CHAPTER II

PARALYSIS AND PASSAGE

The congressional debates on the Fifteenth Amendment were long and complex during January and February, 1869. Since Congress was to decide not only who should vote but whether state or nation should validate the voter, the measure was regarded as the most important business of the third (lame duck) session of the Fortieth Congress. Throughout the nation, and especially in the newspapers, the proposed suffrage amendment generated much controversy over the prospect of the Negro as a voter.

Debate on the amendment, often extending into all-night sessions, taxed the patience of congressmen, consumed three hundred pages in the *Congressional Globe*, and produced incredible parliamentary tangles. Moreover, the protracted struggle between the Senate and the House, and the shifting coalitions of obstructionists in each chamber, complicated and prolonged voting.

Yet throughout the congressional debate there was little question that the enfranchisement of the Negro was the object of a proposed constitutional amendment,¹ and it was widely recognized in Congress and throughout the country that its primary goal was the enfranchisement of Negroes outside the deep South. To be sure, it would permanently guarantee suffrage to the southern Negro by law, but, despite a certain amount of intimidation, he was already exercising the franchise, first under military reconstruction, then under the new southern state constitutions. It was, on the other hand, the unenfranchised northern Negro who would principally benefit by the proposed amendment, and presumably would thereafter loyally support his Republican friends.

This was candidly admitted by the more moderate framers and sponsors of such a measure. Republican Congressman George S. Boutwell of Massachusetts estimated that roughly 146,000 Negro citizens in the North would be enfranchised as follows: "Seventeen hundred in Connecticut, ten thousand in New York, five thousand in New Jersey, fourteen thousand in Pennsylvania, seven thousand in Ohio, twenty-four thousand in Missouri, forty-five thousand in Kentucky, four thousand in Delaware, thirty-five thousand in Maryland." In addition, Boutwell stressed Negro voting in the border states of Kentucky, Maryland, and Delaware. Republican Senator William M. Stewart of Nevada also emphasized the importance of the northern Negro voter, who became the "balance of power in many of the largest and most populous of the Northern States," he said, when assessing the value of a suffrage amendment in retrospect. During the debate Stewart accented the potential Negro vote in the border states, observing that "You give the negroes in Maryland the ballot and they will demand their other rights, as they did in Tennessee. Give it to them in Kentucky and Delaware, they will demand and obtain all their rights." Stewart concluded that the power of the ballot...

Ibid., p. 561. See also his reference to the northern Negro vote, Ibid., pp. 555, 557, 558, 560.

Ibid., p. 559.


Brown, Reminiscences, p. 238.

Globe, pp. 1299, 1629. The word "moderate" as used in this study is a description of an individual's state of mind in relation to that of others who are more "radical" on the suffrage question in general and on the framing of the Fifteenth Amendment in particular. A moderate stand, then, is somewhat less than an extreme position on any given suffrage issue. Congressional moderates wanted to keep the question of a suffrage amendment within the bounds of constitutional propriety, political expediency, restraint, and reasonableness. The moderate position was between those who wanted comprehensive suffrage reform and those who wanted no changes. The extremism of those suffragists, generally veteran antislavery men, who wanted to reform the electoral college, guarantee Negro officeholding, invalidate state suffrage qualifications in general and the literacy test and poll tax in particular, or pass a bill instead of a constitutional amendment, was ultimately rejected. Similarly, the extremism of those Democrats who opposed the need for a constitutional amendment and the desirability of Negro suffrage was also repudiated by the moderates. The moderate position was not a complete, precise, or rigid ideology; since it could not afford to sew itself up in doctrinaire positions; it was instead pragmatic, ambiguous, and flexible in general attitude. The terms and formulation of the moderate position changed as much as the congress-
has had a potent effect on the South in electing Republicans and now that power should be applied throughout the nation.

Disagreeing by varying degrees with the more modest frame constructed by the moderates, more radical Republicans nevertheless joined them in admitting that a constitutional amendment would principally enfranchise the northern Negro. The stanch advocate of Negro suffrage, Republican Senator Charles Sumner of Massachusetts, emphasized that the interests of the Republican party and those of the nation were identical and that both would be promoted by Negro suffrage in the North:

You need votes in Connecticut, do you not? There are three thousand fellow-citizens in that state ready at the call of Congress to take their place at the ballot box. You need them also in Pennsylvania, do you not? There are at least fifteen thousand in that great state waiting for your summons. Wherever you most need them, there they are; and be assured they will all vote for those who stand by them in the assertion of Equal Rights.\(^7\)

Senator Oliver P. Morton (Republican, Indiana) declared that the "great body of the men upon whom the right of suffrage is to be conferred by this amendment are men who have long been free, who live in the northern States—not men just emerged from slavery, but a comparatively educated class living throughout the entire North." \(^8\) Democrats, who were under no illusion

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\(^{8}\) *Ibid.*, p. 990. Morton added that the "argument that might be made against enfranchising men just emerging from slavery cannot be made against the colored men of Indiana, of New York, and of the entire North." Similar views of the primary objective of the Fifteenth Amendment can be found in the speeches of the following Republican senators, in the *Globe*: Orris S. Ferry (Conn.), p. 855; Frederick T. Frelinghuysen (N. J.), p. 979; Edmund G. Ross (Kan.), pp. 982–83. The same conclusion was reached by the following Republican representatives, as found in the Appendix of the *Globe*: George F. Miller (Pa.), p. 92; Charles M. Hamilton (Fla.), p. 100; William Loughridge (Iowa), pp. 199–200; and a similar expression was made in the *Globe* by John P. C. Shanks (Ind.), pp. 694–96. Southern Republicans, in their speeches in the *Globe*, appeared to consider the Amendment an extension into the North of principles already in operation in
about what a constitutional amendment was designed to achieve, fought hard against it in any form, for they knew that Republican supremacy in the North was at stake.\(^9\)

Newspapers of both parties also recognized the main object of such an amendment. The conservative Washington *Daily National Intelligencer* felt that it meant introducing Negro suffrage into the North and riveting it to the South.\(^{10}\) The outstanding Democratic paper in New York City, the *World*, observed that Congress was intent on passing the amendment in order "to reconstruct the elective franchise in the Northern States."\(^{11}\) As for Republican commentators,\(^{12}\) a Connecticut newspaper reported that President-elect Ulysses S. Grant favored Boutwell’s amendment because the North should be like the South.\(^{13}\) One Washington paper estimated that, by enfranchising Negroes in the North, a constitutional amendment would enfranchise roughly one-fifth to one-tenth the total national Negro population.\(^{14}\) With characteristic understatement, the New York *Times* concluded that the "ability to justify negro enfranchisement throughout the South depends somewhat upon the readiness of the North to abate its own hostility to negro enfranchisement."\(^{15}\)

This is not to deny that a secondary objective of the amendment was to protect the southern Negro against future disfranchisement, against state constitutional changes that Southern whites might attempt when they regained power. Stewart, for example, told the Senate that the right to vote for the Negro in the South was the only guarantee against oppression and the only way for a

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\(^9\) Democratic members of Congress, in their speeches in the *Globe*, questioned the propriety and popularity of Negro suffrage in the North: Senator Thomas A. Hendricks (Ind.), p. 673; Senator James Dixon (Conn.), pp. 707, 827; Representative Albert G. Burr (Ill.), p. 699; George W. Woodward (Pa.), Appendix, pp. 206–7; Senator George Vickers (Md.), p. 911.


\(^{13}\) Hartford *Daily Courant*, February 3, 1869.


\(^{15}\) The New York *Times*, February 15, 1869.
man to protect himself.\(^\text{16}\) He implied that the right of the Negro to vote was in danger in Georgia and elsewhere in the South, and had to be made secure.\(^\text{17}\) The only solution, he felt, was to make Negro suffrage the immutable law of the land to ensure peace,\(^\text{18}\) and that the existing southern Negro vote would enable an amendment to be ratified.\(^\text{19}\) Republican Representative Samuel Shellabarger of Ohio stated the widespread view that loyal state governments in the South would collapse without loyal Negro voters to support such governments,\(^\text{20}\) whereas Republican Representative W. Jasper Blackburn of Louisiana expressed the hope that southern Democrats would accept southern Negro voting once northern Negro voting was accepted.\(^\text{21}\)

In the course of framing, various versions of a suffrage amendment were clearly directed toward protecting the southern Negro vote by outlawing literacy tests and poll taxes.\(^\text{22}\) Also, various guarantees were framed to protect the right of Negroes to hold public office, a timely issue in the South, where Negro legislators in Georgia had recently been expelled from their seats because of their race. But when the acid test came both the bans and the guarantees were scrapped. The pattern of the framing and passage of the Fifteenth Amendment indicates that the primary objective was to make Negro voters in the North; the secondary objective, to keep Negro voters in the South. The pattern of ratification strongly supports this finding: the North mattered more than the South.

