







Outline		
<b>I. Introduction</b>	<b>II. Procedural Choice</b>	<b>III. The Bank Bill of 1841</b>
a. Clip	a. Nuclear option	
b. announcement	b. Inherited Institutions	<b>IV. Wilmot Proviso</b>
c. e-mails	c. Remote	a. Mexican-American War
d. news	d. Majoritarianism	b. The Oregon Bill
e. Tornado	d. Testing Theories	c. America in the 1840s
f. syllabus		d. Wilmot
- Finish Holt, Jenkins and Morris for Tuesday		<b>V. Conclusion</b>
		a. Class champion
		b. Have a great weekend

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**Nuclear Option and the 109<sup>th</sup> Senate**

In the 109<sup>th</sup> Congress, Senate Democrats filibuster 10 of President George W. Bush's judicial nominees.

Republicans, holding a 55-45 seat advantage, wanted to use a ruling from Vice President Cheney to end the obstruction.

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**Nuclear Option and the 109<sup>th</sup> Senate**



"If the Senate majority decides to move forward and if the issue is presented to me in my elected office as president of the Senate and presiding officer, I will support bringing those nominations to the floor for an up-or-down vote."  
- Vice President Richard B. Cheney, 2005.

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### Questions

What explains the stability of Senate rules?

What effect do these rules have on policy?

The political science literature is split into two camps.

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### Inherited Rules

**What accounts for the stability of the Senate's rules?**

Minorities exploiting existing rules (*Binder 1997*;  
*Binder and Smith 1997*).

In this view, the modern Senate is not what majorities  
have wanted but what they have been forced to accept

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### Inherited Rules

Rule	Source	Consequence
Elimination of the Previous Question Motion	1806 Rules Codification	The Senate no longer had a formal method of ending debate by a simple majority.
Staggered Senate Terms	United States Constitution	The Senate is a "Continuing Body" and does not adopt new rules at the start of each Congress.
The Vice President's Status as the President of the Senate	United States Constitution	Centralized chamber power could be wielded by a member that does not share the interests of the Senate majority.

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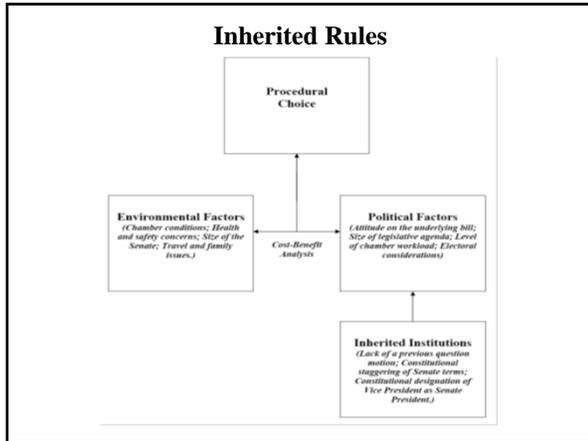
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### Inherited Rules

**Effect on policy?** The primary consequence of the filibuster is "...the killing or delaying the enactment of a considerable body of legislation otherwise headed for enactment or law" (*Binder and Smith 1997*).

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### Remote Majorities

**What accounts for the stability of the Senate's rules?**  
 Minorities reining in their dilatory behavior in the face of threats of "going nuclear" and norms of restraint.

The rules of the Senate reflect the will of majorities (*Wawro and Schickler 2004, 2006; Koger 2002*).

