GENDERING THE CONSTITUTION: MANHOOD, RACE, WOMAN
SUFFRAGE AND THE FOURTEENTH AMENDMENT, 1865-1869

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GENDERING THE CONSTITUTION: MANHOOD, RACE, WOMAN
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From its creation the United States Constitution referred to all of the nation’s inhabitants in gender-neutral terms. But in 1866 the Fourteenth Amendment introduced a gendered distinction between citizens. Designed to replace the “3/5ths compromise,” the Amendment’s second section declared that a state could only have full representation in Congress if did not deny the elective franchise to any of its “male inhabitants.”

Congressional debates on the Fourteenth Amendment demonstrate that gender lay at the heart of Republican strategies for enfranchising southern African American men in the immediate postwar period. Throughout the 39th Congress, Republicans adopted gendered rhetoric to discuss political rights and used ideas about manhood to justify giving African American men the vote, relying on gender to overcome the political disability of race. This strategy directly shaped the Fourteenth Amendment’s language.

As Congress debated the Fourteenth Amendment woman suffrage activists petitioned nationally for the right to vote for the first time, seeking to persuade Republicans to create a truly “universal” suffrage. But with the passage of the gendered Fourteenth Amendment, Elizabeth Cady Stanton and Susan B. Anthony shifted political strategies, first critiquing the Republican connection between manhood
and suffrage and then appealing to the Democratic Party with race-based arguments for women's enfranchisement.

This project shows how closely intertwined partisan politics and social activism were during Reconstruction. Partisan politicians relying on manhood to limit the franchise used gender-specific language in the Constitution; women's rights activists seeking to navigate (and access) the political system used partisan language in their public statements to refute the connection between gender and voting rights. That both groups relied on identity categories to define suffrage indicated how important race and gender were for the postwar reconstruction of the body politic. The Fourteenth Amendment's language and the suffragists' racist response to it demonstrate that amidst the political uncertainty of early Reconstruction, suffrage rights in general were not being re-evaluated. Instead the relationship between identity and the state was being reassessed. Ultimately, the state confirmed the importance of gender to political citizenship, leaving no room for either white or black women's enfranchisement.
BIOGRAPHICAL SKETCH

Laura Free was born in Indiana in the 1970s, but try not to hold that against her.

Her first act of social rebellion involved a historical question. Laura was forcibly removed from her kindergarten classroom for disrupting the peace during a November discussion on the European origins of the Puritan North American settlers. She reportedly kicked up a fuss when her teacher could not adequately answer the question, “But where did the Indians come from?”

In high school Laura began researching the woman suffrage movement for a class project on science. (She persuaded the teacher that she was engaging in “social science.”) In the process of doing this research, she encountered the racist statements made by Elizabeth Cady Stanton and Susan B. Anthony in the post-Civil War period. She was so disillusioned with her feminist idols that she abandoned history altogether and promptly forgot the project.

At Grinnell College Laura became interested in questions of gender, power, and the state, but after four years finally realized that political science was not the best discipline for helping her grapple with the questions of historical origins that most interested her. Consequently, she turned to history.

Laura remembered the problem of racism in the early woman suffrage movement while she attended Binghamton University, but found the notes she had taken in high school to be of little use. Despite this setback, she managed to receive her M.A. in women’s history. She then came to Cornell to study political history to
better understand the connections between social movements and Congress. At Cornell she had many trials and tribulations, but ultimately overcame them.

Laura currently teaches at Hobart and William Smith Colleges in Geneva, New York, where the traffic on her daily commute most often consists of deer and Amish buggies. She lives in Ithaca with her husband Arthur and daughter Lucy.
For Arthur and Lucy
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LIST OF ABBREVIATIONS

AERA: American Equal Rights Association
CHAPTER 1

INTRODUCTION

It was already growing warm on the morning of July 19, 1848, when a young Elizabeth Cady Stanton joined a surprisingly large “procession” of men and women at the Wesleyan Chapel in Seneca Falls, New York for the first women’s rights convention ever held in the United States.1 As one of the convention organizers, Stanton was nervous about her first public political activism and anxious for the success of the meeting that she and five others had called to discuss “the social, civil, and religious condition and rights of woman.”2 But that Wednesday Stanton had come to the chapel at the corner of Mynderse and Falls streets prepared. She carried a treatise that she and her collaborators had designed both to focus the convention’s discussion and to serve as a meaningful and persuasive inaugural statement for an American woman’s rights movement. Appropriating the rhetorical format and ideological origins of one of the nation’s fundamental political texts – the Declaration of Independence – Stanton’s “Declaration of Sentiments” codified ideas about women’s rights that had been circulating for a number of years among radical Quakers, political abolitionists, and property-rights reformers. It denounced the laws that denied married women’s right to own property, the double standard that dictated different moral behaviors for men and women, the restrictions placed on women’s access to higher education and most professions, and the exclusion of women from the

2 Ann D. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, In the School of Anti-Slavery, 1840 to 1866, (New Brunswick, NJ: Rutgers University Press, 1997), 67, 83 n. 1. The other conference organizers were: Lucretia Mott, Mary Ann McClintock, Mary McClintock, Jane Hunt and Martha Coffin Wright.
elective franchise.³ When drafting this declaration, Stanton and her fellow convention organizers fully agreed that the legal and social conventions that oppressed American women needed to be changed. However, they disagreed profoundly about what actions would best bring about this change. Stanton’s colleagues supported social agitation and petitions – political avenues already open to American women. Stanton, on the other hand, believed that women would only achieve social equality when they had complete and perfect access to the political system. Therefore, when she arrived at the Wesleyan Chapel that morning, Stanton came to convince the delegates that enfranchisement was a necessary tool for improving women’s status in antebellum America.⁴

As the convention settled into the first day’s discussions, Stanton’s radicalism remained in the background as most of the delegates debating the Declaration of Sentiments willingly conceded that exclusion from the political sphere was a fundamental cause of women’s legal and social inequality. But by the second afternoon of the convention the delegates began to disagree about what should be done about this exclusion. At this point Stanton’s ideas were brought to center stage as the convention began to consider her suffrage resolution. The ninth resolution presented in the Declaration of Sentiments, it declared that “it is the duty of the women of this country to secure to themselves their sacred right to the elective franchise.”⁵ As had Stanton’s fellow organizers, the Convention delegates questioned the wisdom of

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⁴ Lucretia Mott had told Stanton before the convention that she feared that including voting rights in the Declaration’s list of demands would make the nascent movement seem “ridiculous.” Even Stanton’s husband, who had supported the meeting and helped draft the resolutions on women’s property rights, had refused to attend because he felt that the demand for suffrage would “turn the proceedings into a farce.” Wellman, 193; Elizabeth Cady Stanton, Theodore Stanton, and Harriett Stanton Blatch, Elizabeth Cady Stanton as Revealed in her Letters, Diary and Reminiscences. (New York: Arno, 1969), vol. 1, 146.
⁵ Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 77.
Stanton’s request to include such a radical request in the inaugural moment of the women’s rights movement. Undeterred, Stanton rose to defend the resolution, speaking in public for the first time in her life. Although no record survives of any of the speeches at the Convention, two months after the Seneca Falls Convention, Stanton gave a public address that asserted women’s claim to the elective franchise that was most likely similar to her Seneca Falls speech. In it she said:

All white men in this country have the same rights, however they may differ in mind, body or estate ... to have drunkards, idiots, horse-racing, rumselling, rowdies, ignorant foreigners and silly boys fully recognized while we ourselves are thrust out from all rights that belong to citizens it is too grossly insulting to the dignity of woman to be longer quietly submitted to.\(^6\)

“The right [to vote] is ours,” Stanton declared, “the question is how shall we get possession of what rightfully belongs to us[?]”\(^7\)

Despite what must have been a fairly radical and fervent speech, perhaps critiquing the social hierarchy that relegated women to the lowest levels of society as she did in her later speeches, Stanton’s ideas were not enough to persuade the delegates in Seneca Falls. Sensing the imminent defeat of the resolution and of women’s demand for the franchise, Stanton approached fellow convention delegate Frederick Douglass and asked him for his support. Douglass, an escaped slave, nationally renowned abolition activist, and newspaper publisher, had significant persuasive power as an orator and great eminence among New York’s activist community. He rose, took the podium, and passionately defended Stanton’s suffrage resolution. By the end of his speech, Douglass had convinced enough delegates to pass the resolution by a small margin. Thus, it was with the help of a powerful political ally, in the language of the founders, and drawing on an acute sense of social

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\(^6\) Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 1, 104-105.  
\(^7\) Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 1, 104.
and political hierarchy, that Stanton’s demands for the franchise were incorporated into the initial agenda of the woman’s rights movement. For the next twenty years, Stanton would rely on the same strategies to advance her cause: important and powerful allies, politically resonant language connecting to the mainstream of American political ideology, and an occasional reference to a social hierarchy in which white middle-class women occupied an exalted position.

But twenty-one years later, on a clear and balmy day in May of 1869 at a similar convention of forward-thinkers considering the oppression of a group of American citizens, a confident and mature Stanton came to the limits of this long-used political strategy. At this meeting of activists, Stanton once again found herself advocating an unpopular and controversial position on women’s voting rights. Only this time, Frederick Douglass was not her ally, but her opponent. At the annual meeting of the American Equal Rights Association, a fusion organization of abolitionists and woman’s rights activists, Association President Stanton came under fire for yet again arguing that women’s enfranchisement was not too radical a request for the times. Just as her reforming colleagues had argued that it was not an opportune moment to request woman suffrage in 1848, so did her colleagues repeat this refrain in 1869.

In particular, Stanton drew the ire of some of her fellow Convention delegates for having accepted financial and political support from racist Democrat financier

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8 Forty years later Douglass recalled his efforts on behalf of the suffrage resolution as one of the most worthy efforts of his life. “There are few facts in my humble history to which I look back with more satisfaction than to the fact ... that I was sufficiently enlightened at that early day, when only a few years from slavery, to support your resolution for woman suffrage. I have done very little in this world in which to glory, except this one act – and I certainly glory in that. When I ran away from slavery, it was for my people; but when I stood up for the rights of women, self was out of the question, and I found a little nobility in the act.” Philip Foner, ed., *Frederick Douglass on Women’s Rights*, 2nd ed., (New York: Da Capo Press, 1976, 1992), 14.


George Francis Train for her woman suffrage newspaper, *The Revolution*. While this profoundly problematic relationship was truly shocking after Stanton’s two decades of partisan relationships with abolitionists, and eventually Republicans, what concerned her colleagues more was *The Revolution*’s frequent editorial “ridicule” of “the negro” in an effort to advance white women’s claim to the ballot. This prompted some delegates at the 1869 meeting challenge to Stanton’s leadership of the AERA, claiming that she had “publicly repudiated the principles of the society.”

At the morning session on the first day of the meeting, after a few delegates had both attacked and defended Stanton, Frederick Douglass reluctantly rose to speak. He had come to observe this meeting and not to participate, he said, but he felt that he had to weigh in on this subject. “There is no name greater in that of Elizabeth Cady Stanton in the matter of woman's rights and equal rights.” However, Douglass declared that he was disappointed in Stanton’s *Revolution* for using the term “Sambo,” and for drawing distinctions between the “Daughters of Jefferson and Washington” and “the gardener and the bootblack.”

Moreover, while Douglass declared his respect for Stanton’s position and absolutely supported women’s right to the franchise, “I must say that I do not see how any one can pretend that there is the same urgency in giving the ballot to woman as to the negro.”

Women’s claim to the ballot in 1869, Douglass contended, was simply not as compelling as black men’s. Most of the delegates to the AERA’s annual meeting agreed. Stanton, however, continued to insist that any change to the suffrage laws must include women, despite the obvious unpopularity of her position even among her closest allies.

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12 “Equal Rights, Anniversary of the American Equal Rights Association.”


14, the AERA had disbanded, and the suffrage movement had split.\textsuperscript{15} This rupture effectively ended the long political relationship between abolitionists and woman suffragists and inaugurated the independent woman’s rights movement.\textsuperscript{16}

Why, in 1869, was Elizabeth Cady Stanton willing to wield racist rhetoric to defend white women’s rights and advance her own empowerment, even though it alienated some of her oldest friends and political allies, like Douglass? What had happened between 1848, when Stanton and Douglass worked together for a common goal, and 1869 when they opposed each other’s most deeply held positions, to create such a deep ideological gulf between these two activists? And why, in 1869, did racism, the ugly assertion of the fundamental inequality of humans, seem to Stanton to be a viable and useful tool for advancing women’s enfranchisement, a claim based on the fundamental equality of humans?

These questions are not new to historians. Stanton’s racism during the Reconstruction period is a well-known and controversial, if rarely explicitly addressed, episode in the history of the women’s movement. The scholars that have engaged with this question have looked to Stanton’s relationships with other activists or to a broader racism embedded within American culture to explain her actions and rhetoric.\textsuperscript{17} However, these approaches both isolate Stanton from her political moment

\textsuperscript{15} Stanton, Anthony, and Gage, History of Woman Suffrage, vol. 2, 413.


