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# Property Rights in Slavery and the Coming of the Civil War

By JAMES L. HUSTON

CERTAIN HISTORICAL QUESTIONS NEVER SEEM TO BE SATISFACTORILY ANSWERED. Such is the case with inquiries regarding the origins of the American Civil War, meaning specifically what forces tore the nation apart—as opposed to what particular circumstances led to armed conflict. One set of interpretations focuses on ideological forces that produced secession: antislavery convictions, a northern free labor ideology, and a southern adherence to neoclassical republicanism.<sup>1</sup> Another set deals with political factors: a manipulable federal political system, ambitious and blundering politicians, northern paranoia concerning the “slave power,” southern fear of a “free soil conspiracy,” northern lust for national consolidation, and—the leading contender—failure of the second party system to handle immigration and religious diversity, which enabled a new sectional division of parties to arise.<sup>2</sup>

<sup>1</sup> Emphasis on antislavery convictions can be located in David M. Potter, *The Impending Crisis, 1848–1861*, edited by Don E. Fehrenbacher (New York, 1976), 328–55; and Richard J. Carwardine, *Evangelicals and Politics in Antebellum America* (New Haven, 1993), 323. The theme of free labor and southern republicanism is elaborated by Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (2d ed.; New York and Oxford, 1995), Chap. 1. On republicanism see Lacy K. Ford Jr., *Origins of Southern Radicalism: The South Carolina Upcountry, 1800–1860* (New York, 1988), 121–25, 138, 351–54, and 372; Kenneth S. Greenberg, *Masters and Statesmen: The Political Culture of American Slavery* (Baltimore, 1985), ix–x, 3–14, and 125–35; and Michael A. Morrison, *Slavery and the American West: The Eclipse of Manifest Destiny and the Coming of the Civil War* (Chapel Hill, 1997), 7–8. Another strain of ideological explanation involves the rise of southern nationalism, usually seen as an ideology created to defend slavery; John McCardell, *The Idea of a Southern Nation: Southern Nationalists and Southern Nationalism, 1830–1860* (New York, 1979), 3–4 and 336–37; and Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South* (Baton Rouge, 1988), 10 and 59–61.

I am indebted to Vernon Volpe, the late Bill Cecil-Fronsman, Peter Knupfer, James Chase, and George McJimsey for their comments on papers that I have given relating to this topic at various meetings of the Mid-America Conference on History.

<sup>2</sup> Lee Benson, *Toward the Scientific Study of History: Selected Essays* (Philadelphia, 1972), 307–26; John H. Aldrich, *Why Parties? The Origin and Transformation of Political Parties in America* (Chicago, 1995), Chap. 5; William E. Gienapp, “The Republican Party and the Slave Power,” in Robert H. Abzug and Stephen E. Maizlish, eds., *New Perspectives on Race and*

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The progressive historians fashioned the most enduring economic explanation for the Civil War: It was caused by the struggle between southern plantation masters and northern industrialists for control of the federal government.<sup>3</sup> A special form of this argument holds that the slaveholding class was prebourgeois and incapable of amicable relations with a dynamic northern bourgeois class.<sup>4</sup> Economic historians have added to this explanation the southern interest in preserving capital gains obtained from slaveholding and the fear of loss of property in slaves—arguments insufficiently heeded by historians.<sup>5</sup>

The development of the new social history in the mid-twentieth century has greatly expanded the interpretations about the war's origins. Much of what social historians write about the Civil War derives directly or indirectly from modernization theory. The North was developing industrially and commercially, and the South remained mired in agrarian ways, producing a tension that somehow touched off the conflict.<sup>6</sup> From that base have sprung a number of theories employing some variant of class analysis.<sup>7</sup> Social historians have promoted as causative agents the ideas of the South as an "honor" society that reacted violently to northern criticisms, the power of the race question in thwarting peaceful solutions, the different ethnic makeup of the

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*Slavery in America: Essays in Honor of Kenneth M. Stampp* (Lexington, 1986), 51–78; J. Mills Thornton III, *Politics and Power in a Slave Society: Alabama, 1800–1860* (Baton Rouge, 1978), 204–27; and William B. Hesseltine, *Sections and Politics: Selected Essays*, edited by Richard N. Current (Madison, 1968), 101–13. The discussion of the collapse of the second party system by Michael F. Holt is generally considered to be the prime explanation for the war. See Holt, *The Political Crisis of the 1850s* (New York, 1978).

<sup>3</sup> Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (New York, 1927), II, 3–10, 28–31, 50–51, and 99–115; and Louis M. Hacker, *The Triumph of American Capitalism: The Development of Forces in American History to the End of the Nineteenth Century* (New York, 1940), 322–24 and 339–42.

<sup>4</sup> Eugene D. Genovese, *The Political Economy of Slavery: Studies in the Economy and Society of the Slave South* (New York, 1965), 3–10 and 243–74; and Genovese, *The World the Slaveholders Made: Two Essays in Interpretation* (New York, 1969), 95–102 and 118–31.

<sup>5</sup> Gavin Wright, *The Political Economy of the Cotton South: Households, Markets, and Wealth in the Nineteenth Century* (New York, 1978), 129–30, and 140–57; Gerald Gunderson, "The Origin of the American Civil War," *Journal of Economic History*, XXXIV (December 1974), 915–950; and Roger L. Ransom, *Conflict and Compromise: The Political Economy of Slavery, Emancipation, and the American Civil War* (Cambridge, Eng., 1989), 10–16, 41–72, and 101–2. It is fair to state that these authors have heavily influenced my ideas on the subject and that this article is built upon their powerful conclusions, although I am not sure that any would find the structure I create worthy of their foundations.

<sup>6</sup> Richard D. Brown, *Modernization: The Transformation of American Life, 1600–1865* (New York, 1976), 3–22 and 159–76. For a direct application, see James M. McPherson, *Ordeal by Fire: The Civil War and Reconstruction* (2d ed.; New York, 1992), 5–25.

<sup>7</sup> Bruce Levine, *Half Slave and Half Free: The Roots of Civil War* (New York, 1992), Chaps. 2, 3, 5; Michael P. Johnson, *Toward a Patriarchal Republic: The Secession of Georgia* (Baton Rouge, 1977), xviii–xxi; John Ashworth, *Slavery, Capitalism, and Politics in the Antebellum Republic*. Vol. I: *Commerce and Compromise, 1820–1850* (Cambridge, Eng., 1995), ix–x, 149, and 157–66.

sections (the “Celtic Fringe” theory), and a gendered explanation that emphasizes southern male protection of hearth and home.<sup>8</sup>

Economic explanations of the war have been rare over the past three decades as historians have most often dealt with the war’s origins by emphasizing ideological, social, or cultural forces.<sup>9</sup> Certainly historians have laid bare the economic differences of the sections, and many have pointed especially to the role of property rights involved in the struggle.<sup>10</sup> Nonetheless, these observations have not been molded into a coherent economic analysis of how the property rights dilemma of the United States contributed to the rupture of the Union between December 1860 and April 1861.

This article proposes an economic explanation for the origins of the Civil War—an explanation based on the existence of a dual system of property rights. The thesis is that southern secession grew out of the irreconcilability of two regimes of property rights: one in the South that recognized property in humans and one in the North that did not. As long as the United States was fragmented into small market areas these two regimes did not conflict; but the transportation revolution stitched market areas together, and no longer could the effects of slavery be confined to the South. Northerners recognized that, by means of a national market, the effects of the southern labor system could be transmitted to the North, depress the wages of its free laborers, and

<sup>8</sup> Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York, 1982), x–xii; James A. Rawley, *Race and Politics: “Bleeding Kansas” and the Coming of the Civil War* (Philadelphia, 1969), vii–x and 256–71; and Steven A. Channing, *Crisis of Fear: Secession in South Carolina* (New York, 1970), 258–69 and 289–93. For a brief synopsis of the Celtic Fringe theory, see Grady McWhiney and Perry D. Jamieson, *Attack and Die: Civil War Military Tactics and the Southern Heritage* (Tuscaloosa, Ala., 1982), 170–78. For interpretations using the perspective of gender, see Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (New York, 1995), viii, 208–21, and 279–85; LeeAnn Whites, *The Civil War As a Crisis in Gender: Augusta, Georgia, 1860–1890* (Athens, Ga., 1995), 17–18; and Glenna Matthews, “‘Little Women’ Who Helped Make This Great War,” in Gabor S. Boritt, ed., *Why the Civil War Came* (New York, 1996), 31–49.

<sup>9</sup> For example, see the anthologies of Kenneth M. Stampp, ed., *The Causes of the Civil War* (rev. ed.; New York, 1991); and Boritt, ed., *Why the Civil War Came*.

<sup>10</sup> For example, Ashworth, *Slavery, Capitalism, and Politics*, 205–6; Channing, *Crisis of Fear*, 253; William C. Davis, *The Cause Lost: Myths and Realities of the Confederacy* (Lawrence, Kans., 1996), 181–82; Olivier Frayssé, *Lincoln, Land, and Labor, 1809–60*, edited by Sylvia Neely (Urbana, 1994), 123 and 164–66; William G. Shade, *Democratizing the Old Dominion: Virginia and the Second Party System, 1824–1861* (Charlottesville, 1996), 198 and 208; Randolph B. Campbell, *An Empire for Slavery: The Peculiar Institution in Texas, 1821–1865* (Baton Rouge, 1989), 97–98, 115, and 151; James Oakes, *The Ruling Race: A History of American Slaveholders* (New York, 1982), 26, 109, and 232–41; Barbara Jeanne Fields, *Slavery on the Middle Ground: Maryland during the Nineteenth Century* (New Haven, 1985), 64; McCurry, *Masters of Small Worlds*; Alison G. Freehling, *Drift Toward Dissolution: The Virginia Slavery Debate of 1831–1832* (Baton Rouge, 1982), 51, 52–55, 59, 94, 105, 137, and 141; and James Oakes, *Slavery and Freedom: An Interpretation of the Old South* (New York, 1990), 43–45, 72, and 115.

thereby upset its economy. Northerners therefore felt compelled to constrict the effects of slavery. By the same token, southerners, who had placed vast amounts of wealth in slaves, opposed any restrictions upon their property rights. The first attempt of northerners to restrict slavery was to deny its expansion into the territories. Southerners perceived that as an attack on their property rights and promptly demanded northern recognition of southern rights regarding slavery—thereby expanding property rights in slaves from the local to the national arena. Northerners perceived this demand as ideological aggression, and it was the basis of their fears of the nationalization of slavery. Southerners were not going to allow any attack upon the property rights that gave them wealth and income; northerners could not allow southerners to win the battle over property rights because it would cause a fundamental recasting of northern society.

Viewing the sectional conflict as a struggle over control of property rights clarifies much that is obscure about the war's origins. First, the dynamic of interaction between northern and southern advocates is clearly visible. Moreover, the role of property rights in the struggle explains why both northerners and southerners believed they were acting defensively in response to the other section's aggressive behavior.<sup>11</sup> Second, the issue of slavery's expansion into the territories becomes weightier when property is factored into the analysis. Third, a focus on property rights restores to the controversy the material interests that were obviously at stake. And, fourth, from this angle of vision, the uncompromisability of the situation is easily grasped: There is no known mechanism by which a market (or even a nonmarket) society can revise its definitions of property without eliciting a violent reaction.<sup>12</sup>

<sup>11</sup> Republicanism can be seen as offering an explanation why both sides simultaneously saw each other as the aggressor; e.g., Morrison, *Slavery and the American West*. However, I have always had trouble accepting the different versions of republicanism as being so potent as to promote wildly opposing worldviews that defied common comprehension.

<sup>12</sup> As this essay will be an economic explanation (actually, an explanation based on political economy) of the origin of the Civil War, its differences from existing economic interpretations should be made explicit. First, the subject of property rights and how it influenced the sectional controversy has been virtually untouched, residing only in scattered comments rather than fleshed out as a complete explanation. Nearly all economic treatments pit the economic interests of planters against those of northern industrialists for political control of Congress to obtain their desired set of federal policies. This is the basis of the works by Beard and Beard, *Rise of American Civilization*, I, 636–39, and II, 51–53; Richard Franklin Bense, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (New York, 1990), 10–15 and 57–67; and Genovese, *Political Economy of Slavery*, 4–8. A related interpretation, though muddled, is given by Barrington Moore Jr., *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (Boston, 1966), 136 and 141 (the muddling is on pp. 114–15, 123, and 134). This article holds that the battle was for control over the power to define property, not to implement policies, and the clash of interests was not between sectional elites but between the

Property rights became a crucial element in the sectional controversy because slavery was such an imposing demographic presence in southern society. The slaveholding states in 1859 had a total of 12,240,300 people; 65.7 percent of these were white, 2.0 percent were free blacks, and 32.3 percent—some 3,950,511 or about 4 million—were slaves. In the cotton states, the extent of slaveholding rose dramatically; South Carolina was 57.2 percent slave, Mississippi 55.2 percent, Alabama 45.1 percent, Florida 43.9 percent, Georgia 43.7 percent, and Louisiana 46.9 percent.<sup>13</sup> The institution may have been peculiar, but it was neither invisible nor diminutive.

