

Self-Enforcing Constitutions: With an Application to Democratic Stability In America's First Century

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Abstract

Most students of constitutions focus on normative questions or study the effects of particular constitutional provisions. This paper falls into a third and much smaller tradition that attempts to study what makes some constitutions more likely to survive. This paper develops a theory of self-enforcing constitutions and then applies it to the early United States. I argue that, but for the issue of slavery, constitutional democracy in the United States was self-enforcing by about 1800. Nonetheless, crises over slavery threatened the nation on numerous occasions. The Civil War decisively ended slavery as a source of political division, allowing self-enforcing democracy (for white males) to reemerge following the Compromise of 1877.

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Barry R. Weingast*

1. Introduction

Why have some countries sustained stable democratic constitutions for decades while others have failed? In September 1973, the Chilean military stormed the presidential palace, leaving President Salvador Allende dead and installing a military Junta. Military takeovers in this era also occurred in many of the major Latin American states, including Argentina and Brazil. Similarly, in post-colonial Africa, most of the newly independent states born of great hope to democracy, fell to authoritarians, including Ghana, Kenya, and Nigeria. The United States's recent efforts to establish democracy in Iraq seem fanciful. In contrast, Great Britain and the United States have maintained stable democracies for over a century, as have most of western Europe and Japan since World War II.

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Drawing on the recent literature on self-enforcing democracy and self-enforcing constitutions, I develop a perspective that addresses this question.¹ I show that the problem of constitutional stability is in large part one of incentives: do political officials have the appropriate incentives to honor the constitution? To help focus the question, I ask a more specific one: when do political officials have the incentives to honor the rights of citizens and the rules associated with democracy? As Alberts (2008) suggests:

Since the rules of democracy are located in the law, the question becomes one of explaining adherence to the laws governing democratic political behavior... This shifts the question of sustainable democracy away from a focus on identifying conditions ... and toward a focus on identifying the key components of the incentive structure influencing elite behavior vis-à-vis democratic rules.

Although the discussion often focuses on democracy, it applies to the more general questions of the constitution and the rule of law.

The central role of incentives for our question becomes clear when we observe that stable democracy requires two conditions: incumbent officials who lose elections must have incentives to step down; and those out of power must be willing to eschew force as a means of taking control of the government (Przeworski 1991). If either of these conditions fail, so too does democracy.

Two fundamental problems plague constitutional stability; paralleling these problems are two principles explaining how each problem can be resolved. The first fundamental problem of constitutional stability concerns the *rationality of fear* (de Figueiredo and

¹ On self-enforcing democracy: Acemoglu and Robinson (2006), Alberts (2007), Boix (2003), Fearon (2000), North, Wallis, and Weingast (2009), Przeworski (1991, 2001), and Weingast (1997, 2004); on self-enforcing constitutions: Calvert (1995), Gibbons and Rutten (1996), Greif (2004), Hardin (1989), Milgrom, North and Weingast (1990), Ordeshook and Svetsova (1997).

Weingast 1997). When citizens feel threatened by potential changes in public policy, particularly when they believe their lives or livelihoods are at stake, they will take steps to defend themselves. The rationality of fear model holds that, for with a given level of stakes there exists a threshold probability such that if the citizens believe that the probability of adverse policy changes is at or above the threshold, they will take actions to defend themselves. The relevance for democratic constitutions is that, when a group of citizens feels threatened by the regime – even a legitimacy elected one – many are willing to support extra-constitutional action, such as a coup, to protect themselves.

The first principle of self-enforcing constitutions address the rationality of fear: all successful constitutions reduce the stakes of politics (Przeworski 1991, ch2). The reason is that lowering the stakes reduces the likelihood of triggering the rationality of fear mechanism: when constitutions protect what citizens hold most dear, they are less likely to support extra-constitutional action to protect themselves. Put simply, constitutions that lower the stakes are more likely to survive.

The second fundamental problem of constitutional stability concerns the fundamental coordination problem underlying democracy, namely, whether citizens have the ability to act in concert against political leaders who transgress constitutional rules (Weingast 1997). The ability to coordinate against the government provides a powerful deterrent to constitutional transgressions. Because citizen coordination to withdraw their support from a leader following a constitutional violation threatens the leader's political future, leaders are likely to adhere to the rules. Concomitantly, leaders are more likely to pursue transgressions when they believe they will retain sufficient support to remain in power.

This type of coordination problem is extremely difficult to solve for several reasons. First, the problem involves nearly the entire society, and coordination requires that each citizen believe that the others will behave similarly (Chwe 2001). Second, no natural mechanism exists that to help citizens coordinate. Because citizens' experience, interests, and values vary so widely, they are unlikely to agree on how to coordinate. Difficult questions hinder coordination: just what actions constitute a transgression, what rights should citizens have, and what public policies are appropriate? Failure to produce consensus on these issues implies that citizens fail coordinate. Finally, authoritarian leaders act to defeat coordination through various divide and conquer strategies, such as maintaining a political support coalition sufficient to survive while transgression the rights of others.

But how do citizens gain the ability to coordinate? The answer is in part that appropriately constructed constitutions create focal solutions to citizen coordination problems so that citizens can react in concert when the regime threatens a transgression (Hardin 1989, Ordeshook 1992, and Weingast 1997). By defining what actions constitute transgressions, constitutions help citizens coordinate against potential violations. I show that, for a constitution to create a focal solution to the coordination problem, four conditions must hold. In particular, citizens must believe they are better off under the constitution; and that defection will end the constitution, making them worse off.

I apply the theory to the uncertain course of democracy in the early United States. The success of the United States Constitution followed from the theory developed here. First, per the first principle, the Constitution's provisions lowered the stakes of politics by restricting the range of potential decisions by the national government and by creating a

range of citizen rights which the national government had to respect. Second, per the second principle, the Constitution's provisions created focal solutions to help citizens police transgressions by the national government. Lowering the stakes, in turn, lowered the appeal to the rationality of fear mechanism, helping to make democracy stable to an important degree in America's first century.

Nonetheless, the issue of slavery persistently strained American democracy. The enormous magnitude of the value of slaves in the southern economy – in 1860, on the order of GDP for the entire United States – implied that the stakes were very high for slaveholders. Following the rationality of fear, Southerners were episodically deeply concerned about the future of their “property and their institutions” within the Union. The rationality of fear model implies that, given the very high stakes, slaveholders were quite sensitive to even small threats to slavery.