\textsuperscript{17} Ellen Carol DuBois has attributed much of Stanton’s racist rhetoric to the influence of George Francis Train. Louise Michelle Newman identified its origins as much later and grounded it in late 19\textsuperscript{th} -century scientific racism. Rosalyn Terborg-Penn asserted that race-wielding suffragists like Stanton were “imprisoned by the sexist society they challenged” as they ignored black women’s voices in this debate to focus on men like Douglass. More damningly, however, Terborg-Penn simply labels Stanton as a racist, declaring her to be “a person of privilege who disparages and hinders the opportunities of others who are in a subordinate position, identifiable by skin color.” Although the goals of her project were not to engage with Stanton’s racist positions and her assertion is undoubtedly true, I believe that Terborg-Penn’s condemnation of Stanton ignores the complex political context that Stanton was attempting to navigate. DuBois, Feminism and Suffrage; Louise Michele Newman, White Women’s Rights: The Racial Origins of Feminism in the United States, (New York: Oxford University Press, 1999); Rosalyn Terborg-Penn, African American Women in the Struggle for the Vote, 1850-1920, (Bloomington, IN: Indiana University Press, 1998), 6, 35.
and relieve her of the responsibility and agency of political choice. While there is no doubt that Stanton’s relationship with other social activists contributed to her racist turn, and there is no indication that Stanton was particularly immune from the racism that was indeed prevalent in nineteenth-century America, these things alone cannot account for why Stanton wielded her racist rhetoric in 1868-1869 and not in 1848, 1854, or 1860. To understand why Stanton’s racist turn occurred in the late 1860s it is necessary to contextualize her actions within the whole political environment of Reconstruction – a political environment in which Americans were undertaking a wholesale reevaluation of the meanings of participatory democracy. Examining Stanton as one voice in a broad conversation being conducted in America in the late 1860s by politicians, partisans, journalists, public intellectuals, and activists about the meaning of the franchise in a post-emancipation era led me to what became the central question of this project: how were Americans redefining voting rights after the Civil War, and what did that definition mean for women? The answer, I contend, is that for most Americans actively engaging in this debate, gender was fundamental to their conceptualization of participatory citizenship, and thus in the immediate postwar period manhood became the most important means of identifying legitimate voters.

Prior to Reconstruction, voting rights were legislated by the states, and between 1790-1855 became generally expanded to include all adult white men. After the political, social, and economic upheaval of the Civil War, however, both the terms and the locale of suffrage debate shifted dramatically. The emancipation of four million African Americans, along with the thorny problem of what to do with thousands of former Confederates, forced Americans to ask themselves: who in post-slavery America would be permitted to participate in the American democracy? These

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two interrelated policy problems shifted enfranchisement to the center stage in national politics.

This national focus on enfranchisement became increasingly apparent as the Thirty-Ninth Congress opened in December of 1865. Dominated by a Republican party increasingly uncomfortable with Andrew Johnson’s lenient Reconstruction policies, the Thirty-Ninth Congress set out to develop their own plan for rebuilding the nation. Unlike Andrew Johnson’s Presidential Reconstruction program, most of the Republican members’ proposals for a Congressional Reconstruction plans included some measure for protecting the rights of the newly emancipated.19 While most congressmen could agree that as free persons the emancipated possessed some basic civil rights, such as the right to own property, to testify in court and have protection for their lives and liberty, they disagreed on the best method of ensuring that those rights were protected. The most radical among the Republicans insisted that enfranchising the freedmen was the best means of defending their rights because it made them active agents in their own protection rather than leaving them at the mercy of southern politicians or northern bureaucrats. However, in early 1866 there was limited interest in enfranchising the freedmen outright. Some congressmen were afraid of violating the states’ right to regulate the franchise. Others were reluctant to squander political capital on an unpopular measure – black suffrage referenda in five northern states had been soundly defeated by voters in the twenty years leading up to the Thirty-Ninth Congress.20 However, when reports reached Congress of the Black Codes, laws passed by hastily reconstructed southern governments that preserved the freedmen in a state of virtual slavery, many began to change their minds.21

Furthermore, when President Andrew Johnson vetoed some early, fairly moderate proposals for protecting the rights of the freedmen, like the Civil Rights Act, it radicalized others. By the mid-spring of 1866 it was becoming clear to congressional observers that the Thirty-Ninth Congress would amend the Constitution and that a new perspective on suffrage rights would likely be a central component of that amendment.

Many woman suffrage supporters like Stanton saw both the new attention given to the franchise nationally and the hints that suffrage would be included in a new constitutional amendment as potentially hopeful signs. After decades of relatively successful women's rights activism at the state level that avoided the radical suffrage question, the new national attention to suffrage rights seemed to offer a new opportunity for woman suffrage activist. The seeming fluidity of ideas about enfranchisement, and a Republican congressional majority closely aligned with the suffragists' long-term abolitionist allies, made national politics look like a potentially successful venue for a new suffrage activism. The political climate also encouraged women's rights activists to shift their focus away from a broad conceptualization of women's equality and focus almost exclusively on acquiring the right to vote. This newfound focus on suffrage, combined with their hopeful reading of the national political situation, prompted Stanton, Susan B. Anthony, Lucy Stone, and other prominent woman suffrage advocates to inaugurate the first national petition drive for women's enfranchisement. They ultimately collected hundreds of signatures on petitions that were sent to Congress between December of 1865 and May of 1866.

However, both the political rhetoric and actions of national politicians focused on protecting the emancipated indicated that they saw little connection between

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women's demands and black men's need for the ballot. Practically, and in the short-term, this meant that members of the Thirty-Ninth Congress repeatedly rejected women's request for the franchise, tabling or burying Stanton, Anthony, and Stone's petitions in committee. Instead of generating support for women's enfranchisement those same petitions alerted the members of Congress to the fact that should they be careless with their language when making changes in voting rights legislation, they could inadvertently enfranchise women.

On the longer time scale, and ultimately more problematic, throughout the Thirty-Ninth Congress Republicans adopted a gendered rhetoric to discuss political rights. As they sought to enfranchise African American men in the District of Columbia, considered how best to reconstruct southern political communities, and, most critically, debated a Fourteenth Amendment to the Constitution, Republicans repeatedly used ideas about manhood to justify enfranchising southern African American men. They argued that emancipated African American men, once dependent members of other men's households, had through military service and emancipation been legally transformed into independent adult men who required the rights allowed adult men in American society. Republicans' reliance on manhood to overcome the long-established political disability of race ensured that at the earliest moments of Reconstruction gender was established as a critical means of identifying voters.

During the Thirty-Ninth congressional session, woman suffrage advocates closely watched both the progress of their petitions and members' positions on expanding the franchise. They did not like what they saw. In particular, as members of Congress submitted proposals for the Fourteenth Amendment that would reapportion representation and protect the rights of the freedmen, woman suffrage supporters grew increasingly concerned that not only would the Republican-dominated
Congress not enfranchise women, but it would, in fact, explicitly and directly reject the possibility of women in the language of the new Amendment. In her typically acerbic manner Stanton expressed these fears to her abolitionist cousin, Gerrit Smith and his wife. Dispensing with more traditional New Year's greetings in a January 1 letter in 1866, Stanton instead opened the communication with her critique:

Do you see what the sons of the Pilgrims are doing in Congress? Nothing less than trying to get the irrepressible “male citizen” into our immortal Constitution. I’m glad that the men who are doing so base an act are named Schenck and Jenckes. Say their names slowly & see how indicative the sound is of pettiness & cruelty.  

Although annoyed by the harsh consonance of the names of Congressmen Robert Schenck (R-OH) and Thomas Jenckes’ (R-RI), Stanton was more deeply concerned with what gendered language in the Constitution would mean for women. Sharing this concern with the Smiths, she said:

What a shame it would be to mar that glorious bequest of the Fathers, by introducing into it any word that would recognize a privileged order. As the Constitution now exists there is nothing to prevent women or negroes from holding the ballot, but state legislation, but if that word “male” be inserted as now proposed ... it will take us a century at least to get it out again.

Stanton’s concerns were not unfounded. The language of the Fourteenth Amendment offered the clearest indication that gender was fundamental to the emerging postwar conceptualization of voting rights. Although neither Schenck nor Jenckes’s proposals were accepted as the final version of Amendment, the text drafted by the Joint Committee on Reconstruction followed their lead by using “that word

24 Elizabeth Cady Stanton to Gerrit Smith, New York, January 1, 1866, Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 568-569.
25 Stanton to Smith, Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 568-569.
‘male’” to define voters. The second section of the Fourteenth Amendment referenced voting citizens three separate times as male, introducing for the first time in the Constitution’s history gender-specific language discussing the general population. Thus when the Amendment passed Congress in 1866 it created a new gender-based distinction among citizens in the nation’s fundamental law and it generated an ideological, rhetorical, and legal barrier to woman suffrage. The Fourteenth Amendment reified the antebellum association of manhood and political privilege, and explicitly demonstrated that in the late 1860s political rights were being determined by gender.

With the passage of the Fourteenth Amendment, women’s rights advocates recognized that the Thirty-Ninth Congress was not likely to enfranchise women, and that therefore they had to change their political strategy. To do this, the suffragists returned their activism to the state level in Kansas and New York where two interesting things occurred in 1867. First, Stanton and Anthony explicitly and directly took on the Republican connection between manhood and suffrage at the New York State Constitutional Convention in June. When this proved not only unsuccessful, but fairly disastrous, resulting in the rupture of a long-term friendship and political association between Stanton and the convention’s suffrage committee chair, radical Horace Greeley, the suffragists took a different political tack. In the late summer and fall of 1867 in Kansas, Stanton and Anthony accepted rogue Democrat and rabid racist George Francis Train as an ally during the campaign for the woman suffrage referendum that had been placed on the state’s ballot. This alliance forged The Revolution, affiliated the woman suffrage movement with an outspoken racist, and contributed to the suffragists’ racist turn that prompted Frederick Douglass’s critique at the 1869 meeting of the American Equal Rights Association.
After Kansas, Stanton and Anthony made other overtures to the Democratic Party, hoping that the minority party still reeling from its southern association during the Civil War would see women as a potential new constituency able to bolster anemic party rosters. In the process of seeking this alliance some suffragists, Stanton in particular, used racist language to articulate women’s claim to the ballot in terms appealing and familiar to the Democrats, who throughout the period opposed expanding political rights for African Americans and wielded race as a weapon for this opposition. Paralleling Democratic arguments that claimed the disabilities of race disqualified African American men from voting, Stanton asserted that white women possessed all of the advantages that whiteness conveyed and were, therefore, safer repositories of the franchise than the freedmen. Making these assertions, Stanton decoupled citizenship from gender and attached it to race, as she sought to capitalize on a racial identity category that white women possessed and that Democrats valued to forge a new political alliance beneficial to woman suffrage advocates. In many ways, this was an astonishing move for Stanton to make, given the roots of the women’s rights movement in radical anti-slavery activism. Democrats throughout the early nineteenth century had been vicious critics of abolitionists and fierce defenders of white male prerogatives. That Stanton saw in the Democrats a potential constituency for women’s rights activism indicates the degree to which she felt rejected by the Republican-Abolitionist coalition, but also points to the depth of her political intelligence. Keenly aware of both the dynamics of partisan politics and the rhetorical and political power of social hierarchies, Stanton and her allies saw a chance for white women to capitalize on the Democrats’ racism, thinking that Democrats may have preferred white voters of any gender to male voters of any color.

Stanton was a savvy political actor attempting to negotiate her way through the quagmire of Reconstruction-era party politics. However, her maneuvering cost her
significant goodwill among the reform community. And, perhaps worse for Stanton and her allies, it did not work. Democrats in 1867-1869 were really no more interested in enfranchising women than were Republicans. Both parties saw woman suffrage as excessively radical, unnecessary, and politically dangerous. The political uncertainty of Reconstruction was not, as Stanton and others had hoped, a moment for transforming American ideas about voting rights. Instead, as Republican rhetoric indicated, it was a moment when politicians in positions of power were attempting to merely extend antebellum restrictions of the polity – as defined by manhood – to include a group of African American men whose legal and civil status was being redefined. In other words, suffrage rights in general were not being re-evaluated during Reconstruction, which could have potentially opened the door for women, but instead African American men's gender identities were being redefined. Stanton, and others, eventually came to recognize this – as revealed in their attempt to wield the politically, socially, and culturally volatile category of race to redefine women as legitimate voters. This choice, in addition to costing alliances and straining long term friendships, as with Douglass, embedded a rhetoric and ideology of inequality within the heart of a movement that ostensibly was seeking equal political rights for all Americans – a legacy that unfortunately persisted throughout the twentieth century suffrage and feminism movements.

As other identity-based means of distinguishing voters were rendered problematic by emancipation and the demands of party politics, gender offered a simple means for determining voting rights – a solution that permitted a familiar and easily marked identity category central to antebellum conceptualization of voting rights to remain at the heart of the definition of American participatory democracy.

26 At least, it was a bad political move in the short term. In the long-run, racism became a critical strategy for attracting southern support in the early 20th century suffrage movement. Newman, *White Women's Rights*. 
The political interest the national Republican Party had in enfranchising southern African American men in the mid-to late-1860s led them to use gendered language to overcome the political disability of race so repeatedly capitalized on and emphasized by the Democratic Party throughout the nineteenth century. In the earliest days of Reconstruction, gender became a powerful rhetorical tool for Republicans arguing that the transformation of enslaved black men from chattel to man entitled them to the all the rights of manhood, including suffrage, and demonstrates that this emphasis on manhood led to the gendering of the Fourteenth Amendment.