Congressmen first wrestled with the tricky question of whether Congress should enfranchise Negroes by passing an ordinary bill, by launching a constitutional amendment, or by doing both. Acting for the judiciary committee, Representative Boutwell raised the question when he introduced both a bill and a proposed constitutional amendment on January 11, 1869.\(^\text{23}\) Lawyer, Massachusetts governor, member of the Joint Committee on Reconstruction, a manager in the presidential impeachment, and subsequently senator and Secretary of the Treasury, Boutwell was both a party regular during Reconstruction and a stanch radical who had a

\(^{16}\) *Globe*, p. 668. 
\(^{19}\) *Globe*, p. 561. 
long record of endorsing universal Negro suffrage. Defending his double-barreled approach, Boutwell argued that his bill enfranchising northern Negroes was needed at once to secure ratification of the amendment by state legislatures in several hostile states. He supported both the constitutionality of his bill and the necessity of his constitutional amendment to guarantee permanently Negro voting in the future, regardless of which party controlled Congress.24

The Boutwell approach was applauded by abolitionists,25 but was given a frigid reception by moderates. Moderate Republican editors and politicians first attacked Boutwell’s plan on the grounds of constitutionality. Molding public opinion and mustering congressmen, they bombarded his arguments. Reflecting a wide consensus, they argued that Boutwell’s bill ignored the clear constitutional provision and the states’ practice of setting suffrage qualifications, and thus found no reason for Congress under the Boutwell bill to “play the usurper, and, under the form of law, accomplish what is at the moment constitutionally impossible.”26 James A. Garfield, writing for not only the Ohio delegation but most Republican congressmen as well, declared that his contingent would oppose Boutwell’s bill, because it “presupposes the existence in the Constitution of the very powers which his proposed amendment would put into it.”27 Such a point of view was even endorsed by Democratic Senator Charles A. Eldridge of Wisconsin, who dismissed the bill with the devastating remark that if the amendment was necessary, “it must be a most pregnant admission that the bill is unconstitutional.”28

But the Boutwell bill was also buried on grounds of strategy, both radical and moderate Republicans assisting at the funeral. If the bill succeeded but the amendment failed, it was argued, then a mere bill could repeal what the Boutwell bill extended—

24 Ibid., pp. 555–61, 644.
25 [New York] National Anti-Slavery Standard, February 6, 1869. The extreme reformist position echoed Charles Sumner’s argument that a mere congressional act could enfranchise the Negro, and thus found Boutwell’s arguments irrefutable, holding that they also proved that the Constitution provided for a Negro officeholding guarantee, woman suffrage, and a broad ban on suffrage tests.
28 Globe, p. 644.
namely, Negro suffrage. Thus one newspaper advised Boutwell not to whet a knife that might some day cut his and the Negro's own throat, but instead place a firm guarantee of Negro voting in the federal constitution almost out of reach of fickle public opinion and repeal.

Beneath the arguments against a bill lay the traumatic experience of disaster at the polls. The Negro suffrage issue had been badly handled for the most part by Republican politicians in 1867. Now the time had come not to repeat the costly double mistake of being too bold and yet not bold enough. Frontal assaults against "inveterate prejudices" were self-defeating and had set back the cause of Negro suffrage by roughly two years. Rejecting the suicidal strategy of direct vote in each state, as difficult as it had proved unnecessary, Republicans preferred the bolder method of amending the federal Constitution as an easier and surer method than separate state referendums. Such means would encounter the least opposition and would succeed because of the indirect method of legislative action alone, thus avoiding the pitfall of a direct popular vote. Since Republican candidates were more popular than the proposition of Negro suffrage, the politicians could do the job by passing and ratifying an amendment. Republicans had traveled a hard road long enough, and therefore agreed that the longest way around was the shortest way home.

Boutwell surrendered on January 28 by shelving his bill.

By asking states to grant powers at the same time that he was persuading Congress to exercise them, he had rendered his position precarious from the beginning. The issue of a law or an amendment, or both, was now settled: Congress would have to frame an amendment rather than a law, because many Republicans felt that Congress lacked both the constitutional power and political desire to do otherwise. An amendment rather than a bill would recognize general state control of suffrage regulations. Since white voters in the North would not voluntarily accept, on their own initiative, Negro suffrage in state referendums, or long tolerate a congressional act enfranchising the Negro throughout the nation,

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30 See the suggestive editorial in *The Nation*, October 24, 1867, commenting on the election reverses of 1867, as well as the speech of Senator Henry Wilson on January 28, 1869 (*Globe*, p. 672).
a constitutional amendment was required. Amending the federal Constitution was the only way both prudent and practical: the timing now seemed right and the price not too high.

The final form of Boutwell's proposed amendment stipulating that "the right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of race, color, or previous condition of slavery of any citizen or class of citizens of the United States," and including an enforcement section, had only two serious competitors. The first, Ohio Republican Samuel Shellabarger's amendment, was more radical. Shellabarger, who had authored the "forfeited rights" theory and designed comprehensive disfranchisement of white southerners in the congressional program of Reconstruction, was a radical and strong advocate of Negro rights. His substitute was designed to confer suffrage on all males over twenty-one years old except former rebels, and thus was intended to protect southern Negro voting. Moreover, unlike Boutwell's amendment, it proposed by implication to abolish all state literacy and property tests and probably all registration requirements as well, and did not forbid forever the enfranchisement of former Confederates. On the other hand, less radical than Boutwell's measure was Ohio Republican John A. Bingham's proposal. Bingham was a constitutional and political moderate and a consistent supporter of Negro rights, having written the first section of the Fourteenth Amendment. His suggestion of setting a one-year residence requirement on males over twenty-one, and of enfranchising not only Negroes but all ex-Confederates as well, could capsize the southern Republican boat. All three proposals were negative in

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82 Ibid., p. 726.
83 Ibid., p. 728. The Shellabarger version read as a substitute for the first section: "No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have his actual residence, such right to vote to be under such regulations as shall be prescribed by law, except to such as have engaged, or may hereafter engage, in insurrection or rebellion against the United States, and to such as shall be duly convicted of infamous crime."
84 Ibid. The Bingham version read as a substitute for the first section: "No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and twenty-one years of age or upward the equal exercise, subject to such registration laws as the State may establish, of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, except such of said
that they prohibited the states from exercising specified powers.\textsuperscript{35}

Serious voting did not get underway until January 30 and then showed that moderates were in control. The House rejected Shellabarger's radical proposal by a vote of 62 "yes" to 125 "no," 35 not voting. No Democrat voted for Shellabarger's version, because it provided permanent proscription of ex-Confederates. The House then voted down Bingham's more conservative version by a count of 24 to 160, 38 not voting. On this proposal Democrats divided: half voted in effect to grant amnesty to ex-Confederates, while the other half joined most Republicans to defeat the measure. Finally, the Boutwell amendment (House Joint Resolution 402) passed the House with the required two-thirds majority, 150 affirmatives to 42 negatives, and 31 not voting.\textsuperscript{36} No Democrat voted for it and only four Republicans voted against it.\textsuperscript{37}