For three generations, Americans weathered their sectional crises and the attending threat to union through a series of pacts. Pacts ended crises that threatened the Union in 1820, 1833, and 1850. These crises show that American democracy was not fully self-enforcing during this era: at least one side was willing to destroy the Union were the crisis not resolved. The Civil War dramatically underscores this conclusion.

The Civil War decisively removed the issue of slavery from the national agenda, and with it the threat of this issue posed to democratic stability. I argue that permanently self-enforcing democracy – at least for white males – emerged at the time of the final American nineteenth century pact, the Compromise of 1877.

This paper proceeds as follows. Section 2 develops a theory of democratic stability. Section 3 then applies the approach to the United States. My conclusions follow.

2. A Theory of Self-Enforcing Constitutions

To understand the stability of democratic constitutions, we begin with *democratic consolidation*. According to Larry Diamond (1999,66):

For a democracy to be consolidated, elites, organizations, and the mass public must all believe that the political system they actually have in their country is worth obeying and defending.

Linz and Stepan (1996,5) argue that consolidation occurs when democracy is the “only game in town.” Citizens and politicians know “that political conflict will be resolved according to the established norms and that violations of these norms are likely to be both ineffective and costly.”

Reflecting these notions, I provide a twofold definition of democratic consolidation (Weingast 1997, 2004). First, no significant group of citizens or parties out of power are willing to attempt to subvert power or secede. Second, those in power follow the constitutional rules (e.g., they obey election results and eschew transgressing the rights of their opponents).

Defined in this manner, consolidation requires that democracy is *self-enforcing*: all actors must find it in their interests to adhere to the constitutional rules.² Incentives are central to both parts of the definition: First, actors out of power must have incentives to pursue their goals within the system. Second, political officials must have incentives to

² To study the incentive problems surrounding consolidation, I draw on recent work studying the conditions under which democracy is self-enforcing: Acemoglu and Robinson (2004), Fearon (2000), Przeworski (1991,2001), and Weingast (1997,2004).

honor the rules, including election results. If either of these incentive conditions fail, so too will democracy.

The "Przeworski moment" – in which the incumbent has just lost an election but retains power until the date of legal transition – demonstrates the relevance of the self-enforcing approach: Why would incumbents who lose elections ever give up power (Przeworski 1991, ch 2)? Many democracies fail at such moments. Przeworski provides the answer in the abstract: those in power must have incentives to give it up. To make use of this claim, we must derive conditions under which Przeworski's answer holds.

Our approach begins with citizens, who are assumed to have preferences and values about their own fundamental rights and the appropriate limits on the state. These preferences and values, in turn, define transgressions by the government – a violation of a fundamental right or limit on the state.

Yet rights and limits on the state are not self-actualizing. Because citizen's social and economic situations vary significantly, they are unlikely to agree about the form of rights or bounds on the state. Farmers disagree with merchants; landlords with tenants; workers with capitalists; and urbanites with those from the country. The manifold divisions in society imply that there is no natural consensus about the nature of the citizens rights, the bounds on the state, and generally, the constitution.

Two Fundamental Constitutional Problems

Two fundamental problems plague constitutional stability. Associated with each problem is a principle that explains how successful constitutions resolve the problem.

The first fundamental problem of constitutional stability concerns the “rationality of fear” (de Figueiredo and Weingast 1997). This approach emphasizes that people support extra-constitutional action, such as a coup, when they fear sufficiently about what may happen under the constitution that they will be better off without the constitution.

The rationality of fear model has three important implications. First, suppose that citizens believe that a threat has a certain probability, p , of being realized. The model shows that, given citizens’ preferences and the magnitude of the threat, there exists a critical probability threshold, p^* , such that if the probability of the threat is at or above the threshold, they will act to defend themselves. Second, the model yields an important comparative statics result: *ceteris paribus, the larger the relative magnitude of the threat, the lower the threshold probability triggering defensive action*. For very large threats – for example, those concerning people’s lives and livelihoods – the probability triggering defensive reaction can be quite low, such as one in ten. The importance of the rationality of fear is that, for threats with very large consequences, citizens will support defensive action even when threats are not very likely.³ Third, the rationality of fear implies discontinuous political change. When citizens’ perception of a threat is below the threshold probability, p^* , they continue to honor the constitutional rules. But if an event occurs that increases the probability of the threat rises above the threshold, the threatened citizens are suddenly willing to defect from the regime and support a coup to protect themselves.

³ The reason is that citizens are not social scientists – they are not trying to determine whether the threat is more likely or not; they are trying to maximize their expected value. For very large threats, even a small probability yields large expected consequences. In the face of very large threats, citizens rationally act to defend themselves even when the probability is small.

The rationality of fear has widespread applications. For example, in Chile during the early 1970s, many on the political right felt their economic rights threatened by President Salvador Allende's government, leading them to support the military coup (Valenzuela 1978). Similarly, during the Second Republic in Spain (1931-39), many agrarian landholders, elements of the Church, and many industrialists felt threatened by the democratically elected regime, leading them to support General Francisco Franco in the Civil War against the regime (Agüero 1995, Alexander 2002). In the early nineteenth century, large numbers of Southerners in the United States felt their property in slaves threatened by the newly elected Republicans in 1860, leading to secession and Civil War (Weingast 1998). In each case, a sufficiently large group of citizens felt threatened by a legitimately elected regime and supported extra-constitutional action (such as a civil war or coup) to defend themselves.

The second constitutional problem concerns the fundamental coordination problem underlying democratic stability (Weingast 1997,2004). All leaders need support among the population to survive. A coordinated response by all citizens threatens to withdraw the support leaders need to remain in power. Therefore, when citizens act in concert in response to a governmental transgression, they deter leaders from attempting transgressions. When citizens fail to act in concert – for example, if they disagree about what constitutes a transgression – leaders can act in a way that retains the support of sufficient constituents while transgressing the rights of others. Indeed, this divide and conquer strategy is the most natural equilibrium and characterizes most societies

throughout history.⁴ In these societies, the government respects the rights of some citizens – those whose support is necessary to remain in power – but not the rights of others.

Most societies fail to resolve the fundamental coordination problem because there are no natural focal solutions around which citizens can coordinate. Citizens' experiences and situations differ so greatly that they disagree about the proper form of government, the rights of citizens, and what actions constitute a transgression. The absence of coordination, in turn, allows leaders to transgress the rights of some while retaining sufficient support of others to survive in power.