More important was the wealth that slavery represented, for slavery was a labor system in which slave masters owned the slaves as property, and the property had an evaluation. Southern spokesmen had no difficulty in reminding audiences of the wealth represented by the institution: “Again,” said William Lowndes Yancey in 1860, “Look at the value of that property. These slaves are worth, according to Virginia prices \$2800,000,000—an amount easy to pronounce, but how difficult to conceive of to one who knows anything about the power of multiplication of numbers.”<sup>14</sup> Yancey’s figure is not far removed from

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planters and the northern lower and middle classes. Moreover, most of these studies find the “aggression” in the confrontation between North and South in the new industrial capitalist class; viewing the discord from the vantage of property rights finds the South impinging upon the economic system of the North. The recent works of Wright, *Political Economy of the Cotton South*, Gunderson, “Origin of the American Civil War,” and Ransom, *Conflict and Compromise*, make clear the economic interest of southerners in slavery’s wealth and potential capital gains, but they cannot explain why northerners feared slavery in the first place. Robert Fogel does so only by relying on antislavery moralism; *Without Consent or Contract: The Rise and Fall of American Slavery* (New York, 1989), 202–33 and 269, while Ransom relies on ideology and political processes, *Conflict and Compromise*, 138–68. Eric Foner has delineated the fears northerners had for free society by employing the free labor ideology, and he elaborates northern apprehension over economic confrontations between slave and free labor, an observation that is vital to this essay. But his interpretation indeed sees the conflict between slave labor and free labor as an ideological contest for the future. Foner, “Politics, Ideology, and the Origins of the American Civil War,” in George M. Fredrickson, ed., *A Nation Divided: Problems and Issues of the Civil War and Reconstruction* (Minneapolis, 1975), 15–34. My rendition is not ideological but based on material interests—there is an actual conflict of material interests at stake, not merely a conflict of values. Finally, a number of scholars such as McPherson in *Ordeal By Fire*, Chaps. 1–3, posit some economic antagonism in the form of the dynamic market capitalism of the North versus the lackadaisical agrarianism of the South. This view is rather cosmic and lacks specifics about the mechanisms that invoked conflict, and usually one is left with the remnants of an ideological explanation. Offered here is the interpretation that agrarianism and industrialization were actually irrelevant to the origins of the war, as neither process engendered any actual material conflict—there was no competition between them for resources, markets, technology, or capital; they only mildly clashed over inconsequential federal policies. Rather, the conflict depends on a collision of different property rights regimes, and that circumstance requires only one condition: that the property rights regimes begin to merge into one market area within one polity.

<sup>13</sup> Figures computed from Joseph C. G. Kennedy, *Preliminary Report on the Eighth Census, 1860* (Washington, D.C., 1862), 131.

<sup>14</sup> Speech of William L. Yancey in *Louisville Daily Courier*, October 24, 1860. For other instances of southerners relating the dollar value of slaves, see remarks of John C. Calhoun in the

TABLE 1

## WEALTH ESTIMATES OF THE U.S. IN 1860 BY ECONOMIC CATEGORY

| <i>Category</i>   | <i>Estimated \$ Value<br/>(1860 dollars)</i> |
|---|--|
| Slaves  | \$3,000,000,000                              |
| Farms   | 6,638,414,221                                |
| Farm Implements   | 246,125,064                                  |
| Investment in Manufacturing                                   | 1,050,000,000                                |
| Investment in Railroads                                       | 1,166,422,729                                |
| Bank Capital  | 227,469,077                                  |
| Home Productions  | 27,484,144                                   |
| Livestock   | 1,098,862,355                                |
| Total of above categories                                     | \$13,452,000,000                             |
| Total Assessed Real Estate and<br>Personal Property by Census | \$16,159,616,068                             |
| Unaccounted-for Wealth  | \$2,707,616,000 (rounded)                    |

Source: Joseph C. G. Kennedy, *Preliminary Report on the Eighth Census, 1860* (Washington, D.C., 1862), 190, 192, 193, 195, 196, 209, 230–31.

the one that economists have decided upon, \$3 billion.<sup>15</sup> Relative to other endeavors in the economy, the investment in slaves was massive. (See table; unaccounted-for wealth probably reflects urban residences, investments in canals, river and oceanic transportation devices and supply facilities, and various sundry items of personal wealth.) The comparison of wealth in slaves to wealth (or investment) in other areas of the economy is shocking. The table shows that slaveholding comprised far more national wealth than railroads and manufacturing enterprises *combined*.<sup>16</sup>

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Senate, January 6, 1838, in Robert L. Meriwether *et al.*, eds., *The Papers of John C. Calhoun* (23 vols. to date; Columbia, S.C., 1959– ), XIV, 66; J. D. B. De Bow, "The Cause of the South," *De Bow's Review*, IX (July 1850), contained in Paul F. Paskoff and Daniel J. Wilson, eds., *The Cause of the South: Selections from De Bow's Review, 1846–1867* (Baton Rouge and London, 1982), 185; Message of Governor Pettus in *Vicksburg Weekly Whig*, November 23, 1859; and J. L. M. Curry, *Civil History of the Government of the Confederate States with Some Personal Reminiscences* (Richmond, 1901), 16.

<sup>15</sup> Roger L. Ransom and Richard Sutch, *One Kind of Freedom: The Economic Consequences of Emancipation* (Cambridge, Eng., 1977), 52–53; Susan Previat Lee and Peter Passell, *A New Economic View of American History* (New York, 1979), 215; Gunderson, "Origin of the American Civil War," 917; Ransom, *Conflict and Compromise*, 70n52. Clement Eaton, not an economist, suggested a possible value of slaves in 1860 of \$4 billion. See Eaton, *The Freedom-of-Thought Struggle in the Old South* (rev. ed.; New York, 1964), 36.

<sup>16</sup> And the totals for manufacturing include blacksmiths, wheelwrights, carpenters, millers, and coopers, among others, who had no connection to the rise of the factory system but had much in common with eighteenth-century methods of conducting business. See comments of McPherson, *Ordeal By Fire*, 34; Lee Soltow, *Men and Wealth in the United States, 1850–1870* (New Haven, Conn., 1975), 13–41, 66–67, and 100–101; Gavin Wright, "'Economic Democracy' and the Concentration of Agricultural Wealth in the Cotton South," *Agricultural History*, XLIV (January 1970), 72–85; and Fogel, *Without Consent or Contract*, 82–88.

The vast amount of wealth in Africans explains why slaveholders were interested in the preservation of slavery and by itself yields an obvious economic motive for the defense of the peculiar institution, but the overall impact of slavery on southern life must be delineated because slavery stitched most of the South together. It did so because slavery was productive wealth: From it flowed a stream of income. Wealth (such as precious metals and jewels) that does not produce income may generate class conflicts because wealth holders command society without contributing to the general welfare. Income stitches a society together and generates social inertia, a conservatism in the population at large. With a reliable income stream, even if it is paltry in its flow to numerous individuals, life at least becomes predictable. This is how modern wealth, even though unevenly distributed, produces social stability. As long as the wealth yields an income stream that includes the general population, a society becomes less willing to attempt institutional upheaval for fear of disrupting that income stream.<sup>17</sup> And in the two decades before the Civil War, southerners knew their land was prosperous, from the proclamations of such writers as David Christy who declared "Cotton is King" to the editor of *Hunt's Merchants' Magazine*, Thomas Prentice Kettell, to fire-breathing radical John A. Quitman, who as governor of Mississippi told the legislature in his 1850 annual message that slavery was the interest upon which "are founded the prosperity, the happiness, and the very existence of the people of fourteen States of this Union."<sup>18</sup>

Income from slavery aided in financing industry, transportation, government, and various urban and legal services. As long as cotton was king, it produced a per capita income comparable to the national average and a growth rate that augured a rosy future. Southerners understood that slavery caused the economic prosperity of their region, and that knowledge created an economic bond among all classes of whites. Other means of wealth creation were theoretically possible, but practice and custom led southerners to value slaveholding as the best means to prosperity because they understood its operation.<sup>19</sup>

<sup>17</sup> Admittedly, this is hypothesis on my part. It is for this reason, I believe, that revolutions most often occur under conditions of war or extraordinarily sustained high unemployment. Wars disrupt the normal income stream of a society so completely that it induces panic-stricken groups to seek a new means to obtain income.

<sup>18</sup> David Christy, *Cotton is King: or, Slavery in the Light of Political Economy* (3d ed.), in E. N. Elliott, ed., *Cotton is King, and Pro-slavery Arguments . . .* (Augusta, Ga., 1860), 19–267; Thomas Prentice Kettell, *Southern Wealth and Northern Profits* (New York, 1860); Quitman message in Jackson *Mississippian*, November [22], 1850; and Robert Royal Russel, *Economic Aspects of Southern Sectionalism, 1840–1861* (Urbana, Ill., 1923), 11.

<sup>19</sup> Robert William Fogel and Stanley L. Engerman, *Time on the Cross* (2 vols.; Boston, 1974), I, table 4, p. 248; Fogel, *Without Consent or Contract*, table 1, p. 85 and table 2, p. 88. See also



The income stream from the wealth in slavery also promoted a distinctive social value: the virtue of free white labor. For decades historians have been entranced with the proslavery argument, especially its patriarchal tone; but southerners insisted that patriarchy was only for slaves—whites lived in freedom and relative political equality. Those conditions for whites led to property accumulation via industriousness, thrift, intelligence, and self-discipline. A full-blown social mobility ethic pervaded the white South. Many southern publicists argued that social mobility was a fact of life, that no “aristocracy” existed, and that wealthy southerners had earned their positions “by the sweat of their brow[s],” a phrase used incessantly by northern free labor advocates.<sup>20</sup> Nor did southerners fail to glorify labor in almost the same terms as did northerners. In 1854 North Carolinian Kenneth Rayner addressed an agricultural society and said that in this new age “labor is the source of all wealth and prosperity, the means of individual comfort and luxury”; the purpose of agricultural societies was “to enlarge the field of operation for labor to secure to labor the rewards of its toil, to stimulate it to still greater exertions . . . [and] it is evident that the[ir] effect must be to dignify, honor and elevate labor.”<sup>21</sup>

Northerners did not recognize the free labor argument of southerners because a definitional chasm separated the effects of the two economic

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Ransom, *Conflict and Compromise*, figure 3.2, p. 49. Slavery enabled taxation on nonslaveholders to be nearly nonexistent. See J. Mills Thornton III, “Fiscal Policy and the Failure of Radical Reconstruction in the Lower South,” in J. Morgan Kousser and James M. McPherson, eds., *Region, Race, and Reconstruction: Essays in Honor of C. Vann Woodward* (New York and Oxford, 1982), 349–94. The substantial property-owning nonslaveholding portion of southern society indirectly obtained benefits from slavery, even though they tended to be lodged in semi-commercial agriculture. See Ford, *Origins of Southern Radicalism*, 44–95; and John C. Inscoe, *Mountain Masters, Slavery, and the Sectional Crisis in Western North Carolina* (Knoxville, 1989), 36–57 and 72–85. A work that stresses the negative impact of slavery on nonslaveholders is Bill Cecil-Fronsman, *Common Whites: Class and Culture in Antebellum North Carolina* (Lexington, 1992), 24–27 and 131.

<sup>20</sup> Sam[ue]l M. Wolfe, *Helper's Impending Crisis Dissected* (Philadelphia, 1860), 57–60; D[aniel] R. Hundley, *Social Relations in Our Southern States* (New York, 1860), 69 and 77; and speech of Jefferson Davis, May 26, 1851, in Dunbar Rowland, ed., *Jefferson Davis: Constitutionalist: His Letters, Papers and Speeches* (10 vols.; Jackson, Miss., 1923), II, 73–74. James Oakes stresses the work ethic and enterprising attitude of small slaveholders in *Ruling Race*, 52–59, 127, 130–49 and 227. See also James L. Huston, *The Panic of 1857 and the Coming of the Civil War* (Baton Rouge, 1987), Chap. 4. This point has also been recently stressed by Christopher Morris, *Becoming Southern: The Evolution of a Way of Life, Warren County and Vicksburg, Mississippi, 1770–1860* (New York, 1995), 17–18; Bradley G. Bond, *Political Culture in the Nineteenth-Century South: Mississippi, 1830–1900* (Baton Rouge and London, 1995), 2–9, 47, and 79; and Shade, *Democratizing the Old Dominion*, 5–6, 48–49, 109, and 182–84.

<sup>21</sup> Kenneth Rayner address in *Raleigh Weekly Register*, October 25, 1854. Southern newspapers often reprinted northern stories glorifying mechanics, labor, and advancements; e.g., *Natchez Mississippi Free Trader*, May 28, 1851; *Tuscaloosa Independent Monitor*, August 10, 1847; *Yazoo Democrat*, October 11, 1854; and *Fayetteville Observer* quoted by Columbus (Ga.) *Enquirer*, November 25, 1856.

systems. Northern free labor ideology stipulated that by hard work and intelligent activity a person could accumulate property, acquire a competence, and rise as far in society as his (never her) abilities could take him. The key to independence was earning property. In the South, the means of social mobility via property acquisition—the “fruits of labor”—was accumulating slaves.<sup>22</sup> Northerners simply did not recognize social mobility by accumulation of property in slaves, but the social impact was the same. Just as northerners demanded to keep intact their means of social mobility through accumulation of inert matter, so southerners demanded to keep intact their means of social mobility through accumulation of slaves.

