreover, annexing the Republic of Texas certainly would infuriate the Mexicans, who had already announced that they would consider this step equivalent to a declaration of war. By annexing Texas, the United States was also annexing the boundary dispute with Mexico; hence, the United States would acquire an indeterminate amount of territory in addition to the land claimed by Texas. No candidate, no matter how sincere, could credibly claim that an undetermined amount of territory, in an unknown location, could be divided equally into slave and free states. Therefore, the terms of the annexation made it almost impossible for the Condorcet winner to be introduced as an alternative.

In addition, Tyler and Calhoun introduced an element of urgency: Annex Texas “All or nothing” and “Now or Never.” They represented British interference with Texas as imminent and potentially devastating. But they diffused the potentially unifying impact of the British threat by portraying it as directed principally at the institution of slavery.

Just before the treaty was sent to the Senate, Calhoun wrote to the British attaché, relating American urgency about annexation to the potential abolition of slavery by the British in Texas.

It is with concern the President regards the avowal of Lord Aberdeen of the desire of Great Britain to see slavery abolished in Texas;...That, from the geographical position of Texas, would expose the weakest and most vulnerable portion of our frontiers to inroads, and place, in the power of Great Britain, the most efficient means of effecting in neighboring States of this Union, what she avows it to be her desire to do in all countries, where slavery exists. To hazard consequences which would be so dangerous to the pros-

perity and safety of this Union, without resorting to the most effective means to prevent them, would be, on the part of the Federal Government, an abandonment of the most solemn obligation imposed by the guaranty, which the States, in adopting the Constitution, entered into to protect each other against whatever might endanger their safety, whether from within or without. Acting in obedience to this obligation, on which our Federal system of Government rests, the President directs me to inform you that a treaty has been concluded between the United States and Texas.<sup>25</sup>

This letter, soon leaked to the public, accomplished at least two objectives. First, Calhoun underlined the urgency of resolving the Texas issue, because, except for a few Northeastern Whigs, very few Americans would welcome a British abolitionist project on the North American continent. Second, the letter trapped many Northern Democrats who had moderately antislavery constituents. Even Northerners who had no wish to see a British-inspired abolition would hesitate before supporting annexation for the sole purpose of expanding slave territory. After all, Northern Democrats might want to migrate into that territory themselves and cultivate the land with their own free labor. By positioning the Texas question as a proslavery measure, Calhoun put the Northern Democrats in a very difficult position. Would they support their constituents' traditional expansionist views, or would they abandon Texas for the moment in hopes of generating a treaty more favorable to Northern interests?

We can now see how the two-thirds majority support for the treaty predicted in January 1844 evaporated by June. The forecast of forty favorable votes had been based on two assumptions: No third candidate would seek the presidency, and both Northerners and Southerners would regard British interference in Texas as a threat to the interests of all Americans. Calhoun's letter, leaked to the public on the same day that both Clay and Van Buren came out against a precipitous annexation of Texas, transformed the vote into a referendum on slavery. Thus, neither of the prerequisites for a successful Senate vote was satisfied any longer.

### The Death of the Condorcet Winner

We can appreciate the potential strength of the Condorcet winner by noting that Tyler's opponents did attempt to propose an alternative treaty. Benton tried to reframe the Texas debate by specifically challenging the "All or Nothing" and "Now or Never" positions.

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25. Calhoun to Pakenham, 18 April 1844, in Calhoun (1959-1996, 18:274-75). The treaty was signed on 12 April.



He advocated that the treaty be renegotiated on two critical points. First, he insisted that the assent of Mexico be obtained. Obviously, this would diminish the threat of war and therefore remove most of the uncertainty about the actual size of the acquisition. Second, and closely related, Benton advocated the annexation of a more modestly defined Texas. In particular, he advocated the annexation of the old Mexican province of Texas as well as the territory between the Arkansas and the Red Rivers. This smaller annexation, of course, would increase the likelihood of Mexican assent. Equally important, the annexation of this particular tract of land made neutralizing the slavery question more likely, as Benton also proposed dividing the territory into one free state and one slave state. The remaining land was to be formed into a territory from which only a single slave state could be formed.

Benton and his block of Van Buren Democrats defeated the treaty in the Senate in June. The voting was highly partisan: the Whigs and the Van Buren Democrats voted against the treaty, while the other Democrats, North and South alike, voted for it. If Calhoun's strategy had been to attract Southern Whigs, it had completely failed: only one Southern Whig voted for the treaty.