Principles of Constitutional Stability

Democratic and constitutional stability require that a society resolve both problems of constitutional stability. Doing so involves the constitution, but in different ways for each.

The first principle of constitutional stability addresses the rationality of fear problem: *all successful constitutions limit the stakes of politics* (Przeworski 1991, ch2, Weingast 1997). The logic underlying this principle follows from the rationality of fear. Constitutions that credibly limit the stakes of politics in ways valued by citizens deter political officials from taking actions that threaten citizens in ways that invoke the rationality of fear. Limited stakes, in turn, imply that citizens are far less likely to resort to extra-constitutional means to defend themselves. Put simply, democracies that limit the stakes of political competition are more likely to survive.

⁴ Weingast (1997) provides a model of this equilibrium.

The second principle of constitutional stability, addressing the fundamental coordination problem, draws on an aspect of democratic consolidation identified by Diamond, Linz, and Stepan noted above; *viz.*, sustaining democracy requires that citizens be willing to defend democracy against transgressions by political leaders. As noted above, leaders attempt transgressions when they expect that to retain sufficient support from the population. This condition applies both to leaders who attempt coups and to democratically elected leaders who attempt to set aside constitutional rules.⁵ Absent sufficient support, leaders are unlikely to survive in power.

This feature of consolidated democracy provides the incentives for the two parts of the definition. When citizens are willing to defend democracy, leaders cannot expect citizen support for extra-constitutional action; rather than risk failure, leaders are deterred from violating the rules by adverse citizen reaction.⁶

The two principles of constitutional stability are complementary. The first principle says that credible constitutional limits on the government inhibit the rationality of fear mechanism and thus make the constitution is more likely to survive. The second principle explains the circumstances under which these limits are credible; namely, that citizens have solved their fundamental coordination problem and can act in concert against officials who are violate those limits.

⁵ A host of authors note that coups take place in democracies only when coup leaders expect considerable support. See, e.g., Alexander (2002, ch 1) and O'Donnell and Schmitter (1986,**).

⁶ As Diamond (1999,70) suggests, "Only when [citizen] commitment to police the behavior of the state is powerfully credible ... does a ruling party, president, or sovereign, develop a self-interest in adhering to the rules of the game, which makes those constitutional rules self-enforcing."

How Constitutions Implement These Principles to Create Credible Limits on the State

The central question for democratic stability becomes, what are the conditions under which citizens act in concert to defend the rules?

To address this, consider the first principle: appropriately designed constitutional limits lower the stakes of politics by creating self-enforcing limits on politics. They do so in two ways. First constitutions place limits on government through structure and process (McNollgast 1989). Procedural limits specify how particular governmental activities take place. For example, the constitution might require that the cabinet first approve legislation which must then gain majority support in the parliament. The constitution may also impose a range of structural limits focus on specific powers and prohibitions for the national government. The United States Constitution's federal structure denied the national government authority over a range of policies, such as religion and the form of economic property rights. Moreover, the Constitution limited the national government's authority by making it subject to a series of substantive limits, such as the commerce clause limiting national economic regulation to interstate issues, the contract clause preventing the government from abrogating private contracts, and the takings clause requiring just compensation for public taking of private property. Constitutions that credibly guarantee private property rights limit the ability of governments to confiscate citizen wealth and thus reduce the likelihood of invoking the rationality of fear. Similarly, constitutions that provide easy exit for mobile assets also limit the stakes by making it easier for asset-holders to move their assets off shore in the face of threats (Boix 200*, Hirschman 1977).

Second not all limits contained in constitutions are credible. To make limits credible, the constitution must also help citizens solve their fundamental coordination problems (Hardin 1989, Weingast 1997). As Schelling (1960) observed, the critical ingredient in solving coordination problems is the creation of a focal point. Focal points create common expectations among citizens about the behavior of others. In the face of a wide range of ways to coordinate – particularly when citizens have different preferences over how to coordinate – a focal point changes citizen incentives. Although many and perhaps most citizens would prefer to coordinate in a different way, when others coordinate around a focal point, each citizen is better off doing so as well.

Constitutional focal points solve the problem of citizens coordinating over the diverse ways of defining the citizen rights and the appropriate bounds on government. These in turn, define transgressions so that citizens can react in concert to oppose them. When citizens agree on what constitutes governmental transgressions, they can coordinate their reactions against them.⁷

Constitutional creation of focal solutions can be seen in the context of pacts. By resolving crises, negotiated pacts hold the potential to create new focal solutions to the citizen coordination problem. To succeed in creating a new focal solution, pacts must be self-enforcing; that is, they must provide the parties to the pact with incentives to abide by the pact's provisions. Absent the self-enforcing condition, at least one of the parties to the pact will set it aside, so it will fail.

⁷ As Almond and Verba observed four decades ago, “If there is no consensus within society, there can be little potentiality for the peaceful resolution of political differences that is associated with the democratic process” (Almond and Verba 1963,358).

I provide four conditions for self-enforcing pacts (Weingast 1997,2004).

- First, the pact must create (or be imbedded in a context that has already created) structure and process – citizens rights and a set of rules governing public decisionmaking. Structure and process defines a series of limits on the state, and these must be suited for a given society; that is, they must protect what citizens in that society hold most dear.
- Second, the parties agreeing to the pact must believe that they are better off under the pact than without it. If this condition fails for one of the parties, that party will be better off without the pact, so the pact will fail. In particular, the parties must believe that the structural and procedural limits on average lead the government to make them better off.
- Third, each party agrees to change its behavior in exchange for the others simultaneously doing so. This condition is especially important for pacts that end civil wars or disengage parties from potential violence.
- Fourth, the parties to the pact must be willing to defend the pact against transgressions by political leaders. This requires that they defend not only the parts of the pact benefitting themselves, but also the parts benefitting the others. Per Dahl's (1971) "mutual security" principle, this fourth condition occurs when each party anticipates that its rights will be defended by the others: namely, that each party is better off under the agreement than not; and that if ever one party fails to protect the rights of others, the others will fail to come to its rescue. Put simply, the pact becomes self-enforcing when all parties are better off under the pact and when all realize that unilateral defection implies that the others will also defect, destroying the pact.⁸

Successful pacts thus accomplish several goals at once. First, they are agreements to adhere to new structure and process, often including democracy. Second, they alter the parties' incentives, again in part through creating new structure and process. Third, they help solve the critical citizen coordination problem that plague unconsolidated democracies. By creating focal procedural and substantive limits, pacts help citizens act in concert to violations of the rules, making these rules self-enforcing.