Thus wealth, income, and a host of social values in the southern states hinged on slaveholding, and the legal existence of slaveholding depended on a set of laws that defined certain people as property and allowed others to own those people. Property rights in slaves was absolutely crucial to the existence of the peculiar institution. Two special conditions, however, governed these property rights, and these conditions made slaveholders vigilant and truculent: First, the nature of the property in question made it highly precarious and demanded the constant application of coercion to make the system function. Second, property rights could exist only via authority or sanction of government—no sanction, no property rights, no slavery.<sup>23</sup>

Slavery was not like other forms of property ownership because the property itself had volition. Other forms of property could be agreed upon as personal property by simple social consensus, without the use of government. When consensus breaks down, laws or judicial rulings are required to resolve the conflicts; and in conflicts over property, owners do the fighting. The property itself does not become a participant in the fray because most property is inert. Slaves, however, possessed volition and could actively contest the directions and commands of the slaveholder. It should not be forgotten that one of the synonyms of slavery was “involuntary servitude,” and, in order to obtain involuntary labor from a sentient person with the capacities of volition,

<sup>22</sup> For an example, see J. D. B. De Bow, *et al.*, *The Interest in Slavery of the Southern Non-Slaveholder* . . . (1860) in Robert W. Johannsen, ed., *Democracy on Trial* (New York, 1966), 52. I am relying heavily upon the economic interpretation of investment North and South given by Gavin Wright, *Old South, New South: Revolutions in the Southern Economy Since the Civil War* (New York, 1986), Chap. 2.

<sup>23</sup> Several recent studies have stressed the crucial role of property and the laws of property in the slaveholding states: McCurry, *Masters of Small Worlds*, 7–10, 13, 16–17, 35, 92, 95, and 114; Bond, *Political Culture in the Nineteenth-Century South*, 96; and Joseph P. Reidy, *From Slavery to Agrarian Capitalism in the Cotton Plantation South: Central Georgia, 1800–1880* (Chapel Hill and London, 1992), 45–47 and 87–88.

physical force or the threat of it must be applied. Remove the force or the threat of it and the sentient being will exercise her/his volition and refuse to yield involuntary labor. The volition of the slaves made them a most unstable form of property.<sup>24</sup>

Southerners understood the connections among ownership of slaves, political control, and property rights. During the first year of the Civil War, Joshua F. Speed wrote from Louisville to Secretary of the Treasury Salmon P. Chase asking for suppression of emancipation discourse among federal officials because of its impact on border state unionists: "Slave property is unlike any other—it is the only property in the world that has locomotion with mind to controll it—All men know this—and hince the jealousy of any people where it exists with any outside interference with it." In a discussion on the use of slave mechanics—unrelated to the sectional crisis—a Georgia editor noted that "Slaves are human beings, and as such, are endowed with volition and reason—This fact makes the tenure of property in slaves more delicate and precarious than that of any other species of property."<sup>25</sup> Slaveholders required the law to support absolutely their claims to property in humans if slavery was to function at all.

The need for constant resort to force or threat of it led to the demand by slaveholders to control the state. Property rights cannot exist without state power. Only a coercive social organization can define the "rules of the game"—in this case, property rights—and enforce them. Control of the state is control of the definition of property rights and the legal means of property acquisition.<sup>26</sup>

Slaveholders had two governmental entities to guard against. First was state government, which wrote the basic rules of slaveholding. The

<sup>24</sup> The observations made explicit in this analysis have been present in nearly every study of slavery; for example, Stamp's chapter titles from Chaps. 3 to 5 are: "A Troublesome Property," "To Make Them Stand in Fear," and "Chattels Personal," Kenneth M. Stamp, *The Peculiar Institution: Slavery in the Ante-Bellum South* (New York, 1956). See also Thomas D. Morris, *Southern Slavery and the Law, 1619–1860* (Chapel Hill, 1996), 1–3; McCurry, *Masters of Small Worlds*, 116–17; Reidy, *From Slavery to Agrarian Capitalism*, 6; Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York, 1974), 35–49; and Mary Turner, "Introduction" to Mary Turner, ed., *From Chattel Slaves to Wage Slaves: The Dynamics of Labour Bargaining in the Americas* (London, 1995), 2 and 9.

<sup>25</sup> Joshua F. Speed to Salmon P. Chase, September 2, 1861, in John Niven, James P. McClure, and Leigh Johnsen, eds., *The Salmon P. Chase Papers*, Vol. III (Kent, Ohio, 1996), 93; and Macon *Georgia Journal and Messenger*, October 24, 1849.

<sup>26</sup> Among economists a considerable literature has grown up over the past three decades concerning property rights and the state. Most of this analysis is couched in excessive laissez-faire terms. For the property rights paradigm, consult Douglass C. North, *Structure and Change in Economic History* (New York, 1981), 4–11, 17, 29, 61–67, and Chap. 3 generally; Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (Cambridge, Eng., and New York, 1990), 3–9; Yoram Barzel, *Economic Analysis of Property Rights* (Cambridge, Eng., and New York, 1989), 1–9; and Armen Alchian and Harold Demsetz, "The Property Rights Paradigm," *Journal of Economic History*, XXXIII (March 1973), 16–24.

law of slaveholding caused numerous difficulties since the human quality of slavery meant that slaves could not be treated like other forms of property. This law of property was inconsistent because it had to treat slaves as both property and people, not just as property.<sup>27</sup> However inconsistent the law may have been to legal purists, it nonetheless possessed a singular virtue from the slaveholders' point of view: the law of slavery was written by the representatives of a slaveholding society. Thus a society with an interest in the preservation of the institution and its income flow manipulated the laws so that they recognized slaves as both human and property, but the central fact was that individuals interested in maintaining slaves as property wrote the laws.<sup>28</sup>

As the slaveholders' second area of concern, the federal government of the United States was another matter. There, governmental power was shared by people from societies representing different regimes of property rights, between slave states and free states. Property rights were defined and enforced by government, and the nature of the federal Union gave power in the national Congress to individuals who had absolutely no material interest in slavery. Here lay the danger to the longevity of slaveholding. That danger had two distinct forms.

The first was that federal policy could injure the economic health of slavery and possibly build up a northern interest inimical to slavery. Thus, southerners warily watched federal initiatives over the tariff, western land disposition, expenditures for internal improvements, the federal budget, and financial systems. The political literature of antebellum southerners is replete with denunciations of federal centralization of political power, the claim being that enhanced federal power was being used to impoverish the South.<sup>29</sup> But the danger from federal

<sup>27</sup> See especially the treatment in Mark V. Tushnet, *The American Law of Slavery, 1810–1860: Considerations of Humanity and Interest* (Princeton, 1981); and also Morris, *Southern Slavery and the Law*, 11–13, 425–31, and generally Chaps. 3, 7, 8; and Stampf, *Peculiar Institution*, Chap. 5.

<sup>28</sup> This is the central conclusion of Morris, *Southern Slavery and the Law*, 11–13, 61–73, and 425. Within the southern states, slaveholders faced various threats from nonslaveholders who were the majority and potentially could deny slaveholders their property rights, but there were few actual conflicts between the two groups prior to the Civil War. For battles between nonslaveholders and slaveholders see Chilton Williamson, *American Suffrage: From Property to Democracy, 1760–1860* (Princeton, 1960), 231–34; Charles S. Sydnor, *The Development of Southern Sectionalism, 1819–1849* (Baton Rouge, 1948), 288–90; Clement Eaton, *A History of the Old South* (2d ed.; New York, 1966), 293–98; Marc W. Kruman, *Parties and Politics in North Carolina, 1836–1865* (Baton Rouge, 1983), 58–59, 98–99, and 190–96; and Ralph A. Wooster, *The People in Power: Courthouse and Statehouse in the Lower South, 1850–1860* (Knoxville, 1969), 9–25, 33–40, and 105–13.

<sup>29</sup> For example, D. H. London, "Enfranchisement of Southern Commerce," *De Bow's Review*, XXVIII (March 1860), 315; James Hamilton, *A Speech on Operation of the Tariff on the Interests of the South . . .* (Charleston, 1828), 13–16; John Forsyth, "The North and the South," *De Bow's*

policy, despite fire-eating hyperbole, had its limitations. In the North were many interests, and it was likely that any strong initiative in the federal arena would injure some of them. Southerners could always rely on making political alliances with disaffected northerners. This was essentially what happened in the formation of the Democratic party. Moreover, the South did not speak with one voice on economic issues. The Whig party differed from the Democrats on the impact of federal policy on slavery, and in the Border South large numbers gave striking support to a strong federal government on economic matters.<sup>30</sup> Federal policy, in short, was not invariably calculable as to its effects on slavery.

But the second power of the federal government represented a sizeable political danger. The federal government was under no obligation to recognize property rights in slaves at the federal level and had certain powers reserved to itself that could affect such rights: foreign diplomacy, control of interstate trade, rulings by the federal judiciary, and governance of newly acquired territories. In none of these activities does the Constitution require the federal government to recognize property rights in slaves. Federal authorities could damage slave owning by adopting a position hostile to the enforcement of those property rights. The economic returns from possession of property depend on how secure those rights are; and if the central government indicated an insecurity, the slave regime would suffer a devaluation. As Albert Gallatin Brown of Mississippi said in the U.S. Senate, if property rights in slaves in the territories are not observed, then “our \$2,000,000,000” in slaves may be destroyed as well as “the value of the soil on which they work; you destroy the value of all our machinery; our stock becomes worthless; commerce is broken up; our cities dwindle and perish; and yet, sir, this great interest—the greatest individual interest under the Government—gets no protection from the Federal head.”<sup>31</sup> Because slave property was so volatile and required so much governmental assurance, slaveholders could not let pass any challenge to the absolute supremacy of property rights in slaves. Massachusetts textile

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*Review*, XVII (October 1854), 365–75; J. F. H. Claiborne, *Life and Correspondence of John A. Quitman* (2 vols.; New York, 1860), II, 189; and William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816–1836* (New York, 1965), ix–x, 192–96, and 255–59.

<sup>30</sup> William J. Cooper Jr., *Liberty and Slavery: Southern Politics to 1860* (New York, 1983), 202–5; Arthur Charles Cole, *The Whig Party in the South* (Washington, D.C., 1913), 90–96, 98, and 102–3; Jonathan Atkins, *Parties, Politics, and the Sectional Conflict in Tennessee, 1832–1861* (Knoxville, 1997), 68–71 and 96–106; and Thomas Brown, *Politics and Statesmanship: Essays on the American Whig Party* (New York, 1985), 170–87.

<sup>31</sup> Speech of Albert Gallatin Brown, *Congressional Globe*, 36 Cong., 1 Sess., 1003 (March 6, 1860).

magnate and congressional representative Nathan Appleton sensed this fear during the Nullification battle. South Carolinians, he said, were not really worried about the tariff; rather, their actions arose from the “fear and apprehension of the South that the General Government may one day interfere with the right of property in slaves. This is the bond which unites the South in a solid phalanx . . . .”<sup>32</sup>

On this point the political vulnerability of the slaveholding South was greatest. On policy questions, southerners could expect to obtain allies; but, on the subject of enforcing property rights in slaves, the South had no northern allies because northerners did not own slaves and had no direct interest in seeing property rights in slaves enforced. This sectional difference made a minority position in the federal government catastrophic.<sup>33</sup> The worst possible scenario could be acted out from the perspective of a slaveholder: nonslaveholders controlling the government could deny enforcement of property rights in slaves in the national sphere of governance. In the address promulgated by the Nashville Convention in 1850, the members declared, “There is but one condition, in which one people can be under the dominion of another people; and that is when their interests are entirely identical. Then the dominant cannot oppress the subject people without oppressing themselves.”<sup>34</sup>

From the moment of rebellion in 1776 to the act of disunion in 1861, southern slaveholders were hypersensitive about the sanctity of property rights. The brunt of their forceful argument was clear: Northerners had agreed that control of property rights in slaves was not a subject of federal debate. At the Second Continental Congress, shortly after the Declaration of Independence was adopted, Thomas Lynch Jr. of South Carolina laid down the central condition of union: “If it is debated, whether their slaves are their property, there is an end of the confederation.”<sup>35</sup> That idea persisted when the argument over slavery’s ex-

<sup>32</sup> Speech of Nathan Appleton, *Congressional Debates*, 22 Cong., 2 sess., 1206 (January 22, 1833).

<sup>33</sup> And this explains why the South so feared becoming the minority section and why they opposed the increase of new free states without counterbalancing new slave states. For example of the fear of being a minority see Carl N. Degler, *The Other South: Southern Dissenters in the Nineteenth Century* (New York, 1974), 119.

<sup>34</sup> Taken from Huntsville (Ala.) *Southern Recorder*, June 26, 1850. See also Milledgeville (Ga.) *Federal Union*, October 31, 1854.

<sup>35</sup> Quote of Lynch, July 30, 1776, in Worthington Chauncey Ford, ed., *Journals of the Continental Congress, 1774–1789* (34 vols.; Washington, D.C., 1904–1937), VI, 1080; remarks of Patrick Henry, June 12, 1788, in Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* (5 vols.; 1836; rpt., Philadelphia, 1861), III, 314, 327, and 328; of Charles C. Pinckney, January 17, 1788, *ibid.*, IV, 283, 285, and 286; and of George Mason, June 11, 1788, *ibid.*, III, 269–70.

pansion into the territories erupted. In 1848 a North Carolina editor viewed the Constitution as nothing other than a contract regarding slavery between the two sections: "The Constitution is a compact between the slave and non-slave States. Slavery is recognized in it, throughout, in some form or other."<sup>36</sup>

The issue of property rights was also the core of southern constitutional doctrines. Most of the expostulations proclaiming southern liberty, southern rights, and constitutional rights can be reduced to a few elementary propositions: liberty, in the Anglo-American tradition, meant the freedom to accumulate property and to dispose of it as the possessor saw fit; the purpose of government was to protect property; the constitutional agreement of 1787–1789 secured property in slaves to those states that had the institution and lodged all power over its continuation and regulation in the states.<sup>37</sup> In 1849 a report of the Southern State Convention at Jackson, Mississippi, made explicit the connection between property rights in slaves and the doctrine of states' rights. Congress had "no power over the subject of slavery, within the States, or in the territories," the report stated; the Constitution recognized slavery as property, and Congress had no power "over such property; the right of property preceded the constitution—it is coeval with the history of man; it exists by a paramount law of nature; it is the subject of control by State sovereignty only." One reads the historical record correctly in sectional debates when one crosses out the phrase "states' rights" and replaces it with "state sovereignty over property rights in slaves."<sup>38</sup>

<sup>36</sup> Greensborough (N.C.) *Patriot*, July 15, 1848; see remarks of James C. Dobbin, *Cong. Globe*, 29 Cong., 2 Sess., 384 (February 11, 1847); Donald L. Robinson, *Slavery in the Structure of American Politics, 1765–1820* (New York, 1971), 49–50 and 59–63; and David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770–1823* (Ithaca, 1975), 148–52.