While representatives debated the merits of Boutwell's plan, senators were considering the amendment proposed by William M. Stewart (Republican, Nevada), an energetic, shrewd, and resourceful western moderate, who had made his fortune in silver mining before turning to politics. After the war he had opposed Negro suffrage, sympathizing with the plight of southerners, to whom he was related through his wife's family. Like most Republicans, however, he became first disenchanted with white southerners, who fought postwar reforms, and then with Andrew Johnson. Gradually shifting ground, Stewart finally endorsed Negro, but not Chinese, suffrage.\textsuperscript{38}

\begin{itemize}
  \item \textsuperscript{35} Ibid., Appendix, p. 97. One of the Republican leaders in the House and a stanch radical, Benjamin F. Butler of Massachusetts, took the unusually conservative position that the literacy test, which Massachusetts had, should not be abolished. Objecting to Bingham's desire that former Confederates regain the ballot, Butler instead insisted that the Negro be protected first at the polls. (\textit{Ibid.}, p. 725.)
  \item \textsuperscript{36} \textit{Ibid.}, pp. 744–45; E. McPherson, p. 400.
  \item \textsuperscript{37} Reportedly furious over the defeat of his pet measure, John Bingham led the lonely group of Republican opponents. He was joined by conservatives Jehu Baker (Republican, Ill.) and Isaac R. Hawkins (Republican, Tenn.), and by another Republican, Daniel Polsley from precarious West Virginia. (E. McPherson, pp. 399–400; the New York \textit{Herald}, January 31, 1869.) Various publications commended passage by the House (Hartford \textit{Daily Courant}, February 1, 3, 1869; [Washington, D.C.] \textit{The National Republican}, February 3, 1869; \textit{Harper's Weekly}, February 13, 1869).
  \item \textsuperscript{38} \textit{Record}, 51st Cong., 2nd Sess., pp. 678–82.
\end{itemize}
Given the responsibility of framing a constitutional amendment for the Senate judiciary committee, on a motion by Roscoe Conkling (Republican, New York), Stewart went about his task more carefully than had Representative Boutwell. He talked to President-elect Grant, who favored an amendment, and canvassed state delegations for advice and support before fashioning his proposal. Although couched in an essentially negative form, Stewart's amendment began by positing the right to vote, thus making his version slightly more affirmative than the original version offered by John B. Henderson (Republican, Missouri), if not more affirmative than Boutwell's. It also, unlike Boutwell's, guaranteed the right of the Negro to hold office, apparently in an effort to elicit southern Republican support. The judiciary committee approved Stewart's proposal, which was close to the final version of the Fifteenth Amendment. Introduced on the Senate floor on January 28, 1869, it stipulated that "the right of citizens of the United States to vote, and hold office shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude."

Consideration was not immediate. Dilatory tactics consumed Senate time as business piled up, and Stewart had to fight to get his proposal discussed and voted upon. Backing Stewart, Senator Morton argued that delay in passage might jeopardize ratification, since state legislatures would soon be adjourning and the longer the fight for ratification lasted the harder it would be to win, especially if it affected the 1870 and 1872 elections. Yet Senate debate dragged on for three days. The House then passed the Boutwell amendment, whereupon the Senate dropped Stewart's plan to consider the Boutwell version for six additional days, until February 9.

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69 Brown, Reminiscences, p. 234.
40 James G. Blaine, Twenty Years of Congress: From Lincoln to Garfield (2 vols.; Norwich, Conn.: Henry Bill Co., 1884-86), II, 413.
41 The measure was not approved unanimously. Lyman Trumbull (Republican, Ill.) opposed it, while Thomas A. Hendricks (Democrat, Ind.) and Frederick T. Frelinghuysen (Republican, N. J.) were absent from the committee meeting. Stewart, Conkling, George F. Edmunds (Republican, Vt.), and Benjamin F. Rice (Republican, Ark.) joined to endorse the measure. (The New York Herald, January 16, 1869.)
42 Globe, pp. 668, 828.
43 Ibid., pp. 541-43, 668-70, 939.
44 Ibid., p. 824.
Stewart pressed for a final vote. Debate consumed thirty-two hours in a consecutive session, through the night of February 8 and the next day, with only two short recesses. During the session twenty-four roll calls were taken, thirty propositions presented, and seventeen amendments to the pending Boutwell amendment acted upon.

The speeches and voting spelled trouble for a constitutional amendment. Senate Democrats denounced the whole enterprise because Republicans were scrapping the campaign plank of 1868 which had promised northerners that Negro suffrage would remain a local matter for each state to decide; now that the elections were over, the tricksters were planning to impose Negro suffrage on Northern states by amending the Constitution, all for the sake of getting the Negro vote in the North. If the amendment was a trick it certainly was not a treat for the Democrats, who maintained that the black race was either inferior or unable to vote intelligently. Democrats thus tried in every conceivable way to kill the Boutwell amendment, first by opposing its consideration, then by moving adjournment to obstruct its passage, and finally by supporting recommittal. Positively, Democrats tried to enfranchise ex-Confederates, restrict the scope of an amendment to federal elections, and change the method of ratification to either a popular referendum or election of delegates to a state convention. Yet Democratic opposition, if annoying, was not serious, because there were only a dozen Democrats in the Senate.

Republican dissension was a graver matter, since it could paralyze action and kill passage. There were three overlapping groups that impeded Republican congressional action. Moderate Republicans, especially from the Northeast and from the West, wanted Negro voting but also wished to retain freedom of state action either in conferring suffrage and setting voting qualifications, especially the literacy test, or in restricting Irish or Chinese by the nativity test. In short, moderates were not at all agreed on the price worth paying for Negro suffrage. Radical Republicans from the North championed Negro suffrage and wanted firm guarantees that it would be permanent and effective, but they were not in agreement on the form required or on the scope of reform desired. Those from the South, with varying gradations of radi-

\[45\] Ibid., pp. 671, 825–27, 1003, 1030, 1040–41, 1043.
calism, were primarily interested in keeping and protecting southern Negro voting, but there was less cohesion on the means to secure it, and still less on guaranteeing Negro officeholding and the means to be undertaken for its achievement. There was, in short, no unity in purpose nor resolution in method among congressional Republicans. The differences created problems.

As in the House, the intent of the amendment was clear: it was not a positive requirement of universal suffrage but a negative injunction that voters could not be disbarred by race only. Orris S. Ferry (Republican, Connecticut) remarked that, though an amendment would give half a million Negroes the vote in eighteen northern states, it would remove from the state only the power to disfranchise on grounds of race.\(^{46}\) This restricted prohibition was precisely what southern Republicans and northern Radicals objected to. Since the proposed amendment failed to state exactly who should vote, Willard Warner (Republican, Alabama), along with Shellabarger in the House, concluded that "the animus of this amendment is a desire to protect and enfranchise the colored citizens of the country; yet, under it and without any violation of its letter or spirit, nine tenths of them might be prevented from voting and holding office by the requirement on the part of the states or of the United States of an intelligence or property qualification."\(^{47}\) Desiring a suffrage that was uniform, equal, and universal, Warner suggested that federal voting qualifications and the abolition of literacy and property tests be made an explicit part of the amendment.

Senator Morton, reflecting views of many northern Republicans, agreed that the pending amendment did not go far enough. Former war governor of Indiana, a devoted Unionist, and a fiery partisan, Morton had long walked the tightrope between prejudice and principle in Indiana politics. He first opposed Negro suffrage after the war, because Negroes lacked the education and financial independence to become responsible voters, and also because it was hypocritical to force Negro suffrage on the South but not on the North. Morton then shifted ground and finally embraced Negro suffrage as a political necessity. Both the Boutwell and Stewart measures, Morton noted, allowed the states to retain control over suffrage, except for the prohibition of racial tests;

\(^{46}\) Ibid., pp. 855-57.  
\(^{47}\) Ibid., p. 862.
each, therefore, tacitly conceded that states could disfranchise Negroes with literacy or property tests. Thus "all the existing irregularities and incongruities in suffrage" remained. Southern states could "cut off the great majority of the colored men from voting in those states, and thus this amendment would be practically defeated in all those states where the great body of the colored people live." Morton proposed as an alternative that qualifications for federal elections and elections for state legislators be made explicit, affirmative, and uniform, in order to prevent the states from evading the amendment.

The first critical test of Stewart's leadership was the vote on Michigan radical Republican Jacob Howard's explicit and sternly affirmative proposal to specify "African suffrage": "Citizens of the United States of African descent shall have the same right to vote and hold office in states and territories as other citizens electors of the most numerous branch of their respective legislatures." Those senators who supported Howard's proposal did so for opposite reasons, wanting either to strengthen or weaken the amendment by explicit reference to the Negro. At their core, chiefly from New England but all from the North, were such veteran antislavery and radical Republicans as Charles Sumner of Massachusetts and Benjamin F. Wade of Ohio, who wanted to strengthen the amendment. Pacific coast men, such as Cornelius Cole and Henry W. Corbett, and one Rhode Islander, Henry B. Anthony, supported the Howard measure because they wanted to exclude from the amendment naturalized citizens of Chinese or Irish descent. However, since the antislavery and restrictionist forces could muster only sixteen recruits, the proposal was defeated

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48 Ibid.
49 Ibid. Though Morton favored Jacob Howard's proposed amendment, which explicitly referred to African descent, even Howard's amendment still left the states the power to impose education and property tests to disfranchise Negroes (ibid., pp. 862-63). Jacob Howard insisted that the amendment should say what Congress meant—that is, that the Negro should be given the vote. He then stated: "Give us, then, the colored man, for that and that only is the object that is now before us. The sole object of this whole proceeding is to impart by a constitutional amendment to the colored man . . . the ordinary rights of citizens . . . I do not wish by any form of words to conceal the fact or to blur the fact that I am in favor of extending to this class of men the right to vote. . . ." (Ibid., p. 985.)
50 Ibid., p. 1012.
51 Ibid.
on February 8 by a coalition of thirty-five Democrats and Republicans, both northern and southern, with fifteen senators not voting, clearly demonstrating that the radical group could not impose its will on the Republican majority.