⁸ Weingast (1997) derives of this equilibrium logic in the context of a repeated game.

Summary

Because no external authority exists to police constitutional rules, these rules must be self-enforcing to survive. A successful constitution must give citizens and public officials incentives to adhere to it.

The rationality of fear implies that high stakes trigger defensive reactions even when the risk is relatively small. This, in turn, implies that successful constitutions must reduce the stakes of power, for example, by specifying procedural limits on governmental decisionmaking and by placing various limits on the government.

These limits are not self-actualizing, however. All too often, democratically elected governments choose not to observe the constitutional rules. The second principle of constitutional stability holds that citizens police governmental adherence to the rules through the threat of a concerted reaction against governmental leaders who seek to violate these rules. Because no natural way exists for citizens to coordinate against adverse government decisions, this coordination is difficult. Hence most societies cannot sustain democracy and constitutions: those in power can violate democratic or constitutional rules while retaining sufficient support to remain in power.

Finally, the two principles of constitutional stability are complementary: limiting the stakes requires structure and process; and constitutional creation of focal solutions to the fundamental citizen coordination problem makes these limits credible or self-enforcing.

3. Self-Enforcing and Self-Destructing Democracy in the Antebellum United States

Democracy seems so stable in the modern United States that Americans rarely enquire about the sources of this stability. Moreover, there is a tendency to read this stability back through America's history beginning with the Constitution of 1789. Yet during America's first century democracy remained problematic. Crises threatened the union in 1798-1800, 1818-19, 1833, 1846-50, 1876-77; and the crisis beginning in 1854 ultimately led eleven states to secede and fight a devastating Civil War.

In this section, I apply the above theory to issues of constitutional and democratic stability in the first century of the American Constitution.

The Revolution

The English colonial heritage and the American Revolution provide the background for American constitutionalism (see, e.g., Bailyn 1967, Greene 1986, Reid 1995, and Wood. 1969).⁹ From the English Glorious Revolution in 1689 through the early 1760s, both sides of the Atlantic gained from the empire: in the presence of the French threat, the American colonies and the metropole needed each other for security. Both sides were willing to endure costs to maintain their relationship. The French, then, provided part of the political glue that bound together the empire.

Over the century prior to the American Revolution, the empire had evolved a federal structure, though the term federal was not then used: the British retained control over the

⁹ This discussion draws on Rakove, Rutten and Weingast (2005).

system-wide public goods of security and trade; the Americans retained control over all domestic policies affecting themselves: property rights, contracts, social regulation, religious freedom, slavery, and taxes (Greene 1986, Rakove, Rutten, and Weingast 2002).

The demise of the French threat at the close of the Seven Years' War (1756-63) had several consequences for the British empire. First, it changed the opportunities and interests of both sides of the Atlantic. Second, the British ended the war with a far larger global empire, including parts of India and the hostile French Canada. Controlling the empire demanded a new system of governance, though how to do this was not obvious *ex ante*. Policy changes were inevitable.

Finally, Great Britain ended the war with a massive debt. Many in Britain believed that, because the Americans benefitted from the expensive British military efforts, the colonists should pay their share of the war's expenses. To this end, the British for the first time imposed a domestic tax in the American colonies. As is well-known, Americans reacted negatively to these taxes, although the reaction was not uniform, and the widespread negative reaction was not inevitable. The age old question about this era remains, why did the Americans get so upset over relatively trivial taxes? The theory above gives part of the answer.

The American radicals reacted vociferously to the initial tax, arguing what we might term, "this is the end of the world as we know it." Their argument was clever, if not persuasive. Radicals said it was dangerous to think of the new British policy simply as a small tax. Drawing on ideas from the seventeenth century British Whigs, the radicals argued that institutional practices that had evolved over generations became enshrined with constitutional status (Green 1986, Reid 1995). Because the federal structure of the

empire had evolved over a century, they argued, it was constitutional. Central to their argument was the notion that, by virtue of practice evolving over the previous century, American authority over domestic matters had attained constitutional status.

This view had significant implications for the new British policies. By virtue of imposing a domestic tax – trivial or not – the Britain were setting a new precedent to intervene in the colonies' domestic affairs. Once achieved, this authority would allow them control over all domestic policy. The radicals therefore concluded that the new tax represented the destruction of American liberty. In the parlance of the era, one meaning of the destruction of liberty was the destruction of their legislatures, the colonial assemblies, which were primary safeguards against abuse of authority by the British governors.

The radicals' argument was quite creative: by joining their argument against the tax to a constitutional argument about liberty, the radicals sought to elicit the support of the much wider group of moderates. The radicals argued that the moderate's freedom and liberty was also at stake. Because the colonial assemblies set all domestic policies – including those dealing with property rights, religious freedom, and slavery – the new British precedent threatened everyone, not just those paying the tax.

The radicals' argument attempts to raise the rationality of fear: the stakes are high, so even low probabilities should trigger a reaction.

The argument nonetheless failed. Before most Americans would become concerned about British invasion of their liberty, they had to believe that the British would use these powers; that is, to join the radicals, other Americans had to believe that the British had become, at least to a degree, malevolent. Most Americans at this stage did not believe that

the British had suddenly turned malevolent. They simply had insufficient evidence that the world had changed in so massive a way. For a century, the British had governed the empire and the colonies in a relatively benign way.

In terms of the rationality of fear model, the moderates' assessment of the probability that the radicals were correct was simply too low to galvanize these colonists into action. The radicals argued that everyone would see.

Over the next decade, British colonial policy see-sawed, sometimes imposing harsh new measures, sometimes relenting. For our purposes, two critical events concerning the British attempts to punish Americans helped change Americans minds. In 1766, New York refused to follow British instructions to provide for the quartering of British troops. The British reacted by suspending the New York Colonial Assembly, including all its laws. Similarly, in 1773, when the British sought to punish the Americans for dumping tea in the Boston Harbor in protest over new duties, the British reaction was even stronger. They responded with what became known in America as the "Intolerable Acts," annulling the Massachusetts colonial charter, closing the Boston harbor, disbanding the colonial assembly, and suspending all of Massachusetts law.¹⁰

Whether deliberate or not, the British had confirmed the radicals' predictions: the British threat to the heart of American liberty, the colonial assemblies, had become a reality. The Boston Massacre of 1770 also contributed to the controversy, showing that British troops would use deadly force against Americans. These events did not prove that the British were malevolent, intent on squeezing all they could out of the Americans.