<sup>37</sup> A considerable literature exists proclaiming the importance of local liberty to southerners. See Cooper, *Liberty and Slavery*, 14, 178–79, 257, and 267; and Eric H. Walther, *The Fire-Eaters* (Baton Rouge, 1992), 298–99. The revolutionary tradition, however, stressed the equivalence of property and liberty. See Christopher Gadsden, "To the Planters, mechanics, and Freeholders of the Province of South Carolina . . . [1769]," in Richard Walsh, ed., *The Writings of Christopher Gadsden, 1746–1805* (Columbia, S.C., 1966), 77. For the relation of property to liberty in the Revolution see Gordon S. Wood, "Preface," in Ellen Frankel Paul and Howard Dickman, eds., *Liberty, Property, and the Foundations of the American Constitution* (Albany, N.Y., 1989), xii–xiv; Michael G. Kammen, "'The Rights and Property, and the Property in Rights': The Problematic Nature of 'Property' in the Political Thought of the Founders and the Early Republic," *ibid.*, 4–6; and James W. Ely Jr., *The Guardian of Every Other right: A Constitutional History of Property Rights* (New York, 1992), 28–30.

<sup>38</sup> Vicksburg *Weekly Whig*, October 9, 1849. On states' rights see Jesse T. Carpenter, *The South as a Conscious Minority* (New York, 1930), 34–41 and 127–70; and Robert V. Remini, *The Legacy of Andrew Jackson: Essays on Democracy, Indian Removal, and Slavery* (Baton Rouge, 1988), 83–107. Republicanism as an interpretative synthesis has tended of late to elevate states' rights as a legitimate doctrine of local control, which is now seen (evidently) as a bulwark against capitalist centralizers. See Ford, *Origins of Southern Radicalism*, 351–56; Richard E. Ellis, *The*

Several interesting arguments spun off the southern insistence for protection of property rights in slaves by state authority. From the beginning of the Union, southerners fretted that the principle of majority voting in the federal Congress might permit an invasion of the slaveholders' property rights.<sup>39</sup> Antebellum claims for the rights of minorities, John C. Calhoun's position, was in every part of its being a claim for property rights. Its existence is tied to the old fear of the propertied minority that the unpropertied majority may deprive them of their possessions. Indeed, this apprehension had a distinct literary form: a jeremiad about the "agrarianism" that had seized the North and would eventually endanger all property rights.<sup>40</sup>

The economic strength of slavery in southern political calculation has to be weighed against the social fact that southern slavery was racial slavery. Virtually all southern defenses of slavery invoked racial doctrines: Africans were an inferior race, Africans could labor in tropical climates whereas whites could not, and slavery was a means of adjusting race relations between a superior and an inferior race. All of these racially based arguments were well calculated to rally nonslaveholders to the defense of slavery, and throughout the antebellum South they were translated into the doctrine that white equality depended upon black slavery.<sup>41</sup>

There are no grounds on which to dispute either the power of the racial appeals made in the white South or the importance of racism, North and South, in blocking peaceful resolutions of intersectional crises and in destroying potential means of obtaining justice for oppressed African Americans. But the racial aspect of slavery did not cause secession. If opposition to slavery had involved only antagonism

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*Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York, 1987), 3-4 and 152-53. For a trenchant criticism of states' rights see William W. Freehling, "Nullification, Minority Rights and Blackmail," in Fredrickson, ed., *Nation Divided*, 5-13; Shade, *Democratizing the Old Dominion*, 158-60, 225-32, and 253; and Davis, *Cause Lost*, 182.

<sup>39</sup> Remarks of Patrick Henry in Virginia Ratifying Convention, 1788, in Elliot, ed., *Debates in the Several State Conventions*, III, 590; remarks of George Mason, *ibid.*, 269-70; and remarks of Rawlins Lowndes in South Carolina Ratifying Convention, 1788, *ibid.*, IV, 272-74.

<sup>40</sup> For example, Calhoun's draft of the South Carolina "Exposition," in Meriwether *et al.*, eds., *Papers of John C. Calhoun*, X, 492-98. See also John Niven, *John C. Calhoun and the Price of Union: A Biography* (Baton Rouge and London, 1988), 329-34. For examples of southern charges of northern agrarianism see A. P. Upshur, "Domestic Slavery," *Southern Literary Messenger*, V (October 1839), 679 and 684-85; H., "Greeley on Reforms," *ibid.*, XVII (May 1851), 269; [William] Garnett, "The South and the Union," *De Bow's Review*, XIX (July 1855), 38-39; and Claiborne, *Life and Correspondence of John A. Quitman*, I, 17-18.

<sup>41</sup> This is, in essence, the so-called *herrenvolk* thesis of white racial solidarity in the antebellum South. The basic works for this interpretation are Channing, *Crisis of Fear*, 258-69 and 289-93; Thornton, *Politics and Power in a Slave Society*, 204-38; and George M. Fredrickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914* (New York, 1971), 61-64.



toward racial oppression, then the northern attack would have barely existed. The North was not a racially egalitarian section seeking to establish equitable race relations in the slaveholding South. Northerners would have let southerners take care of slavery in their own way if race relations alone had been at stake. Only the abolitionists were motivated to alter white racial attitudes.<sup>42</sup>

Consider slavery, however, entirely in an economic light. During its 1831–1832 session the Virginia legislature debated the future of slavery, and in his review of these legislative exchanges over the peculiar institution, Thomas R. Dew analyzed slavery and its future. Though Dew's analysis is often considered one of the first formal proslavery documents, it is in reality one of the first detailed explanations of why peaceful emancipation was impossible. Dew's assessment did appeal to racial doctrines, but the heart of the essay was a simple economic exposition. What was the wealth of Virginia? He estimated that Virginians had about \$206 million in houses and land and \$100 million in slaves. How could Virginia emancipate its slaves and recompense their owners when the value of the slaves was one-third of the value of the entire state? What taxation level did such a scheme call for? Dew went straight to the center of the problem, and it wholly rested with property rights. Civilization, as so commonly asserted in the nineteenth century, required the existence of private property; and the rule of civilization was that no person should be deprived of his property without due process of law. Partial compensation was unjust and therefore ruled out—it was “subversive of the rights of property and the order and tranquillity of society . . .” Property holders would revolt if emancipation without compensation were attempted; thus, slavery could not be legally ended without impoverishing the state. The wealth aspect of slavery dominated the question of emancipation. The racial question, as crucial as it may have been in social relations and moral principles, was inconsequential with regard to the institution's fate. Dew's argument is powerful on simple economic grounds; requires no other considerations to defeat a peaceful, legal demise of slavery; and rests only on the assumption that slaveholders would resist anything less than full compensation, which is not a weak assumption.<sup>43</sup>

<sup>42</sup> On northern racism see Eugene H. Berwanger, *The Frontier Against Slavery: Western Anti-negro Prejudice and the Slavery Extension Controversy* (Urbana, 1971). On egalitarianism among the abolitionists see James Brewer Stewart, *Holy Warriors: The Abolitionists and American Slavery* (New York, 1976), 44–49 and 124–46; and Stanley Harrold, *The Abolitionists and the South, 1831–1861* (Knoxville, 1995), 4–5, 21–23, and 48–50.

<sup>43</sup> Thomas Roderick Dew, “Abolition of Negro Slavery,” in Drew Gilpin Faust, ed., *The Ideology of Slavery: Proslavery Thought in the Antebellum South, 1830–1860* (Baton Rouge and London, 1981), 23–77 (especially pp. 23–30; quotation on p. 27). The same idea of the imprac-

The dilemma that property rights in slaves posed for southerners can be explicitly stated. Property rights dictate an investment path, and if the property involved will yield a good return to the owner, then continuous investment will result. Over the years, the time and effort to build up the store of property produces a strong attachment to the property and, perhaps, a sense of purpose and achievement. The compounding feature of wealth acquisition will operate fiercely over a long period of time. By the time of the American Revolution, let alone by 1860, southerners knew that the investment process had inseparably fused their society with slaveholding. Thus spoke George Mason at the Virginia Ratifying Convention of 1788: "It is far from being a desirable property; but it will involve us in great difficulties and infelicity to be now deprived of them. There ought to be a clause in the Constitution to secure us that property, which we have acquired under our former laws, and the loss of which would bring ruin on a great many people." It was this wealth aspect, its compounding growth via investment, that led South Carolina economist Thomas Cooper to proclaim in 1827, "[W]e shall, before long, be compelled to calculate the value of our Union . . . ."<sup>44</sup>

The behavior and attitudes of northerners toward slavery and its expansion present more analytical difficulty than do those of southerners. When the value of slavery—and how that value hinged on control of property rights—is understood, southern behavior and arguments are eminently rational. The essence of the dilemma with the northern position is, first, the timing of the decision to combat slavery's expansion.<sup>45</sup> The second part of the dilemma is what led northerners to see aggression in southern behavior. The onus of aggression has usually fallen on northern antislavery advocates because they attacked the peculiar institution; the South seemed merely to defend the institution from northern assaults.<sup>46</sup> The northern viewpoint, however, can be

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tality of emancipation because of the economic worth of slaves was reiterated in 1860 by Governor Joseph E. Brown of Georgia. See William W. Freehling and Craig M. Simpson, eds., *Secession Debated: Georgia's Showdown in 1860* (New York and Oxford, 1992), 149–50. See also Oakes, *Slavery and Freedom*, 176.

<sup>44</sup> Remarks of George Mason in Elliot, ed., *Debates in the Several State Conventions*, III, 270; Dumas Malone, *The Public Life of Thomas Cooper, 1783–1839* (New Haven, 1926; reissued Columbia, S.C., 1961), 308 (Cooper quotation); and Sydner, *Development of Southern Sectionalism*, 189.

<sup>45</sup> Why political antislavery emerged in the 1840s and 1850s and not earlier has long been Michael F. Holt's criticism of other explanations for the Civil War. See Holt, *Political Crisis of the 1850s*, 2–3.

<sup>46</sup> The charge was widespread during the Wilmot Proviso controversy. See, for example, the report on a Democratic meeting in Lexington, Mississippi, in *Natchez Mississippi Free Trader*, October 30, 1850.

examined from the standpoint of how property rights in slaves could influence northern society. When that is done, the reasons for northern claims of slave power aggression become more comprehensible.

The growth of the northern economy had a different rhythm from that of the southern economy because further investment in slaves was illegal in the North. Investment was forced into other areas—buildings, farms, transportation devices, and machinery. Wealth in the North followed the line of inert objects and animals and thereby presented a different visage than did wealth in the South.<sup>47</sup>

Expectations about property holding governed northerners' social vision. At the time of the Revolution, it was hoped that northern society would be composed primarily of landholding small farmers served by a modest commercial sector. The republicanism of the early nation demanded that citizens be property holders so as to produce an independent-minded, virtuous population. By the third decade of the nineteenth century, the original republican dream had to be amended; the North had grown at such a rate that farmers were no longer a vast majority of the citizenry, and urban dwellers and wage earners made up a significant portion of the population. The social vision mutated slightly to become the "free labor ideology." In the free labor scheme of the good society, the ultimate goal was still economic independence—in farming, the professions, or shopkeeping. But before this "competency" could be obtained, many, if not most, men would have to go through a period of dependency, or wage earning, until enough knowledge and savings were accumulated to permit the jump to ownership. This, of course, is the dictum of social mobility made possible by industry, thrift, and intelligence. By the 1850s the set of ideas around free labor became invested in the Republican party, although most of the separate parts of the ideology existed at the time of the Revolution and could be found in all political parties afterward.<sup>48</sup>

A crucial assumption of the free labor ideology and indeed the whole emphasis on social mobility was the wage. Economic independence through social mobility could be obtained only if wages were high, or, in nineteenth-century terminology, if the laborer received the

<sup>47</sup> The reasoning employed here is directly taken from the discussions in Wright, *Political Economy of the Cotton South*, 129–30; and Wright, *Old South, New South*, 11 and 17–34.