The crucial vote in the Senate came February 9 on Henry Wilson's plan to abolish all discrimination or qualification for either voting or holding office because of "race, color, nativity, property, education, or religious belief." In effect, the question was whether an amendment should confine itself to Negro suffrage or undertake comprehensive reform of suffrage regulations, including abolition of qualifications for holding public office. If the former, then the question of education and property tests had to be decided. On the first vote, with twenty-three men ominously absent, the Senate rejected Wilson's proposal by only five votes. The defeat, a slim victory for Stewart's more moderate and limited version of the amendment, resulted from an unsteady alliance of four divergent groups against the Wilson plan: the Senate Demo-

65 Ibid. Other Republicans who formed the antislavery bloc were Zachariah Chandler of Michigan, John M. Thayer and Thomas W. Tipton of Nebraska, Benjamin F. Wade of Ohio, and James M. Harlan of Iowa.

There is a certain historical irony in the fact that sometimes during the course of framing the best friends of the Negro seem his unwitting enemy, as in the case of the Howard proposal. Without an explicit statement of Negro or African descent, an amendment could be capable of growth, for it would gain stature, if judges had a free hand, by augmenting federal authority and expanding its powers of enforcement. Historian W. R. Brock observes that the Fifteenth Amendment was weak from the outset because it linked suffrage with race; it was a law for negro [sic] enfranchisement and could be enforced only so long as some people had an interest in doing so. If the Fifteenth Amendment had declared in unequivocal terms that all males over the age of twenty-one who were citizens of the United States had the right to vote it might have been recognized as a cornerstone of democracy and attracted popular support [and would have been easier to enforce and more difficult to evade]. As it was the Fifteenth Amendment enacted 'impartial suffrage' which meant that the States could impose any qualification they chose provided that it was not based on race; this meant that the white majority of the nation had no particular interest in its enforcement." W. R. Brock, An American Crisis: Congress and Reconstruction, 1865–1867 (New York: St. Martin's Press, 1963), p. 288. It is one thesis of this study that no such amendment as Brock suggests could or, as Henry Wilson framed it, did pass Congress by the necessary two-thirds margin, or could have been ratified by the needed three-fourths of the states. In short, Brock's observation, however acute, ignores the real choices open to the framers. In defense of the radical Republicans and to their credit, they did champion universal suffrage and supported measures to enforce it. The trouble was that their timing was somewhat premature—by about a century.

66 Ibid., p. 1029.
crats; a few compromising southern Republicans; Republicans from Rhode Island and the Pacific seaboard who worried about the possible overthrow of state voting regulations, which they believed to be implicit in the Wilson amendment; and a hard core group of Republicans from the Northeast, who preferred and consistently supported Stewart's more restricted proposal.

The Republicans who were disposed to follow Stewart's leadership consisted of Stewart's colleagues on the judiciary committee—Frederick T. Frelinghuysen of New Jersey, Roscoe Conkling of New York, and James W. Nye of Nevada—and other moderates, such as Charles D. Drake of Missouri, Edwin D. Morgan of New York, and Justin S. Morrill of Vermont. This group, to which not a single southerner or Pacific coast senator belonged, voted without exception to reject the more extreme proposals of both Howard and Wilson, and opposed recommittal.

Yet Stewart's victory was short-lived. Only a few hours later, on the same day, February 9, the Senate reversed its earlier course, voted now on a modified Wilson amendment, which guaranteed the right to hold office but did not, as in the preceding version, bar states from setting qualifications for holding office, and by a majority of four votes accepted this slightly less extreme but still comprehensive reform of suffrage regulations. What had happened? The unsteady and divergent coalition led by Stewart had cracked because many of the absentees had now shown up. Apparently under potential constituent or actual congressional pressure, and by reason of the critical change in the pending amendment, three southern Republicans changed their minds and three more, conveniently absent from the first vote, joined the affirmative side. The decisive six southern recruits and the now overwhelming support from southern Republicans (ten) indicated that in a showdown they were not entirely free agents, yet their lack of support on the first Wilson proposal, which attracted

Ibid. The 23 absentees, including 6 Democrats, were Charles R. Buckalew and Simon Cameron (Pa.), Zachariah Chandler (Mich.), Aaron H. Cragin (N.H.), James R. Doolittle (Wis.), Charles D. Drake (Mo.), George F. Edmunds (Vt.), Orris S. Ferry (Conn.), John B. Henderson (Mo., permanently absent), Thomas A. Hendricks (Ind.), William P. Kellogg (La.), Thomas C. McCreey (Ky.), Lot M. Morrill (Me.), Thomas W. Osborn (Fla.), James W. Patterson (N.H.), Samuel C. Pomeroy (Kan.), John Pool (N.C.), Willard Saulsbury (Del.), William Sprague (R.I.), John M. Thayer and Thomas W. Tipton (Neb.), Willard Warner (Ala.), William P. White (Md.).
only four out of their thirteen votes, showed that they seemed to care more about Negro voters electing whites to public office than about Negro voters electing Negro officials. The veteran antislavery Republicans not only stood firm but picked up several votes from the Republican southerners and middle westerners as well. Thomas A. Hendricks (Democrat, Indiana), a most vigorous opponent of a suffrage amendment, shrewdly backed the Wilson amendment as a measure so extreme that it could never be adopted. The hard core of moderate northeastern Republicans, along with Nye—the Stewart men—stayed with Stewart on this second, decisive vote, joined by Pacific coast Republicans and most Democrats.

For the moment Stewart had lost control of the constitutional amendment. Exalted by their victory, the radicals, within minutes after the vote on the Wilson amendment, also approved a proposed sixteenth amendment—Morton's plan to reform the electoral college to ensure that the choice of the electors was the same as that of the voters. By ignoring the limits of Republican power, Wilson and Morton had transformed a limited amendment for a limited purpose into utopian reform virtually unlimited in purpose and commitment. Such an effort was misguided, because both failed to distinguish between what was desirable, what was possible, and what was essential. With the moderate suffrage amendment now wrecked, Stewart, his committee colleagues, and his loyal supporters could do nothing but support, with grave misgivings, the Wilson-Morton proposals. Physical exhaustion, acute frustration over failure to agree upon a moderate proposal, the desire of some moderates to appear liberal to their constituents on the issue of broader suffrage, and the Republicans' desire to close ranks and support what was of necessity the party position, all contributed to passage.

Reaction to the Wilson-Morton plan in the moderate Republican press was not friendly. The Nation condemned the proposal as tantamount to saying that "intelligence is of no importance in politics, and that a 'brute vote' ought to count for as much as

55 Ibid., p. 1040. See also Henry, "Radical Republican Policy toward the Negro," pp. 258-59.
56 Ibid., p. 1042.
57 Ibid., pp. 1041-43, 1044.
a human one." In a telling aside, the journal concluded that abolition of an education test would prove so absurd "as to give countenance to the story which is afloat, that it was inserted for the express purpose of having the amendment defeated." The New York Times was also annoyed by the "sweeping and revolutionary" scope of the Wilson version, further criticizing the officeholding guarantee because its unpopularity would arouse intense opposition in the fight for ratification. Preferring the Boutwell version, the Times in effect endorsed impartial suffrage rather than universal Negro suffrage.

On February 15 the House took up the Senate version of the constitutional amendment. The legislative situation was awkward for the House sponsors of a moderate measure. Boutwell, in particular, felt that his position was embarrassing: "I was counted as a radical and in favor of securing to the Negro race every right to which the white man was entitled. My opposition to the Senate amendment seemed to place me in a light inconsistent with my former professions." Ignoring factional labels, Boutwell continued to work for his more moderate proposal and opposed the Wilson-Morton version, which was much more radical than his own in that it guaranteed Negro officeholding and electoral college reform, while it abolished residential, religious, property, and literacy tests. Speaking before the House in an attempt to rally more radical Republicans, he contended that the right to vote carried with it implicitly the right to hold office. Also, he avoided the issue of education and property tests, understanding that rejection of the Senate proposal would also mean rejection of the ban on the literacy test and the poll tax, whose adoption many thought would unite opposition to defeat ratification in the state legislatures.