¹⁰ Morgan (1977, ch **).

Nevertheless, they did prove that Americans could no longer afford the luxury of assuming the British were benign.

In terms of the rationality of fear model, the evidence of direct British assaults on American legislatures raised the probability that the radicals' thesis about the British was correct. These events raised the moderates' assessment of the probability that the radicals were correct above the probability threshold, triggering their support for extra-constitutional action in the form of armed rebellion (see Rakove, Rutten, and Weingast 2002).

The Articles of Confederation

The political struggles over the United States's first constitution, the Articles of Confederation, set the stage for the creation of the new Constitution. As is well-known, the Federalists argued that the national government was too weak, allowing a series of common pool problems to cripple the national government's ability to provide essential public goods. Three were critical. First, the national government could not raise its own taxes for such important issues as national defense, instead depending on the states to contribute authorized funds, and many withheld them (Kaplanoff 1991, Middlekauff 1982). As the Federalists wrote in *Federalist* nos. 2 - 5, the United States' inability to defend itself represented the critical failing of the Articles (Riker 1987). Second, the national government lacked the ability to enforce a common market, and trade barriers and trade wars among the states had become a problem. Third, there was no common currency, and national government had no control over the states on this dimension. Several states took advantage of this power, threatening monetary stability, notably Rhode Island.

To the Federalists, the remedy was obvious: strengthen the national government so it could provide the much needed public goods (Kaplanoff 1991, Morgan 1977, ch 9). The Antifederalists blocked these attempts (Middlekauff 1982, ch 23), not because they denied the problems but because they feared the solutions (Rakove 1996, ch 6). Granting the national government more power would in principle allow it to solve these problems. But more power also granted that government the ability to destroy citizens' liberty in the same way that the British had. The Anti-Federalists' arguments raised the rationality of fear. On three occasions, the Federalists advanced this type of proposal, failing each time.

The theory above suggests that the Antifederalists' fears were rational: The Federalists proposals were not self-enforcing; they did not create any means of limiting potential abuses of the proposed powers.

Formation of the a Self-Enforcing Constitution

In 1787, the Federalists tried a different approach to altering the constitution. Politically, the Federalists' problem was to gain support of sufficient moderate Antifederalists so as to assure approval their constitutional changes. Having failed with their previous proposals to strengthen the national government, the Federalists this time sought to address some of the Antifederalists' objections by embedding a more powerful national government in an institutional context that set limits on its powers.

A range of structural and procedural mechanisms limited the power of the new national government, and here I list five. First, the horizontal system of separation of powers sought to check "ambition with ambition" by creating multiple veto points (Madison, *Federalist* 46). Multiple veto points limited the range of likely agreement among national

officials, making national legislation less likely. Second, the Constitution also created a strong system of vertical separation of powers in the form of federalism. By decentralizing a wide range of policy issues, the Constitution denied the national government authority over many of the most controversial issues dividing Americans.¹¹ Third, the national government was a government of enumerated powers, with its powers concentrated largely on issues that were truly national public goods, such as foreign affairs and international security, the common market, and a sound currency. Fourth, the Constitution combined with the Bill of Rights to place a series of substantive restrictions on the national government, such as the Constitution's contract and commerce clauses and the Bill of Rights's takings clause. These clauses limited the authority of the national government and provided a range of protections for citizens. Fifth, the Constitution created a rough parity between the sections, implying the each section could limit inimical national decisions (Robinson 1971, 177-205). Rough parity, which became sectional equality in the nineteenth century, limited the ability of one section to capture the government and use it in ways inimical to the other (Weingast 1998).

Applying the Theory to the Founding Era

The theory developed above helps explain in part the success of the new Constitutional mechanisms. First, per the theory's first principle, the Constitution's structural and procedural limits significantly lowered the stakes of national policymaking. The procedural restrictions sought to limit national action to cases where far more than a

¹¹ Bednar, Eskridge, and Ferejohn (2001) and de Figueiredo and Weingast (2005) study self-enforcing aspects of early American federalism.

majority of Americans favored the policy goals – otherwise the legislation simply could not pass Congress and gain the support of the president. Put another way, the requirement for action in the separation of powers system provided considerable protection to minorities.

The Constitution and the Bill of Rights also placed a series of substantive restrictions on the national government, reducing the scope of that government's reach, defining a series of citizens rights under that government. Similarly, the federal structure combined with the national government limited to enumerated powers to prevent the national government from legislating on a variety of issues.

In short, the five structural and procedural limits on the national government listed above combined with others to lower the ability of the national government to alter the status quo. Lower stakes, in turn, reduced the likelihood that the national government's actions would invoke the rationality of fear mechanism, inducing a group of citizens to resort to extra-constitutional means. The Constitution's structural and procedural limits therefore make democracy more likely to survive.

Second, per the theory's second principle, a critical aspect of this structure and process is that it created a series of brightline focal points defining for citizens what was appropriate use of governmental power and what would constitute a transgression. Federalism, for example, implied that critical issues in people's daily lives – such a property rights, religious freedom, social regulation, and all local economic regulation – remained the purview of the states and not the national government. As the Federalists argued, attempts by the national government to invade such areas would readily signal an abuse

of powers, allowing citizens and their representatives in the states to react against the national government ****[cite F46 here?]**

Recall the citizen coordination game: to protect themselves against government transgressions, citizens must have the ability to coordinate against the government. This, in turn, requires that citizens agree on the appropriate authority of the government so that abuses of authority will trigger a response.

The substantive limits helped define the national government's abuses of authority, thus signaling the need for citizens to act in concert against their government. Further, abuse of the procedural limits – such as the president cancelling an upcoming election or setting aside the results of that election (as Jefferson sometimes feared about Adams in the late 1790s) would also signal the need for coordinated reaction.

The Federalists' attempts to increase national power under the Articles of Confederation failed to address the limit condition. Until 1787, the Federalist consistently proposed new national powers without simultaneously addressing the problem of how to limit the abuse of these powers. The Antifederalists were rationally concerned that the national government would abuse its powers and that insufficient numbers of citizens would protest. The Federalists' initial attempts at constitutional reform thus failed to address the rationality of fear mechanism and the need to lower the stakes of national politics.