<sup>48</sup> This view of the free labor ideology is almost wholly derived from Foner, *Free Soil, Free Labor, Free Men*, Chap. 1. This transition in thought from republicanism to free labor is currently a hotbed of controversy; for some of the literature on it, see Christopher Clark, "The Consequences of the Market Revolution in the American North," in Melvyn Stokes and Stephen Conway, eds., *The Market Revolution in America: Social, Political, and Religious Expressions, 1800–1880* (Charlottesville, Va., 1996), 23–42; John Ashworth, "Free Labor, Wage Labor, and the Slave Power: Republicanism and the Republican Party in the 1850s," *ibid.*, 128–46.

full fruits of his labor. If wages were low, there could be no saving and no eventual move to self-employment and property ownership. Therefore, the free labor experiment in the North, the entire experiment in self-government and republicanism, required ample remuneration to all who labored.<sup>49</sup>

The political battles of the Jeffersonian and Jacksonian periods made it plain how the laborer was to claim the full fruits of his (never her for the early part of the century) labor. There was to be no partiality, no advantage given to a few, and as much economic equality as legislation could generate, recognizing that "natural" conditions might favor some over others. This was the egalitarianism of the age, arising from the anti-aristocratic impulse of the American Revolution. Aristocratic laws in the form of special privilege, partial legislation, entail, primogeniture, and monopolies distorted the distribution of wealth and permitted the few to absorb the fruits of labor of the many. When those imperfections attributable to aristocracy were removed, all laborers received the full fruits of their labor, which was sufficient not only for a comfortable subsistence but also for saving. In short, the enemies of equitable remuneration—that is, fair wages—were aristocratic laws; and no aristocratic law was more destructive than monopoly.<sup>50</sup>

To northerners, slaveholding partook of monopoly. What was slavery? It was a particular kind of labor system, the economic function of which was to supply labor that was controlled, directed, and rewarded at the discretion of the slaveholder, who was stigmatized as an aristocrat. Slaveholders thus became monopolists of labor in a pure Jacksonian sense: slaveholders, the monopolists, dictated the rewards of labor to the laborer. The abolitionist Amos A. Phelps deprecated slavery for a host of reasons, but "to instance a single thing—the *monopoly of labor* is in other hands." This was the analysis of Andrew Johnson after the Civil War and why he felt slavery had to be uprooted: "it was a great monopoly, enabling those who controlled and owned it to constitute an aristocracy, enabling the few to derive great profits and rule the many with an iron rod, as it were."<sup>51</sup>

<sup>49</sup> A Friend of Domestic Industry [Caleb Cushing], *Summary of the Practical Principles of Political Economy; with Observations on Smith's Wealth of Nations and Say's Political Economy* (Cambridge, Mass., 1826), 43–44; and James L. Huston, "A Political Response to Industrialism: The Republican Embrace of Protectionist Labor Doctrines," *Journal of American History*, LXX (June 1983), 35–57.

<sup>50</sup> James L. Huston, *Securing the Fruits of Labor: The American Concept of Wealth Distribution, 1765–1900* (Baton Rouge, 1998), Chaps. 1–3.

<sup>51</sup> Amos A. Phelps, *Lectures on Slavery and Its Remedy* (Boston, 1834), 87; David Warren Bowen, *Andrew Johnson and the Negro* (Knoxville, 1989), 4. See also Frederick Douglass, "Freedom in the West Indies: An Address Delivered in Poughkeepsie, New York," in John W. Blasingame, ed., *The Frederick Douglass Papers* (5 vols. to date; New Haven, 1979–), Ser. I,

The impact of this monopoly upon wages—or, in terms that few in the mid-nineteenth century used, upon the labor market—was to depress them.<sup>52</sup> Contemporaries believed that slavery depressed wages because slaveholders held a monopoly, which grew out of property rights; his property rights in the laborer (the slave) permitted the slaveholder to usurp the fruits of labor.

Northerners understood this and had no doubts about the depressing effect of slavery upon labor's reward. If free workers were brought together with slave laborers in the same occupation, the wage rate would be governed by the remuneration of slaves. And because the slave master desired to pay the slave as little as possible, wages fell. This is precisely the reasoning employed in 1860 by Richard Oglesby, who later became governor of Illinois:

I came myself from a slave State. Poor white girls washed there all day over a hot and steaming tub, and under a blazing sun, for ten cents a day. [Cries of "That's a fact; I saw such things."] And why was this? Simply because a negro wench, equally strong, could be hired for that price. In Kentucky I was a laboring man. I hired out for six dollars a month. Why couldn't I get more? Because a negro man, of of [*sic*] equal physical strength, could be hired for \$75 per year. He could be fed on coarser food than I, and would be submissive. . . . Do you want such an institution in your territories?<sup>53</sup>

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Vol. III, 219. The idea that slaveholders were monopolists who stole the fruits of the slaves' labor was plastered throughout abolitionist and antislavery writings. The same analysis was made by Jacksonian economists: [George Bancroft], "Slavery in Rome," *North American Review*, XXXIX (October 1834), 417–30; W. O. Blake, comp., *The History of Slavery and the Slave Trade, Ancient and Modern* . . . (Columbus, Ohio, 1858), 58–60; and Theodore Sedgwick, *Public and Private Economy* (3 vols.; New York, 1836), I, 254–56. See the comment of Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War* (Cambridge, Mass., 1997), 210.

<sup>52</sup> This conclusion, which virtually all northerners and a number of southerners reached, has been clouded in the twentieth century by cliometricians. In the research of Robert Fogel and Stanley Engerman, slaves were paid close to (90 percent of) the value of their marginal product, which in the language of microeconomics means that they were adequately compensated. That, however, is an improper approach. The assumption behind the value of marginal product is that people are free to choose their employment and to determine how they spend and invest their money. Slaves, by definition, could not choose. The appropriate standard to gauge oppression in this case is to ask if the slaveholders had no option but to hire free laborers, what wage would the slaveholders have to offer to entice free (white) workers to work in the cotton fields in the same manner and under the same conditions as did African slaves? The difference between that wage and the remuneration obtained by actual slaves then becomes a true gauge of economic oppression. Slavery logically has to be a wage depressor, otherwise free labor is an equivalent substitute. If individuals chose to enslave people, it would mean that they were willing to pay a higher wage for slaves than for free labor, and no one will argue that proposition. Fogel, *Without Consent or Contract*, 76–79; Fogel and Engerman, *Time on the Cross*, I, 5–6 and 152–57, II, 119–25. See the criticism by Paul A. David and Peter Temin, "Capitalist Masters, Bourgeois Slaves," in Paul A. David, Herbert G. Gutman, Richard Sutch, Peter Temin, and Gavin Wright, *Reckoning with Slavery: A Critical Study in the Quantitative History of American Negro Slavery* (New York, 1976), 35–37. The appropriate alternative method is given by Peter A. Coclanis, *The Shadow of a Dream: Economic Life and Death in the South Carolina Low Country, 1670–1920* (New York, 1989), 109–10.

<sup>53</sup>Speech of Oglesby in *Chicago Press and Tribune*, August 1, 1860.

Certainly northerners expressed a host of worries about the ramifications of slaveholding in the United States. Among them were political fears about the power of slaveholders, via the three-fifths compromise, in the national legislature. National policy on tariffs, banking, and internal improvements seemed bent to the propagation of slavery's interest, and fear developed that slaveholders might drive the country to war in order to obtain more territory for slavery. Furthermore, slavery seemed hostile to civil liberties.<sup>54</sup> The key word in the sectional debate, however, was *competition*. From the seventeenth century to 1860, the record frequently speaks about northern dread of the "competition between free labor and slave labor." And the phrase indicates an economic fear and an economic argument: competition between free and slave labor drives down the wages of free labor to the level of pauperism.<sup>55</sup>

One does not have to go far into the antislavery literature to find explicit expressions that the presence of slavery inevitably depressed wages. George M. Weston, a former Democratic editor from Maine, made a lucid economic analysis of the results of mixing free and slave labor in one area and gave his thesis in the title: *Southern Slavery Reduces Northern Wages*. The purpose of slavery was the "reduction of the laborer to the *minimum* of physical subsistence . . ."<sup>56</sup> The lowering of the wages of free labor was made clear in another classic of the antebellum period, Frederick Law Olmsted's *The Cotton Kingdom*. Free whites could not live in competition with slave labor because "the holder of slave-labour controls the local market for labour, and the cost of slave-labour fixes the cost of everything which is produced by slave-labour."<sup>57</sup> Frederick Douglass made clear the impact of slavery upon free workers. "[T]he white laboring man was robbed by the slave system of the just results of his labor," Douglass insisted, "because he was flung into competition with a class of laborers who worked without wages."<sup>58</sup> In 1843 the Kentucky abolitionist Cassius Clay also probed the economic core: "It [slavery] is an evil to

<sup>54</sup> See Gienapp, "Republican Party and the Slave Power," 51-78; Eaton, *Freedom-of-Thought Struggle in the Old South*; Russel B. Nye, *Fettered Freedom: Civil Liberties and the Slavery Controversy, 1830-1860* (2d ed.; Urbana, 1972).

<sup>55</sup> See Lebanon (Pa.) *Courier*, April 7, 1854; Springfield *Daily Illinois State Journal*, September 29, 1857; speech of Cortlandt Parker in Newark *Daily Advertiser*, September 1, 1860; Evansville (Ind.) *Daily Journal*, August 24, 1860.

<sup>56</sup> George M. Weston, *Southern Slavery Reduces Northern Wages* (Washington, D.C., 1856), 5.

<sup>57</sup> Frederick Law Olmsted, *The Cotton Kingdom: A Traveller's Observations on Cotton and Slavery in the American Slave States* . . . , edited by Arthur M. Schlesinger (New York, 1953), 90.

<sup>58</sup> Frederick Douglass, *Life and Times of Frederick Douglass* (rev. ed., 1892; rpt., New York, 1962), 180

the free laborer, by forcing him by the laws of competition, supply and demand, to work for the wages of the slave—food and shelter.”<sup>59</sup> And proof of the tumult that could arise from competition between free and slave labor came from no less a source than John C. Calhoun. Before he commenced etching out the constitutional subtleties of minority rights, states’ rights, and the concurrent majority, Calhoun knew the eruption that would occur if ever slaves competed directly with northerners: “Can we conceive a more dangerous political condition, than for free and slave labour to come into competition[?]” he queried Postmaster General John McLean in 1828; “[D]o you think, that the free laborers, the voters of the North, would permit bread to be taken out the mouths of their wives and children, by the slaves of the South?”<sup>60</sup>

For the republican/democratic society of the North to continue, wages simply had to be substantial. Democratic government with a mass of impoverished voters was an absurdity. Under conditions of anti-aristocracy and antimonopoly, laborers did receive, in the view of the northern leadership, the full fruits of their labors. Slavery by its wage-depressing abilities endangered the whole experiment in self-government. This line of reasoning came out in Daniel Webster’s famous March 7, 1850, Senate speech when he pleaded for Henry Clay’s compromise measures. Near his conclusion, he reacted to a charge by Senator Henry S. Foote of Mississippi that northern workers were permanently impoverished. Webster claimed that five-sixths of the property of the North was in the hands of laboring people who “cultivate their farms, . . . educate their children, . . . provide the means of independence”—the stuff of which republics were made. But if they were not freeholders, these men earn wages; “these wages accumulate, are turned into capital, into new freeholds; and small capitalists are created.”<sup>61</sup> That process had to be preserved, and Webster put his finger precisely on the reason why high wages were an indispensable condition for self-government to work. No high wages, no accumulations, and no freeholders; no freeholders, no self-government.

Concern about the impact of slavery upon free white workers has a long history. Why did concern over it rise to a boiling point in the late

<sup>59</sup> Horace Greeley, ed., *The Writings of Cassius M. Clay, including Speeches and Addresses* (1848; rpt., New York, 1969), 205

<sup>60</sup> John C. Calhoun to John McLean, August 4, 1828, in Meriwether *et al.*, eds., *Papers of John C. Calhoun*, X, 407. Bernard Mandel made this same point about the impact of slavery in 1955. See Mandel, *Labor Free and Slave: Workingmen and the Anti-Slavery Movement in the United States* (New York, 1955), 30–31.

<sup>61</sup> Webster’s speech in *Cong. Globe*, 31 Cong., 1 Sess., 482 (March 7, 1850).

1840s and especially in the 1850s? Certainly one answer is that the territorial acquisition from the Mexican-American War sparked the debate over whether slavery would expand into that region or not. But also fueling northern fears was an understanding that the economic structure of American life had changed: the transportation revolution portended a much closer relationship between free labor North and slave labor South than had existed before 1850. Slavery had always been profitable in the production of the great southern staple crops, and in this sphere southerners via oceanic transportation participated in a commercial market that encompassed the world. But outside of those staples, slavery affected only local labor markets—such as carpenters, construction crews, blacksmiths, or other local endeavors. Free workers could escape the negative effects of slavery simply by moving. The transportation revolution augured the end of the local market and local prices. Steamboats, canals, and railroads created a rudimentary national market that connected the East Coast to the Mississippi River by 1854; the testament to that development was the completion of four vital railroad lines—the New York Central, the New York and Erie, the Pennsylvania, and the Baltimore and Ohio. The transportation revolution remolded the economy of the United States by breaking down the price barriers that separated local economies. Because transportation was widely available and the cost of shipment so greatly reduced, individuals from a locality at a great distance from another locality could *compete* in the *distant* locality's market.

The application of this economic change to the sectional controversy over slavery seems obvious. The effects of slavery on the labor market could no longer be confined to small geographical areas in the South. Slavery could potentially affect the national labor market by permitting the employment of southern slaves in the same occupations as northern workers. Products made by slave labor then competed against products made by free labor—and the cost advantage would be to the southern producer on the basis of the wages paid to slaves.

Northerners were beginning to react to new market realities. The first and most obvious place a competition between free labor and slave labor would take place would be in the territories. So the advocates of free labor felt the pressure to stop slavery's expansion into those areas. Yet northerners had to confront the existence of slavery in the South. Northerners were going to be forced to fight for their social system in their own states, not simply in the territories. The long-term impact of the transportation revolution was to let slavery's economic effects, if not slavery itself, expand out of the South and into the North.