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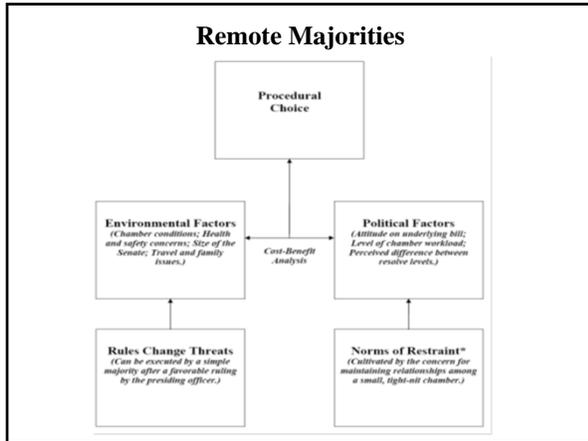
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### Remote Majorities

**Effect on policy?** The primary consequence of the filibuster is that Senators are forced to make more compromises.

“This need to compromise may, in practice, enhance the extent to which Senate outcomes reflect the public’s views” (Wawro and Schickler 2006).

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### Testing Theories of Procedural Choice

This is difficult for several reasons:

- (1) Often yield similar empirical predictions...
- (2) What constitutes “obstruction” is often ambiguous.

Hence, scholars rely on accounts of individual episodes. These often lack sufficient detail, obscuring the role political and environmental factors are playing in the cost-benefit analyses.

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### The Bank Bill of 1841



The United States was in the midst of a substantial economic depression in 1840. Since the financial panic of 1837, a substantial number of chartered banks failed, stock prices dropped dramatically and investment growth plummeted.

The Whigs criticized the Democrats for not being aggressive enough in combating the depression. They ran on a platform that called for an increase in government intervention.



The election of 1840 produced a resounding victory for the Whig party. Their candidate for President, retired Major General William Henry Harrison trounced incumbent Democratic President Martin Van Buren 234 to 60 in the electoral college.

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### The Bank Bill of 1841



The Whig victory was impressive; however, it came with a substantial amount of internal tensions. At the Whig's first national nominating convention, Harrison, an Ohioan, was nominated on the fifth ballot. Clay, the Whig Congressional leader, former speaker of the House, and favored candidate of the South, had led on the preceding four. Acrimony from Clay's defeat led several of his more acclaimed supporters to pull their names from consideration for the Vice Presidency.

The corresponding nomination went to former Senator, and assumed Clay supporter, John Tyler.

Three months into his term, Harrison takes a dirt nap, making Tyler president.

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### The Bank Bill of 1841

"It makes the Vice-President of the United States, John Tyler, of Virginia, Acting President of the Union for four years less one month. Tyler is a political sectarian, of the slave-driving, Virginian, Jeffersonian school, principled against all improvement, with all the interests and passions and vices of slavery rooted in his moral and political constitution - with talents not above mediocrity, and a spirit incapable of expansion to the dimensions of the station upon which he has been cast by the healing hand of Providence, unseen through the apparent agency of chance.



To that benign and healing hand of Providence I trust, in humble hope of the good which it always brings forth out of evil. In upwards of half a century, this is the first instance of a Vice President being called to act as President of the United States, and brings to the test that provision of the Constitution which places in the Executive chair a man never thought of for it by anybody. This day was in every sense gloomy - rain the whole day." - *John Quincy Adams*

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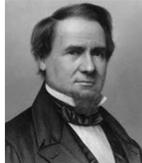
### The Bank Bill of 1841

Treasury Thomas Ewing reported that the government needed to raise revenue quickly to cover an exorbitant national debt.

Clay asks Ewing to pen a bill supported by the administration. He does so, and it is far weaker than Clay wanted. It lacked any guarantees that the states would not be able to tax the bank, and while it allowed the national bank to establish banks in the states, it made this contingent on the approval of state legislators.



On May 31, 1841, the emergency session of the 27th Congress convened. John Quincy Adams then offers an amendment rescinding the rule prohibiting the reception of abolition petitions, sparking prolonged debate. Writing to James K. Polk, Representative Aaron V. Brown (D-TN) noted that "The Southern Whigs now discover when I fear it is too late, that they are standing on a burning volcano, which every hour may destroy them."



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### The Bank Bill of 1841



The bill passes the House, but is delayed in the Senate. Clay (W-KY) proposes a rules change to "give to the majority the control of the business of the Senate," and facilitate the passage of the Bank Bill.