The Federalists' adapted to their failed attempt to strengthen the Articles by developing a new Constitution that addressed both constitutional problems simultaneously: it granted the new national government sufficient powers to provide much needed public goods, but also limited the stakes of national politics by providing structural and procedural

limits on that government's powers. In combination with a new set of focal solution defining transgressions, the Constitution's new structure and process limited the stakes of power and helped create a self-enforcing Constitution.

Gordon Wood (1992) raises a final factor in establishing the self-enforcing nature of the United States Constitution. He argues that although the Antifederalists lost the constitutional battle, they did not disappear. As part of the opposition under led by Jefferson in the 1790s, they became alarmed at many Federalist policies, particularly those of President George Washington's innovative and aggressive cabinet member, Alexander Hamilton, and of President John Adams. Many Antifederalists felt that Adam and Hamilton's attempts to increase national power were unconstitutional, and they sought to resist. Jefferson and Madison, for example, developed in Kentucky and Virginia Resolutions of 1798 the notion that when the national government exercised powers not specifically delegated to it, each state could judge the constitutional validity of the measure by itself.

Although the Kentucky and Virginia Resolutions were never very popular, many citizens agreed that the Federalists had over-stepped the bounds of national power. Sufficient Federalist supporters defected to the opposition in 1800 to kick out the Federalists, granting Jefferson the presidency in 1800. Wood argues that many Antifederalists came to accept the Constitution only once Jefferson had captured power. His argument implies that the Constitution did not become self-enforcing until the former Antifederalists, now under Jefferson's leadership, came to see that they could not only win elections but sustain their hold on power.

Subject to the one qualification to which we now turn, the Jeffersonians' acceptance of the Constitution combined with the support of the Federalists to satisfy the consensus condition necessary for the Constitution to begin to provide self-enforcing structure and process, including significant limits on the national government.

Weathering the Antebellum Crises

The Constitution's first century was characterized by manifold political, economic, and social divisions. One of the most important political divisions among Americans concerned slavery, which divided North and South. On the eve of the Civil War, the outstanding value of slaves totaled on the order of the entire United States GDP. This phenomenal figure triggered the rationality of fear, and Southerners exhibited considerable anxiety over national policies that might affect slavery.¹²

From the beginning of the republic, Southerners were concerned about the security of their slaves (Finkelman 1996, Robinson 1971, Knupfer 1991, Rakove 1996). A necessary condition for their participation in the United States was that Northerners, through American political institutions, provide a credible commitment to protect rights in slaves.

Several aspects of the Constitution's structure and process helped protect slavery and thus reduce the rationality of fear mechanism. The Constitution's three-fifths clause allowed slave states to count slaves as three-fifths of a person in the representation by

¹² The horror of slavery is that people were treated as property. Nonetheless, analyzing this system requires considering how southerners thought about this property. Standard sources about the economics of slavery include David et al (1976), Fogel (1989), Fogel and Engerman (1974a), Ransom (1989), and Wright (1978). Ransom and Sutch (1988) provide estimates of the total value of slaves by year, from 1804-1860.

population of states in the House of Representatives. This clause increased southern representation to 46.5 percent of all representatives, in contrast to the South's 38 percent in the Congress under the Articles or 41 percent were representation based solely on the free white population (Wills 2005).

The Constitution's federal structure decentralized authority over property rights, leaving the issue of slavery up to the states. Decentralization of policy decisions over slavery allowed the northern states to abolish slavery in a way that did not threaten Southerners who used their power to maintain their peculiar institution.¹³

Nonetheless, the Constitution provided insufficient to protect slavery and hence to make early American democracy stable. An additional structural constraint was necessary, called *sectional balance*. Sectional balance held that both sections, North and South, would have the same number of states, affording each a veto over national policymaking through the United States Senate (Weingast 1998). Americans recognized sectional balance from the beginning (e.g., in the projection of an equal number of new free and slave states in the territories in the 1780s). Balance was quickly achieved in 1796 and maintained for most of the next five decades.¹⁴

Sectional balance provided a static security for Southerners and their property in slaves. As long as Southerners held half the states, they could veto legislation they found

¹³ Of course, as Fogel and Engerman (1974b) observe, it was far easier for northern states to abolish slavery in the late eighteenth century and early nineteenth century than it would have been for the Southern states in the mid-nineteenth century. The reason is that northerners could, in 1800, sell their slaves to the South, so northerners could emancipate slaves without bearing the costs of losing their capital. In contrast, were Southerners to contemplate emancipation in, say, 1850, they could not have sold their slaves to any one and would thus have had to absorb the capital losses involved with emancipation.

¹⁴ Carpenter (1930) provides the most systematic discussion of sectional balance, known to contemporaries as "sectional equilibrium."

offensive. Yet sectional balance was not dynamically stable. In an expanding country, maintaining sectional balance required that the two sections grow in relatively equal proportions.

The difficulty of engineering balanced growth set the stage for the major controversies of the antebellum era; notably, the crisis over the admission of Missouri in 1819-20, the crisis over the Mexican Cession in 1846-50, and the crisis over the Kansas-Nebraska Act in 1854-61 (Nichols 1963, Weingast 1998). In practice, sectional balance implied that, whenever one section stood on the threshold of gaining a decisive and potentially permanent advantage, the other section created a crisis.

Indeed, most of the era's major crises were about the status (free or slave) of the territories. In 1819, a crisis emerged over the territory west of the Mississippi River, which had yet to be designated as free or slave. In that year, Southerners sought to break balance in their favor with the admission of a slave state, Missouri, without a free state to balance it. Northerners reacted by blocking this proposal in a way that attacked slavery. The House of Representatives, where Northerners held a majority, agreed to admit Missouri only by forcing provisions for the gradual abolition of slavery in that state. Southerners blocked Missouri's admission under these conditions using their Senate veto, and a crisis ensued that threatened the nation. The crisis was resolved in the famous Missouri Compromise of 1820, a pact that admitted Maine to balance Missouri. Importantly, it also settled the ambiguity over the remaining federal territory by dividing it territory between free and slave. Finally, the compromise made sectional balance explicit. For the next three decades, states were admitted in pairs: in 1836-1837, the admission of

Arkansas balanced the admission of Michigan; and in 1845-48, Florida and Texas balanced Iowa and Wisconsin, giving each section 15 states.