Stanton’s racism, examined from within this partisan political context, where Republicans were wielding gendered rhetoric to legitimate African American men as voters and wielding it so persistently that it appeared in the Fourteenth Amendment, takes on a new significance. Rather than a mere reflection of her cultural milieu, or due to the bad influence of George Francis Train, Stanton’s racist rhetoric was a strategic and deliberate attempt to make a claim for women’s voting rights that carried emotional capital with the American people in general, and the Democratic party in particular. Stanton’s racist turn, I argue, was not merely a thoughtless reflection of her elitism as a wealthy, educated, upper-class, white woman, although this was certainly true, but it also was a political strategy, an attempt to win allies, and a way of finding room for white women, at least, in a political system controlled by partisans and dominated by Republicans. It was a strategy for countering the ideological power of gender wielded by Republicans in defining voting rights, replacing it instead with a social category that carried an equal, if problematic ideological power.

Surprisingly, no historian has specifically investigated the causes of the suffragists’ racism in the late 1860s. Equally surprising, historians have neglected to ask why the word “male” was incorporated in the Fourteenth Amendment in 1866. Although both of these episodes are quite well known and are almost always
mentioned in histories of Reconstruction and the early women's movement, there has never been a full-scale analysis of either event, let alone any work that considered each issue in relation to the other. I believe that this omission can be attributed to the former (but now shrinking) distance between political history and women's/gender history, as well as to the methodological differences between political history and social/cultural history. However, many recent works in American historical scholarship are transcending these older disciplinary boundaries and merging political, cultural, social, race, and gender history. I seek to follow and contribute to this literature by examining the woman suffrage movement through the lens of party politics and by interpreting the creation of the Fourteenth Amendment as a gendered process. Blurring the boundaries between social, cultural, and political history enables us to see that during the postwar reconceptualization of suffrage, gender did not exclusively impact women, racial hierarchies did not disappear with emancipation, and politics did not exclusively belong to men. On the contrary ideas about gender, as well as race, were intrinsic to the politics of Reconstruction and that woman suffrage activists played a vital role in those politics.

By merging an analysis of politics, gender, and race I seek to shed light on the political relationships, languages, and identity hierarchies created and perpetuated

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27 Liette Gidlow proposes that political historians begin to incorporate the theoretical developments of the past 30 years of cultural history with the questions of traditional political history to create a "postmodern political history" that pushes the artificial boundaries between cultural, social, and political history. Liette Gidlow, "Delegitimizing Democracy: 'Civic Slackers,' the Cultural Turn, and the Possibilities of Politics," *Journal of American History* vol. 89, no. 3 (2002 December): 922-957.

during the Reconstruction period. Historians use the term “political” to mean many things: from the macro-level formal processes of legislation-making and the organization of like-minded folk during electoral campaigns to the micr0-level interpersonal dynamics between family members at home to individual personal decisions.29 Because historians understand “politics” to be a term that describes power dynamics this broad use makes sense. In this project, however, I am focusing almost exclusively on struggles for power that are tied to the state. As such, this dissertation is a work of traditional political history. While I acknowledge that what one chooses to buy or eat or drink can have personal political meaning, and would never deny that politics happens outside of the polling place, the oval office, or the floors of Congress, what I am interested in here is how partisans regulated access to the institutions of the state when outsiders sought admittance.

Reconstruction is an ideal time to investigate this process because it was a moment in the American past when people were actively engaged in reevaluating and recreating the boundaries of a democratic community that had been profoundly altered by civil war. On a practical level, this meant that in the immediate postwar years people who controlled the power of the state were seriously considering sharing their power with the disfranchised for the first time in decades. I explore this gatekeeping process by examining how the political actions of outsiders (woman suffrage activists) seeking to access power interact with the politics of insiders (congressmen and other

29 The Oxford English Dictionary offers the following definition for “politics”: “The science and art of government; the science dealing with the form, organization, and administration of a state or part of one, and with the regulation of its relations with other states (hence, imperial, national, domestic, municipal, communal, parochial, foreign politics, etc.). Also the politics, public or social ethics, that branch of moral philosophy dealing with the state or social organism as a whole (obs.).” http://dictionary.oed.com, accessed 7/15/2006. While Paula Baker challenged historians to see women’s activities as political even if not concerned with the regulation of states, here I am most interested in how women’s activities were explicitly concerned with the state. Paula Baker, “The Domestication of Politics: Women and American Political Society, 1780-1920,” American Historical Review 89 (June 1984): 620-647.
partisans with power) in moments of complicated social change. Despite its radical nature and fringe status the woman suffrage movement was neither isolated nor insulated from national Reconstruction politics, nor were the politics of Reconstruction isolated and insulated from the politics of the woman suffragists. In other words, a reciprocal political relationship existed between those in positions of political power and those seeking access to that power. Thus, the actions and words of each group profoundly shaped the choices of the other.

Republican dominance of the postwar Congress ensured that any outsider seeking to convince the powerful to grant them access to the state necessarily had to engage with the words and ideas that the majority party were using to define legitimate political participants. Because Republicans were concerned about the possibility of enfranchising women as they looked to gain a large body of voters in the unstable South by enfranchising black men, gendered rhetoric became a tool for advancing their partisan interests. But Republicans controlling Congress were not the only group shaping political rhetoric. Both Democrats wielding racism and outside activists challenging partisan exclusionary rhetoric clearly contributed ideas and words to the fray. In some ways, this indicates how fluid political discourse was in the early Reconstruction period as Democrats, Republicans, and activists mutually disputed, defined, rejected, and engaged words and ideas about suffrage. However, while a reciprocal relationship existed between parties and activists, and their ideas definitively shaped each other, partisans controlled the access to the state that activists were seeking and could therefore dictate the limits of political debate. Parties decided what words and ideas were politically meaningful and powerful and which words and ideas were not.\(^{30}\) The parties’ control over the legislative process, and hence, the

\(^{30}\) Drawing on decades of nineteenth century political historiography, Joel Silbey has asserted that the 19th century politics reflected an extraordinary degree of political participation and partisan control. While this characterization of the nineteenth century as a time of particularly committed public
terms of suffrage debate left few options for woman’s rights activists who rejected the Republican association of voting with manhood. That they chose race as a rhetorical tool and/or weapon shows both how restricted they believed their choices to be within the party system and demonstrates the power of identity politics for post-Civil War partisans.

This project also reveals that the parties’ use of gender and race to delimit the boundaries of suffrage debate and activists’ challenges to those boundaries changed the very meanings of gender and race. Historians have long understood gender and race (as well as class) to be socially constructed categories of identity – markers of status that have no intrinsic meaning but great weight when used by societies to organize and distribute power.\textsuperscript{31} While in the abstract realm of theory it is easy to name these categories as constructed, it is far more difficult to determine exactly how gender and race are created. Not only do the ideas people hold about gender and race reflect the assumptions and assertions of their own historic moment but they also carry the baggage of earlier understood meanings. Furthermore, ideological and social changes are fluid, and so often difficult to pinpoint, particularly ones that are as intertwined and relationally created as are gender and race. However, there are moments in time when specific social and/or political changes challenge existing definitions of gender and racial identities so profoundly that those older definitions lose meaning. Occasionally these moments result in a deliberate redefinition of

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obsolete older ideas to realign ideology with social and political changes. Reconstruction was one of those moments. In particular, the emancipation of four million Americans both rendered the antebellum association of “blackness” with slavery and “whiteness” with freedom problematic and necessitated assigning new meanings to African Americans’ gender categories that had been tied to enslavement.

For most of the nation’s history prior to the Civil War, Americans had come to understand race primarily a marker of free or slave status. As the institution of slavery was codified and defined from the varied states of unfreedom in colonial America into the heritable, permanent condition of nineteenth century America, “blackness” (defined legally from state to state as having a given percentage of African heritage in one’s ancestral mix) became synonymous with enslaved status and “whiteness” became synonymous with freedom. This definition carried over into distributions of power as free African Americans with status and property occupied a subordinate social position to even the poorest whites because of the meanings attributed to race.32

While social boundaries and informal rules of interaction enforced social distance and hierarchy defined by race, over the course of the early nineteenth century the distance between whiteness and blackness was further codified in the democratic political system, even for states that had outlawed racial slavery. In particular, as early nineteenth-century states redefined their suffrage laws ideas about race became tied to political practices. From the colonial period to the early republic most Americans believed that landed property was the best indicator that a person possessed the independence and virtue necessary to safely participate in representative politics. By the mid-1820s, however, pressure from the growing number of landless adult men, and

from the emerging political party system eager to capitalize on those numbers, prompted most states to replace laws that required voters to have a certain amount of property with laws that merely required voters to be adult, white males. These laws disfranchised a number of free African American men in northern states and a few widowed white women in New Jersey who had had sufficient property to qualify as voters under the older laws. Thus they created a legally acknowledged distance between races and officially affirmed the informal practice of restricting the franchise to men. Ideologically, these laws substituted identity for property, tied voting rights to the categories of whiteness and manhood, and officially identified whiteness and manhood as the most critical determinants of power.

Emancipation complicated Americans’ simplistic and restrictive definitions of race as tied to political power. Primarily, emancipation forced an uncoupling of race from freedom, at least theoretically. If race was no longer a visual political shorthand for freedom, then of necessity Americans had to rethink what race meant and what power it conveyed or connoted. Furthermore, post-emancipation Americans had to ask themselves: if race no longer identified one’s status as free or enslaved, did it still indicate subordinate social and political status? Was it still an effective marker of legitimacy as a member of the political community? Emancipation called into question the meanings previously attributed to distinctions understood as “racial” and challenged the antebellum social and political power dynamic that had been rooted in those distinctions.

Likewise, emancipation complicated antebellum definitions of gender and undermined the relational connection between gender and race. In particular, it destabilized antebellum definitions of manhood. As the Jacksonian era suffrage

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expansions indicated, in the antebellum period white manhood connoted power, independence, and autonomy. To white Americans, black manhood, did not carry the same meaning, particularly in the South. As enslaved black men were deemed powerless and dependent members of other men’s households akin to women and children they were denied the legal and social status of adult men.³⁴ Emancipation liberated black men from a state of slavery and transformed them in the eyes of the law and the white community from dependents to independents. Did this mean it also transformed them into legal adult men? Would the social status of independent manhood allotted to free white men be assigned to free black men now that they had become liberated? Or, would gender cease to be a marker of political power and legitimacy if and when it was tied to race?

This project explores how political elites – both elected officials and activists – considered these questions and grappled with the redefinitions of gender and race that emancipation necessitated. Most broadly, it shows that in the early days of Reconstruction some politicians and some activists attempted to decouple gender and race in the definition of legitimate voters, in the process redefining the meanings of both. Some Republicans, abolitionists and African American activists seeking to enfranchise southern black men sought to use the meanings associated with manhood that were understood as desirable characteristics in a voter – independence, autonomy, strength, valor, virtue – to cover over the meanings assigned to blackness that were understood as undesirable in a voter – ignorance, degradation, immorality, and illiteracy. Likewise some Democrats seeking to prevent this enfranchisement sought

³⁴ Despite the white community’s attempts to feminize black men, black men found a myriad of ways to both express and understand themselves as gendered beings – as men. One good discussion of how some black men engaged in their own identity creation is found in James Oliver Horton and Lois E. Horton, “Violence, Protest, and Identity: Black Manhood in Antebellum America,” in Darlene Clark Hine and Earnestine Jenkins, eds., A Question of Manhood: A Reader in United States Black Men’s History and Masculinity, vol. 1, (1999): 382-398.
to use the negative meanings associated with race to deny the manhood of black southern men and prevent them from accessing the rights granted to adult men in American society. Woman suffrage activists, walking a fine line between these two rhetorical groups (and clearly stumbling) sought to capitalize on the meanings associated with whiteness – power, wealth, status – and use those qualities to obscure and elide the meanings associated with womanhood – weakness, immaturity, volatility, and dependence. By exploring how political groups manipulated and maneuvered these meanings of gender and race, this project shows the process of identity construction at work. It shows that in times of social change, people can take the categories they understand to be natural, fixed and firmly defined and use those categories for their own purposes, agendas, and benefits – in the process necessarily changing the meanings of those categories.

The explicit and conscious construction of identity that the post-Civil War politicians engaged in is seen particularly clearly in the Republican manipulation of manhood to legitimate southern black men as voters. Previously tied to slavery and slave status, black manhood was defined as subordinate and dependent – qualities understood to be feminine. Republicans who supported enfranchising the freedmen rejected this characterization and claimed that emancipation itself had transformed black men into independent men responsible for the protection of “their” own dependent women and children. Ultimately, however, it was not emancipation itself that transformed the white public’s vision of black manhood, but Republican politicians and black men themselves. Republicans, by emphasizing black men’s military service, their bravery and courage during that service, their transformation into heads of households by emancipation, and their role as family protectors to justify their enfranchisement, helped to redefine what it meant to be a black man – at least what the public, national, and officially recognized definition of that manhood would
be. By seeking to include black men in the broader category of “men,” Republicans were both attempting to de-racialize manhood and to re-gender black men. They sought, essentially, to cloak black men’s race with a new definition of their gender. In so doing, they also redefined gender, making manhood about masculinity, citizenship, military service, and paternal/head-of-household status.