But the president's power to set the foreign-policy agenda could not be blocked indefinitely even by a senator as influential as Benton. Tyler introduced a resolution into the House of Representatives calling for the annexation of Texas on essentially the same terms as the defeated treaty. This bill admitted Texas into the Union directly as a state, completely bypassing the territorial stage of government. It dealt with the problem of Texas' huge size by permitting the state to divide itself into four additional states. The overwhelmingly Democratic House passed this bill by a comfortable majority, 120 to 98, although not by a two-thirds majority. Again the Southern Whigs failed to rally around the treaty. Northern Democrats split, 53 votes in favor, 28 opposed. If half of the pro-Texas votes from the Northern Democrats had been cast instead against annexation, the measure would have failed. Despite Calhoun's best efforts to cast it as a sectional measure, the annexation of Texas was, at its heart, still a profoundly partisan question, as table 3 shows.

The only remaining hurdle was to garner a simple majority in the Senate. One circumstance that favored the passage of the treaty in the Senate in January 1845 was that the presidential election was over. James K. Polk, who had snatched the Democratic nomination from Van Buren partially because of their differing positions on Texas, had been elected President. The use of the Texas issue for playing presidential politics was over.

The "immediate annexation" wing of the Democratic party naturally claimed Polk's victory as a mandate for their cause. This interpretation was

Table 3. House of Representatives Vote on the Annexation of Texas: 25 January 1845

	Yes	No
Northern Democrats	53	28
Southern Democrats	58	1
Northern Whigs	0	52
Southern Whigs	9	17

more dubious than such claims usually are, because Polk did not win by anything like a landslide. He carried New York by a mere 5,000 votes. If Polk had lost New York's thirty-six electoral votes, Clay would have been elected president. And Polk certainly did not carry New York because of his position on Texas.<sup>26</sup>

26. See Tyler's annual message to Congress (Congressional Globe, 28th cong., 2d sess., p. 4) and Sellers (1966, 153-57).

In the Senate, Benton's bill, introduced in December 1844, differed from the treaty, and from the House bill, in several important particulars. Benton had backed away from his earlier insistence that Mexico consent to the annexation, but he still provided for a commission to negotiate boundaries with both Mexico and Texas. His bill also specified the extent of the territory more exactly than any other proposal (*Congressional Globe*, 28th cong., 2d sess., p. 19). Benton's new bill continued to give the slaveholding region one entry in the territorial derby, namely, Texas itself, while effectively neutralizing the remainder of the annexed territory.

But Benton had to admit that the Senate would never agree to this detailed proposal. The immediate annexationists controlled not only the foreign-policy agenda but also all the executive patronage. Polk was in the process of appointing his cabinet while the Senate debated the Texas question. Benton could no longer credibly hold out. On 5 February, he retracted his bill and replaced it with another, more general proposal (*Congressional Globe*, 28th cong., 2d sess., p. 244).

The most critical element of his new plan was that the president would send commissioners to negotiate the boundary. Benton argued that because the Senate had already rejected the terms of the House bill, reopening the negotiations with Texas would be necessary in any event. But reopening the negotiations would have to be done by incoming President James K. Polk.

With one week remaining of the lame-duck congressional session, the fate of the annexation project hung by a thread. Finally, a proposal was made to combine the House bill with Benton's option of sending commissioners and allow the president to choose between this proposal and the House bill. Benton and his followers were understandably reluctant to allow this discretion to President Tyler, whom they did not trust, but they were assured both that the choice would be exercised by Polk and that Polk definitely preferred Benton's plan. The Van Buren and Benton Democrats believed that Polk owed his election to them. They also knew full well that the passage of any annexation bill depended on their votes in the Senate. They expected that if they gave the new president an annexation bill, he would satisfy them with regard to the method of annexation.

The Senate passed the bill on 27 February by a vote of twenty-seven to twenty-five. There had been not a single vote to spare. Again the vote was strictly partisan: all twenty-four Democrats plus three Southern Whigs voted for the bill combining the House version and Benton's commissioners. Among the Democratic votes were all the Van Buren Democrats who had voted against the treaty in June. Without question, the bill could not have passed without the support of these men. And they gave their support on the assumption that Tyler would "not have the audacity to meddle" with annexation (*Congressional Globe*, 28th cong., 2d sess., p. 362).