William Rufus King (D-AL) replies that, "Senator [Clay] may make his arrangements at his boarding house for the winter."

Clay retreats from the rules change proposal.

Why?

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### The Bank Bill of 1841

**Inherited Rules:** "[A] majority in favor of [Clay's] reform was apparently forced to retreat in face of a determined filibustering minority" (Binder and Smith 1997, 75).

**Remote Majorities:** "Obstruction might have delayed progress, but in the face of a determined majority willing to threaten changes in the rules, the minority relented" (Wawro and Schickler 2006, 74-75).

Bill eventually *passes*, but is vetoed.

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### The Bank Bill of 1841

**Political factors:** The Bank Bill coalition was fragile. Obstruction forced visible ruptures between Whig leaders (Clay, Webster, Tyler).



“In the spring, soon after his accession, I feel very sure the President would have signed any Bill.” – *Willie Mangum (W-NC)*.



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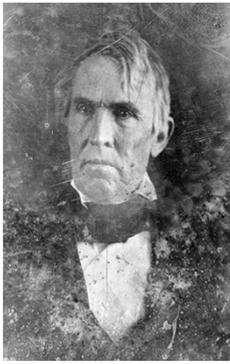
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### The Bank Bill of 1841



**Political factors:** Additional electoral consequences from slow action were perceived.

“[The Whigs] must act. The people expect it, and are entitled to expect it...The real danger is inaction, and disappointing the high hopes and feelings of the people.” – *John J. Crittenden (W-KY)*.

Previous rules change proposal amended to impotency.

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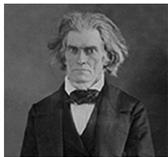
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### The Bank Bill of 1841



**Environmental Factors:** Physical costs of delay began to take their toll.

“Our sittings are exceedingly laborious, averaging about six hours in the day and thirty six in the week. This, at this warm season, combined with a heavy correspondence, reading of documents and preparation for discussion is heavy and exhausting work.” – *John C. Calhoun (D-SC)*.

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### The Bank Bill of 1841

**Environmental Factors:** Physical costs were taking their toll, and the necessity of further delay was also in doubt.

The veto was likely. Democrats join with Clay supporters to defeat a compromise amendment.

“I should much rather Clay’s bill should pass and be vetoed.” - *John C. Calhoun (D-SC)*.

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### The Bank Bill of 1841

The bill passes after roughly one and a half months of debate.

It then passes the House after three days.

“...it will pass the House, probably during the ensuing week. With their amended rules, they have the previous question...[and] use it upon all occasions.” – *Cave Johnson (D-TN)*



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### Bank Bill Conclusions

The fragile coalition in support of the Bank Bill was not likely to constitute a credible threat to minority rights.

Obstruction didn’t kill the Bank Bill...But it likely facilitated its demise (and the demise of the remaining Whig agenda). Under the rules of the modern House, the bill would likely have passed quickly.

In this respect, inherited chamber rules played an important role in the final policy outcome.

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### Mexican-American War

Texas wins independence in 1836.  
The new Republic is broke,  
begins negotiating with the U.S.  
for annexation.



Lame-duck Tyler administration signs  
language annexing Texas in  
1845.



Polk takes advantage of flexible  
language and the entire Texas  
territory is admitted as a slave  
state. This alienates many  
Northern Democrats.

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### Mexican-American War



The problem: There is a still a dispute  
between Mexico and Texas over the  
Texas border.

Polk wants California and more territory.  
Sends envoys to negotiate for this.  
He gets rebuffed.



Polk orders troops under command of  
Zachary Taylor into disputed area.  
Not surprisingly, Taylor is attacked.  
War breaks out – Whigs oppose it  
aggressively.

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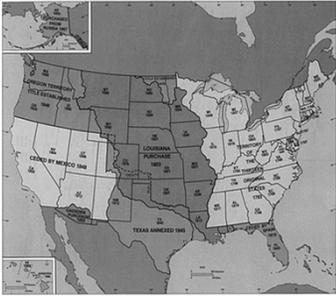
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### Homogeneity in the 1840s

The American people of  
the 1840s showed a  
considerable degree of  
homogeneity and  
cohesion.