That it was politically beneficial for Republicans to attempt this metaphoric cloaking shows how explicitly the success or failure of social identity construction depends on who has power and what definitions benefit whom. Would these white Republicans in positions of power have undertaken a public redefinition of black manhood if that redefinition had not benefited their politically powerful mainstream party? Likewise, would they have been so eager to redefine black men as men if they did not need a large voting constituency in the South? The fact that no party sought to overthrow gender as a means of defining voters and thereby enfranchise women indicates that the answer to these questions was a resounding “no.” Despite their minority status and postwar decline in power, even Democrats were not desperate enough to seriously consider advocating women as voters – the risk simply was not worth the potential benefit. Enfranchising white women would not have granted a large new constituency to Democrats in a region where their support with the existing electorate was fragile at best, as enfranchising black men did for Republicans. By demonstrating that both parties were not only aware of this calculus, but willing to mobilize identity categories in order to capitalize on it, this project shows that identity constructions like gender, race, and class are not only abstract means of organizing social power and status, but also can be explicit and conscious directives used to distribute concrete political power.

In this dissertation I argue that both the gendering of the Constitution and the suffragists’ racist turn were caused by the way that the national Republican Party used
gender to delineate the boundaries of the political community. This strategy resulted in the gendered Fourteenth Amendment and pushed the ally-seeking suffragists to the Democrats, where they appropriated Democratic partisan rhetoric in an attempt to cement that political relationship. This argument is divided into two parts. In the first section of the dissertation I explore the way that gender came to the forefront of Reconstruction suffrage politics for congressional Republicans framing the Fourteenth Amendment. I examine the ideas that congressmen had about gender and its relationship to politics, consider the factors shaping the choices that congressmen made, analyze the language they used to defend and define those choices, and demonstrate that the outcomes of their decisions made gender central to the postwar reconceptualization of political rights. In the second section I explore the consequences of the Republicans’ gendered franchise for the woman suffrage movement. I investigate the choices that woman suffragists made in an attempt to navigate the partisan political landscape shaped by Republicans and controlled by partisans, and show that racist rhetoric was a deliberate strategic choice some suffrage advocates made to advance the rights of some at the expense of others.

In the next chapter I explore how gender became central to the way that Congress conceptualized and justified amending the Constitution. This chapter first considers the varied legislative paths that congressional Republicans sought to redefine suffrage rights, protect congressional representation, and preserve their own majority status before deciding on a constitutional amendment to address these related problems. I argue that while contemplating and debating the Fourteenth Amendment, which would become the first Amendment in the nation’s history to change a provision in the original Constitution as written by the founders, a crisis emerged for members of Congress who needed to justify transforming the nation’s foundational text as written by “the fathers.” This chapter shows that congressmen of both parties
justified their constitutional actions by adopting a male familial metaphor for the state and defining themselves as the worthy “sons” of the founding “fathers” within that national political family. By using a male family metaphor for the political community, members of Congress could claim legitimacy as the natural heirs of the founders, could situate themselves as new “fathers” of the reconstructed political community, and could identify other legitimate “brothers” within in that community. The identification of “brothers,” this chapter argues, split along party lines. Democrats situated white southern men as the prodigal brothers returning to the Union, whose bonds of brotherhood had been forged in the war of the Revolution.  

Republicans, on the other hand, identified African American southern men as brothers whose blood ties to the political family had been forged during the Civil War. Both parties, however, appropriated gendered language for conceptualizing the state, leaving little room for a gender-neutral vision of the postwar political community.

In the third chapter I investigate more extensively how Republicans adopted gender to integrate African American men into the political community. I begin by showing how members of Congress expanded the familial political metaphor to include discussions of their own political behavior, seeing manhood as central not only to the political behavior of voting but to any political behavior. As some congressmen jockeyed with each other for superior manhood, others were engaged in using ideas about manhood to justify enfranchising African American men, or at least to justify the emerging policy of encouraging southern states to enfranchise them. In particular, Republicans sought to de-emphasize race as a political disability by emphasizing the freedmen’s gender. They did this primarily by contending that African American men

35 This rhetoric nicely foreshadows the way that Union and Confederate veterans would find common ground in the mutual experience of battle after Reconstruction, while simultaneously denying black veterans the connections of that experience. See David W Blight, Race and Reunion: The Civil War in American Memory, (Cambridge, MA: Belknap Press of Harvard University Press, 2001).
had earned membership in the political family by right of their newly determined citizenship and as a just reward for military service to the Union. This service, many Republicans argued, transformed African American men from legal children into men, and therefore conveyed to them the rights of manhood. Republicans' use of gender to posit black men as legitimate voters reinforced the association between gender and voting rights that had emerged in the Jacksonian-era expansion of suffrage and reified the image of an ideal voter as male. Ultimately, I argue in this chapter that because Republicans used gendered rhetoric to interpret masculinity as fundamental to voting rights and voting rights as fundamental to masculinity, women had no place in the Republican Party's vision of a reconstituted political community.

In the fourth chapter I examine the process by which gendered language came to be used in the Fourteenth Amendment and impact that woman suffragists had on that process. As Congress was using gender to delineate the political community, to define voters, and regulate political behavior, woman suffragists petitioned for the right to vote for the first time in the nation's history. By adopting Republican rhetoric for African American men's suffrage rights and applying them to women, I argue that these petitions indicated to members of Congress that women were no longer content to be passive, private individuals outside of the political community. Instead, these petitions alerted congressmen to the fact that women were seeking access to that community. Rather than persuading congressmen to enfranchise women, as had been their intent, I contend that these suffrage petitions prompted Republicans to gender the Constitution in order to prevent women from being enfranchised in 1866.

The fifth chapter looks at woman suffragists Elizabeth Cady Stanton and Susan B. Anthony's initial responses to the gendered Constitution. Re-reading the history of this period in the suffrage movement through the lenses of partisan politics, this chapter argues that when Republicans adopted manhood as a measure of voting
fitness, Stanton and Anthony first sought to challenge that conceptualization in the New York State Constitutional Convention of 1867. They did this primarily by disputing the link between manhood and military service that figured so prominently in Republican rhetoric, attacking the manhood of individual convention delegates, and claiming women’s ability to serve in the military. While the former argument alienated critical allies in the convention, it was the latter that was terrifyingly radical to the suffragists’ listeners, confirming their worst fears that women’s enfranchisement would fundamentally disrupt existing gender relationships. The New York convention revealed that to most postbellum politicians the link between gender and suffrage was not simply incidental, as Stanton and Anthony had argued. Rather, it was fundamental to the way that they understood and defined legitimate voters. Although this strategy resulted in failure, the suffragists’ first attempt to address the Republicans’ gendered franchise was an important strategic and rhetorical step away from the Republican political and linguistic paradigm that had so fully determined the suffragists’ appeals before 1867.

The sixth chapter examines the suffragists’ racist turn. After Stanton and Anthony’s failure to persuade Republicans to separate manhood and suffrage in New York, they sought Democratic support for women’s right to vote. They sought this new partisan alliance by first accepting the help of Democratic-leaning orator George Francis Train in their campaign in Kansas in 1867, and second, by adopting Democratic racist rhetoric in their suffrage arguments in the late 1860s. Democrats, I argue, had given women reason to hope for their support throughout the Fourteenth Amendment debates by expressing a preference for enfranchising women rather than African American men. By adopting Democratic partisan rhetoric, suffragists attempted to persuade Democrats of the justice of their cause, but also attempted to navigate the existing partisan political alternatives to the Republican Party. In doing
so, the suffrage activists demonstrated both how closely parties controlled political language and how effective Stanton and Anthony were at navigating partisan politics.

Ultimately, I see this project's contributions to the history of Reconstruction as threefold. First, this project shows the postwar process of identity construction in action. It demonstrates explicitly that black manhood was a political weapon of a majority political party, and that by wielding this weapon Republicans made gender central to the postwar reconstruction of suffrage rights. That this was such a difficulty weapon to counter proved to be the undoing of the earliest national woman suffrage movement. Second, this project reveals how closely intertwined the politics of social activism were with the politics of mainstream parties. That the Republicans' interest in manhood found its way into the language of the Fourteenth Amendment was an indication that the members of Congress drafting constitutional change were sufficiently concerned about woman suffrage activism to explicitly prevent women from being enfranchised. Likewise, that woman suffrage supporters adopted the political rhetoric of mainstream political parties was an indication of how strongly influenced their activism was by the partisan political environment which they navigated and attempted to access. Thus despite their fringe status and limited popular appeal, woman suffrage supporters actively contributed to and had a measurable impact on national politics during Reconstruction.

Finally, this project demonstrates that language was anything but incidental to politics in the postwar period. Activists and politicians alike strategically wielded language to structure their political environments, to create and to limit the terms of suffrage debate, and to create a new vision of the political community. Clearly, a vital political conversation was occurring between partisan elites and political outsiders, a conversation whose terms, topics, and languages were dictated by partisans. In exploring this conversation, this project reveals on one hand the fluid nature of
political discourse as ideas, words, and concepts were chosen, spoken, assigned meaning, disputed, and rejected or adopted over and over in the postwar period. On the other hand, it demonstrates that a fairly narrow range of political rhetoric was mobilized, both by partisan elites and the political activists. That political parties created, manipulated, and mobilized this rhetoric, however, speaks to the nineteenth-century parties' power to determine the means by which ideas about rights and suffrage were articulated, and thus to shape how Americans conceptualized themselves in this critical moment of national redefinition.
CHAPTER 2

THE PATERNAL PROBLEM

On February 6, 1866 while debating the first proposal for a Fourteenth Amendment to the Constitution Charles Sumner (R-MA), the Thirty-Ninth Congress’s most radical Republican, declared that he could not support the proposed amendment because it implicitly permitted racial distinctions among citizens, distinctions that were not present in the original document:

Go back ... to the adoption of the Constitution ... the finest saying of the times was when Madison, evidently inspired by the Declaration of Independence, and determined to keep the Constitution in harmony with it, insisted in well-known words that “it was WRONG to admit in the Constitution the idea of property in man,” ... Accordingly, in this spirit the Constitution was framed. This offensive idea was not admitted. The text at least was kept blameless.36

Sumner’s effort to construe the Constitution and its authors as racially egalitarian must have seemed strained to him even as he spoke, prompting him to acknowledge that although the document’s “text, at least” did not directly recognize racial difference, antebellum legal, social, and political interpretations of the Constitution had relied on the founders’ Constitution to legally sustain America’s peculiar institution.

The founders’ recognition of slavery in the Constitution, named or unnamed, textually explicit or implicit, prompted a number of political, ideological, and constitutional problems for the members of the Thirty-Ninth Congress as they sought to reconstruct the nation.37 The constitutional clause that most explicitly recognized

36 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 6, 1866, 673.
37 The founders’ relationship to slavery is a topic of some debate in the historiography of the Constitutional framing process. Some historians argue that slavery was fundamentally embedded in the text of the Constitution. Of those historians, Paul Finkelman is perhaps the most prolific of what the
slavery and the one that most immediately concerned Republicans like Sumner in the Thirty-Ninth Congress was Article 1, section 2. This section permitted southern states to have congressional representation based on three-fifths of their enslaved populations. As part of the Great Compromise of 1787, the three-fifths clause stated that,

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years and excluding Indians not taxed, three-fifths of all other persons.  


In the antebellum period, this clause kept the South from holding excessive national political power by "representing" people that were defined as property. But with the ratification of the Thirteenth Amendment on December 18, 1865, two weeks after the opening of the first congressional session since the end of the Civil War, the three-fifths clause was rendered a dead letter. By emancipating all slaves in the United States, the Amendment eliminated all unfree "other persons" in the United States. As a certainly unintended, and possibly unforeseen consequence, the Thirteenth Amendment permitted southern states to count their whole populations toward their congressional representation, potentially increasing southern congressional power significantly. This Amendment therefore raised the possibility that despite its defeat in the recent war the conservative South could politically profit from emancipation. Clearly, this was an unacceptable outcome of the war for most northerners. Many Republicans feared an even worse scenario in which southern states would ally with northern conservatives to gain a majority when they returned to Congress, and then use this majority to reverse the outcome of the Civil War. For these Republicans it was unthinkable that the white South would gain power by liberating the very persons they had fought a bloody and brutal war to keep enslaved. Over the course of the summer and fall of 1865, as the incoming members of Congress watched the results of President Johnson's lenient reconstruction policies, it became clear to Republicans that something had to be done to prevent this increasingly plausible resurgence of southern power. To protect the fledgling Union victory and remedy the problem of congressional representation created by the Thirteenth Amendment, the Constitution had to change and the three-fifths clause for apportioning representation had to be replaced.39

But changing the Constitution was certainly not a proposition members of Congress took lightly. Since the ratification of the Constitution and the approval of the Bill of Rights in 1791, the Constitution had only been amended three times. Two of the Amendments supplemented and clarified existing constitutional provisions (XI), or introduced new national policies (XIII). Only the Twelfth Amendment actually changed an existing provision laid out by the founders, changing the procedure for electing the president and vice-president. Ratified in 1804, this Amendment had been drafted and passed by the founders themselves. Thus, in 1865 the congressmen were to become the first group of American politicians since the revolutionary generation to alter a provision of the Constitution laid out by the founders.