Understanding how the transportation revolution affected the sec-



tional controversy begins to clarify the reasoning behind the belief of northerners that they were the victims of southern aggression. In its national effects, the market revolution was not going to change one feature of southern economic, social, or political life; all the economic practices and customs of the North were already present in the South—property rights, legal system, free white labor, a general laissez faire creed, and small government. The reverse was not true. The market revolution would allow slavery to affect northern economic practices and customs. Perhaps slavery would not have planted itself north of the Mason-Dixon line, but over time the effect of slavery on product prices would go northward. A federal Union under a national market system meant that the North was going to have to adapt to the influence of slave labor in the labor markets. The transportation revolution was merging the two property rights regimes, and this recognition disturbed the North.<sup>62</sup>

The ironic effect of the transportation revolution—uniting the country economically so that its inhabitants could see clearly how they endangered each other—was not unremarked.<sup>63</sup> Indeed, it formed the core explanation in one of the decade's most famous speeches, William Henry Seward's 1858 "Irrepressible Conflict" oration. Historians have endlessly quoted the phrase and used it to show rising irrational sectionalism. But notice the reasoning that lay behind Seward's belief in the irrepressibility of the conflict:

Hitherto, the two systems have existed in different states, but side by side within the American Union. This has happened because the Union is a confederation of states. But in another aspect the United States constitute only one nation. Increase of population, which is filling the states out to their very borders, together with a new and extended net-work of railroads and other avenues, and an internal commerce which daily becomes more intimate, is rapidly bringing the states into a higher and more perfect social unity or consolidation. Thus, these antagonistic systems are continually coming into closer contact, and collision results.

Shall I tell you what this collision means? . . . It is an irrepressible conflict between opposing and enduring forces, and it means that the United States must and will, sooner or later, become either entirely a slaveholding nation, or entirely a free-labor nation.<sup>64</sup>

<sup>62</sup> This, of course, is the opposite of the usual interpretation, which has the capitalist North seeking to enter and control southern resources. See Beard and Beard, *Rise of American Civilization*, I, 632–39 and II, 1–54; and Bensel, *Yankee Leviathan*, 10–12 and 416–17.

<sup>63</sup> For example, William Goodell, *Slavery and Anti-Slavery: A History of the Great Struggle in Both Hemispheres; With a View of the Slavery Question in the United States* (1852; rpt., New York, 1968), 390; L.C.B., "The Country in 1950, or the Conservatism of Slavery," *Southern Literary Messenger*, XXII (June 1856), 426. Other historians have picked up the ramifications of the broadening of markets due to transportation facilities: Reidy, *From Slavery to Agrarian Capitalism*, 86; Morris, *Becoming Southern*, 179.

<sup>64</sup> Seward, "The Irrepressible Conflict," in George E. Baker, ed., *The Works of William H. Seward*, Vol. IV (Boston, 1884), 292. For several decades now historians have focused on the

Seward's analysis was entirely commercial, not industrial. The development of commercial improvements brought the sections together and exposed the antagonisms between free and slave labor when forced into a single market area. The nation could house all kinds of diversity, but not in the rules governing property rights, especially when differing rules dramatically altered the labor markets of other areas.

Northern free labor advocates incessantly paraded the superiority of free labor over slave labor, but in direct economic competition between free labor and slave labor most antislavery proponents believed that slave labor would win. George Weston realized this. He admitted, "It is certainly true that wealth is more rapidly augmented under free, than under slave systems, and that, in a large sense, free labor is cheaper than slave labor [due to productivity]." Yet in direct competition the better system would not win. "But although exhausting and impoverishing in all its results and all its influences, it [slavery] is irresistibly and unmistakably cheaper, when applied to the ruder processes of agriculture, than free labor, which it overpowers and reduces to its own level."<sup>65</sup> Slave labor was going to win, in other words, because in a competitive system the low-price producer emerges triumphant. And the reason for this astonishing and illogical result was the difference in definitions of property rights. Slave masters were given property rights over African laborers, and by this legal device controlled wages; no one had a property right to the laborer in a free labor system but the laborer himself (or, eventually, herself). Free labor produced better social and economic results—a middling society, prosperity, and growth—only because wages were high. Slavery, via competition, dragged down wages for free laborers as well as for slaves and thus destroyed the incentive to be productive. Hence, a slave labor system triumphed over a free labor system because of the different ways that property rights were assigned.

Southerners were miffed by such long-winded jeremiads concerning the competition of free and slave labor. Slave labor, according to

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development of the factory system (industrialization) and the consequences for sectional bitterness that it entailed. But the important economic process generating sectionalism was expanded commercial intercourse via the transportation revolution. Earlier historians sometimes picked up on that fact: Edward Everett Hale, *William H. Seward* (Philadelphia, 1910), 24, 33, 57, 81, and 89–90; and Albert Bushnell Hart, *Slavery and Abolition, 1831–1841* (New York, 1906), 92.

<sup>65</sup> Weston, *Southern Slavery Reduces Northern Wages*, 5. It must be mentioned that Weston had a somewhat different opinion two years later when he decided, evidently, that intelligence was the key factor in economic development and so free labor would win over slave labor because slave labor was stupid labor. See George M. Weston, *The Progress of Slavery in the United States* (Washington, D.C., 1858), 5–8. Antebellum northern Democrats evidently believed that slavery was so confined by geography that free labor would triumph in the territories; for example, speech of Caleb Cushing in *Boston Post*, October 28, 1857.

southerners, was the fate of Africans, not whites. Most southerners insisted that work was honorable in the South, and that the region had a dual system of labor that kept free labor and slave labor separate. Slaves worked at agricultural staples of the tropics; whites did other work; and slave labor did not degrade free labor.<sup>66</sup>

An actual competition between southern slave labor and northern free labor in the years from 1840 to 1860 was, to be generous, rare. The economic argument of antislavery northerners was correct in theory but of dubious value given the existing conditions. Although it might be conjectured that either northerners were operating under other motivations or they were simply hypersensitive, there are nonetheless a number of reasons for affirming that the northern economic analysis had a strong measure of rationality to it. First, the initial contest would be in the territories, where free and slave labor would compete for resources and the potential for direct competition in all sorts of occupations—blacksmithing, carpentry, and the like—would exist. Second, the free states had a substantial population that had migrated from the slave states. Those people carried with them resentment of slave competition with free labor and did not want slavery to expand.<sup>67</sup> Third, the fear of free labor toward slave labor was not of recent vintage. The South had a long history of mechanic complaints against slave labor going into the trades.<sup>68</sup> And so did the colonial North. There was an artisanal complaint in Boston against slave competition as early as 1661. In 1737 Lieutenant Governor George Clarke of New York noted that artificers were upset with “the pernicious custom of breeding slaves to trades, whereby the honest and industrious tradesmen are reduced to

<sup>66</sup> For two contemporary examples see speech of John C. Calhoun on the Oregon bill, June 27, 1848, in Richard K. Crallé, ed., *The Works of John C. Calhoun* (6 vols.; New York, 1856), IV, 505; and speech of James A. Seddon in *Cong. Globe*, 29 Cong., 2 Sess., *Appendix*, 87–88 (January 7, 1847). See also Huston, *Panic of 1857*, pp. 93–94.

<sup>67</sup> Nicole Etcheson, *The Emerging Midwest: Upland Southerners and the Political Culture of the Old Northwest, 1787–1861* (Bloomington, Ind., 1996), 5, 67–70, and 99. A number of studies now at least note the fear of competition between free labor and slave labor. See Richardson, *Greatest Nation of the Earth*, 23 and 210; Paul Bourke and Donald DeBats, *Washington County [Oregon]: Politics and Community in Antebellum America* (Baltimore, 1995), 67; and Robert J. Cook, *Baptism of Fire: The Republican Party in Iowa, 1838–1878* (Ames, Iowa., 1994), 31–32.

<sup>68</sup> See Ronald T. Takaki, *A Proslavery Crusade: The Agitation to Reopen the African Slave Trade* (New York, 1971), 44–49; Lawrence T. McDonnell, “Work, Culture, and Society in the Slave South,” in Ted Ownby, ed., *Black and White Cultural Interaction in the Antebellum South* (Jackson, Miss., 1993), 126–28 and 138–39, although McDonnell evidently sees free whites and urban blacks becoming more alike in their essential work routines; Claudia Dale Goldin, *Urban Slavery in the American South, 1820–1860: A Quantitative History* (Chicago, 1976), xiv, 4–5, and 28–31; Fred Siegel, “Artisans and Immigrants in the Politics of Late Antebellum Georgia,” *Civil War History*, XXVII (September 1981), 221–30; and Cecil Fronsman, *Common Whites*, 24–27, 80, and 88–89. For a different view see Wright, *Old South, New South*, 27–28.

poverty for want of employ.”<sup>69</sup> Given this record, it would have been strange indeed if the potential expansion of slavery, either into the territories or into the North via market inclusion, had not touched off fears of competition with slave labor.

There was also a component to northern fears that focused on the future. As manufacturing increased in the North, more individuals found their fates attached to wage labor. What would stop the South from manufacturing by using slave labor? Eventually the profits from agricultural staples would drop, as the reign of King Cotton probably would not have lasted much beyond 1870. As the profit rate dropped, it is likely that slaveholders would have sought new uses for their depreciated property; and the likely direction was manufacturing, an area that already employed about 200,000 slaves. The enormous profits in cotton during the 1850s precluded such a massive move, but southerners were already thinking along these lines. Congressman Thomas H. Bayly of Virginia believed it possible: “The operative in the factory is little more than an animated part of the machinery. Slaves are fully equal to it.”<sup>70</sup>

And the idea that slaves and free laborers could be kept in separate spheres had a significant obstacle to overcome. In Macon, Georgia, in 1849 a minor row emerged over the use of slaves as printers, and a newspaper editor indicated that it was indeed impolitic to turn slaves into “master workmen,” in the words of the free printers. The reason for this editorial was an address by “Bibb,” previously given to the Mechanic’s Society, in which he had indicated that laws to interfere with how slave masters used their slaves was a violation of the rights of property—a form of governmental tyranny.<sup>71</sup> Evidently nothing came of this incident, but it does point up the shortcomings of arguing that labor could be divided into separate spheres. In order to maintain the division, slaveholders would have to accept conditions on their property ownership; and those conditions meant that if returns from slavery in one arena of activity dropped, the slaveholder would refrain from trying to reallocate the slave to a more profitable endeavor. The inability to reallocate an asset depreciates its value, because the property holder cannot dispose of property to maximize its benefit. Would

<sup>69</sup> Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago, 1967), 46 and 47 (quotation). See also Edgar J. McManus, *A History of Negro Slavery in New York* (Syracuse, 1966), 183.

<sup>70</sup> Speech of Thomas Henry Bayly in *Cong. Globe*, 29 Cong., 2 sess., *Appendix*, 349 (February 11, 1847). See also remarks of William Lowndes Yancey in Huntsville (Ala.) *Southern Advocate*, May 27, 1848. There is in the literature a long debate about the feasibility of manufacturing by slaves, and it is full of inconsistencies; the topic should be reopened.

<sup>71</sup> *Macon Georgia Journal and Messenger*, October 10, 24, 1849.

slaveholders have ever agreed to such restriction? It appears unlikely: Not even civil war in support of slavery stopped Robert Toombs and James Henry Hammond from insisting upon their property rights absolutism.<sup>72</sup>

Finally, there is one further reason for believing that northerners took seriously the argument that slave labor might begin to compete with free labor. The whole brunt of Jacksonian Democracy was directed toward removing governmental obstacles to achievement and success for all white males. Northerners conceived of such public policies in terms of proscribing special privileges and governmental favoritism. In the economic realm, slavery as a form of property gave slaveholders a special privilege, an unfair advantage, because it permitted the employment of low-valued labor by residents of only one section. It is wholly rational that northerners would seek to eliminate a competition that gave all the advantages in the labor market to southerners.

The northern dread of competition with slave labor stands on its own as a pure economic argument that does not require reference to anything else in the sociopolitical environment. Politics, racism, internal tensions in the North without doubt had their role in creating the hostility that would lead southerners to view secession favorably. But the economic condition by itself was sufficient to generate a massive sectional problem. The creation of a national market opened the door for direct competition between free and slave labor, and northerners' fear of that potential was eminently justified. Southern institutions, or the effect of those institutions, were about to escape the confines of the Mason-Dixon line and endanger northern society. This contingency fed the northern notion of an aggressive South. And northerners understood where the imbalance lay. Property rights in people was an unfair institution that disordered the labor markets and deprived laborers—labor in a general as well as in a specific sense—of the fruits of their labor. Property rights influenced Senator John A. Dix, a free soil Democrat from New York, in his analysis of the territorial question: "The property of the free laborer is in himself—in his powers of exertion, his capacity for endurance, in the labor of his hands. To him these are of as much value as the property which the master has in his slaves."<sup>73</sup> The two regimes of property rights were colliding. For

<sup>72</sup> William Y. Thompson, *Robert Toombs of Georgia* (Baton Rouge, 1966), 186; and Drew Gilpin Faust, *James Henry Hammond and the Old South: A Design for Mastery* (Baton Rouge, 1982), 373–74.

<sup>73</sup> Speech of John A. Dix, March 1, 1847, in *Cong. Globe*, 29th Cong., 2d sess., 543. It is true that Democratic politicians appealed to northern workers on the basis of maintaining slavery in the South so that hordes of emancipated blacks did not overrun northern labor markets. However,

northerners, the only way to rectify the economic imbalance between them was to end property rights in people.

Property rights were at the core of the debate over slavery's expansion into the territories after 1846. When northerners announced their intention to curb slavery's geographical growth, southerners reacted violently and perceived at the national level of government a disposition to ignore or even violate southern rights in slavery. That challenge could not be evaded, for federal disregard of property rights in slaves economically damaged the institution by raising questions about its stability, thereby lowering its value. Southerners responded by demanding an expansion in the obligations of governmental authority to property rights: *all* levels of government would have to protect property rights in slaves. That change in southerners' expectations caused masses of northerners to believe that a Slave Power existed, was bent on the nationalization of slavery, and was aggressively invading the North. The escalation of southern expectation and the northern response to it led to the circumstance in which—at the same time that southern leaders claimed to be only defending themselves—northerners insisted that southerners were relentlessly attacking their free labor society.