Despite the efforts of Republican John A. Bingham, who approved the Wilson version perhaps in an attempt to kill the

59 The Nation, February 11, 1869.  
60 Ibid., February 18, 1869.  
64 Boston Daily Journal, February 15, 1869.
amendment altogether, the House rejected the Senate's amendment and requested a conference committee. Oddly enough, on this vote Boutwell lost the support of fifty-four Republicans, half conservative and half moderate, who had voted with him on January 30. In two weeks his position among Republicans had weakened; a sustained attack might destroy it completely.

But help from an unexpected quarter advanced Boutwell's cause. The unrepentant radical Wendell Phillips surprisingly thundered forth the common sense of moderation; he declared that Boutwell's simple, direct, and modest proposal alone had a chance of being ratified. Though personally favoring a guarantee of Negro officeholding, he felt that passage of anything stronger than Boutwell's measure would be foolish, and loudly wondered whether the Wilson proposal wasn't a trick to defeat the amendment after all. Advising prudence, Phillips concluded that "for the first time in our lives we beseech them [Congressmen, especially the more radical ones] to be a little more politicians—and a little less reformers. . . ."

Moderate publications praised Phillips' advice. The Nation urged Senators "to consider not Eternal

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66 *Ibid.*, p. 1226. Cf. *ibid.*, p. 744; E. McPherson, pp. 399–400, 402–3. Although the Wilson version received only 37 votes, that total was an increase of 13 over the affirmative total for Bingham's amendment. There was a decline of 27 nays, 52 congressmen did not vote, and many supporters of Boutwell were Democrats. On subsequent votes on the Wilson version and the second Bingham version, 11 more radical Republican congressmen, mainly from the Middle West and Pennsylvania, who had voted for the moderate position with Boutwell on January 30 to defeat the first Bingham version (*ibid.*, p. 744) and later deserted Boutwell by not voting on the Wilson version on February 15 (*ibid.*, p. 1226), finally supported the second Bingham version on February 20 (*ibid.*, p. 1428): William B. Allison (Dubuque, Iowa), Ephaim R. Eckley (Carrollton, Ohio), Jacob H. Ela (Rochester, N. H.), James A. Garfield (Hiram, Ohio), John A. Griswold (Troy, N. Y.), Norman B. Judd (Chicago, Ill.), Ulysses Mercur (Towanda, Pa.), S. Newton Pettis (Meadville, Pa.), Robert C. Schenck (Dayton, Ohio), Caleb N. Taylor (Bristol, Pa.), and Frederick R. Woodbridge (Vergennes, Vt.). Eleven more conservative Republican congressmen, mainly from the South and the middle Atlantic states, who had voted moderate with Boutwell to defeat the first Bingham version and later deserted Boutwell by not voting on the Wilson version, finally opposed the second Bingham version: John M. Broomall (Media, Pa.), Henry L. Cake (Tamaque, Pa.), Burton C. Cook (Ottawa, Ill.), John R. French (Edenton, N. C.), James H. Goss (Union Court House, S. C.), George A. Halsey (Newark, N. J.), Samuel Hooper (Boston, Mass.), Horace Maynard (Knoxville, Tenn.), Lewis Selye (Rochester, N. Y.), J. Hale Sypher (New Orleans, La.), and Henry Van Aernam (Franklinville, N. Y.).

Justice but the possibilities of the occasion." The Times remarked that for once even Phillips had come into "accord with the rational, moderate Republicans..." But the more moderate Republican consensus in the newspapers found no counterpart in Congress.

Differences over a suffrage amendment were intensified when on February 17 the Senate considered the original amendment by Stewart after the House had rejected the Wilson plan. In effect, the House had thrown the responsibility of defeating a constitutional amendment on the Senate. Deadlock over the banking and appropriation bills, as well as the suffrage amendment, only aggravated standing differences between the two chambers, and relations between them deteriorated as senators fought against the "alleged rights" of the House, while representatives strove to check the "pretensions" of the Senate. Democrat Charles R. Buckalew of Pennsylvania exploited this occasion by reminding his fellow senators that the House, under the leadership of Thaddeus Stevens (who had died in August, 1868), had had its own way for six years. Defending Senate prerogatives and maneuvering to block agreement between the chambers, Buckalew warned that unless it put a halt to House aggression, the Senate would become a House of Lords and the House a House of Commons. This struggle for institutional pride and power further complicated debate on the suffrage amendment as the Senate refused a conference with the House.

Serious differences among Senate Republicans over the scope and shape of suffrage resulted only in floundering harangues. Friends of an amendment tried bravely to restore order. Now dropping his scheme to reform suffrage regulations and the electoral college, Oliver P. Morton called upon senators to stop wrangling and start acting; otherwise, he predicted, a suffrage amendment might be talked to death. He argued that every day lost meant the ratification fight would be proportionately harder, since the state legislatures would soon adjourn. The indispensable

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68 The Nation, February 25, 1869.
70 The Cincinnati Daily Gazette, February 16, 1869.
object, he continued, was that "colored people shall not be debarred from the right of suffrage on account of color, race, or previous condition of slavery." His words marked a break in the ranks of radical Republicans. Stewart seconded Morton and also endorsed Boutwell's proposal.

However, various groups refused to budge. Democrats tried to delay consideration; Charles Sumner tried to return the entire matter to committee; southern Republicans were reported on the verge of rebellion, because, while gaining no practical benefit from the Boutwell measure, they could not even secure readmission of Negroes to the Georgia legislature.

Finally, on February 17, the Senate came to a vote. Morton led the less extreme of the radical Republicans into Stewart's more moderate camp to reject the more extreme and comprehensive Wilson proposal. Reactionary Democrats joined with die-hard radical Republicans in support of Wilson's measure, the latter voting out of conviction, the former out of expediency, in order to prolong the House-Senate deadlock for the remainder of the abbreviated session. But this unholy alliance could not secure the needed two-thirds majority. Strong southern Republican opposition to a more moderate measure collapsed as these southerners split three ways. Prospects for a moderate measure looked good.

But then, reversing itself on the same day, the Senate killed the Boutwell amendment: it could not win the approval of two-thirds of the senators present. The moderate forces had suffered their worst defeat. A combination of twelve Democrats, seven radi-

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73 Globe, pp. 1287, 1292.
74 Ibid., p. 1292.
75 Ibid., p. 1297. Sumner believed that Congress already possessed the power to legislate on suffrage without an amendment and that any mention of race might imply that caste could be legislated. He thus feared that states might disfranchise Negroes because they were Negroes if an amendment failed to be ratified.
77 The vote was 33 "yes" to 24 "no," with 9 absences. The absence of Charles Sumner was evidence of a lack of cohesion among the diehard radicals. (Globe, p. 1295).
78 Henry finds that the same combination had blocked Lincoln's program of emancipation and colonization in the early war years; had prevented recognition of the Lincoln Louisiana government in the winter of 1865; had helped to defeat the representation resolution; and had caused trouble for the Fourteenth Amendment (Henry, "Radical Republican Policy Toward the Negro," p. 263).
men, and eight southern Republicans defeated the measure, while eight men, by not voting, saw to it that a two-thirds majority would not be secured. William P. Fessenden delivered a fitting epitaph on the Boutwell amendment when he charged that the Republican party, with more than a two-thirds majority, could not agree because it was "so cut up and divided, and there are so many opinions among the members composing it." Senator James W. Nye placed the blame, with more precision, upon Sumner and Pomeroy, who had sought to gratify their own whims; upon Wilson who had obstructed passage after his own proposal was rejected; and upon southern Republicans. Although moderates had gained important votes by splitting southern and northern

80 Ibid.

81 Ibid., pp. 1300, 1306. Sumner's record reminds one of Winston Churchill's observation that "the maxim 'Nothing avails but perfection' may be spelt paralysis." Sumner, wanting things his own way, refused to play the politician who tries to bridge the gap between fact and perfection. At the time, there was considerable criticism of Sumner and his followers for their refusal to accept the Boutwell version. The radical weekly Independent (February 18, 1869) criticized Sumner for being "so enamored of his bill, declaring manhood suffrage by act of Congress, that he takes no interest in the amendment." Devastating criticism was also leveled in retrospect (Boutwell, Reminiscences, II, 46-47; Brown, Reminiscences, pp. 242-45). Earlier during the battle abolitionist Wendell Phillips had written Sumner that there was no chance for Sumner's bill to pass Congress and suggested that at least the proposed constitutional amendment could pass, concluding that "I most earnestly beseech you to show yourself (which I know you are) most thoroughly willing and desirous that the Amendment should pass. Do not let any silence of your's be construed, in any quarter to mean that your Bill so exclusively absorbs your interest that you are content to let the Amendment slide and shift." (Phillips to Sumner, January 24, 1869, Sumner MSS, Houghton Library, Harvard College.) See abolitionist opinion in J. McPherson, Struggle for Equality, pp. 424-30.
Republicans, the Sumner-Wilson coalition could block any other proposal, even if it could not get its own way. Incapable of passing either a radical or a moderate amendment by a margin of two-thirds, the Senate would have to begin again.