The Compromise of 1820 satisfied the four characteristics noted above for a successful pact: first, it made more explicit the structural principle of sectional balance; second, both sections were better off remaining in a Union than destroying the Union; third, both sections moved simultaneously; and fourth, the pact provided for its own enforcement in part through creating incentives for each of the parties to the pact to help defend those provisions benefitting the other section. As I discuss at length elsewhere, balance rule qua sectional veto dramatically changed the nature of northern incentives (Weingast 1998). The southern veto meant that antislavery initiatives could not succeed. Because northern attempts at territorial expansion without a parallel southern expansion would produce a crisis and non-cooperation, a pivotal portion of Northerners sought to help Southerners expand slavery within the confines of the Union. Each side knew that unilateral defection risked destroying the Union, making it worse off, so neither sought to do so. Although not without its troubled moments, this arrangement worked tolerably well until 1854 with the start of the third great territorial crisis. But this gets ahead of our story.

The second great territorial crisis arose in the early 1840s, after Southerners had run out of territory in which they could legally expand. Forced to favor expansion as a means of preserving sectional balance and hence the federal credible commitment to preserve rights in slaves, Southerners sought the admission of Texas (then a separate republic of Americans who had immigrated to this area when it was part of Mexico and then broken free) and an invasion of Mexico (1846-48) to obtain more territory for slavery. Many

Southerners also favored expansion of the United States into the Caribbean and Latin America (May 1973).

Several aspects of the crisis that emerged in 1846 parallel that of 1819-20. The new territorial gains threatened to tip the balance in favor of the South. As in 1819, Northerners reacted by attacking slavery, passing legislation in the House of Representatives that prevented the admission of any new slave territories in the land obtained from Mexico. Southerners again used their veto in the Senate to prevent the legislation from becoming law. The resulting crisis in 1846-50 again threatened to break apart the Union. It too was resolved in a pact, known as the Compromise of 1850 (see Freehling 1994, Holt 1978, 2001, McPherson 1988, Potter 1976, and Theriault and Weingast 2001).

In the Compromise of 1850, Northerners gave up their insistence that the new territories be exclusively free and passed the first new fugitive slave law in three generations.¹⁵ In return, California was admitted as a free state without a slave state to balance it. No slave territory existed that could be admitted as a slave state to balance California. Most important from our perspective is that part of the reason many Southerners went along with the compromise was because it created an imperative for its ultimate engineers, the Democratic party, which made a credible promise to attempt to reinstate balance at the first available opportunity.

This imperative was to destroy the Union. Although the Compromise of 1850 organized vast areas of new territory to allow slavery, slavery was not economically viable there. To maintain sectional balance, slavery would have to expand elsewhere. Because

¹⁵ Hummel and Weingast (2007) explain the importance of the fugitive slave law to Southerners, especially those in the upper South.

Northerners rejected Southern proposals to expand into the Caribbean and Latin America,¹⁶ Southerners sought the right to move into territories previously designated as free by the historic Missouri Compromise. The Democrats proposed in the Kansas-Nebraska Act of 1854 to repeal this aspect of the Missouri Compromise and to organize the Kansas territory to allow slavery (Holt 1978, McPherson 1988, Potter 1976).

The Northern reaction to the Democrats' passage of this act proved disastrous. A small but electorally pivotal portion of Northerners, believing that the Democrats' repeal of the Missouri Compromise illegitimate, deserted their party.¹⁷ The Democrats lost their dominant electoral position that they had enjoyed since the election of Andrew Jackson in 1828 and inadvertently helped create a new Republican party dedicated to halting the expansion of slavery. Despite many attempts to resolve this crisis, none succeeded. The Democrats' attempts to restore balance not only failed, but resulted in the dissolution of the country following the election of Republican Abraham Lincoln in 1860.

(Re)Consolidating American Constitutional Democracy

Our approach to the theory of the self-enforcing constitution helps illuminate the history of early democracy in America. The lack of consensus about rights in slaves implied potential conflict. The magnitude of the stakes invoked the rationality of fear mechanism. Southerners were rationally "paranoid" in the sense that the very high stakes implied a very

¹⁶ See May (1973, 10)'s discussion of Southern dreams of expansion into the Caribbean. He suggests the motivation for these dreams, "For the South to maintain sectional balance of power, new slave territory would have to be acquired to counterbalance free states regularly being admitted to the union. New slave states, and new slave-state congressman, would enable the South to protect the institution of slavery and 'Southern rights.'"

¹⁷ Historians also emphasize the importance of "nativism" and anti-immigrant bias in the changing partisan fortunes of the 1850s (see Holt 1978, Silbey 1985).

low probability threshold triggering defensive reaction. As a consequence, Southerners demanded protection for their property and their institutions as a condition for remaining in the Union.

The sectional conflict was contained for three generations through a series of pacts and institutions, notably, the Constitution's structure and process in combination with the principle of sectional balance. Federalism decentralized authority over property rights and social regulation implied that states held authority over policies governing rights in slaves. This system was enforced in part through the three-fifth's clause, granting Southerners greater representation in the House of Representatives; and through the southern veto implied by sectional balance, allowing Southerners to veto any attempts by Northerners to tamper with slavery.

Although the Constitution and sectional balance provided sufficient protection over the immediate run, in the long run it caused considerable mischief. Because maintaining this system required that the two sections grow in tandem (Nichols 1963), crises emerged whenever one section threatened to obtain a decisive edge. Indeed, three of the major antebellum crises erupted over the status of new territories (1819-20, 1846-50, and 1854-61). Over the long run, American democracy was unstable. Sectional balance proved impossible to maintain given the asymmetries of territorial expansion, and the country fell apart under attempts to do so. In the end, a compromise over the crisis begun in 1854 proved illusory, resulting in the Civil War and the failure of American democracy.

Compromise of 1877 and the Establishment of Permanently Stable Constitution and Democracy

The resilience of American institutions is revealed by the remarkable occurrence that, a generation after a disastrous Civil War, the losers had reentered the political system on roughly the same terms on which they left. This is rare in the history of civil wars.

The dispute over the presidential election of 1876 triggered a political crisis, but it had larger roots in the South's disaffection with Reconstruction and with the reemergence of the South as a national political force through the Democratic party's hold on the House of Representatives beginning in 1874 (Republicans had held united government for the previous fourteen years). Controlling the House granted the Democratic party a veto over national policy, implying that this party could veto policies inimical to its members. Because part of the political exchange underlying this party involved protecting southern interests, the Democrats' veto helped protect Southerners.

