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“...and six hundred thousand men were dead.”

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Abstract

The dispute that resulted in the secession of eleven Southern states from the Union and the ensuing Civil War proximately concerned the geographical expansion of slavery, but ultimately bore on the existence of the institution of slavery itself. This paper asks why in 1861 after seventy years of artful compromises over slavery Northern and Southern interests were not able to avoid secession and war. The paper seeks an answer that goes beyond a description of the breakdown of compromises based on existing constitutional arrangements. Instead the paper focuses on the failure of attempts to negotiate a new compromise. Combining theoretical and historical analysis the paper suggests that the increasing importance of the dispute over slavery for both Northern and Southern interests in the years leading up to 1861 was the critical development that led to war. The analysis also formalizes the role of overoptimism about the prospects for a quick and cheap victory as a contributing cause of the war.

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From the beginning of the American republic Northern and Southern interests were at odds over the institution of slavery. Although the politics of slavery focused mainly on the issue of geographical limitations on the property rights of slave owners — specifically on whether slavery was to be permitted in the western territories that were preparing for statehood — the dispute ultimately bore on the existence of the institution of slavery itself. Remarkably, for the first seventy years of the republic artful compromises enabled the dispute over slavery to be settled without an armed confrontation.¹ These compromises incorporated a critical understanding that the Constitution allowed the individual states to determine the property rights of slave owners.²

As Barry Weingast (1998, pages 167-168) points out, “Because the country was growing, each new generation had to renew the arrangements that began when the founding fathers created a system with strong constitutional protection for slavery.” In 1861, however, compromises based on existing constitutional arrangements broke down, and, more importantly, all attempts to negotiate a new compromise failed. Events culminated in the secession of eleven Southern states from the Union and the ensuing war for independence of the Confederate States of America from the United States of America. This war, usually called the

¹Focusing on the issue of slavery is a simplification. As Roger Ransom and Richard Sutch (2001) explain, Northern and Southern interests diverged over a variety of issues, including banking policy, tariffs, and public works as well as slavery. But Ransom and Sutch admit (page 288) that “the long-term fear behind Southern advocacy of states rights was unquestionably a defense of slavery”. Similarly, Gavin Wright (1978, pages 135, 144) finds both that “the sectional crisis over slavery...conveyed regional unity” and that “secession was essentially a slaveholder’s movement”. James McPherson (2001) debunks the claim that the main Southern interest was not in defending slavery, but in “a noble cause, the cause of state rights, constitutional liberty, and consent of the governed.” According to McPherson, “... most professional historians have come to agree with Lincoln’s assertion that slavery ‘was, somehow, the cause of the [Civil] war’.”

²This understanding largely shielded national politics from the issue of slavery. Prior to the establishment in 1854 of the Republican Party, the main political parties, Whigs and Democrats, had national constituencies, and the sectionally divisive issue of slavery was not central in the competition between the parties.

American Civil War, remains by any measure the bloodiest war in the history of the United States. In the poignant words of the historian David Potter (1976, page 583) summarizing the consequences of the war, “Slavery was dead; secession was dead; and six hundred thousand men were dead.”

Why Secession and War? The Received Answer

Why did the dispute over slavery culminate in secession and war? I take the received answer, my account of which is largely based on Robert Fogel (1989), McPherson (1988, 2001), Potter (1976), Weingast (1998), and Wright (1978), to involve three main elements:

First, by the middle of the nineteenth century, as Potter (1976, page 93) explains, “The longstanding sectional equilibrium within the Union was disappearing and the South was declining into a minority status, outnumbered in population, long since outnumbered and outvoted in the House, and protected only by balance in the Senate.” But, neither the Compromise of 1850, which admitted California to the Union as a free state, while allowing settlers in New Mexico and Utah to decide, under the principle of “squatter sovereignty”, whether these territories should become free or slave states, nor the Kansas-Nebraska Act of 1854, which organized the Kansas and Nebraska Territories under the principle of squatter sovereignty, resulted in the admission of additional slave states, as maintaining balance in the Senate would have required. In addition, as Potter (1976, page 93) stresses, “There was not one slave territory waiting to be converted into another slave state, while all of the upper part of the Louisiana Purchase, all of the Oregon territory, and now all of the Mexican Cession stood ready to spawn free states in profusion.” With their failure to gain admittance of Kansas as a slave state it was clear that Southern interests had permanently lost the protection of balance in the Senate.