- ethnicity
- language
- territory/travel
- religion
- political institutionalism
- culture and tradition



What does this mean? Does it surprise you?

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### Wilmot Proviso



On August 8, 1846, President James K. Polk submitted a request of two million dollars be appropriated for negotiations with Mexico regarding the end of the U.S.-Mexican War and the cession of additional territory.

The President's original proposal was that the measure be considered in secret executive session. Why? What are the advantages/disadvantages of sunlight on lawmaking?

In response to criticism from anti-slavery groups, Representative David Wilmot (D-PA) offers an amendment precluding slavery in all lands acquired by Mexico. The amendment eventually passed the House despite aggressive opposition from the President and Southern Democrats.



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### Wilmot Proviso



The Proviso provided that "as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any party of said territory, except for crime, whereof the party shall first be duly convicted."



The Proviso opened up higher dimensions and divided both parties. The five votes on Polk's proposal prior to the addition of the Wilmot Proviso featured cut lines with relatively vertical angles (average absolute angle of 65.56 degrees) and relatively high party unity (88.1% of Whigs and Democrats voted with a majority of their party). Conversely, the three recorded votes on the proposal after the addition of the Wilmot Proviso featured almost perfectly horizontal cut lines (average absolute angle of 10.2 degrees) and low party unity (55.3% of Whigs and Democrats voted with a majority of their party). These three recorded votes were on the motion to table the bill with the Proviso, the final passage of the bill and a motion to reconsider the final passage vote. The Wilmot Proviso itself was adopted via unrecorded teller vote 83 to 64.

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### Portents of a Sectional Rift

Three factors/events facilitated the growing rift within the Democratic Party...

-Southern Democrats sabotaged the renomination of Martin Van Buren in 1844. Why?



-The compromise on the Oregon treaty alienated Northern Democrats. Why?

-The passage of the Walker Tariff. What is this? Why do we care about tariff policies?



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### On the Tariff



The tariff was the federal government's primary method for raising capital for much of the 19th century. Hansen (1990, 529) claims that prior to the Civil War "the U.S. treasury derived about 90 percent of its revenues from customs duties." While this percentage would fluctuate greatly, it was still high throughout the rest of the century.

The Southern economy was based primarily on exporting cotton and tobacco to other countries. Northern industries primarily shipped domestically. Tariff legislation featured political costs that were not collective; rather they were born by particularized groups that worked in export-dependent industries, like farmers or urban laborers.

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### Portents of a Sectional Rift



Explanations for the unexplained growth in sectionalism...

1. Cultural: "Proponents of the cultural explanation of sectionalism argue that the people of the North and the people of the South were at odds not merely because they disagreed about the servitude of the Negro, but because they lived in different cultural worlds."  
- What does "cultural worlds" mean?

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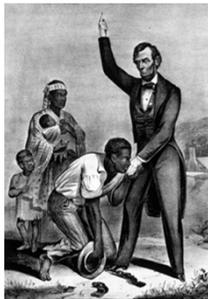
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### Portents of a Sectional Rift

2. Economic: "Two regions with dissimilar economies will develop diverse economic objectives, which will in turn lead to a conflict over policies."

3. Ideological: "Many people sensed that slavery presented a giant contradiction to the two most basic of American values – equality and freedom – and to the Christian concept of the brotherhood of man."

How does Potter suggest slavery fits into this?  
What are your thoughts?