Prior to 1840 the legal protection of slavery that southerners sought and obtained was wholly a state matter in which the federal government had no power to interfere. The operative phrase was that slavery was a “municipal” institution. This attitude was expressed at the Constitutional Convention, where southern delegates worked to obtain congressional representation based on the number of slaves, economic security for the institution, and a ban on federal intrusion on state control over slavery. The southern fear was primarily that the new central government could invade the domain of the states, or, in Pierce Butler's words, “The security the Southn. States want is that their negroes may not be taken from them which some gentlemen within or without doors, have a very good mind to do.”<sup>74</sup> The logical way to avoid federal intervention in slavery affairs was by emphasizing what became known as states' rights. One of the earliest proslavery con-

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that appeal does not vitiate the argument that slave labor competition would drive down wage rates. On the use of racism to attract working-class voters, see Nye, *Fettered Freedom*, 254–57; and Williston H. Lofton, “Abolition and Labor,” *Journal of Negro History*, XXXIII (July, 1848), 254–69.

<sup>74</sup> Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson* (Armonk, N.Y., and London, 1996), 1–33 (quotation on p. 17); and William M. Wiecek, “The Witch at the Christening: Slavery and the Constitution's Origins,” in Leonard W. Levy and Dennis J. Mahoney, eds., *The Framing and Ratification of the Constitution* (New York, 1987), 178–84.

gressmen, South Carolina's William Loughton Smith, said in 1796 that northerners could not meddle in slavery because "[i]t was altogether a municipal regulation . . ."<sup>75</sup> The idea that slavery was beyond the reach of the federal government's direct meddling due to the Constitutional agreement that slavery was a state or municipal institution gained widespread acceptance.<sup>76</sup> Free Soilers and Republicans accepted it, but it was the achilles heel of southerners in the territorial dispute.

The limitations of the municipal-institution defense of slavery became apparent under the duress of the abolitionist attack. Representative Joshua Reed Giddings of Ohio, in a reply to John C. Calhoun's 1837 proslavery resolutions, argued that if states had total supremacy on matters relating to slavery, then slavery had no jurisdiction outside of the state and thus the federal government in its national policies was not beholden to live by the rule of property in people.<sup>77</sup> Denying slavery any existence outside of municipal regulation then became the center of debate over the Wilmot Proviso.

The battle over property rights in slaves was joined when Representative David Wilmot of Pennsylvania proposed in August 1846 to prohibit slavery in the territories acquired by the United States at the end of the Mexican War.<sup>78</sup> Northerners offered a constitutional justification for the prohibition that was irrefutable as it was built on the southerners' own constitutional defense of slavery. The essential anti-extension argument was that slavery did not exist in Mexico because the Mexican government had abolished the institution in 1822 and, therefore, the land that the United States was obtaining was "free" soil in the sense that slavery had no foothold there.<sup>79</sup> The only way slavery

<sup>75</sup> Remark of William Smith, *Annals of Congress*, 4 Cong., 2 Sess., 1731 (December 29, 1796).

<sup>76</sup> See Pierce Butler, *Judah P. Benjamin* (Philadelphia, 1906), 42; Charles H. Bohner, *John Pendleton Kennedy: Gentleman from Baltimore* (Baltimore, 1961), 170; Richard Malcolm Johnston and William Hand Browne, *Life of Alexander H. Stephens* (Philadelphia, 1878), 185–86; Sydnor, *Development of Southern Sectionalism*, 244–48; and Howard Jones and Donald A. Rakestraw, *Prologue to Manifest Destiny: Anglo-American Relations in the 1840s* (Wilmington, Del., 1997), 89–93. On southern protection of slavery as a local institution and associated legal doctrines see William M. Wiecek, *The Sources of Antislavery Constitutionalism in America, 1760–1848* (Ithaca, N.Y., 1977), Chaps. 1, 2, 5, 6, 7.

<sup>77</sup> Sydnor, *Development of Southern Sectionalism*, 244–48; Peter B. Knupfer, *The Union As It Is: Constitutional Unionism and Sectional Compromise, 1787–1861* (Chapel Hill, 1991), 147–51; and Wiecek, *Sources of Antislavery Constitutionalism*, 179–89, 196, and 214–15.

<sup>78</sup> The property aspect of the congressional debate is not prominent in the secondary literature. See Chaplain W. Morrison, *Democratic Politics and Sectionalism: The Wilmot Proviso Controversy* (Chapel Hill, 1967), 17–35; William R. Brock, *Parties and Political Conscience: American Dilemmas, 1840–1850* (Millwood, N.Y., 1979), 180–83; and Joel H. Silbey, *The Shrine of Party: Congressional Voting Behavior, 1841–1852* (Pittsburgh, 1967), 90–91.

<sup>79</sup> Speech of Hannibal Hamlin, *Cong. Globe*, 29 Cong., 2 sess., 195 (January 16, 1847); and speech of Martin Grover of New York, *ibid.*, 29 Cong., 2 sess., 137–38 (January 7, 1847).

could be established was by “positive law” or “municipal law.” The federal government could not meddle in municipal law, but, on the other hand, where municipal government—state government—did not exist, then slavery could not be established. Hence, slaveholders were imposing slavery on an area where municipal government had banned it.<sup>80</sup> The rule of municipal control of institutions protected slavery from federal intervention where it was established, but the same defense meant the federal government was not controlled in its decisions about slavery where municipal government had not established it. And the territories were beyond the grasp of municipal control.<sup>81</sup>

Southerners immediately reacted to northern advocacy of the Wilmot Proviso with the conviction that their property rights were in jeopardy. They insisted that the territories were common property to all the states and that the federal government could not discriminate between different types of property. It is true that between 1847 and 1851 southerners paraded a host of concerns about the territories—fear of being hemmed in, the potential of enough new free states to pass an abolition amendment, the need for new lands for slavery agriculture—but their constant concern was that their property rights were being questioned by northerners. They were appalled at the discussion of property rights in slaves. “If any of these rights can be invaded,” said Alabama’s Franklin W. Bowdon about constitutional protections for slavery, “there is no security for the remainder.” Virginia’s James A. Seddon argued that the Wilmot prohibition meant that southern property rights “are to be frowned on and condemned.” In late 1850, when the unionist movement appeared in Georgia, Alabama, Mississippi, and Louisiana to vindicate the Compromise of 1850, a common plank of the local meetings was, first, to remind all of the benefits of union but, second, to warn “[t]hat should Congress at any time exhibit its intentions to war upon our property” or constitutional rights, then “we stand ready to vindicate those rights *in the Union* so long as possible, and *out of the Union*, when we are left no other alternative.”<sup>82</sup> North Carolina editor William W. Holden believed that the proposals to stop

<sup>80</sup> Speech of Henry C. Murphy, February 24, 1849, in *Cong. Globe*, 30 Cong., 2 Sess., *Appendix*, 169 (February 24, 1849); John Niles of Connecticut, *ibid.*, 30 Cong., 1 Sess., 811 (June 2, 1848); Samuel Lahm of Ohio, *ibid.*, 30 Cong., 2 Sess., *Appendix*, 108 (February 17, 1849).

<sup>81</sup> The antislavery constitutional doctrines are covered in Wiecek, *Sources of Antislavery Constitutionalism*, 189–94 and 210–21. See also Morrison, *Slavery and the American West*, 54 and 77.

<sup>82</sup> Bowdon speech, January 26, 1847, in *Cong. Globe*, 29 Cong., 2 Sess., *Appendix*, 155 (January 26, 1847); speech of Seddon, in *ibid.*, 29 Cong., 2 Sess., *Appendix*, 86, 87 (January 7, 1847). Macon *Georgia Journal and Messenger*, October 16 and 30, and November 13, 1850. See also Vicksburg *Weekly Whig*, October 9, 1849; and Brock, *Parties and Political Conscience*, 237–47.



slavery's expansion, end the slave trade, and abolish slavery in Washington, D.C., "*would render our property in slaves comparatively valueless, and all these measures together would force abolition upon us as a matter of necessity.*"<sup>83</sup>

John C. Calhoun in February 1847 laid out the basic southern defense of slavery's expansion into the territories. His proposals reflected a change in southern ideas about how the Constitution protected slavery. He asserted that territories were property belonging to all the states of the Union and that citizens of every state had the right to remove to the territories with their property. If people from the slave states were not permitted to take slaves into the territories, then the slave states did not enjoy the equality of rights guaranteed by the Constitution and a majority was using its power to deprive the minority of its liberty and property. Finally, a prohibition against slavery in the territories was a denial of the principle of self-government in the territories. The impact of his statements led almost to an insistence for national definition of property rights in slaves because municipal protection was no longer a sufficient defense.<sup>84</sup> In connection with New Mexico's petition to have a territorial government and no slavery, Calhoun summarized his stand: "Our right to go there with our property is unquestionable, and guaranteed [*sic*] and supported by the Constitution. The Territory belongs to us—to the United States." This position became prominent among southerners generally: the federal government had no right to discriminate against property in slaves in the territories.<sup>85</sup>

Indeed, southern legal thought under the duress of the debates after 1846 added a novel twist to the defense of slavery. Some southerners argued that slavery was a natural right, not a municipal law, and therefore required legal recognition and protection by all levels of government. This reversal became apparent in 1848 when Alexander Hamilton Stephens in the House of Representatives agreed with northerners that legally slavery was only a creature of local law and that the Constitution was forbidden from carrying local laws into the territories. Stephens then argued in favor of legislating slavery into the territories in order to overcome the Mexican prohibition of the institution. The

<sup>83</sup> Raleigh *North Carolina Standard*, June 20, 1849.

<sup>84</sup> Calhoun's speech, *Cong. Globe*, 29 Cong., 2 Sess., 453–55 (February 19, 1847). See Wiecek, *Sources of Antislavery Constitutionalism in America*, 282; Niven, *John C. Calhoun and the Price of Union*, 318; and Brock, *Parties and Political Conscience*, 237–39.

<sup>85</sup> Calhoun remark, *Cong. Globe*, 30 Cong., 2 Sess., 33 (December 19, 1848). See also *Address of the Southern Delegation in Congress* (Richmond, Va., [1849]), 8–12; resolutions presented by Arthur P. Bagby, *Cong. Globe*, 30 Cong., 1 Sess., 241 (January 25, 1848); resolutions adopted by the Virginia legislature presented by Robert M. T. Hunter, *ibid.*, 30 Cong., 2 Sess., 440 (February 5, 1849).

editor of the Woodville, Mississippi, *Republican* immediately saw that the municipal defense of slavery was flimsy; it made “the tenure by which we hold our slaves . . . of no greater strength than a mere statute of limitations.” Slavery, therefore, required a stronger defense, and the editor found it by affirming that slavery was based on natural law and was a “natural right.” As a natural right, all the states in the Union had to agree to its protection. Senator Jefferson Davis of Mississippi also carried the idea to these lengths. He wanted acceptance of the rule that “the slave is property, which its owner may carry with him into any part of the Union . . . .” In the debates over the Compromise of 1850, he asserted that slavery was like property in anything else, “it comes from an authority above law; it precedes all law. The law only recognizes it.”<sup>86</sup>

However, the southern position on the right to take slavery into the territories was weak, and a number of Whig politicians knew it. The problem was that southerners did not wish to give up the doctrine of municipal law, and, furthermore, they saw that granting Congress the power to make a national law permitting slavery in the territories was an admission that Congress could also prohibit slavery.<sup>87</sup> The editor of the Raleigh *Weekly Register* brought out exactly the dilemma that the South found itself in. The municipal defense of slavery could not be sacrificed: “Under the local municipal law, the Constitution found slavery, there left it, and there, and there alone, every true friend of the South ought to wish it to remain.” “[T]hen we deny” all attempts to say that the Constitution yields a “national sanction to slavery, or recognizes it as a national institution . . . .”<sup>88</sup> The reason was clear: the Constitution would never have been formed if northerners had been told they had to accept a national law that defined slaves as property. At the same time, of course, many politicians in the South were declaring that the Constitution would not have been ratified if property in

<sup>86</sup> Thomas E. Schott, *Alexander H. Stephens of Georgia: A Biography* (Baton Rouge and London, 1988), 86–89; and Woodville (Miss.) *Republican*, October 3, 1848. For further discussion see Athens (Ga.) *Southern Banner*, August 24, 1848. Remark of Jefferson Davis on Oregon bill, *Cong. Globe*, 30 Cong., 1 Sess., 927 (July 12, 1848); and speech of Davis on Henry Clay’s resolutions, February 25, 1850, *ibid.*, 31 Cong., 1 Sess., 420 (February 25, 1850). On Davis and his property defense of southern rights see Clement Eaton, *Jefferson Davis* (New York, 1977), 74 and 103. A different version is in Paul D. Escott, “Jefferson Davis and Slavery in the Territories,” *Journal of Mississippi History*, XXXIX (May 1977), 97–116.

<sup>87</sup> This was the argument that both Robert Toombs and Alexander H. Stephens wrestled with, finally determining that the Congress had to pass a positive law enabling slavery to enter the territories. See speech of Stephens in Macon *Georgia Journal and Messenger*, September 11, 1850; speech of Robert Toombs, *ibid.*, October 16, 1850; and letter of M. J. Wellborn, in Columbus (Ga.) *Enquirer*, July 8, 1851.