Second, prior to the election of 1860 every President has been either a Southerner or a Northerner who had significant Southern support. But, by 1860 more rapid population growth in the North than in the South allowed Abraham Lincoln, the candidate of the

recently formed Republican Party, to be elected without carrying any Southern state. This event meant that Southern interests also had lost the protection of the Presidential veto.

Third, the free-soil platform of the Republican Party, which called for the prohibition of slavery in the territories, in effect rescinded the understanding that the Constitution allowed the individual states to determine the property rights of slave owners.³ According to Fogel (1989, page 381), the Republicans were “determined to restrict slavery’s political and economic domination to guarantee that the federal government promoted northern interests and principles.” In addition, although the Republican platform did not mention emancipation, the Republicans were more than willing to question the morality of slavery. The new president, Lincoln, as quoted by Potter (1976, page 427) and McPherson (1988, page 179), had denounced slavery as “morally wrong”, had stated that “this government cannot endure, permanently half slave and half free”, and had expressed his hope for the “ultimate extinction” of slavery.

According to this account, Southern secessionists were reacting both to the unfavorable political implications of demographic developments and to the proactive stance of the Republican Party in rescinding the understanding that the Constitution protected the property rights of slave owners. For the Southern side, as Wright (1978, pages 142, 148, 155) concludes, “The value of slave property was a great unifying factor [and was] thoroughly dependent on expectations and confidence...Each new decision for free territorial status was seen by the South as a moral rebuke to slavery, hence a threat to the foundations of Southern wealth.” Accordingly, as McPherson (2001) tells us, “Jefferson Davis...justified secession as an act of self-defense against the incoming Lincoln administration, whose policy of excluding slavery from the territories would make ‘property in slaves so insecure as to be comparatively worthless,...thereby annihilating in effect property worth thousands of millions of dollars’.”

³Weingast (1998) argues that this understanding depended on balance in the Senate and, hence, that the rescinding of this understanding was not an independent development, but rather a result of the increasing dominance of Northern interests in national elections.

Following Wright's analysis, we should not interpret Davis to be making a narrow and problematical economic argument that maintaining the productivity and resulting market value of slaves required an expansion of slavery into the western territories. Rather the critical issue for slave owners was the security of their property rights, and Davis was expressing the fear that by rescinding the understanding that the Constitution allowed individual states to determine these property rights the Republican platform and Lincoln's moralistic speeches would set the stage for further restrictions on the ownership of slaves and would put the country on a course down what might turn out to be a slippery slope to emancipation. The fact that the Civil War resulted in emancipation suggests that this fear was warranted.

Why Secession and War? A Deeper Question

The problem with this received answer is that it does not go far enough. Specifically, although the received answer describes the breakdown of compromises based on existing constitutional arrangements, it does not explain why attempts to negotiate a new compromise failed. Certainly, there were many ideas for a new compromise in the air. Moreover, given their experience in devising compromises, Northern and Southern interests should have been capable of realizing such ideas, if they were feasible.

One idea, which would have changed the nature of national elections to reverse the increasing political dominance of Northern interests, was to reconstitute the Union as a federation of the set of Northern states and the set of Southern states. In his proposal for a "concurrent majority", the Southern politician John C. Calhoun envisaged a dual presidency, with one president representing the North and one representing in the South, and each with the power to veto legislation. Of course, such a reform proposal had no chance, as Northern interests, having worked hard to destroy sectional balance in the Senate, would hardly be willing to accept a sectionally balanced presidency.

Other ideas would have constructed a new understanding limiting the prerogatives of Northern interests, as the likely winner of future national elections under the Constitution.

One possibility would have been to agree to rule out any policy more extreme than the British example of emancipation with compensation. But, Fogel (1989, page 412) tells us that “whatever the opportunity for a peaceful abolition of slavery before 1845, it surely was nonexistent after that date. To Southern slaveholders, West Indian emancipation was a complete failure...They could see plainly that the economy of the West Indies was in shambles, that the personal fortunes of the West Indian planters had collapsed, and that assurances made to these planters in 1833 to obtain their acquiescence to compensated emancipation were violated as soon as the planters were reduced to political impotency.”