Debate on Stewart’s original measure, which had been temporarily side-tracked by Boutwell’s amendment, now resumed. Democrats launched a violent offensive, trying to stall proceedings, but their many proposals were voted down. On February 17, after a twelve-hour debate, the Senate accepted Stewart’s amendment thirty-five to eleven, with twelve absentees. This measure was just enough more radical than Boutwell’s because of the mild officeholding provision to win twelve additional votes—seven southern, four mid-western, and one New England; thus a few more radicals were induced to absent themselves. The opposition was composed entirely of Democrats, except for one lonely conservative Republican from Tennessee. But the fight was far from over. Rumor was that some of the more radical Republicans who had voted for the Stewart amendment were sufficiently dissatisfied to advise representatives to reject it.

The House took up the Stewart amendment on February 20, but prospects for adoption were not at all encouraging. For one thing, the Stewart proposal retained the officeholding guarantee, while the House version did not. Further, the Senate had refused a conference with the House. Bad tempers in the Senate were producing hot tempers in the House.

In this charged atmosphere Boutwell sought to prevent agitation and even mutiny among his restless troops. He tried to confine House consideration to debate on officeholding, but more conserva-

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85 The New York *Times*, February 21, 1869.
tive Republican obstructionists had other ideas.\textsuperscript{86} Bingham suggested banning all suffrage tests, in an effort apparently to sabotage the amendment by advocating the very proposal—Wilson's—which the House and the Senate had already rejected.\textsuperscript{87} John A. Logan, a wily Republican politician from anti-Negro southern Illinois, wanted to scrap the Negro officeholding guarantee,\textsuperscript{88} no doubt accurately reflecting the will of his constituency, where opinion against Negro officeholding ran strong, as it did in Indiana, Ohio, West Virginia, Pennsylvania, New Jersey, and Connecticut. The practical effect of both proposed changes was to intensify existing differences between the chambers. Benjamin F. Butler, leader of the radical Republicans, repudiated these tactics and advised representatives to take what they could get and accept the more moderate Stewart amendment.\textsuperscript{89}

But the House was in no mood to accept Butler's advice, though it did defeat Logan's proposal to strike out the officeholding provision.\textsuperscript{90} In what James G. Blaine later termed a "capricious change of opinion,"\textsuperscript{91} the chamber adopted Bingham's ban on nativity, property, and creed (but significantly not on education) as tests of suffrage—a ban the House had, in effect, rejected previously in the Wilson proposal. The vote was close, ninety-two to seventy-one, with fifty-nine crucial absences.\textsuperscript{92} Although the

\textsuperscript{86} \textit{Globe}, p. 1426.
\textsuperscript{87} \textit{Ibid.}, p. 1425.
\textsuperscript{88} \textit{Ibid.}, p. 1426.
\textsuperscript{89} \textit{Ibid.}.
\textsuperscript{90} Thirty-three Democrats subjoining 37 Republicans supported the measure. Interestingly enough, 16 middle Atlantic Republicans, especially from Pennsylvania and New York, joined 11 Republicans from the Middle West, along with 10 Republicans from other sections, to oppose Negro officeholding. (\textit{Ibid.}, p. 1428; E. McPherson, pp. 405–6; the Cincinnati \textit{Daily Gazette}, February 22, 1869.)
\textsuperscript{91} Blaine, \textit{Twenty Years}, II, 417.
\textsuperscript{92} \textit{Globe}, p. 1428; E. McPherson, p. 406. Cf. \textit{Globe}, p. 1226. The switch in the voting in the House between the Wilson version and the second Bingham version was interesting. No Democrat changed his vote from affirmative to negative, but 19 Democrats, including the prominent Samuel J. Randall, changed from voting "no" on the Wilson version and "yes" on the Bingham version: William H. Barnum (Conn.), James B. Beck (Ky.), Benjamin M. Boyer (Pa.), Albert G. Burr (Ill.), Charles A. Eldridge (Wis.), John Fox (N.Y.), Charles Haight (N.J.), William S. Holman (Ind.), James M. Humphrey (N.Y.), J. Procter Knott (Ky.), James D. McCormick (Mo.), William D. Mungen (Ohio), William E. Niblack (Ind.), John A. Nicholson (Del.), Samuel J. Randall (Pa.), William E. Robinson (N.Y.), Lewis W. Ross (Ill.), Frederick Stone (Md.), and George W. Woodward (Pa.). Even heavier was the Republican switch, consisting of 30 more radical Republicans, especially from the Middle West and Middle Atlantic
House had performed a legislative somersault, its reason was clear. The combination now endorsing the ban differed from the coalition that had previously rejected it. Earlier, a combination of Democrats and moderate Republicans had saved the moderate measure; now the Democrats—with the sweetener that education tests, which would bar southern Negroes, would not be banned—joined the radical Republicans to effect a radical result. The Democrats were taking advantage of Republican division to play radicals against moderates, confirm House-Senate differences, and freight the amendment with unpopular provisions to ensure the failure of ratification. The Bingham amendment thus sailed through the House,93 its authors, as well as John A. Logan and the Democrats, bearing chief responsibility for its passage.94

Since the stalemate between the houses of Congress appeared final, newspapers revised early predictions and now viewed the amendment’s chances as exceedingly slim.95 Benjamin Perley Poore wrote that a suffrage amendment "hangs like Mahomet’s coffin, sections, who now, on February 20, voted affirmatively instead of negatively on the second Bingham version, where they had formerly opposed his first version on January 30 and the Wilson version on February 15: James M. Ashley (Toledo, Ohio), Jacob Benton (Lancaster, N. H.), James G. Blaine (Augusta, Me.), Reader W. Clarke (Batavia, Ohio), Amasa Cobb (Mineral Point, Wis.), John F. Driggs (East Saginaw, Mich.), John F. Farnsworth (St. Charles, Ill.), Thomas W. Ferry (Grand Haven, Mich.), Joseph J. Gravely (Stockton, Mo.), Charles M. Hamilton (Mariana, Fla.), Benjamin F. Hopkins (Madison, Wis.), Chester D. Hubbard (Wheeling, W. Va.), Morton C. Hunter (Bloomington, Ind.), Alexxander H. Jones (Asheville, N. C.), George W. Julian (Centreville, Ind.), William H. Koontz (Somerset, Pa.), James M. Marvin (Saratoga Springs, N. Y.), William Moore (May’s Landing, N. J.), James K. Moorhead (Pittsburgh, Pa.), Leonard Myers (Philadelphia, Pa.), Carman A. Newcomb (Tunnet, Mo.), Halbert E. Paine (Milwaukee, Wis.), Green B. Baum (Harrisburg, Ill.), Worthington C. Smith (St. Albans, Vt.), Henry H. Starkweather (Norwich, Conn.), Charles Upson (Coldwater, Mich.), Cadwalader C. Washburn (La Crosse, Wis.), William B. Washburn (Greenfield, Mass.), B. F. Whittemore (Darlington, S. C.), William Williams (Warsaw, Ind.), and George W. Woodward (Wilkes-Barre, Pa). The next largest change was the significant dodge of 21 Republicans and 12 Democrats who had voted against the Wilson version but did not vote on the second Bingham version. Some of the most sincere and yet moderate members who consistently voted to limit the amendment to Negro suffrage were George S. Boutwell, Benjamin F. Butler, John C. Churchill, Thomas A. Jenckes, and William D. Kelley.

95 The *New York Times*, February 24, 1869.
between the Senate and the House.”

The Democratic *World* concluded that the Senate and House were at war upon technicalities, but the *World* failed to see that these technicalities had practical importance for southern Republicans, tactical importance for Democratic and Republican obstructionists, and psychological importance for members of both chambers jealous of their institutional prerogatives. Important segments of the press dismissed the question of Negro officeholding as essentially irrelevant.