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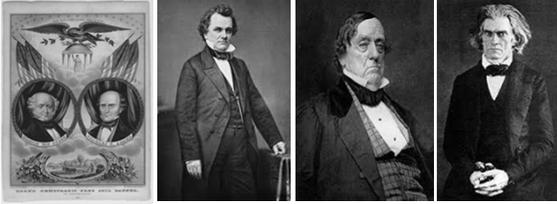
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## The Territory Question



The slavery question IS the territory question. Four proposed/popular solutions to the territory/slavery question:

1. Free-soil
2. Missouri Compromise
3. Popular Sovereignty
4. The Southern Position

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## The Antebellum Senate



- The antebellum Senate was a miserable place to debate. Senators were frequently elderly and in poor health to begin with.
- Health issues were exacerbated by a poorly ventilated building which made the air difficult to breathe.
- Whiskey was sold in the capitol and intoxication was tolerated on the floor of the Senate during this period.
- Travel conditions were equally onerous and members were usually forced to abandon families for lengthy periods of time. This is reflected in the low turnout on roll call votes in the era.
- Duels and violence was relatively commonplace in the era.

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## Oregon Territory Bill

- In the waning days of the first session of the Thirtieth Congress a bill was taken up that would organize the Oregon Territory. Southerners largely opposed this bill because of a provision prohibiting slavery in the territory. They obstructed the measure until August 13, 1848, when they suddenly relented and allowed a vote on the bill.
- Despite Calhoun's declaration that 'by the rules of the Senate, the bill was lost, and the majority well knew that,' the South relented and allowed the bill to pass.
- Why? Wawro and Schickler (2006) claim that the costs of delay for Southerners was minimal and assume the policy consequences were maximal.
- They suggest the case of the Oregon Territory Bill is an example of minority obstruction being limited by norms of restraint.

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### Oregon Territory Bill



When the lame duck session of the Twenty-Ninth Congress met again in December, Polk requested another appropriation for negotiations with Mexico and that Oregon be organized as a territory. Polk had spoken with Wilmot and he agreed to not offer the Proviso again. However, in January, Preston King (D-NY) introduced a bill in the House organizing Oregon as a territory with it the Proviso, and proposing to attach it to the Mexico appropriation.

Southerners, under the advice of Calhoun, attached a compromise proposal which includes language justifying the slavery exclusion on the grounds that Oregon is located north of 36° 30', the line established by the Missouri Compromise. This amendment was defeated 82 to 133 in the House.

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### Oregon Territory Bill



- Thomas Hart Benton put it, the debate over allowing slavery in Oregon was akin to "an argument about whether or not we're told no or simply don't ask" (quoted in Smith 1953). Calhoun himself noted that "it was universally admitted that the climate and soil of Oregon unfitted it for slave population" (Wilson and Cook, Remarks at a Public Meeting at Charleston, August 19, 1848).



- When the Thirtieth Congress convened in December 1847, Oregon became a central issue. In a bill offered by Senator David Yulee (D-FL) Southerners again adopted the stance that the government could not intervene on the slavery issue in the Oregon Territory. Senator John Hale (W-ME) proposed a free-state alternative.

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### Oregon Territory Bill

- By this point devastating Indian wars had broken out in Oregon, stressing the need for the territory's organization. By blocking any legislation Southerners risked alienating Western interests - interests they were anxious to cultivate - on the basis of a philosophical question.



- In July, the Senate passed another compromise. This one, authored by Senator John Clayton (W-DE), denied California and New Mexico the authority to answer the slavery question in those states, but allowed Oregon to retain laws passed by their provisional government outlawing slavery. The bill passed 33 to 22 but was again quickly defeated in the House.



- In June the Senate finally passed an Oregon Bill that brought the territory in without slavery under the Missouri Compromise. This bill, supported by the Polk administration, would be defeated in the House.

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## Oregon Territory Bill



This was the situation when the Senate took up consideration of the issue again two days prior to adjournment, on August 12. Benton moved the chamber recede from the compromise amendment. The debate quickly became heated. One historian described the proceedings, "And so the debate raged, with Benton hurling epithets at Calhoun's dignified colleague, Andrew Butler, who so far lost his self-control to challenge the burly Missourian to a duel."