The proposed Crittenden Compromise, perhaps the most serious of several futile attempts to amend the Constitution in order to prevent secession, embodied another set of possibilities for limiting the prerogatives of Northern interests. The Crittenden Compromise, formally introduced in Congress in December 1860, would have given explicit constitutional protection to slavery in those states, and in the District of Columbia, where slavery already was legal and in those western territories in which slavery was to be allowed according to the Missouri Compromise of 1820.

Both Northern and Southern interests rejected this compromise. The Republicans, led by President-elect Lincoln, would not accept any scheme that infringed on the free-soil plank of their platform. And, according to Fogel (1989, page 413), the Southerners by then “were convinced that northern hostility to slavery precluded a union that would promote [Southern] economic, political, and international objectives.”

Finally, Northern interests might have accepted the establishment of an independent Southern Confederacy. If the Confederacy would have no territorial ambitions beyond the borders of the eleven secessionist states, then such a peaceful dissolution of the Union would have allowed Northern interests to implement their free-soil policy in the territories. But, the fervent opposition of Southern interests to the exclusion of slavery from the territories belied this premise. On the contrary Northern interests could understandably believe that, as Ransom (1989, page 167) puts it, “The South of the mid-nineteenth century was an ex-

pansionist system that coveted land to the west and to the south...If they gained status as an independent nation, slave owners would be free to pursue a ‘foreign policy’ just as inimical to the North’s interests as that pursued by the ‘slave power’ when it had control of the federal government within the union.” And, an independent Confederacy, unconstrained by the interstate commerce clause of the Constitution, would have had enhanced strategic advantages, including, for example, the ability to control access to the sea via the Mississippi River. Hence, Northern interests could easily agree with Fogel (1989, page 416) that acceptance of an independent Southern Confederacy would only have postponed a war over slavery and its expansion and “that the delay would have created circumstances far more favorable to a southern victory.”⁴

A Model of the Dispute over Slavery

The inability of Northern and Southern interests to fashion a new compromise suggests that the dispute over slavery resulted in secession and war in 1861 not only because compromises based on existing constitutional arrangements broke down, but also, and more importantly, because compromise no longer provided a viable alternative to an armed confrontation. What had changed in 1861? What developments prevented Northern and Southern interests from fashioning a new compromise and avoiding war? To address this question consider the following model of the dispute over slavery.

Let N denote Northern interests, let S denote Southern interests, and let X , $X \in [0, 1]$, denote the outcome of the dispute over slavery, where N prefers X to be larger, and S prefers X to be smaller. For example, X equal to one can represent the consequences of the free-soil policy that was the immediate objective of Northern interests, and that Southern interests feared would lead to the destruction of the wealth of slave owners and to the “ultimate extinction” of slavery to which Lincoln had referred. At the other extreme X

⁴Massimo Bordignon and Sandro Brusco (2001) consider the possibility of including secession rules in the constitution of a federal union. Their analysis assumes that secession would resolve any potential dispute.

equal to zero can represent the consequences of secure and unrestricted property rights for slave owners, without geographical limitations, the policy that Southern interests favored. Intermediate values of X can represent the consequences of more moderate sets of policies, such as the modest geographical limitations on the property rights of slave owners embodied in the Crittenden Compromise and/or emancipation with compensation to slave owners. The outcome of the Civil War was X equal to one, and, as the slave owners feared, their slaves were freed, and their wealth was destroyed.⁵

To implement the difference in the preferences of N and S as simply as possible, assume that the utility of N depends on X according to the additive term $A_N X$, $A_N \in (0, \infty)$, and that the utility of S depends on X according to the additive term $A_S(1 - X)$, $A_S \in (0, \infty)$. The preference parameters, A_N and A_S , are weights that calibrate the importance of the dispute for N and S .⁶

An Armed Confrontation

An armed confrontation offers one way to settle the dispute over X . Let N believe that it has the probability Q_N , $Q_N \in [0, 1]$, of winning an armed confrontation, and let S believe that it has the probability, Q_S , $Q_S \in [0, 1]$, of winning an armed confrontation. These subjective probabilities do not necessarily equal the corresponding objective probabilities. Thus, Q_N and Q_S do not necessarily sum to one. Specifically, as seems historically relevant, the model allows N and S to be on average overly optimistic in assessing their

⁵The war permanently settled the dispute over slavery. In contrast, some disputes between constituent groups of a polity, such as disputes over the distribution of current income, are recurring and are not amenable to being settled permanently. Herschel Grossman (2003a, 2004) considers the possibility that repeated interaction between the parties to disputes can support peaceful settlements of recurring political disputes.