But they miscalculated Tyler's daring. He signed the bill for the annexation of Texas on 1 March. On 3 March, the last day of his administration, he sent a messenger to Texas, offering annexation under the House terms.

The Van Buren Democrats also underestimated Polk's audacity. Despite Polk's assurances that he favored Benton's procedure, when he took office he failed to recall the messenger, which was certainly within his power to do. Moreover, he continued to need the votes of the Benton faction to confirm his cabinet choices. Even after taking office, he assured some of Benton's followers that he needed his cabinet organized quickly so that he could recall Tyler's messenger and revoke his orders (Sellers 1966, 217).

But Polk never recalled the messenger. When the Senate's special session ended on 20 March, Polk had not made any nominations to fill the positions of special commissioners to Texas. Benton and his group realized, finally, that they had been used. But the deed had been done: Texas was annexed on the pro-Southern terms passed by the House.

## Conclusion

The potential vote deadlock was broken by the decision-making institutions. The Constitution gives the president power to set the foreign-policy agenda, and John Tyler used this power fully. The Constitution permits the admission of new states by simple majority vote of Congress, and Tyler took full advantage of that possibility. The constitutional rule requiring the House to resolve plurality elections invited Tyler to search for an issue with which to divide the polity. The New-States Clause allowed him to use the Texas issue for that purpose. Although ultimately he did not run in the 1844 election, his presence in the nominating phase of the race certainly influenced the Democratic party to select James K. Polk as its candidate. Plainly, if any of these rules had been different, the annexation of Texas would have proceeded differently.

Despite the existence of a Condorcet winner that could potentially garner a two-thirds majority, the polity could not find its way to that winner under the prevailing decision-making rules. Tyler used his agenda control to generate a set of alternatives that would create deadlock, for only in a deadlocked situation can the agenda setter fully exploit his potential power. The potential gridlock inherent in situations without Condorcet winners was broken by the decision-making structure.

But we know that gridlock is not the only problem in such situations. Even after an outcome has been achieved, the absence of a Condorcet winner makes that outcome unstable because a dissatisfied majority correctly believes it would have been better served by a somewhat different outcome. If it can grasp the reigns of the decision-making process, a new coalition can

create a new outcome inconsistent with, or at least different from, the previous one. So it is no surprise that after the annexation of Texas, Americans continued to debate the Texas question until the Compromise of 1850, which finally resolved the remaining questions about the division of Texas, the expansion of slavery, and the financial consequences of acquiring Texas.

Even this, however, did not end the instability. The war predicted by the opponents of the treaty came to pass, and the territory acquired through the Mexican War divided Americans until the outbreak of the Civil War. Indeed, it is not too much to say that the territory acquired from Mexico was the proximate cause of the Civil War itself.

Had the Constitution plainly required a supermajority for the admission of new states, this sequence of events would not have occurred. The United States would have annexed a modestly-defined Texas, making enough concessions to Mexico to avoid war. If a two-thirds majority had been required, the terms of the annexation would have had to be acceptable to a wider set of Americans than the annexation that actually took place. It seems reasonable to suppose that neutralizing the impact of slavery by dividing the territory into equal numbers of slave and free states would have been a condition of the acquisition from the very beginning. No coalition could have rammed a lopsided acquisition down the throats of the rest of the country.

Most probably, other Mexican territory ultimately would have fallen under the control of the United States, simply because Mexico did not possess the power to govern it. If it had passed to the United States gradually, and relatively peacefully, who knows what U.S. relations with Mexico might be today? Who knows what course Mexican history might have taken if its fledgling democracy had not engaged the military might of the United States?

Every one of these dire consequences had been predicted by the opponents of the immediate annexation of Texas. These opponents, particularly Martin Van Buren and Henry Clay, were not naysaying opponents of American expansion, as they were depicted by their political enemies. They tried to bring Texas into the Union on terms that would unify rather than divide their countrymen. But the temptations created by the Constitution, particularly the New-States Clause, proved irresistible to sectional politicians. These politicians, it must be said, played strictly by the rules. The actions of Tyler, Calhoun, and Polk were perfectly legal and constitutional. However, we can see in retrospect that different constitutional rules would have led to a different and undoubtedly better outcome. For the United States eventually could have had the benefits of expansion into nearly the same territory without the costs of a bloody war with its neighbor and a fratricidal civil war at home.

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