To justify making this alteration in the nation’s fundamental document, these congressmen had to persuade themselves and their colleagues of two things: that they had a legitimate right to change the founders’ constitutional provisions, and that the changes they sought were consistent with the ideals of those founders. But for many Republican politicians after the Civil War, America’s founders were problematic models to turn to for guidance in re-building the postbellum polity. Because of the concessions the founders had made with slavery, many Republicans not only viewed them as partially responsible for causing the recent war, but they also were keenly aware that one of those concessions directly caused the representation problems with which they were faced. That the founders had seemingly not anticipated any eventual alteration in either slavery or congressional representation was, for the Republican members of Congress, an oversight that created a distinct sense of anxiety about the founders’ flawed political legacy, about themselves as the heirs of that legacy, and about their own abilities to alter the nation’s fundamental text.\textsuperscript{40} The prevalence of

\textsuperscript{40} For example, New York Representative Roscoe Conkling described the situation Republicans faced: “Did the framers of the Constitution ever dream of this? Never, very clearly. Our fathers trusted to gradual and voluntary emancipation, which would go hand in hand with education and enfranchisement.
this anxiety in congressional debate reveals that these politicians were aware that they were not simply engaging in a project of basic policymaking; they understood that they had to reassess the founders’ original intentions, assign new meanings to the founders’ behavior, and interpret the founders’ residual texts in a manner consistent with current policy. Essentially, the members of the Thirty-Ninth Congress had to reconstruct the founders’ ideological and political legacy as they reconstructed the nation. At the very least, congressmen had to redefine their national paternal legacy in a way that was consistent with their own policy goals.

In order to realign their vision of the founders’ legacies with their own political policies, both Republicans and Democrats sought to distinguish between the language and the behavior of the founders, separating the founders’ actions from their texts. Adopting this distinction between the founders’ words and their deeds enabled congressional partisans to reconstruct them as essentially good Democrats or Republicans. In the process of claiming the founding fathers as their own, members of both parties adopted a metaphor of gendered familial relationships to describe ideal arrangements of power in the American polity. In particular, the members of the Thirty-Ninth Congress used the familial roles of “father,” “son,” and “brother” to situate themselves in relation to the founders, to characterize the nation’s ideal political organization, and to define allies in the southern states.\(^4\) Congressional Republicans and Democrats repeatedly referenced the founders as “fathers” and sought to justify their own policies as legitimate filial legacies. Both parties sought to define themselves as the true “sons” of those “fathers.” Both parties mobilized a

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They never peered into the bloody epoch when four million fetters would be at once melted off in the fires of war. They never saw such a vision as we see.” U.S. Congress, House of Representatives, *Congressional Globe, 39th Cong., 1st sess.*, January 22, 1866, 23.

\(4\) While referencing the founders as “fathers” was certainly not new to the mid-nineteenth century, identifying the founders as “fathers” took on a new meaning when coupled with the use of the terms “brothers” and “sons” within the context of Constitutional amendment, sectional reunification, and emancipation.
fraternal rhetoric to reconstruct southern populations, pointing either to black or white southerners as the true “brothers” in the new national political family. In wielding this gendered familial metaphor for the states, both parties identified manhood as a determinant of power within the imagined political family.

Almost as soon as the legislative session began in December, Republican members of the Thirty-Ninth Congress began to grapple with the problematic legacy of the founders’ tacit sanction of “property in man.” As they sought to develop a Reconstruction policy, congressmen initially sought an alternative legislative path for addressing the problem of southern representation. Many of these legislative solutions, like the Civil Rights Act (S. 61) and the proposals to enfranchise black men in Washington D.C. (H. 1 and S. 1), focused on granting and protecting the rights of the emancipated as a means of preventing southern Confederates from regaining control of the southern governments and Congress. Most importantly, congressmen considered whether or not to enfranchise the southern freedmen. For some, particularly the most radical, freedmen’s votes seemed to be the best tool for preventing a resurgence of southern power. The idea that enfranchised black men in the South would counterbalance the power of southern conservatives and thus prevent their return to Congress, was a powerfully appealing one to congressional Republicans. Granting suffrage to black men in the South would not only increase Republican voting rosters, but to some degree it would also relieve congressional responsibility for the Reconstruction process, placing the power for controlling recalcitrant southern confederates in the hands of the emancipated themselves. And pushing this policy with legislation seemed to Republicans to be an important step toward achieving their goals. But the president’s negative response to Republicans’ efforts to enfranchise African Americans was an indication that legislation alone would not be enough to manage Reconstruction; amending the founders’ Constitution.
was necessary.

As Republicans in the Thirty-Ninth Congress began to think about how to amend the founders’ Constitution, they debated both the meanings of the nation’s fundamental texts and the meaning of their authors’ behavior. These politicians recreated political memory and reconstructed history to create partisan political weapons for the battle over constitutional amendment. Viewing the founders’ “original intent” through a partisan lens, and by emphasizing either the language of the Constitution, the Declaration, or the behavior of the founders, congressmen interpreted the founders’ ideas and actions to suit their own goals and needs.42 Simultaneously, these politicians sought to the mythical fathers’ approval for their policies mythical fathers, leading the partisans in Congress to both gender and the family structure as a “natural” and appropriate means of structuring political hierarchy. This strategy would have profound implications for the composition of the postbellum political community and would contribute to the gendered language of the Fourteenth Amendment.

The Republican Legislative Agenda: Rights and Representation

Congress was not in session in April of 1865 when Robert E. Lee surrendered at Appomattox on the ninth, when President Abraham Lincoln was assassinated five days later, when Vice President Andrew Johnson, a conservative southern Unionist, inherited the nation’s highest office with Lincoln’s death on the fifteenth. Because of

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the timing of nineteenth-century congressional elections, the Thirty-Eighth Congress had ended its session on March 3, 1865. The new Congress was elected in 1864 but it did not meet until December of 1865. Therefore in the months immediately following the cessation of the Civil War’s military conflict in early 1865, the task of reconstructing the nation fell to the new president. Johnson refused to call a special session of the legislature to address reunification issues, preferring to believe that he could rapidly and simply reunite the warring sections during the summer and fall before Congress reconvened.

Despite this early attempt to exert executive control over the reunification process, some radical Republicans viewed Johnson’s inauguration as a hopeful sign for a racially egalitarian reconstruction. Frustrated with Lincoln’s cautious conservatism, radicals expected that Johnson’s well-known dislike of the southern

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aristocracy, and his interest in an expedited national reunification, would translate into sympathy and therefore justice for the emancipated. But by the early summer of 1865, it was becoming increasingly apparent that Johnson’s reconstruction policies were focused on restoring political citizenship to white southern aristocrats, rather than extending it to southern freedmen. Johnson’s plans for returning the southern states to full Union membership involved rapidly reconstituting state governments that preserved antebellum social structures, issuing sweeping pardons for Confederates, and tacitly approving restrictive labor and social “codes” for the emancipated. These actions signaled to northerners and southerners alike that his administration welcomed both a resumption of white planter power and a resurgence of the antebellum race-based system of oppressive labor. In this way, Johnson’s reconstruction actions embodied everything that radical Republicans had feared from a conservative Reconstruction. Meeting with the president when he arrived in Washington for the congressional session, Charles Sumner reported that Johnson “does not understand the case. Much that he said was painful, from its prejudice, ignorance, and perversity.”

Despite this disappointment with the president’s policies, many Republicans spent the summer and fall of 1865 designing their own blueprint for Reconstruction. Although forced to the sidelines by the intersession break in Congress, the congressmen-elect privately developed their own reconstruction plans as the congressional session approached. In a vital pre-session caucus meeting on December 2, a seven-member group including leading radical Pennsylvanian

45 Foner, Reconstruction, 180-185, 197.
46 For example, see Salmon P. Chase to Charles Sumner, June 25, 1865. “President Johnson makes a great mistake in refusing to recognize the colored citizens as part of the people with which, in each state, he thinks himself not only authorized but bound to arrange the conditions of restoration. It is a moral, political, & financial mistake … I am grievously disappointed.” Salmon P. Chase and John Niven, The Salmon P. Chase Papers, (Kent, OH: Kent State University Press, 1993).
48 James, The Framing of the Fourteenth Amendment, 11.
Thaddeus Stevens, Illinois Moderate Elihu B. Washburne, and Missouri abolitionist Henry Blow, proposed that Congress organize a special joint committee on Reconstruction. This committee would investigate conditions in the southern states in order to determine whether they were ready to be represented in Congress, as well as consider how best to protect the rights of the emancipated. 49 "The passage of the resolution" to form this committee, the New York Times reported hopefully, "is indicative that the matter will be promptly and speedily disposed of." 50 Despite the Times’ optimism, a speedy resolution to the myriad of reconstruction problems seemed unlikely. However, the Republicans’ intent to form this committee certainly indicated the Congress’s intent to “promptly and speedily” replace Johnson’s Reconstruction policies. When the Thirty-Ninth Congress convened the following Monday, before any other regular business had begun Stevens introduced the caucus’s resolution for the formation of a Joint Committee on Reconstruction to consist of nine Representatives and six Senators. 51 The representatives passed the resolution immediately and appointed Stevens to chair the House delegation. Five days later, the Senate passed a similar resolution and appointed a moderate, William Pitt Fessenden of Maine, to chair their delegation.

Just as the two chairs’ ideologies represented the range of political opinions among Republicans in Congress, the additional members appointed to the Committee likewise reflected the wide range of abilities and political opinions of their congressional colleagues. Stevens was the acknowledged senior statesman and representative radical on the committee. Dictatorial, hard-edged, and humorless,
Stevens was a passionate and often unyielding advocate for racial equality. Having shepherded the anti-slavery cause to fruition, he hoped to use his considerable congressional clout to shape a radical reconstruction policy. Fessenden, on the other hand, was a far more moderate Republican, more a political strategist than idealist. He had served as Lincoln’s Secretary of the Treasury and was one of the most powerful Republicans in the Senate. But despite his mild support for black suffrage, Fessenden was no radical. Perhaps influenced by a vehement personal hatred of his fellow New England Senator Charles Sumner, Fessenden scorned the radical vision of Reconstruction favored by Stevens and Sumner, promoting instead more politically pragmatic policies. The Senate’s choice of Fessenden to chair the committee, instead of Sumner, indicated its more cautious approach to Reconstruction.

Five Senators and eight Representatives joined Stevens and Fessenden on the joint committee. The wide-ranging political alignments of those chosen for the committee fairly reflected broader coalitions within Congress. Following the Senate’s more conservative leanings, none of the five Senators on the committee were as radical as Stevens on the issue of freedmen’s equality. Most held more centrist/moderate positions. The most radical were James Grimes of Iowa and Jacob Howard Michigan. Howard was an early supporter of enfranchising African American men, but like Grimes, did not always vote the most radically egalitarian positions in roll call votes. The two other Senate Republicans were more conservative than Grimes and Howard. Oregon’s George Williams had been a

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52 Stevens was long vilified in early Reconstruction histories a heartless congressional dictator and biased author of unjust and corrupt policies imposed on the South. In the past fifty years, however, historians have come to admire his passion for his cause, as well as his political skill. See for example, Fawn Brodie, *Thaddeus Stevens, Scourge of the South*, (New York: Norton, 1959); and Benedict, A Compromise of Principle, 34-35.


Democrat until 1864, and his moderately conservative voting record reflected this background. New York lawyer Ira Harris also voted a more conservative program, perhaps reflecting his stronger commitment to legal issues than to partisan maneuvering. The only Democrat the Senate appointed to the committee was attorney Reverdy Johnson, was one of the most universally respected legal minds in the Senate. Johnson generally opposed any expansion of the franchise, but often argued his opposition in terms of legal precedent rather than the more blatant social prejudice wielded by other Democrats.

Like the Senate, the House also appointed mostly centrist members to the joint committee. Roscoe Conkling of New York, a rising politico who would move into Ira Harris's Senate seat in the next Congress, John Bingham of Ohio, who would write the civil rights portion of the Fourteenth Amendment, and Missouri abolitionist and contributing financer of Dred Scott's defense, Henry T. Blow, all voted in a mostly moderate fashion throughout the session. Elihu B. Washburne, anti-slavery Whig and close Lincoln colleague, who would be critical in maneuvering Grant to the Presidency, also held fairly moderate political views. The House Democrats, Kentucky's Henry Grider and New Jersey's Andrew J. Rogers, though not as temperate as the moderate Republicans nor as learned as their Senate colleague Reverdy Johnson, also lent their weight to the most conservative views. Rogers, in particular, was a volatile speaker with a penchant for a creative use of racially biased invective in his floor speeches. These conservatives and moderates clearly outnumbered the radicals on the committee, former Massachusetts Governor George Boutwell and chair of the important Ways and Means committee Vermont Representative Justin S. Morrill. Over the next six months, this politically and

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56 James, *The Framing of the Fourteenth Amendment*, 42.
57 James, *The Framing of the Fourteenth Amendment*, 42-3; Benedict, *A Compromise of Principle*, 348-
personally diverse group of men would formulate Congress's early Reconstruction plan, define the civil rights of all Americans, debate the legitimate boundaries of the American political community, and determine the means for apportioning representation in the new wholly free body politic.

While the Joint Congressional Committee on Reconstruction (JC15) was primarily responsible for addressing the critical questions of reunification, in the first few months of the 39th Congress, members of both the House and the Senate also debated how to redefine postbellum political relationships and considered how best to articulate the rights and duties of individuals in a reconstructed America. Discussions of these issues occurred most frequently as Congress debated proposals for protecting civil rights, extending the franchise, and apportioning representation. In particular questions of political participation, individual rights, and the duties and obligations of citizens were at the heart of the debate on four key legislative proposals: the Civil Rights Act (S. 61), the bills in both House and Senate to enfranchise black men in Washington, D.C. (H.1 and S.1), and the Joint Committee of Fifteen's first representation amendment (H. Res. 51). In debating these bills congressmen on the floors of the House and Senate most directly and explicitly sought to clarify what rights accompanied membership in the reconstructed American political community.