⁶By assuming that X is a continuous variable and that utility is a linear function of X , this model abstracts from the possibility that indivisibility of the outcome of the dispute over slavery precluded a compromise. James Fearon (1996) and Grossman (2003b) discuss the problem of limited divisibility as a barrier to compromise.

prospects of winning an armed confrontation, in which case the sum of Q_N and Q_S would be larger than one.⁷

Let N expect that in an armed confrontation it would incur a cost C_N , $C_N \in [0, \infty)$, and let S expect that in an armed confrontation it would incur a cost C_S , $C_S \in [0, \infty)$. These expected costs, which are calibrated in units of utility, include the allocation of scarce resources to arming as well as the havoc resulting from war.⁸ Also, C_N and C_S are not necessarily accurate forecasts. Specifically, as also seems historically relevant, the model allows N and S to underestimate the costs of an armed confrontation.

Finally, assume that, if N were to win an armed confrontation, then N would set X equal to one, its most preferred value. Alternatively, if S were to win an armed confrontation, then S would set X equal to zero, its most preferred value.

History reveals that both N and S viewed the dispute over slavery to be worth fighting over. This fact implies that the parameters satisfied the following conditions:

$$(1) \quad A_N Q_N - C_N > 0 \quad \text{and} \quad A_S Q_S - C_S > 0.$$

The LHS of these inequalities are the expected utilities of N and S , respectively, from an armed confrontation. In an armed confrontation N would expect to realize X equal to one

⁷Fearon (1996) and Grossman (2003b) emphasize the historical role of overoptimism as a cause of war. An interesting extension of the model would be to endogenize the probabilities of winning an armed conflict, as in papers like Dmitriy Gershenson and Grossman (2000) and Grossman (1999) that focus on the decision to allocate resources to an armed confrontation .

⁸Although this model allows for the havoc of war, it does not distinguish explicitly between armed confrontations that are settled with little or no fighting and armed confrontations, like the armed confrontation between Northern and Southern interests, that result in a war. In addition the model assumes that C_N does not depend on A_N and that C_S does not depend on A_S . Assuming instead that C_N increases with A_N and that C_S increases with A_S would not change the qualitative implications of the model as long as the ratios, C_N/A_N and C_S/A_S , are not invariant. The model also abstracts from risk aversion. If N or S were risk averse, then an armed confrontation would be more costly in terms of utility because its outcome would be probabilistic.

with probability Q_N and to realize X equal to zero with probability $1 - Q_N$, and to incur the cost C_N , while S would expect to realize X equal to one with probability $1 - Q_S$ and to realize X equal to zero with probability Q_S , and to incur the cost C_S . The RHS of these inequalities, which are zero, are the expected utilities of N and S , respectively, from acquiescing in the choice of the other interest's most preferred value of X . Given conditions (1) both N and S preferred armed confrontation to allowing the other to choose X .

The Alternative of New Compromise

As a possible alternative to an armed confrontation over X , consider a compromise that prescribes that the outcome of the dispute will be X equal to \hat{X} , $\hat{X} \in [0, 1]$. Both N and S would accept this compromise only if the utilities of N and S from X equal to \hat{X} would be at least as large as their respective expected utilities from an armed confrontation.

For the utility of N from X equal to \hat{X} to be at least as large as the expected utility of N from an armed confrontation, \hat{X} must be large enough to satisfy the following condition:

$$(2) \quad A_N \hat{X} \geq A_N Q_N - C_N.$$

The LHS of condition (2) is the utility of N from X equal to \hat{X} . The RHS of condition (2) is, again, the expected utility of N from an armed confrontation.