A conference committee would have to iron out the differences between the Senate and the House. Selection of committee members, to be made by the presiding officer of each chamber, was of course critical. The House chose Bingham, Boutwell, and Logan. A moderate on a constitutional amendment, Boutwell would favor neither the officeholding guarantee nor the ban on literacy or property tests. Bingham, too, would oppose the officeholding guarantee, while Logan would eventually reject both officeholding and a broad ban on suffrage tests. Radical newspapers objected to the choice of Logan and Bingham on the grounds that they would engineer the demise of the officeholding guarantee.

As for the Senate delegation to the conference committee—William Stewart, Roscoe Conkling, and George Edmunds—only the last could be expected to support general bans on tests for suffrage and officeholding. In other words, the committee appeared well chosen to favor a moderate measure.

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96 Boston *Daily Journal*, February 20, 1869.
98 In a powerful editorial the moderate Republican organ, the *New York Times*, commented that Negro voting was most important and probably the right to be voted for was already secured by American citizenship. But that the amendment went much further for Negro officeholding was unimportant, because there was no great need or demand for Negro officials. Moreover, the right of the Negro to hold office did not mean that many Negroes would be appointed or elected to office. (*The New York Times*, February 19, 1869.) A more radical journal, *Harper's Weekly*, also played down the issue. Although it endorsed Negro officeholding in the Georgia legislature, the magazine concluded that the officeholding provision should be discarded from the amendment if its inclusion meant that the amendment could not pass Congress. (*Harper's Weekly*, XIII [March 6, 1869], 146.)
100 [New York] *National Anti-Slavery Standard*, February 27, 1869.
101 The *New York Times*, February 25, 1869. Southern Republican senators felt
On February 24 the conference committee met for three hours. Stewart later reported that Bingham and Logan favored the Stewart, or Senate, version without the officeholding guarantee. Stewart and Conkling agreed, because they felt the right to vote included the right to hold office. Over Edmunds' objection, and in Boutwell's absence, the committee dropped demands for officeholding and the ban on most suffrage tests, and recommended the Stewart rather than the Bingham amendment. In short, the committee had recommended an amendment closely paralleling Boutwell's but identical to Stewart's in form. The proposed Fifteenth Amendment read as follows:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The Congress shall have the power to enforce this article by appropriate legislation.

The conference committee had jettisoned Negro officeholding, because it feared that the country was not yet ready for so radical a measure and that its inclusion might jeopardize ratification. Northern Republicans, moreover, cared less about electing southern Negro officials than counting northern Negro votes. Because both houses had previously agreed to an officeholding guarantee, the conference report amounted to a moderate victory rather than a compromise between Republicans favoring a stronger or a weaker amendment. The provision to abolish state literacy, property, and nativity tests was also omitted, because it would also jeopardize ratification. That a refusal to ban these tests weakened the amendment was of course widely recognized in the South, but in the North it was precisely this omission which would promote ratification and rally moderates.

This amendment was also a moderate one in that its wording was negative. It did not give the federal government the right to set up suffrage requirements, but left the fundamental right with

the same way and voted against submission to a conference committee (ibid., February 24, 1869).

102 Ibid., February 26, 1869.
103 Globe, p. 1623.
the states. Framed negatively, it did not directly confer the right of suffrage on anyone, and the negative wording might obscure the major objective, which was to enfranchise the northern Negro: such a formula required no positive legislation to impart force or indicate meaning. Instead, Negro suffrage in the North would be secured by the express restraint on the states not to set racially discriminating tests for suffrage. Behind the negative constitutional form lay a positive political reality.\textsuperscript{105}

An insistent question remains about the nature and scope of federal enforcement power under the Amendment, specifically the second or enforcement section stipulating that "Congress may pass appropriate legislation."\textsuperscript{106} While newspaper editors argued the question of the meaning of that section, and such diverse men as Chief Justice Salmon P. Chase and Henry Adams expressed opinions,\textsuperscript{107} most Congressional framers and supporters must have remained discreetly silent, for closely reasoned arguments were conspicuous by their absence. It would appear that radical and moderate Republicans did not care to open this Pandora's box, for fear that frank and full discussion would serve no useful purpose but would further divide Republicans and increase difficulty of passage and ratification. Debate, then, was largely avoided, and real differences over the reach of federal enforcement powers were papered over by the convenient device of an enforcement section, leaving the meaning of the word "appropriate" up to the courts for future interpretation and application, as well as up to Congress for future legislation.\textsuperscript{108} Because of this artful dodge, the contentious constitutional issue of federal powers over voting in the states was avoided.

The combination of a negative first section and an affirmative second section was significant.\textsuperscript{109} Before sending their vessel down the ways on its long voyage into law, the builders attempted to construct a hull seaworthy enough to withstand foul weather, and

\textsuperscript{105} See Table 1, p. 82.
\textsuperscript{106} U. S., Constitution, Amdt. 15, Sec. 2.
\textsuperscript{107} See below, Chap. III, n. 30.
\textsuperscript{108} By the amendments offered and rejected, it is clear that the framers did not intend to establish federal qualifications for suffrage or to abolish state literacy tests. Debate on federal powers of enforcement was evasive at best and inconclusive at least. It is thus hazardous to read either too much or too little meaning into the second section.
\textsuperscript{109} Letter from Everette Swinney, February 1, 1965.
tried to rig a sail to take the shifting winds of the future. Thus
the first section was shaped to make it impossible, if the Democrats
ever returned to power in Washington, to repudiate Negro voting,
North or South. It was therefore worded as a negative restriction
or self-enforcing prohibition to rule out any attempt by the federal
government or the states to nullify the right of Negroes to vote on
the grounds of race. Here the framers said what they meant and
meant what they said. Then the shipbuilders fashioned a second
section worded as an affirmative grant of enforcement power.
Here, providing Republicans controlled Congress and the presi­
dency, the enforcement problem could be handled when the time
was ripe and the need was clear. Presumably such enforcement
power was intended primarily to accomplish the other major
objective of the Amendment, to give the federal government a
means to enforce Negro suffrage in the South, but also possibly
provide a means to inspect election returns from Democratic
strongholds in the North. In their considered omissions and
cautious formulation, their recognition of the needs of party
and principle, their calculation of the demands of the future as
well as the present, and their acknowledgment of the existence
of prejudice, the framers intended to sail close-hauled.

On February 25, 1869, the committee report was submitted to
the House, whose rules strictly forbade debate on the conference
report. Voting along party lines almost to a man, the House
accepted it (S. 8).

It was widely recognized at the time that the framers proposed to deal not
with the whole problem but only with the worst of it. See Thomas M. Cooley
(ed.), *Commentaries on the Constitution . . .*. (2 vols.; Boston, Mass.: Little,
Brown, 1873), II, 689. Judge Cooley, writing in 1873, recognized that Congress
confined its efforts to its limited and special object: "What is particularly notice­
able in the case of this article is the care with which it confines itself to the
particular object in view. The pressure of a particular evil was felt; the reproach
of a great wrong was acknowledged; and that evil was to be remedied, and that
wrong redressed. There was no thought at this time of correcting at once and by
a single act all the inequalities and all the injustice that might exist in the suffrage
laws of the several States. There was no thought or purpose of regulating by
amendment, or of conferring upon Congress the authority to regulate, or to
prescribe qualifications for, the privilege of the ballot."

Republicans voted 144 "yes" to 3 "no," while Democrats voted 41 "no"
to none "yes," with 35 not voting (Globe, pp. 1563–64; E. McPherson, p. 399).
The 3 Republicans who opposed the conference report were Isaac R. Hawkins from
conservative west Tennessee, who had opposed the original Boutwell version;
William Loughridge of Iowa; and Rufus Mallory from anti-Chinese Oregon. Of
Reaction to the conference report in the Senate was hostile, and, because of its permissive rules, consideration was slower. It was argued that a conference could only iron out disagreements, not nullify agreements; others termed the change in the amendment’s wording unparliamentary, unauthorized, and unprecedented. The Senate, remarked a Democrat, was about to accept what two weeks ago it had rejected—that is, the Boutwell plan—and to be sure, inconsistency characterized each phase of passage.