The Compromise of 1877 was the last of the great American sectional pacts. It had several effects, some intended, some not. Most immediately, the compromise solved the crisis over the deadlocked presidential election of 1876 by giving the Rutherford B. Hayes, the Republican, the presidency instead of Samuel J. Tilden, the Democrat. It also officially ended Reconstruction, as the North withdrew from its attempts to influence politics in the South and, more broadly, to regulate the behavior of states.¹⁸

More subtly, the Compromise of 1877 had two important effects on American politics and history. First it reestablished a strong system of federalism. The national

¹⁸ Standard histories of the Compromise of 1877 include: Foner (1988), Gillette (1979), Hoogenboom (1988), Peskin (1973), Polakoff (1973), and Woodward's (1951) classic.

government's withdrawal from managing the South marked the end of the era of the national government's supervisory role over the southern states.

Second, by withdrawing the national government's regulatory role over the states, the new arrangement effectively forced the North to acquiescence in the establishment of the Jim Crow South. This included the infamous 1896 Supreme Court case, *Plessy v. Ferguson*, upholding the constitutionality of the southern "separate but equal" doctrine underpinning the new southern order of race relations. Short of fighting a second civil war, the North had little choice but to accept the new southern system.

Per our theory, this pact also had the four characteristics of self-enforcing pacts. It created new structure and process (ending Reconstruction and re-establishing federalism); it made both sections better off (though not southern blacks, who were not party to the pact); both sides moved simultaneously; and both knew that defection would cause the pact's failure and more broadly undermine national cooperation that both sections valued.

The pact became self-enforcing in part because of the structure of divided government. Indeed, historians have under-emphasized the importance of divided government in the post-bellum era as a critical part re-establishing the stability of the Constitution, American federalism, and democracy (Woodward 1951). In the era of united government, from 1861-75, Republicans could pass partisan measures benefitting themselves and the North; Democrats and Southerners had little recourse. The era of divided government changed this. Democratic control of the House after the 1874 election granted Democrats and hence Southerners a veto over national policymaking. The end of Reconstruction was therefore inevitable, regardless of whether it was part of the

Compromise of 1877. Appropriation bills for this or any related purpose could no longer pass the House. More importantly, divided government also implied the end of the larger reach of the national government. The result was the re-emergence of a stable, self-enforcing federalism defined by the Constitution.

Finally, the Civil War and the end of Reconstruction decisively settled the issue of slavery and southern race relations. No longer did the issue of rights in slaves divide the nation. Northern acquiescence in the creation of the Jim Crow South granted white Southerners what they perceived as necessary on the issue of race relations.

The main implication is that divided government and the new federalism removed from national politics the issues that had divided Americans prior to the Civil War and that created a series of crises threatening American democracy. The result was a stable, self-enforcing Constitution, federalism, and democracy.

[**Not quite: self-enforcing contingent on Northern acquiescence to Southern race relations. This changed in the late 1950s and early 1960s, forcing integration and rights for southern blacks. Southerners were again willing to use force to stop the attempt.] The theory in this paper therefore dates the creation of stable, self-enforcing democracy in the United States – at least for white males – as of the 1877 pact. The sectional crises that had threatened the union were over. Of course, Americans would take another three decades to enfranchise white women and almost a century to enfranchise southern blacks. Only with the latter did American democracy become self-enforcing for all citizens.

4. Conclusions

This paper provides an approach to the problem of self-enforcing democratic constitutions. To be sustained, constitutions must provide political officials with the incentives to abide by the constitutions provisions. A particular constitutional provision, such as democratic elections, holds only if political officials abide by it. The literature on democracy and constitutions has accorded these questions too little attention.

More generally, the paper advances a theory of self-enforcing constitutions based on two fundamental problems of constitutional stability and two principles suggesting how these problems are resolved. The first problem, the rationality of fear, holds that when citizens feel what they hold most dear is being threatened by the government, they are willing to support extra-constitutional action. Appropriately constructed constitutions can short-circuit this mechanism by invoking structure and process to protect what people hold most dear. This structure and process lowers the stakes of politics, in turn reducing the likelihood that the rationality of fear would lead citizens to support extra-constitutional action. Second, constitutions must solve the fundamental citizen coordination problem so that citizens hold the ability to act in concert against potential constitutional violations. They do so by creating focal solutions that define transgressions. The two principles of constitutional stability fit together: the first says that constitutions impose structure and process to lower the stakes; the second says that this structure and process becomes credible when the constitution becomes a focal solution to the citizen coordination problem.

Following the literature on democratic stability, the approach emphasizes the importance of pacts, agreements among contending elites that help bring on democracy

and other constitutional rules. Missing from the literature is an answer to the question of why some pacts work and others fail. This paper argues that successful pacts must be self-enforcing, and provides conditions under pacts become self-enforcing, namely, when all parties are better off under the pact and when all realize that unilateral defection implies that the others will also defect, destroying the pact.

The paper applies this perspective to the evolution of democracy in the early United States. Per the theory's first principle, the U.S. Constitution provided a series of structural and procedural constraints on the national government, lowering the stakes of national politics. For example, the horizontal separation of powers divided power and made action based on narrow majorities less likely; the vertical separation of powers of federalism limited the national government's authority, reserving most policies for the states; the principle of sectional balance also provided each section, North and South, with a veto over national policy; and the Constitution and the Bill of rights defined a range of citizen rights that could be enforced against the national government. Moreover, the shared experience of the founding era helped shape a strong consensus on a large number of issues. Per the theory's second principle, this consensus combined with the Constitution's structure and process to help to solve citizens coordination problems. Along a wide range of dimensions, transgressions by the national government were well-defined. Except for the issue of slavery, the constitution was self-enforcing as of the turn of the nineteenth century.

The issue of slavery plagued the nation on and off for three generations, with a series of crises threatening the nation and the constitution. Hence the Constitution was not fully self-enforcing during this period. The secession of the Confederate States formally dissolved American democracy in 1860-61.

Yet American democracy reemerged after the Civil War, with the principal divisive issue of the era, slavery, decisively removed from national politics. The result was a final national pact in the Compromise of 1877, ending Reconstruction, recreating American federalism, and allowing the creation of the Jim Crow South. The result was consolidated, self-enforcing democracy for white males.

This perspective may usefully be applied outside the American case. Elsewhere, I apply it to several other contexts including the rise self-enforcing representative democracy in late seventeenth century England, the instability of Spanish democracy in the 1930s and its reemergence in the late 1970s, becoming self-enforcing by the early 1980s; and 1973 Chilean coup followed by the reemergence of democracy in the late 1980s and early 1990s (see Weingast 1997, 2004).

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