<sup>88</sup> Raleigh *Weekly Register*, July 11, 1849.

slaves had not been recognized. The impasse was being reached. The only complaint that southerners could reasonably make about discrimination against slave property in the territories was that it was unfair, not that it was unconstitutional. However, people who believe that their property accumulations are endangered are not likely to surrender to constitutional subtleties.

Northerners recognized the changes streaming from the debate over slavery between 1846 and 1851. Popular sovereignty Democrats outspokenly opposed allowing slavery to move beyond municipal regulation, and Charles Lanphier—a confidant of Stephen A. Douglas and the editor of the Springfield *Illinois State Register*—embodied such sentiments. For anti-extensionists, the new southern doctrine of protection of slavery was appalling. Slavery was being presented as though it were above the Constitution in its sanctity, and many observers recognized that the argument led inexorably to a national law protecting property rights in slaves, that is, the nationalization of slavery. It is in this sense that one has to understand the reiterated phrase of anti-extensionists, “freedom national, slavery sectional.”<sup>89</sup> The property basis of the argument and its tendencies were picked up by Horace Greeley or one of his assistant editors on the New York *Tribune*. Calhoun wanted to place property rights in slaves on such a pedestal that no legislature could ever interfere with them. A writer for the *Tribune* declared that Henry Clay had gotten it right a decade earlier: “what the law declares to be property is property.” Whether Calhoun wanted it otherwise was immaterial because “as a practical matter, the Law determines, and must determine what is Property and what is not.” And what was the tendency of Calhoun’s effort to make slave property so invincible? The North had accepted the rights of states to make Africans slaves and to give them a legal definition as property. “Mr. Calhoun’s slaves are his property in South Carolina; but would they be in Wisconsin . . . ?”<sup>90</sup> To abandon one doctrine of property rights—that only municipalities could establish property rights in slaves—in favor of a Constitutional guarantee of slave property meant the potential expansion of slavery throughout the nation, to the territories and ultimately to the free states.

Indeed, for northerners the debate over slavery’s expansion induced

<sup>89</sup> Springfield *Illinois State Register*, December 8, 1849, in which Lanphier editorialized: “Slavery is a domestic institution, a municipal matter, over which the individual states have exclusive control. The general government cannot touch it without violating the constitution . . . .”; Wiecek, *Sources of Antislavery Constitutionalism*, 219 (quotation) and 282; and speech of Joshua Giddings, in *Cong. Globe*, 30 Cong., 2 Sess., *Appendix*, 125 (February 17, 1849).

<sup>90</sup> New York *Tribune*, February 22, 1847.

a widespread discussion of property rights in general. Northern conservatives generally agreed with southerners that slaves constituted property and that the constitutional agreement required northerners to acquiesce in the doctrine.<sup>91</sup> Abolitionists propagated the doctrines that “MAN CANNOT BE PROPERTY” and that rulers violated natural law when they classified people as property.<sup>92</sup> One theme the abolitionists exhorted that actually did transfer to the ideology of the Republican party was that property in man is immoral. Even the moderate John Sherman announced, “The radical difference between both wings of the Democracy and the Republican party, is whether slaves are common property, like horses and other cattle, or whether they are so by local law.” And for a number of people, slavery raised the Jacksonian question of whether human rights should take precedence over property rights.<sup>93</sup>

Two issues—first, the sanctity of property rights in slaves and, second, what authority had control over those rights—made the territorial issue crucial. For decades historians have tried to determine whether slavery’s expansion into the territories was an issue of material importance to the South or not, and the conclusion is moot.<sup>94</sup> Never-

<sup>91</sup> For example, An American Gentleman [Calvin Colton], *A Voice from America to England* (London, 1839), 134; James Buchanan speech in Congress, 1838, in John Bassett Moore, ed., *The Works of James Buchanan* (12 vols.; Philadelphia, 1908–1911), III, 345; Knupfer, *The Union as It Is*, 91; and Commodore Stockton, *Letter of Commodore Stockton on the Slavery Question* (New York, 1850), 9–10.

<sup>92</sup> Quote from Henry B. Stanton, *Remarks of Henry B. Stanton, in the Representatives’ Hall, on the 23d and 24th of February, 1837 . . . on the Subject of Slavery* (5th ed.; Boston, 1837), 21; see Amos A. Phelps, *Lectures on Slavery and Its Remedy* (Boston, 1834), 115–18; James Redpath, *The Roving Editor* (New York, 1859), v; and [Theodore Weld?], *The Bible Against Slavery . . .* (1864; rpt., Detroit, 1970), 17.

<sup>93</sup> Speech of John Sherman in Newark *Daily Advertiser*, September 14, 1860. For others see [James Russell Lowell], “The Election in November,” *Atlantic Monthly*, VI (October 1860), 496; Charles F. Adams, *An Oration Delivered Before the Municipal Authorities of the City of Fall River, July 4, 1860* (Fall River, Mass., 1860), 6–7; Abraham Lincoln to Henry L. Pierce and others, April 6, 1859, in Roy P. Basler, Marion Dolores Pratt, and Lloyd A. Dunlap, eds., *The Collected Works of Abraham Lincoln* (9 vols.; New Brunswick, N.J., 1953–55), III, 375; and Author of ‘Archy Moore’ [Richard Hildreth], *Despotism in America . . .* (Boston, 1840), 55. The debate over the nature of property in the 1840s and 1850s is fascinating, but its intricacies cannot be introduced here.

<sup>94</sup> For example, Alfred H. Conrad and John R. Meyer, “The Economics of Slavery in the Antebellum South,” in Hugh G. J. Aitken, ed., *Did Slavery Pay? Readings in the Economics of Black Slavery in the United States* (Boston, 1971), 138–39 and 174–75; and Roger Ransom and Richard Sutch, “Capitalists Without Capital: The Burden of Slavery and the Impact of Emancipation,” *Agricultural History*, LXII (Summer 1988), 138. Other interpretations have invoked honor (Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* [New York, 1982]); an oblique attempt to end slavery by bottling up its population (William L. Barney, *The Road to Secession: A New Perspective on the Old South* [New York, 1972], xiv and 65–72); as a symbolic issue of the South’s standing in the Union (Escott, “Jefferson Davis and Slavery in the Territories,” 115; and Robert E. May, *The Southern Dream of a Caribbean Empire, 1854–1861* [Baton Rouge, 1973], 230); the southern need for social mobility so that young yeomen farmers would not turn against slavery (William L. Barney, *The Secessionist Impulse: Alabama and Mississippi in 1860* [Princeton, 1974], 4–28, 38); and a fear of being surrounded by free states

theless, what concerned southerners was their property rights in slaves and the federal government's potential control over those rights. To defend such rights, southerners demanded that the national government recognize in all its dealings the sanctity of property in slaves. For southerners this was defensive; they were defending property rights—which, according to most commentators at the time, was the primary duty of government—and seeking no expansion of rights, only recognition of them.

The importance of property rights at this juncture also explains why the southern Whig party weakened and the southern Democratic party flourished in the Deep South. Southern Whigs did not recover from the national debate of 1848 through 1852. The reason was clear: northern Whigs had an antislavery contingent that could not be controlled by southerners.<sup>95</sup> More to the point, southerners disagreed on many issues—national policies, constitutional interpretations, territorial expansion, and even how best to counter the antislavery thrust of the North. But they agreed on the sanctity of property rights in slaves; that was fundamental and consensual, beyond the touch of partisanship. Given the nature of the 1848–1852 debate, the question was which party could best protect property rights in slaves—the party with a national orientation or the party that had always insisted on states' rights and state control of slavery. On the issue of states' rights, southerners could use it to fortify slavery and still gather support from northerners with an animus to centralization. It was immaterial to practical policy whether northern Democrats were antislavery or not, because the states' rights doctrine of the party stopped their intrusion into slavery-related affairs. Southern Whigs had no such shelter. In the national arena the party was saddled with an antislavery wing that could damage slavery via national laws. Its inability to assure the protection of slavery sealed the fate of the southern Whig party and gave the southern Democratic party its hegemony in the 1850s.

Northerners also calculated exactly what the new legal dogma required, and they determined that the requirement was the nationalization of slavery via the doctrine of property rights. They reckoned that

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(Ernest McPherson Lander Jr., *Reluctant Imperialists: Calhoun, the South Carolinians, and the Mexican War* [Baton Rouge, 1980], 152, 166.)

<sup>95</sup> On southern elections and the southern realignment of 1848–1852 see William J. Cooper Jr., *The South and the Politics of Slavery, 1828–1856* (Baton Rouge, 1978), 270–77 and 304–43; Brock, *Parties and Political Conscience*, 184–97 and 318–26; and Bond, *Political Culture in the Nineteenth-Century South*, 104–7. On the Compromise of 1850 see Holman Hamilton, *Prologue to Conflict: The Crisis and Compromise of 1850* (New York, 1964), 11, 22, 54, 64, and 72–73; and Mark J. Stegmaier, *Texas, New Mexico, and the Compromise of 1850: Boundary Dispute and Sectional Crisis* (Kent, Ohio, 1996), 86–87, 140–42, 147, and 162–63.

ultimately all northern states would have to recognize property rights in the same fashion as did the southern states and that northerners would have to obey the laws of property rights in slaves regardless of their municipal laws. The subject of property rights was prominent in all the major sectional confrontations of the 1850s: the Fugitive Slave Law, the Compromise of 1850, popular sovereignty debates, the Kansas-Nebraska Act, Bleeding Kansas, the Dred Scott decision, the Lecompton Constitution, and the territorial slave code. Southern politicians continually pushed for a recognition of property rights in slaves, and northerners saw such pressure as an aggression by the “slave power” designed to nationalize slavery. After the Dred Scott decision northerners believed the nationalization was close at hand.<sup>96</sup>

Abraham Lincoln’s election to the presidency in November 1860 sparked the fire-eaters in the South to sever state ties with the Union. Not every southerner was a fire-eater, however. The border states of North Carolina, Missouri, Tennessee, Arkansas, Virginia, Maryland, Delaware, and Kentucky did not immediately accompany the departing states of the Deep South. On the secession question southerners were divided into camps of immediatists, conditional unionists, and unconditional unionists. Many southerners saw no pertinent reason for secession if the Lincoln administration obeyed the law; they also saw that the Republicans did not control Congress. Without an overt act of aggression—such as coercion of a state—secession could not be justified.<sup>97</sup> It is worth noting, however, that secession did follow the path of the value of slaves. Slavery was most valuable in the lower South and less in the border. Though the situation was vexed as to who aggressed upon whom in 1861 (the firing on Fort Sumter versus Lincoln’s call for 75,000 volunteers to suppress the rebellion), all southerners were agreed upon one idea: property in slaves was inviolable.

Secessionists left little doubt that the sanctity of property rights in slaves was the reason for their drastic action. In the South Carolina “Declaration of Causes” for secession, the property rights rationale

<sup>96</sup> On these subjects, see Don E. Fehrenbacher, *Sectional Crisis and Southern Constitutionalism* (Baton Rouge, 1995); Stegmaier, *Texas, New Mexico, and the Compromise of 1850*; Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law, 1850–1860* (Chapel Hill, 1970); Robert W. Johannsen, *Stephen A. Douglas* (New York, 1973), 396–415; Don E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York, 1978), esp. 190–91; Abraham Lincoln at Galesburg, October 7, 1858, in Robert W. Johannsen, ed., *The Lincoln–Douglas Debates* (New York, 1965), 230–31; Harry V. Jaffa, *Crisis of the House Divided: An Interpretation of the Issues in the Lincoln–Douglas Debates* (New York, 1959), 283–89; and generally, Potter, *The Impending Crisis*; and McPherson, *Ordeal By Fire*.

<sup>97</sup> These details may be found in Daniel W. Crofts, *Reluctant Confederates: Upper South Unionists in the Secession Crisis* (Chapel Hill, 1989), Chaps. 5, 11, 12.

leaps from the paragraphs. The Constitution had been a compact that recognized “[t]he right of property in slaves” by representation, tax-paying, fugitive slave laws, and protecting for twenty years the importation of new slaves. “We affirm that these ends for which this Government was instituted have been defeated,” and in particular the nonslaveholding states “have assumed the right of deciding upon the propriety of our domestic institutions; and have denied the rights of property established in fifteen of the States and recognized by the Constitution . . . .”<sup>98</sup> In New York, the transplanted South Carolinian Richard Lathers told a New York crowd in 1861 that to bring the southern states back into the Union, the North must decide affirmatively “whether there can be such a thing as a claim for property in slaves. . . . The south never will come back until that principle is settled.”<sup>99</sup>

Given the smorgasbord of explanations for the Civil War, it might be asked why this explanation should be given more credence than any other. The answer is that the property rights dilemma by itself, cloaked behind the rhetoric of states’ rights, was capable of producing secession; the collision was already institutionally in place and required little prompting from social, ideological, or political influences. And as questions of authority—municipal or federal—over property escalated in the 1840s, both northerners and southerners believed that their societies were endangered, and those perceptions reached paranoid proportions by the 1850s. The existence of two systems of property—both of which produced income from massive amounts of investment and one of which intruded with damaging effects upon the other—is sufficient to generate massive conflict. One additional aspect of human behavior, however, must be invoked in order to obtain the final result, civil war: In order to preserve accumulated property, or even to extend the bounds of property ownership, some people will kill other people.

<sup>98</sup> “Declaration of Causes Which Induced the Secession of South Carolina,” in Frank Moore, ed., *The Rebellion Record: A Diary of American Events* . . . (11 vols.; New York, 1861–1865), I, 3–4.

<sup>99</sup> *Pine Street Meeting* (n.p., 1861), 17, in Richard Lathers Papers (Manuscript Division, Library of Congress, Washington, D.C.).