The Civil Rights Act (S. 61) was one of Congress's earliest attempts to define the future legal, civil, and political status of the emancipated. Prompted by the overwhelmingly violent and oppressive southern response to Johnson's lenient Reconstruction plan, the act sought to overturn the "Black Codes" that southern legislatures were passing to return African Americans to a state of de facto enslavement, reinforce race-based hierarchies, and control African American labor.58

58 The "Black Codes" varied from state to state, but most generally imposed curfew and movement restrictions on African Americans, required the freedmen to have an employer or be forced into
Interpreting these laws as signs of southern resistance to northern military victory and emancipation and so doubting the former confederate states' willingness to protect the civic privileges of all their citizens, even the moderate Republicans in Congress sought to assert for the first time the federal government's power to enforce the Bill of Rights, power that throughout the ante-bellum period had been delegated to the states.59

A number of civil rights measures were proposed in the early weeks of the Thirty-Ninth Congress. In the first two days of the session three prominent House Republicans, Thaddeus Steven, John Bingham, and John Farnsworth of Illinois all introduced provisions for protecting civil rights. Stevens's proposal sought a constitutional amendment to apply the "laws to every citizen, without distinction of race or color."60 Farnsworth's proposal was more conservative and sought only to ensure the equal rights of "the colored soldiers of the Union."61 Like Stevens, Bingham proposed a constitutional amendment that would guarantee "to all persons in every State of the Union equal protection in their rights life, liberty, and property."62

As in the House, in the Senate comprehensive civil rights legislation was proposed as soon as the Congress convened. On the first day of the congressional session Charles


60 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., December 13, 1865, 18.

61 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., December 6, 1865, 36. Farnsworth's resolution was not a legislative proposal, merely a policy statement for which he sought the House's approval.

Sumner, with characteristic eagerness, proposed a series of bills and resolutions that addressed many civil rights issues, from equality in jury service and education, to a general "equality before the law." On December 13 Henry Wilson, the other Massachusetts radical, presented a bill that sought to override state laws that recognized or maintained "any inequality of civil rights and immunities among the inhabitants" of the South due to race, color, or previous condition of servitude. The Senate did not take up either of the Massachusetts radicals' proposals. Instead, it turned to the proposal of the powerful moderate and chair of the Judiciary committee, Illinois Republican Lyman Trumbull.

Trumbull initially proposed the Civil Rights Act (S.61) as part of the Freedman's Bureau Bill (S. 60), but the Judiciary Committee reported the two proposals as separate bills. Like the other congressional efforts to legislate civil rights equality, S. 61 shied away from addressing social changes and focused instead on legal and political privileges. The act defined civil rights as the rights of all "inhabitants" of the United States to

have the same right to make, and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishment, pains, and penalties.

Framed to mirror the Fugitive Slave Act of 1850, the enforcement portion of the bill outlined punishments for anyone who violated these explicitly defined rights. This

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63 U.S. Congress, *Journal of the Senate of the United States of America*, 39th Cong., 1st sess., December 4, 1865, 5-7. No action was taken on these bills by the Senate.
66 Both acts had the same number of enforcement provisions laid out and organized in the same manner. Each explicitly declared that the courts and their officers were required by law to uphold the provisions of the Act. In this, the Civil Rights Act borrowed most of its language from the Fugitive Slave Act of 1850.
choice of language and structure, an ironic imitation of the radicals’ favorite legislative target, was a deliberate attempt to underscore the act’s constitutionality.\textsuperscript{67} Trumbull believed the bill to be fairly moderate and thought it would appease both President Johnson and conservative Republicans. His belief was not unfounded. Before presenting the bill on the floor, Trumbull had met with the president to discuss his proposal, and had later supplied him with drafts of the bill as it evolved in his committee. Not hearing anything from Johnson that contradicted his belief in the president’s support, Trumbull brought the bill to the floor convinced that Johnson approved of both its language and its goals.\textsuperscript{68}

Trumbull’s proposal passed the Senate on February 2, 1866 and was promptly sent to the House where it was referred to the House Judiciary Committee for consideration.\textsuperscript{69} After some deliberation the committee changed the language of the bill, specifying that its provisions applied to “citizens” rather than “inhabitants.” This was a critical change. Shifting the emphasis from all people residing in the nation to the smaller subset of people who were its official members required that Congress explicitly define citizenship for the first time so that the legislation would be clear. The House solved this ambiguity by including a provision in the bill which declared

\begin{verbatim}
Slave Act. For example, section five of the Fugitive Slave Act reads: “And be it further enacted, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant, or other process, when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of such claimant, on the motion of such claimant, by the Circuit or District Court for the district of such marshal …” Section five of the Civil Rights Act copies this language almost exactly: “And be it further enacted, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of the person upon whom the accused is alleged to have committed the offence.” “Fugitive Slave Act,” http://www.nationalcenter.org/FugitiveSlaveAct.html; “Civil Rights Act,” http://www.africaneuropeans.com/CivilRightsActof1866.htm.
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\textsuperscript{67} Kaczorowski, “To Begin the Nation Anew,” 52.

\textsuperscript{68} McKitterick, \textit{Andrew Johnson and Reconstruction}, 277-8.

\textsuperscript{69} U.S. Congress, \textit{Journal of the Senate of the United States of America}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 11, 1866, 72.
that all persons born in the United States were citizens. In so doing, the bill offered an added benefit for radicals – it directly contradicted the *Dred Scott v. Sanford* Supreme Court decision that had denied African Americans citizenship. With this change, and with the bill’s passage on March 13, the House formally defined citizenship as belonging to all Americans regardless of race or color, and identified the rights adhering to that citizenship as those fundamental rights historically possessed by white male Americans.\(^70\) Two days later, the Senate agreed to the House’s amendments and sent the bill to President Johnson for signature.\(^71\) Reflecting the increasing distrust between the executive and the legislative branches, and following his veto of Trumbull’s other bill to extend the powers and scope of the Freedman’s Bureau (S. 60), Johnson vetoed the Civil Rights Act on March 27. This veto surprised Trumbull, further alienating the radical Republicans and driving many moderates like Fessenden to more radically oppose Johnson’s policies.\(^72\) Although both chambers overrode Johnson’s veto in early April, Republicans remained concerned that the courts would not uphold the act’s provisions.\(^73\) To secure the permanence of the Act and to sidestep any potential judicial opposition, in late April the Joint Committee on Reconstruction incorporated the Civil Rights Act’s provisions into the first section of the Fourteenth Amendment.

While extending civil rights to African Americans was an almost universal goal among Republicans, extending political rights was a far more controversial

\(^70\) Earl M. Maltz, *Civil Rights, the Constitution, and Congress*, 1863-1869, (Lawrence, KS: University Press of Kansas, 1990), 64-67. Note here that the right of suffrage is conspicuously absent.
\(^72\) U.S. Congress, *Journal of the Senate of the United States of America*, 39\(^{th}\) Cong., 1st sess., March 27, 1866, 279. For a discussion of President Johnson’s relationship with the radical and moderate Republicans, and of how central the Freedman’s Bureau and Civil Rights Act vetoes to the alienation of Republicans who had originally sought good relations with Johnson, see McKitrick, *Andrew Johnson and Reconstruction*, 274-325.
proposition. Despite the controversy, the political needs of the Republicans, the views of the radicals, and the goals of African Americans drove the issue to the center of congressional conversations. Congress's home in Washington D.C. seemed an obvious place to start. As early as 1864, Congress began receiving petitions, hearing outside speakers, and fielding proposals for how to enfranchise African Americans in the District of Columbia.74 While the traditions of federalism dictated that the states had control over the extension or restriction of the franchise, because the Constitution gave Congress exclusive jurisdiction over Washington D.C., along with the territories, the District had long been considered by radicals and abolitionists as an ideal site to implement policies that would be more difficult to actualize in the states.75 This theory was tested during the Civil War when, in April of 1862, Congress emancipated the slaves of the District nine months before Lincoln's Emancipation Proclamation freed slaves in the Confederate South, and years before the Thirteenth Amendment ended American slavery permanently in all U.S. territory.76 During early Reconstruction, some supporters of black suffrage argued that in a similar fashion, universal manhood suffrage could be tried in Washington as an "experiment," then extended by Congress to the Territories.77 They argued that when black suffrage proved successful in areas under congressional control, the more conservative and politically difficult states could then be encouraged to follow Congress's lead. Some


75 For example a report in the New York Tribune of July 6, 1865 stated: "[a] committee of negroes... recently called on [President Johnson] to petition the next Congress to grant them the right of franchise in this District, as preliminary to its concession elsewhere."

76 U.S. Congress, House of Representatives, Congressional Globe, 37th Cong., 2nd sess., April 16, 1862, 1686.

77 See the arguments of Glenni Scofield (R-PA) on January 10, and of Burt Van Horn on January 17, 1866. U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 10, 1866 and January 17, 1866, 179, 285.
Republicans advocated an alternative strategy that also used Washington as a test case, but instead looked to the Constitution. In this plan, African American men were to be enfranchised first in the District, then the Constitution would be amended to enfranchise African American men in all States after the public was more comfortable with the idea of black male suffrage. For both plans, enfranchising black men in the nation’s capital was critical.78

Public sentiment about universal manhood suffrage in D.C. was mixed. Not surprisingly, black Washingtonians supported the measure. In the first five weeks of the Thirty-Ninth congressional session, seven petitions were sent to the Senate in support of removing any racial reference to voters in the District, including one presented on December 11 from 2500 African American citizens of the District.79

Signed by many prominent black Washingtonians, the petition stated that:

We, the Colored Citizens of the District of Columbia ... are property holders ... [and] pay no inconsiderable amount of taxes.... Our loyalty has never been questioned; our patriotism is unbounded ... Without the right of suffrage, we are without protection and liable to combinations of outrage.... These principles and considerations are the basis upon which we predicate our claim for suffrage, and civil equality before the law.80

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79 Petitions were received in favor of black suffrage in the District on December 11, 1865; December 21, 1865; January 16, 1866; two on January 19, 1866; January 22, 1866; and January 23, 1866. All were presented by Henry Wilson (R-MA), Charles Sumner (R-MA), and Benjamin Wade (R-OH). See U.S. Congress, Journal of the Senate of the United States of America, 39th Cong., 1st sess., 29; U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., 107, 242, 312, 337, 360.

Support for black suffrage in the District was not limited to the city's African American residents, some of the city's white citizens also indicated their public support for expanding the franchise. Suffrage in Washington likewise excited interest beyond the city itself, and other states also weighed in on the question. In December, the New York State legislature sent a resolution in support of enfranchising "all male citizens of a suitable age" in Washington.81

Although black suffrage in the capital had supporters, it was strenuously resisted by many of the District's white inhabitants. In July of 1866 the Democratic National Association of the District of Columbia issued a public proclamation declaring that African Americans did not have sufficient intelligence to be voters in the District, and warning that racial "amalgamation" would result if enfranchisement was granted.82 In December, the city council officially declared that, "the white man, being the superior race, must ... rule the black." Over 6,000 voters in a special election in December of 1865 in D.C. and Georgetown agreed, and voted to defeat a black suffrage proposition. The final tally was 6,591 people opposed, 35 in favor of enfranchising the District's black male citizens.83

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81 As he presented the petition, Sumner stated: "I may say, sir, that I am glad to present this petition from citizens of the District of Columbia, because it shows that there are good people here who are not indifferent to the great cause of equal rights. I am more disposed to make this remark because I see notice of a public meeting of whites in this city in the hope of arresting this cause." U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., December 21, 1865, 107. U.S. Congress, Journal of the Senate of the United States of America, 39th Cong., 1st sess., December 21, 1865 319; Lois E. Horton, "The Days of Jubilee: Black Migration During the Civil War and Reconstruction," 71-72.

82 New York Daily Tribune, 11 July 1866, 4.

83 Journals of the Council of the City of Washington, 63rd council, 313-316, Washington D.C., 1864-1871, cited in Green, 76-78. In Georgetown, 812 people voted against black suffrage and 1 person voted in favor of it. The Mayor of Georgetown, in a letter to the President Pro Tempore of the Senate, stated that "I am ... directed to state that the average vote at the four preceding annual elections for officers of our City Government was 541 being 270 less votes than were polled on the 28th." Henry Addison to Lafayette Foster, January 12, 1866 (endorsed January 13, 1866); Petitions, Committee on the Judiciary; H.R.39A-H14.2, 39th Congress; Records of the U.S. House of Representatives, Record Group 233, National Archives Building, Washington D.C.
Despite this opposition, radical Republicans in the Thirty-Ninth Congress saw black suffrage in the District as vital for their Reconstruction plans. Consequently they dismissed the D.C. referenda election results, claiming that they were not an accurate reflection of voters' sentiments on the issue. The referenda was defeated, those Republicans argued, because abolitionists who had purportedly abstained from voting for moral reasons, and so Washingtonians really did support enfranchising African Americans in the District. Taking another approach, radicals also argued that because the election results were so skewed, they indicated the extent to which Washington's population was disloyal, and so it was all the more vital that Congress enfranchise African Americans in order to fill the capital’s voting rolls with loyal (read Republican) African American voters.  