The Senator that carried Butler's challenge to Benton, Henry Foote (D-MS) ended up trying to shoot Benton a year later. Benton refused to accept it because it had been brought by the Mississippi Senator Henry S. Foote, a popinjay with whom Benton had not been on speaking terms "until quite recently," and because Foote had brought it "on a Sunday night, and delivered it under circumstances to alarm the whole family."




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## Oregon Territory Bill Conclusions



- Rational cost-benefit analysis, not norms.
- 20-30 additional bills, including an army appropriations bill was pending.
- Most Southerners did not believe the Oregon could have been a slave state in practice. Further, the bill had some utility for Southerners who were ready to give up on the two parties.
- The bill was pending for three years and attacks on settlers necessitated action.

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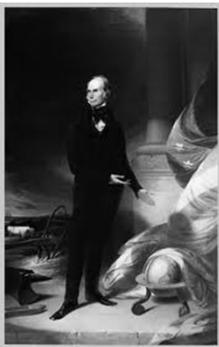
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## "Do Nothing" 30<sup>th</sup> Congress



- Rhetoric becomes more extreme and aggressive...Government is divided and occurring in the shadow of a presidential election.
- Polk: "if no Presidential election had been pending...the Clayton compromise bill would have passed in the House.
- Popular sovereignty fails, the Missouri Compromise fails, the Clayton compromise fails, California and New Mexico are still unorganized.
- Moderates like Benton, Bell, Crittenden and Houston are being marginalized and in 1848, Henry Clay retires from public life.

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### The Election of 1848



- Polk's health is declining, opts not to run for reelection.
- Taylor – another war hero with no political experience – is courted by both parties. He defeats Clay, Winfield Scott and Webster on the fifth ballot. Cass edges out James Buchanan, and Martin Van Buren runs as an anti-slavery Free Soil party.
- Taylor – a Southerner – runs as a "Washington outsider", wins the popular vote by 5% ...What's his position on slavery?

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### The 31<sup>st</sup> Congress



- Congress is divided – again. The House cannot settle on a Speaker. Northern Democrats, Southern Whigs, Northern Whigs, Free Soilers, Southern Democrats – too many factions. Eventually, Howell Cobb (D-GA) wins narrowly.
- The Senate is also controlled by the Democrats – now dominated by Stephen Douglas (D-IL).
- The territory crisis is growing. California's population increases exponentially in two years.
- A dispute between the boundary of Texas and New Mexico leads to threats of War.

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### The Taylor Presidency

- Who is Millard Fillmore? How did he get the Vice Presidential nomination?
- Taylor advocates admitting California and New Mexico without forcing them to go through the territory process. What are the advantages of this approach?
- Taylor was not an experienced politician. He had few allies amongst either party. His strongest support, William Seward, was young, ambitious, and closely tied to anti-slavery activists. How does Seward hurt Taylor?



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### The Taylor Presidency



- Debate is heated...
- “I do not hesitate to avow before this House and the Country, and in the presence of the living God, that if, by your legislation, you seek to drive us from the territories of California and New Mexico, purchased by the common blood and treasure of the whole people, and to abolish slavery in this District, thereby attempting to fix a national degradation upon half the states of this Confederacy, I am for disunion.” – *Robert Toombs (W-GA)*
- Proposal for a Southern conference in Nashville

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### The Compromise of 1850



- Enter Henry Clay. He's 72 at this point.
- Played a leading role in the Missouri Compromise of 1820 and the Compromise of 1833 – which helped end the Nullification Crisis.
- The Senate is still loaded with talented statesmen like Webster, Calhoun, John Bell, Cass, Benton, and young senators like Salmon P. Chase, Stephen Douglas, Seward and Davis.

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### The Compromise of 1850



- Clay's proposals included:
  - California would be admitted on the states' own terms.
  - The territory of New Mexico would be organized under popular sovereignty
  - The territory of Utah would be organized under popular sovereignty
  - Texas would be well compensated for land ceded to New Mexico
  - The Fugitive Slave Law would be enforced more aggressively
  - The slave trade was abolished in the District of Columbia
- Who do these proposals appeal to?