On behalf of the conference committee, Stewart defended the proposed Fifteenth Amendment as the only formula with a chance for ratification. He pointedly remarked that though each Senator wanted a different set of reforms, the central issue was the security and extension of Negro suffrage. Threatened in Georgia and Tennessee, Negro voters had yet to be enfranchised in Maryland, Kentucky, and Delaware. Stewart asked his associates to recognize the pivotal fact that the "ballot is the mainspring; the ballot is power; the ballot is the dispenser of office." Last ditchers, like Frederick A. Sawyer (Republican, South Carolina), representing some diehard southern Republicans, also criticized the report. He felt the deletion of the officeholding provision would hurt ratification in the South, if perhaps it helped it in the North.

Other radicals reluctantly acquiesced, and the break in the radical ranks was permanent. Jacob Howard advised his antislavery colleagues to accept the conference report. Qualifying his endorse-
ment, Howard added that he entertained no illusions about the proposed Fifteenth Amendment, which outlawed racial discrimination clearly enough, but did not unequivocally confer on the Negro the right to vote; thus Negro suffrage would in no way be protected. Henry Wilson also criticized the form of the amendment and regretted the committee's failure to obtain either officeholding or comprehensive suffrage reform. Despite this, Wilson admitted he would support the half-way measure rather than no measure at all.

Inclined, like many advocates of an amendment, to sweeping measures, Oliver P. Morton professed great displeasure with the report. He objected sharply to the omission of officeholding and general suffrage reforms, and vowed never again to resort to a conference committee. But though his criticism constituted a personal attack on Stewart's leadership, Morton was first a realist and next a reformer. "I go upon the principle of taking half a loaf when I cannot get a whole one," he stated. "But nevertheless I want to say that it is pretty hard to accept a halfloaf when a whole one or almost a whole one has been offered to us and has been rejected by the committee of conference."

On February 26, at 9 P.M., the Senate grumblingly accepted the conference report (S. 8) by a partisan vote of thirty-nine "yes," thirteen "no," and fourteen absent. With the sessions of the state legislatures and the Fortieth Congress drawing to a close in four working days, there was no choice but to accept the amendment as reported out of committee or let it die. Its final supporters included important representatives of the antislavery northern and southern Republican groups. Outright opposition included the Democrats, conservative Republican Joseph S. Fowler, who was politically isolated from other Tennessee Republicans, and John Pool (Republican, North Carolina), who probably felt the amendment lacked power. The bulk of the absentees consisted of the

\[117\] Ibid., p. 1625.
\[118\] Ibid., pp. 1626-27.
\[119\] Ibid., pp. 1627-28.
\[120\] Ibid.
\[121\] Ibid., pp. 1639, 1641; E. McPherson, p. 400. The more radical Howard, Wade, and Wilson joined the bandwagon, as did a majority of southern Republicans and virtually all men from the unstable group of northern Republicans, led by Morton. Sheer exhaustion may have contributed to passage. (Boston Morning Journal, February 27, 1869).
diehard antislavery men, Sumner, Pomeroy, Edmunds, Grimes, Ross, and Yates, along with three southern Republicans: Joseph Abbott, Frederick Sawyer, and George Spencer. According to a press reporter, Abbott, Edmunds, and Pomeroy were present but did not vote. Because of sensitivity to the issue among their constituents, absentee Republicans Simon Cameron (Pennsylvania), Henry Corbett (Oregon), and William Sprague (Rhode Island) may have had sound political reasons to have dodged the vote.

In striking contrast to the grudging acceptance of the proposed Fifteenth Amendment by many congressmen was the applause that it received in the press. The more moderate Republican papers were especially delighted. A Grant organ, the Washington National Republican, termed the final version "sufficiently comprehensive." The New York Tribune, fairly moderate on the suffrage question by 1869, characterized it as "wise and judicious." Henry Adams, although missing the real significance of the Amendment, found little to which he could object in the "neck-tie with which it [Congress] proposes at last to adorn the statue of American Liberty. . . ." Adams concluded that the "dogma that suffrage is a natural right, and not a trust, is by implication denied. The 'right' to hold office, as well as to vote, is not asserted. Educational and even property qualifications are not excluded." Even the more radical Republican press fell quickly into line by arguing that something was better than nothing. The Independent, which had originally supported the broader version with an officeholding guarantee and a general ban on property and educational qualifications, abruptly changed course. Announcing that the Amendment was hardly perfect and would soon need to be supplemented, the Independent, nevertheless, observed that it "is a flood-wave that will float the Constitution still further toward the final high-water mark of Liberty, Equality, and Fraternity." It appeared, then, that a consensus existed immediately after congressional passage, as Republican

122 The New York Times, February 27, 1869.
126 Ibid.
editors rallied round the proposed Fifteenth Amendment and endorsed its ratification.

The Fifteenth Amendment had a limited object—first, to enfranchise the northern Negro, and second, to protect the southern Negro against disfranchisement, and it was chiefly the work of moderates in Congress. It offered too little to southern Republicans, who wanted greater protection of Negro voting and a mild guarantee of Negro officeholding; it offered even less to the many veteran antislavery northern Republicans who sought, in addition to firmer guarantees for southern Negroes, general suffrage reform and even national control of suffrage. On the other hand, for Democrats who feared the Republican Negro voter in the North and in the South and disliked any federal interference in state and local elections it proved too strong, as it did for restrictionist

128 John M. Mathews, *Legislative and Judicial History of the Fifteenth Amendment* ("Johns Hopkins University Studies in Historical and Political Science," Ser. XXVII, Nos. 6–7; Baltimore, Md.: The Johns Hopkins Press, 1909), pp. 20–21. On the basis of their arguments in the debates over a Negro suffrage amendment, Mathews discovers four groups of congressmen: nationalists, state rightists, humanitarians, and politicians. Though one can agree with Mathews that the politicians were of critical importance in securing final passage, their stated objectives and strategies were at variance. What seemed most to matter was how a particular proposal would affect constituents in a congressman's state or district. Such considerations affected not just a few but most congressmen. Furthermore, Mathews' groupings oversimplify the complex shifts and realignments that attended each step in the passage of the Amendment. For example, Mathews takes Howard's proposal to embody the views of the "political" group, when in fact the "humanitarian" or antislavery group supported it and Stewart's moderate or "political" group opposed it. (Ibid., p. 32; Globe, p. 1012.) Similarly, the vote on the Wilson proposal is attributed to a coalition of "politicians" and "humanitarians," yet most moderates or politicians opposed it (Mathews, p. 33; Globe, p. 1040). The term "humanitarian" to designate one group is itself ambiguous for some veteran advocates of Negro suffrage. William D. Kelley and George S. Boutwell worked to pass the Fifteenth Amendment, while many others opposed it altogether. In short, some "humanitarians" were practical, others impractical. If "politicians" and "humanitarians" were divided, can the fight be reduced semantically to a simple struggle between "nationalist" Republicans and "state rightist" Democrats? The answer must be no, since the sustained struggle over an amendment indicates that state rights was only one of several issues worrying congressmen. Democrats, in a decided minority, could not have prolonged the fight on the state rights issue alone, unless other issues mattered to Republicans and unless some Republicans supported the state rights cause. Splits among Republicans caused the trouble, which was not philosophical and doctrinaire but political and practical in character. Mathews' distinctions lack political meaning.
Republicans from the Pacific and Atlantic seabords, who worried about Chinese or Irish voters.

The moderate measure that was to become the Fifteenth Amendment found itself initially blocked by those who wanted a stronger or a weaker amendment, or no amendment at all. But the effective coalition against a moderate version suffered from the instability of its component parts. Congressmen changed their minds and their camps, camps disintegrated, coalitions collapsed, and Senate and House haggled. The absence of a Republican consensus allowed obstructionists to manipulate the shifting coalitions to advantage, for factional differences were strong, party discipline was weak, and the task of rallying a two-thirds majority for passage seemed insurmountable. House Democrats were particularly adept at playing one fluctuating Republican group off against another. In the Senate the veteran antislavery group joined a number of Southern Republicans to stall legislative action.

But a realistic reaction set in before the doctrinaire extremists or stubborn provincials could either impose their own will or, what was more likely, completely frustrate that of others. End-of-session timing, the common sense of moderation, the persistent leadership of Stewart and Boutwell, and the priority of strategic necessity over both local expediency and reformist utopianism brought a majority of Republican congressmen to rise above principle to pass the Fifteenth Amendment, the Amendment that had been devised to suit moderate tastes and secure party needs. Including, as it did, just enough to accomplish its primary objective—the enfranchisement of the northern Negro—the Fifteenth Amendment contained little that would alarm its marginal supporters without whom it could not survive passage or ratification. In essence, the Amendment satisfied these requirements by establishing impartial rather than universal suffrage.