The radicals’ eagerness for enfranchisement in the District was reflected in the presentation of the D.C. suffrage bills; enfranchisement in Washington was the subject of the first bills introduced in both the House and Senate. Collectively known as the Wade-Kelley bill, H. 1 and S. 1 were proposed on December 4 by Pennsylvania Republican William D. Kelley in the House and Ohio radical Benjamin Wade (S.1.) in the Senate. Both of these bills prohibited race-based distinctions among voters and removed the word “white” from all suffrage statutes in the District. The House Judiciary Committee discussed the bill for five days, and on December 18 recommended its passage to the House. The House postponed discussion until mid-January. On the 18th of January, after six days of debate, the House passed H.1, with

85 Wang, The Trial of Democracy, 22.
86 U.S. Congress, Congressional Globe, Senate, January 10, 1866, 173.
87 Committee Minutes; Committee on the Judiciary; 89-92, Docket Volume (39A-F13.13); 39th Congress; Records of the United States House of Representatives, Record Group 233; National
116 Representatives voting in favor, 54 opposed, and 12 not voting. The bill was then sent to the Senate for consideration. Despite the initial speed with which the bills were introduced and their quick passage through the house, enthusiasm for the proposal lagged in the more conservative Senate, which ultimately did not take up the question of suffrage in the District in the first session of the Thirty-Ninth Congress. It briefly debated S.1 in January, and H. 1. in February before being postponing their consideration until June. When the Senate returned to its own suffrage bill, it was only briefly debated on the 27th of June before being postponed until the second congressional session began in the winter of 1866.

Despite the lack of any substantive action on suffrage in the District during the first session of the 39th Congress, the question of congressional enfranchisement of African American men remained prominent in debates on any rights-based proposals. In particular, moderates and radicals alike worried about the implications of federalism given any congressional action on suffrage. Many were concerned that if Congress would not even regulate suffrage in the District, over which it had a clear constitutional mandate, how could its members justify “interfering” with suffrage rights in southern states? Ultimately, Republicans resolved their anxiety about congressional power over suffrage by rejecting an outright, positive declaration of black men’s suffrage rights that H.1. and S. 1. represented, and instead pursued enfranchisement in a more passive way that preserved traditional state sovereignty over questions of voting rights. They did this by linking suffrage rights to
congressional representation. This seemed to many to be a good compromise between constitutional tradition and politically necessary innovation. By using their legitimate constitutional right to regulate representation in Congress to encourage states to expand their franchise, Republicans hoped that they could meet the radicals' goal to enfranchise southern freedmen, as well as appease moderates by restricting federal power. Furthermore, tying black suffrage rights to representation enabled Congress to tackle both of its most pressing problems at once: how to replace the 3/5ths compromise without granting southern states a congressional majority and how to protect the rights of the freedmen without overextending federal power.91

Early in the Thirty-Ninth Congress, using congressional power to enfranchise the southern freedmen directly seemed too radical to most Republicans. Adding to their concerns about the constitutionality of any such move, many Republicans were concerned that direct enfranchisement would be politically unpopular in the North.92 Most measures indicated that northerners for the most part, unlike their radical congressmen, did not have a grand passion for enfranchising African Americans. While black suffrage had emerged as an issue in numerous state constitutional conventions in the early- to mid-nineteenth century, public opinion on the question was directly measured in only a handful of referenda prior to 1860.93


92 For exactly how problematic suffrage was for northerners, see Phyllis Field, The Politics of Race in New York: The Struggle for Black Suffrage in the Civil War Era, (Ithaca, NY: Cornell University Press, 1982).

93 While many states considered the issue of black suffrage between 1800 and 1860 either in constitutional conventions or in the legislature, and while many Reconstruction legislators may have participated in those considerations, referenda are clearly a more direct measure of public opinion. See
Overwhelmingly, these referenda were defeated. Voters defeated universal manhood suffrage in New York State in 1846 and 1860, by Connecticut and Wisconsin in 1847, Michigan in 1850, and Iowa in 1857. The only victory came in Wisconsin in 1857. After emancipation, as the suffrage question became a more immediate issue and the states became concerned with equality and rights for the emancipated, the pace of referenda eliminating racial restrictions on the franchise picked up in northern states. Yet interest in the issue did not necessarily translate into support. In 1865 alone, like the District of Columbia, the Colorado Territory, Connecticut, Wisconsin and Minnesota all voted against black suffrage in the months before Congress convened. While pro-suffrage forces polled fairly well in these states, and were, for the most part, narrowly defeated, the failure of black suffrage at the polls could not have gone unnoticed by congressmen concerned with their own electoral futures.

Despite its political unpopularity, many Republicans felt that enfranchisement offered the most effective means of remedying the representation tangle left by the combination of the Thirteenth Amendment and the founders’ problematic three-fifths clause. Logically, they argued, if the southern States were permitted to count their full populations, but the African American portion of these states were empowered to vote, (and by implication voted Republican) then it seemed reasonable that those


93 The 1857 Wisconsin referendum was problematic – it received not even one third of the total votes of the number who voted for Governor in the same election. Because the question was acted upon by fewer than 10,000 voters, it was challenged in court and not enforced until the State Supreme Court decided in 1866 to allow it. See, Olbrich, The Development of Sentiment on Negro Suffrage to 1860, 77, 86, 89, 90, 98; Field, The Politics of Race in New York, 1-79; Wang, The Trial of Democracy, 2-7; William Gillette, The Right to Vote: Politics and the Passage of the Fifteenth Amendment, (Baltimore: The Johns Hopkins University Press, 1965), 27; Robert R. Dykstra, Bright Radical Star: Black Freedom and White Supremacy on the Hawkeye Frontier, (Cambridge, MA: Harvard University Press, 1993) 173-191.


96 Black suffrage garnered 44.83% of total votes in Connecticut, 46.72% of votes in Wisconsin, and 45.12% in Minnesota. Defeats in the District and in the Territory of Colorado were a little more dramatic, with only 1.01% voting for black suffrage in Colorado and only 36 favorable out of 7369 total votes in Washington and Georgetown, or 47%. Gillette, 25-26.
Republican voters could prevent a confederate resurgence. Consequently, H. Res. 51, the first proposal from the Joint Committee of Fifteen on Reconstruction (JC15) for reapportioning representation, reflected the majority Republicans’ desire to connect congressional representation with voting rights, without actually imposing a congressional legislative enfranchisement on southern states.

In the weeks between the committee’s first meeting on January 6, and their presentation of H. Res. 51 to Congress on January 22, the Joint Committee considered many ways of linking suffrage rights to representation. Chair Thaddeus Stevens’s initial proposal was to base a state’s representation in Congress on the number of voters in the State. Regional objections from eastern states with high percentages of non-voting citizens (women and children) rendered this proposal untenable. So the Committee agreed instead on H. Res. 51, which confirmed the members’ belief that the power to regulate suffrage rightfully belonged to the states, but protected Republican congressional majorities with a rather complicated calculus of race, voters, and numbers of Representatives. H. Res. 51 declared that if states did not enfranchise their African American populations, they would lose the right to represent that portion of their population. But, if the states did choose to enfranchise their African American populations, they could count them towards representation. The committee believed that H. Res. 51 was a fairly moderate proposal, and so would have a good chance of passage in both House and Senate.97

The members of the House concurred with the Reconstruction Committee in preferring the compromises inherent in H. Res. 51 to any other proposal. After its January 22 introduction, the resolution was debated for a week before the House voted on January 30 to return the proposal to the Committee with instructions to consider the

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97 James, The Framing of the Fourteenth Amendment, 58-67.
issues raised in the debate.\textsuperscript{98} The following day, the House chair of the JC15, Thaddeus Stevens, returned the bill with minimal changes, and it was passed by a vote of 120 to 46, with 16 not voting.\textsuperscript{99}

In the Senate, however, the compromises that had facilitated the resolution’s passage in the House brought about its failure. Prominent radicals rejected the measure as too conservative. Charles Sumner in particular angrily opposed the measure because it tacitly permitted the disfranchisement of persons based on race.\textsuperscript{100} Because of objections like Sumner’s, the Senate debate on this measure extended into several weeks. The Senate considered H. Res. 51 every day during the week of February 5, and almost every day in the subsequent two weeks, at which point debate was postponed. Discussion of the resolution resumed again on March 5, but the resolution was defeated four days later, by a vote of 25 to 22. In an interesting partisan realignment, Sumner added his radical vote to the conservative Republican and Democratic votes, causing the proposal to fall well short of the two-thirds necessary to pass as a constitutional amendment.\textsuperscript{101} After H. Res. 51 was defeated in the Senate, the question of representation was returned to the Joint Committee on Reconstruction, where the link between suffrage and representation was reworded, before being incorporated into the omnibus measure the Committee proposed in April 1866, a proposal that would become the Fourteenth Amendment.

\textsuperscript{98} U.S. Congress, \textit{Journal of the House of Representatives}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 30, 1866, 204-5.
\textsuperscript{99} The only change to the language of the bill was the removal of the taxation clause, so that the amendment only addressed representation and not taxation. See U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 31, 1866, 535; U.S. Congress, \textit{Journal of the House of Representatives}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 31, 1866, 210-213.
\textsuperscript{100} Sumner was not entirely alone in his opposition to the bill because of its moderate nature. On February 15, 1866 he presented a petition from “a delegation representing the colored people of the several States of the Union” to the Senate which explicitly asked the Senate not to pass H. Res 51. U.S. Congress, \textit{Journal of the Senate of the United States of America}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 15, 1866, 158. See also James, \textit{The Framing of the Fourteenth Amendment}, 72-73.
\textsuperscript{101} U.S. Congress, \textit{Journal of the Senate of the United States of America}, March 9, 1866, 221-222.
The Paternal Problem

Congressmen considered enfranchising southern African Americans and replacing the three-fifths clause while discussing the wording and meaning of H. Res. 51, and to a lesser extent in the debates on S. 61 and H.1./S.1.. In these debates, the members of Congress primarily sought to understand the values and goals of the founders and to judge whether or not the Constitution was a pro-slavery or anti-slavery document. From this, they sought to extrapolate what the founders might have intended for a post-slavery nation.\(^{102}\) In assessing whether or not their proposals were consistent with the founders’ ideals, congressmen divided along party lines. Democrats, who sought to maintain both partisan and racial power, claimed that the intent of the founders was best reflected in their behavior. That behavior, they argued, indicated that the founders had not intended for African Americans to join the body politic. Many Republicans, on the other hand, were familiar with antebellum abolitionists’ attacks on the founders and the Constitution as pro-slavery. Even if they disagreed with these attacks, they were nevertheless acutely uncomfortable with the compromises the founders had made with the slave interests. Disregarding this compromising behavior, Republicans turned to the founders’ language to argue that

their "real" perspective on equality was reflected in the text of the Declaration of Independence, a document free from any problematic concessions to slavery. Thus both parties, to a certain extent, acknowledged the Constitution's complicity in perpetuating inequality among the races in the antebellum United States. However, a problem remained. Making a distinction between the founders' behavior and their language did not offer a definitive, uncomplicated answer for what they had thought about slavery, or for what they may have envisioned for a post-slavery nation. Further, this distinction between language and behavior indicated precisely how unstable the guidelines and how complicated historical precedents were for the members of Thirty-Ninth Congress as they revised the Constitution. If the nation's fundamental founding text and the model provided by the founders for organizing the political community was understood to be at the very least inconsistent, how could the post-slavery Union be reconstituted in a manner consistent with the wishes of the Founding Fathers?

Gender offered a means by which this problem could be resolved. By appropriating gendered familial relationships as the central metaphor for arrangements of institutional power, congressmen based their reconstruction of the political nation on the connections between men, past, present, and future.103 In debating H. Res. 51, S. 61, and H.1./S.1. both Democrats and Republicans repeatedly referenced the founders as "fathers," and sought to justify their own policies as legitimate filial legacies. Both parties adopted fraternal language to reunite the South and the North, and both parties used ideas about masculinity as way distribute power within their

imagined national political families. Positing the founders as benevolent fathers, themselves as legitimate and worthy sons, and either southern white or African American men as “brothers” within a family politic, the members of the Thirty-Ninth Congress were able to disregard the founders’ problematic slaveholding legacy, celebrate either the language or the behavior that their partisan interests deemed most useful, and thus reclaim and reconstruct both the founders and the political union. In this manner, gender became central to congressional rights-based rhetoric as both parties mobilized masculinity to structure their ideal vision of the community politic.104

"This Rich and Priceless Inheritance ... from our Fathers"

As a provision for Amending the Constitution and protecting the rights of the emancipated, H. Res. 51, which “Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation,” was immediately controversial.105 A few radicals, like Charles Sumner, rejected the proposal because they felt that by merely denying representation to the states, the provision permitted states to disfranchise persons based on their race and/or color. While these radicals’ concerns were important, by far the more significant objections to H. Res. 51 came from congressional conservatives, most often Democrats. Conservatives opposed the

104 Masculinity is a mutable category being constantly re-created over time, and endowed with multiple meanings at any given moment. For a discussion of the multiplicities of masculinity, even beyond the male sex, see Paul Smith, Boys: Masculinities in Contemporary Culture, (New York: Harpercollins, 1998); and Judith Halberstam, Female Masculinity, (Durham, North Carolina: Duke University Press, 1998). I was reminded about the problem of multiple masculinities by Anne McClintock, “Masculinities and other War Zones,” talk delivered April 12, 2002, Crossing Boundaries/Shifting Boundaries, Graduate Student Conference, Department of French and Italian, University of Wisconsin, Madison Wisconsin.

resolution because it permitted the Federal government to improperly interfere with the states’ right to determine suffrage. They argued that the proposed amendment was an unconstitutional imposition of Congress’s power to alter political arrangements within the states, even if it was only doing so indirectly. But more fundamentally, they contended that any alteration to the Constitution as it stood violated the original intent of the founding fathers.