For the utility of S from X equal to \hat{X} to be at least as large as the expected utility of S from an armed confrontation, \hat{X} must be small enough to satisfy the following condition:

$$(3) \quad A_S (1 - \hat{X}) \geq A_S Q_S - C_S.$$

The LHS of condition (3) is the utility of S from X equal to \hat{X} . The RHS of condition (3) is, again, the expected utility of S from an armed confrontation. Condition (3) is equivalent to $A_S \hat{X} \leq A_S(1 - Q_S) + C_S$.

Given that, according to conditions (1), the expected utilities of both N and S from an armed confrontation were positive, conditions (2) and (3) implied further restrictions on the configuration of exogenous parameters. Specifically, in order for the set of values of \hat{X} that

would have satisfied conditions (2) and (3) not to have been empty, $Q_N - C_N/A_N$ would have had to be not larger than $1 - Q_S + C_S/A_S$. Thus, we have the following proposition:

If and only if the exogenous parameters had satisfied

$$(4) \quad C_N/A_N + C_S/A_S \geq Q_S + Q_N - 1,$$

then the set of values of \hat{X} that satisfied both condition (2) and condition (3) would not have been empty. Hence, if and only if the exogenous parameters had satisfied condition (4), then it would have been possible for N and S to agree on a compromise that would have settled their dispute over X without an armed confrontation.

This proposition together with the fact that a new compromise was not a viable alternative to armed confrontation implies that the actual configuration of exogenous parameters had the following properties:

- The sum of the subjective probabilities, Q_N and Q_S , was larger than one. In other words, N and S were on average overly optimistic in assessing their prospects of winning an armed confrontation.
- Given that Q_N and Q_S summed to more than one, the ratios, C_N/A_N and C_S/A_S , which calibrate for N and for S the expected cost of an armed confrontation relative to the importance of the dispute, were not too large. In other words, N and S anticipated that an armed confrontation would not have large costs relative to the importance that they attached to the dispute.

Why Secession and War? Combining Theoretical and Historical Analysis

Our model suggests that prior to 1861, although N and S may have been on average overly optimistic in assessing their prospects of winning an armed confrontation, N and S

nevertheless expected the costs of an armed confrontation to be large enough *relative to the importance of the dispute* that condition (4) was satisfied. In addition, there seems to be no reason to think that in the years leading up to 1861 either N and S became on average more optimistic about their prospects of winning an armed confrontation or that N and S reduced their estimates of the costs of an armed confrontation.

How then do we account for the inability of Northern and Southern interests to reach a new compromise? Our model suggests that we look for the answer in historical scholarship that has concluded that in the years leading up to 1861 the outcome of the dispute over slavery increased in importance for both Northern and Southern interests. In terms of our model this development suggests that by 1861 A_N and A_S had become too large, given C_N , C_S , Q_N , and Q_S , to satisfy condition (4) and, hence, for an armed confrontation to be avoided.

Let us review the relevant historical scholarship. Fogel's account of northern ante-bellum politics suggests a plausible story that is consistent with an increase in A_N . From the late 1840s, mainly because of increased immigration, incomes and living conditions of native, northern, non-farm workers became increasingly depressed. Fogel (1989, page 356) tells us that this depression of living conditions was "one of the most severe and protracted economic and social catastrophes of American history."

As a consequence of this working-class depression land policy became increasingly important. Free homesteads, opening western lands for settlement by the working poor, became a paramount demand of northern labor. But, the objective of Southern interests that western territories be opened to slavery stood in the way of free homesteads. Thus, as Fogel (1989, page 350) explains, land policy "drew into direct conflict with Slave Power the northern working-class leaders who had previously remained aloof from the anti-slavery movement." The result was the coalescing of free-soil proponents and nativist factions into the new Republican Party and a new unwillingness of Northern interests to compromise over the issue of slavery in the territories.

On the Southern side the evidence about the economics of slavery, as summarized by Fogel (1989), Ransom (1989), and Wright (1978), suggests a dramatic increase in A_S in the years leading up to 1861. According to Fogel (1989, page 412), “From the mid-1840s on...the slave economy of the South was vigorous and growing rapidly. Whatever the pessimism of [slave owners] during the economic crises of 1826-1831 and 1840-1845, during the last half of the 1840s and most of the 1850s they foresaw a continuation of their prosperity and, save for the political threat from the North, numerous opportunities for its expansion. The main thrust of cliometric research has demonstrated that this economic optimism was well founded...” As Ransom (1989, page 47) puts it, “On the eve of the Civil War, American slaveholders were coming off a decade and a half of exuberant growth and expansion.” Most importantly, according to Wright (1978, page 140), “Slave prices...rose to levels far above the rearing cost, and indeed were never higher than on the eve of the Civil War.” Given the increasing wealth embodied in slaves, it is worth reiterating that slave owners were primarily concerned about the security of their property rights and that they justifiably feared that, given northern hostility to slavery, any compromise that curtailed the ability of individual states to determine these property rights would lead to further restrictions on the ownership of slaves and would result inevitably in emancipation.