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### The Compromise of 1850

- Select committee of 13 – Clay is the chairman.
- Clay reluctantly agrees to a proposal by Henry S. Foote (D-MS), to package all of his resolutions into one large, “omnibus” bill.
- Omnibus legislation is popular today. Why? Why does Clay opt to use the omnibus bill? Benefits of omnibus bills? What is Taylor’s role in this?
- Nashville convention starts, Texas situation becomes more agitated.



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### The Compromise of 1850



“Mr. President, never, on any former occasion, have I risen under feelings of such deep solicitude. I have witnessed many periods of great anxiety, of peril, and of danger even to the country; but I have never before arisen to address any assembly so oppressed, so appalled, so anxious.

And, sir, I hope it will not be out of place to do here what again and again I have done in my private chamber – to implore of Him who holds the destinies of nations and individuals in his hands to bestow upon our country his blessings – to bestow upon our people all his blessings – to calm the violence and rage of party – to still passion – to allow reason once more to resume its empire. And may I now ask of Him, to bestow upon his humble servant, now before Him, the blessings of his smiles, of strength, and of ability, to perform the work which lies before him.” -- *Henry Clay*

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### The Compromise of 1850

- “It is a great mistake to suppose that disunion can be effected at a single blow. The cords which bind these states together in one common Union are far too numerous and powerful for that...The cords...are not only too many but various in character. Some are spiritual or ecclesiastical; some political, others social. Some appertain to the benefit conferred by the Union, and others to the feeling of duty and obligation...Already the agitation of the slavery question has snapped others, as I shall proceed to show.” -- *John C. Calhoun*



- Effects/implications of the speech?

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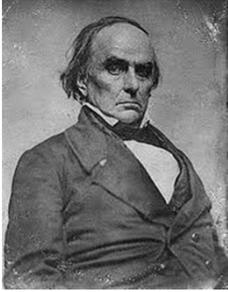
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## The Compromise of 1850



- "I would not take pains to reaffirm an ordinance of nature nor to re-enact the will of God. And I would put in no Wilmot Proviso for the purpose of a taunt or a reproach. I would put into it no evidence of the votes of superior power to wound the pride, even whether a just pride, a rational pride or an irrational pride – to wound pride of the gentlemen who belong to the Southern states." -- Daniel Webster
- Effects of the speech?

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## The Compromise of 1850



--William Seward  
Consequences from the speech?

"I mean to say that Congress can hereafter decide whether any states, slave or free, can be framed out of Texas. If they should never be framed out of Texas, they never could be admitted. *Another objection arises out of the principle on which the demand for compromise rests.* That principle assumes a classification of the states as northern and southern states, as it is expressed by the honorable senator from South Carolina, [Mr. CALHOUN] but into slave states and free states, as more directly expressed by the honorable senator from Georgia [Mr. BERRIEN.] The argument is, that the states are severally equal, and that these two classes were equal at the first, and that the Constitution was founded on that equilibrium; that the states being equal, and the classes of the states being equal in rights, they are to be regarded as constituting an association in which each state, and each of these classes of states, respectively, contribute in due proportions. But there is a higher law than the Constitution, which regulates our authority over the domain, and devotes it to the same noble purposes. The territory is a part, no inconsiderable part, of the common heritage of mankind, bestowed upon them by the Creator if the universe. We are his stewards, and must so discharge our trust as to secure in the highest attainable degree their happiness. How momentous that trust is, we may learn from the instructions of the founder of modern philosophy: "No man," says Bacon, "can by care-taking, as the Scripture saith, add a cubit to his stature in this little model of a man's body; but, in the great frame of kingdoms and commonwealths, it is in the power of princes or estates to add amplitude and greatness to their kingdoms. For, by introducing such ordinances, constitutions, and customs, as are wise, they may sow greatness to their posterity and successors. But these things are commonly not observed, but left to take their chance."

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## Conclusion



Questions?  
Enjoy the rest of your week!

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