Of course, for A_N and A_S to have become too large to satisfy condition (4), C_N and C_S could not have been too large, and Q_N and Q_S could not have been too small. On the Northern side the stories about popular expectations, prior to the First Battle of Bull Run (First Manassas), of a cheap and easy suppression of the rebellion are well known. On the Southern side Wright (1978, pages 146, 147) tells us that slave owners “believed...that secession would succeed, and many... believed in the imminence of a peaceful acquiescence by the North.” Thus, the expected costs of an armed confrontation, C_N and C_S , surely were much smaller than what the actual costs of the war, including six hundred thousand men killed and thousands more maimed, turned out to be. In addition, as the model implies, the subjective probabilities, Q_N and Q_S , that Northern interests and

Southern interests attached to winning an armed confrontation surely were much larger than the corresponding objective probabilities. We can imagine that, had both Northern interests and Southern interests been sufficiently less overly optimistic either about their prospects of winning an armed confrontation or about the costs of an armed confrontation, then condition (4) would have been satisfied, even with the increased importance of the dispute, as reflected in increased values of A_N and A_S .⁹

Summary

This paper has combined theoretical and historical analysis to propose an answer to the question of why in 1861, after seventy years of artful compromises that enabled the dispute over slavery to be settled without an armed confrontation, Northern and Southern interests were not able to avoid secession and war. This answer goes beyond a description of the breakdown of compromises based on existing constitutional arrangements and attempts to explain why all of the many attempts to negotiate a new compromise failed.

The salient theoretical finding was that, if the parties to a dispute are overly optimistic in assessing their prospects of winning an armed confrontation, and if the outcome of a dispute has become sufficiently important relative to the expected costs of an armed confrontation, then a compromise that would avoid an armed confrontation is not possible. This theory implies that the constituent groups of a polity can be so deeply divided that armed confrontation is unavoidable.

The salient historical observation was that, as a result of developments in the years leading up to 1861, the outcome of the dispute over slavery became increasingly important to both Northern and Southern interests. On the Southern side the wealth embodied in slaves and the associated value of unrestricted property rights of slave owners had grown

⁹As the war dragged on, its costs mounted. Yet, despite popular calls for an end to the slaughter, the combatants could not agree on a new compromise that would have ended the war. Apparently, the havoc of war did not cause the subjective probabilities attached to winning the war and the expected costs of continuing the war to evolve in such a way as to satisfy condition (4).

enormously and was continuing to grow. On the Northern side depressed wages intensified the demand for free soil and associated geographical limitations on the property rights of slave owners. In addition, both Northern interests and Southern interests surely overestimated their prospects of winning an armed confrontation and also underestimated the costs of an armed confrontation.

Taken together theoretical and historical analysis suggests that, given this overoptimism about the consequences of an armed confrontation, the increased importance of the dispute over slavery in the years leading up to 1861 accounts for the inability of Northern and Southern interests to reach a new compromise. As Wright (1978, page 147) concludes, “The explanation for secession, then, is simply that slaveholders owned extremely valuable property and were not only enjoying prosperity but expected their good fortune to continue; the only serious threat to this situation was Northern interference with slavery; and it was widely believed that a straightforward safeguard against such interference was available — peaceful secession.” But, beyond that, slave owners perceived that the election of Lincoln on the free-soil platform of the Republican Party posed so great a threat to Southern interests that, if a war was necessary to achieve Southern independence, then a war had to be fought. And, indeed, because Northern interests had become unwilling to compromise over the issue of slavery in the territories, and also feared the consequences of acquiescing in the creation of an independent and hostile Confederacy, the Civil War was fought to settle the dispute. By 1861 the dispute was too important for an armed confrontation to be avoided.

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