When rejecting constitutional amendment and black suffrage, Democrats (and some Republicans) justified their position by adopting gendered language that structured political relationships as familial connections between white males. Situating the founders as infallible white “fathers” whose legacy conservative “sons” sought to preserve, Democrats rejected the inclusion of African Americans in this political family as incompatible with the “fathers’” vision of an ideal republic. Instead, they argued, the true “brothers” in the political family of the “fathers” were southern whites. Using a familial metaphor for the political community enabled Democrats to gender political belonging, draw analogies between political and gendered interactions, and capitalize on the power of gendered racialized rhetoric to identify the legitimate political family as white. These rhetorical maneuvers upheld Democrats’ leniency towards the white South and antipathy towards African Americans, but also emphasized the importance of gender in the reconstruction of political rights.

Democrats first expressed their opposition to replacing the three-fifths provision by rejecting the Republican contention that the Constitution needed revision. Emphasizing that the constitutional words of the founders held the fathers’ true intent, congressional Democrats argued that the founders had sanctioned racial inequality in that document. Further, the Constitution’s text, these Democrats argued, was such a sacred legacy from the founders that could not be changed without desecrating the
fathers' original intentions. For example, Senate Democrat Reverdy Johnson, respected lawyer and minority member of the Reconstruction Committee, opposed H. Res. 51 on the grounds that it violated the "fathers'" intentions for the separation of powers. On February 9, he asked: "The question is, what did our fathers design? Where was the regulation of suffrage to be left? Until modern time – and I mean by modern time the last three or four years – no man was so wild as to imagine that the suffrage was not exclusively for State jurisdiction."\(^{106}\) The "wild" idea that Congress could influence states in suffrage decisions, Johnson argued, violated both the founders' arrangements of power and their federalist ideals. Some Democrats took this argument a step further and claimed that the Constitution made by the "fathers" was so sacred that any attempt to amend it in any way imperiled the fundamental principles of the American democracy. Andrew Rogers, conservative Democratic Representative from New Jersey, declared on January 22, 1866 that H. Res. 51 was particularly dangerous because it associated voting rights with representation. It was:

> a proposition to change the organic law of the land ... which was laid down by our fathers at the formation of the Constitution.... Our fathers, in pursuance of the object of the Revolution, and in the exercise of their wisdom, embodied in it the doctrine that representation should not be based upon the voting population of the country ... this joint resolution ... saps the very foundation and principles upon which the genius and institutions of this country have rested from the commencement of its political existence.\(^{107}\)

Democrats like Rogers asserted that tampering with the "fathers'" wisdom and genius threatened the whole American political system. Fellow New Jersey Representative Edwin Wright agreed, declaring that, "this continued tinkering with the Constitution is

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\(^{106}\) U.S. Congress, Senate, *Congressional Globe*, 39\(^{th}\) Cong., 1\(^{st}\) sess., February 9, 1866, 765.

pregnant with danger in the last degree." The danger, Kentucky Senator Garret Davis claimed, came from allowing the passions of the present moment to overshadow the lasting ideals of the revolutionary generation. Congress’s attempts to legislate civil and political rights, he argued, would “be a development of our system of government of which the fathers never spoke or wrote, or which their sons never dreamed until the acme of the present great national frenzy.” True “sons” of the “fathers,” Davis implied, would never seek such changes. True “sons” of the “fathers,” Wisconsin Representative Charles Eldridge asserted, had a duty to preserve their paternal legacy: “The Union of the Constitution is the rich heritage which we have received from our fathers; we have no right to destroy or divide it, or permit it to be destroyed or divided.”

Any proposed change to the Constitution in the midst of the “national frenzy,” of early Reconstruction, Democrats declared, was not only a dangerous threat to the ideals of the “fathers,” but also an improper usurpation of their paternal role. New Jersey Representative Wright attacked Thaddeus Stevens in his role as the chair of the Joint Committee on Reconstruction by claiming that his cavalier approach to the process of amendment was an illegitimate use of power that rightly belonged to the fathers: “Sir, this is a question that calls for our most mature reflection. Yet the patriarchal chairman of the committee, who brought forth this amendment … seemed inclined to treat it as an ordinary resolution of the passing hour.”

109 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 15, 1866, 1415. Although Davis was elected as a Whig to fill the vacancy of John C. Breckenridge in 1861, in 1867 he was re-elected as a Democrat. Given this fact, and the consistency of his language with racist Democratic Party rhetoric, I am classifying him as a Democrat for the purposes of this chapter. U.S. Congress, Biographical Directory of the American Congress, 1774-1961, 85th Cong., 2nd sess., 782.
111 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 26, 1866, 458. The 1860 edition of Webster’s dictionary defined “patriarchal” as “belonging to patriarchs,
"patriarchal" as a pejorative term, Wright critiqued Stevens for attempting to "father" the Constitution in a manner he deemed inconsistent with the founders' original ideals. Such casual treatment of the founders' legacy, as well as improper appropriation of their role as the "fathers" of the government, Democrats argued, indicated how poorly prepared the current generation was for making constitutional changes. Lawrence Trimble, House Democrat from Kentucky declared: "while I have some confidence in the ability and capacity of some of the friends on the opposite side [of the House] to make a constitution, yet I prefer the Constitution as made by our fathers eighty years ago." Representative Samuel Marshall from Illinois, echoed Trimble's argument but with more intense disapproval, asserting that,

> I believe, notwithstanding the conceded wisdom, ability, and virtue of this House, that the fathers who framed our glorious Constitution were wiser, better, and nobler than we are .... There seems to be no more regard here for the Constitution and its guarantees, as our fathers made it, than there would be for resolutions in a common caucus or in a town meeting. It is monstrous; it is absurd.¹¹³

Reverdy Johnson even extended the argument to apply to the Thirteenth Amendment, which he considered to be the first Republican "tinkering" with the fathers' Constitution. He stated that, "I think and have ever thought that slavery is wrong ... but am I to quarrel with the men who have thought otherwise, with the Washingtons, with the Jeffersons, and the Madisons who must have entertained a different opinion practically, or at least an opinion that it was not advantageous to have instantaneous

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emancipation.” Asserting his contention that the founders actively supported slavery, and by implication, racial inequality, Johnson both construed the ideologies of the founders both as consistent with his partisan interests and sanctified their role as national fathers. Who were we, mere members of the Thirty-Ninth Congress, Johnson asked, to attempt to change the principles and policies of the nation’s founding fathers?

In fact, congressional Democrats argued, worthy inheritors of the founders’ legacy would not make any such attempt. True sons of the fathers, Democrats implied, would uphold their political legacy by opposing constitutional change. Representative Trimble declared that he was: “opposed to this amendment, and to all kindred amendments, and I have no hesitation in saying ... that I expect, while I remain true to myself and to the Constitution of my fathers, which I have so often sworn to support, to continue to oppose the submission of all such amendments to the people.” Preserving the original text of the Constitution Democrats claimed was the only way to preserve the national paternal legacy. Like Trimble, New Jersey Representative Rogers also declared his love for and commitment to maintaining the ideals of the fathers.

Sir, it is because I love my country, because I love these States, because I love the grand foundations of liberty which were cemented by the blood of our fathers ... It is because this joint resolution saps the foundations of the principles which induced our fathers to spill their blood upon the battle-fields of the Revolution that I, in my humble capacity ... as a Representative... use my voice and my power in behalf of that great constitutional Government ... whose foundations were laid broad, strong, and deep in the beginning by George Washington and the other patriots and heroes of the Revolution.

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114 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 1, 1866, 1112.
While this is certainly an example of his typical excessive rhetorical bombast, like many other conservative Democrats in early 1866 Rogers repeatedly declared that it was the duty of the members of the Thirty-Ninth Congress, as political “sons,” to preserve, protect and maintain, not innovate, if they were to uphold the “true” ideological and institutional legacy of the “fathers.”

Occasionally, in defense of their role as conservative “sons” protecting the fathers’ legacy, Democrats adopted an overtly gendered rhetoric that capitalized on the embedded masculinity within the rhetorical familial metaphors they were referencing. New Jersey Representative Wright lauded those who sought to uphold the Constitution of the fathers, regardless of their party, by complimenting their manhood: “thanks to the conservative members upon the other side of the House for their manly resistance against … stifling debate upon so momentous a question.”117 Because Republicans were seeking to pass H. Res. 51 with minimal discussion, Democrats like Wright felt that it was more “manly” to engage in open debate on the question. Also using the idea of manly virtues to describe the action of himself and his colleagues, Democratic Senator Thomas Hendricks of Indiana asserted that those who sought constitutional changes were less manly than the founders, and were therefore, essentially, illegitimate heirs of the fathers: “the men of 1866 are not the men of 1776.”118 While Democrats claimed that Republican attempts to tamper with the original text of the “fathers’” Constitution were “unmanly” and illegitimate, Democrats were even more disturbed that changes Republicans sought would bring about a measure of racial equality.

118 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 16, 1866, 882.
By the 1860s, nineteenth-century Democrats had been creating and wielding racist distinctions between “whiteness” and “blackness” to define themselves as a political party, determine partisan ideology and attract constituencies. Consistent with their party’s racial ideology, in the Thirty-Ninth Congress, many Democrats adopted race-based language both to interpret the founders’ ideologies and to assign fraternal roles in the rhetorical political family. These Democrats argued that incorporating African Americans into the body politic was an undisguised perversion of the intent of the founders, who as white men had deliberately restricted participation in the government to white men. Just as Democrats saw the Constitution’s text as supporting this racially restricted community, they also claimed that the founders’ behavior indicated the “fathers”’ preference for a whites-only republic. For example, on February 1, 1866, Kentucky Senator Garrett Davis proclaimed that the racial intent of the founders was indicated by their behavior in forming political compacts.

The first or revolutionary Confederation among the colonies, then their Articles of Confederation, then their Declaration of Independence, and then the present Constitution of the United States, were all acts of the white people of the colonies, undertaken and performed by them exclusively for no object or benefit but their own. The negroes or Indians were not parties to them or either of them ... those results were intended to be and were limited to white people alone.


120 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 1, 1866, 575.
While Democrats claimed that the fathers' actions excluded African Americans from the political community, they also argued that those actions were embedded in the nation's foundational ideologies. Davis asserted "that the fundamental, original, and universal principle upon which our government rests, is that it was founded by and for white men; that it has always belonged to and been managed by white men; and that to preserve and administer it now and forever is the right and mission of the white man."  

Pennsylvania Representative Benjamin Boyer linked this argument with Democrats' other claim that the founders' racial ideology was embedded in the text of the Constitution:

The truth is too plain for discussion ... our fathers ... fortified by the bulwarks of the Constitution itself the subjection of the inferior race. No man can read with open eyes and candid mind the Constitution of the United States, as made by our fathers, and fail to see that this Government was intended by its founders to be a white man's Government.

In the context of arguments about amending the Constitution, the Democrats asserted that their own vision of a racially segregated society and government was sanctioned by the founders. By making this argument, they created a vision of the founders as authors of a "white man's government," and proclaimed their intent to preserve this white political community.

Democrats like Boyer and Davis insinuated that true sons of the fathers upheld and were loyal to the white political family created by the fathers; they seemed quite indignant that Republicans would even think of altering the composition of this "family" with their suffrage policies. This indignation was evident in Ohio.

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Representative William Finck’s speech on January 21, 1866, when he defended the boundaries of the white political family.

Are the principles of the old Constitution to be abandoned, and the whole character of our system of government changed in order that the white men of eleven States may be disfranchised, and the negro clothed with political rights? Is it possible, sir, that within the limits of our Republic white men will combine to degrade their own race and kindred in order to confer political power into the hands of black men? 123

Moreover, whiteness was the means by which the political kindred was created; race forged the political bonds between men. As Thomas Hendricks asserted: “I am not in favor of giving the colored man a vote, because I think we should remain a political community of white people … I want to see the white race kept a white race, and the power in this country without mixture and without an attempt at mixture.”124 Any mingling of voters in the virtual political family, Hendricks insinuated, would lead to the sexual mingling of persons, thus creating racially amalgamated literal families. This argument was common among congressional Democrats and was clearly designed to stir up white Americans’ racial fears and prejudices for partisan gain. 125

Like Hendricks, Kentucky Representative Aaron Harding also liked sex and the political family, but Harding identified constructing gender, rather than race as the

124 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 16, 1866, 880.
125 See U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 10 and 11, 1866, 178, 201; and U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., January 16, 1866, 246. A black rapist was also a trope frequently adopted by Democrats to reject the enfranchisement of African American men, and undoubtedly contributed to the construction of the “black rapist” myth that emerges during reconstruction. Diane Miller Sommerville argues that the myth of the black rapist was mostly absent in the antebellum period, but gained legitimacy in the Reconstruction period as a racist response to the political empowerment of black men. She finds that during slavery rape was not a crime feared by slaveholders. See Diane Miller Sommerville, “The Rape Myth in the Old South Reconsidered,” in A Question of Manhood: A Reader in U.S. Black Men’s History and Masculinity, ed. Darlene Clark Hine and Earnestine Jenkins, (Bloomington, IN: Indiana University Press, 1999), 438-472, see especially 439-442.
central axis of government. Harding swore that the government “was a ‘white man’s Government’ once, I know, and as a ‘white man’s Government’ it had my first love—a love even stronger than a woman’s love.”

By sexualizing loyalty, Harding drew upon his peers’ understandings of masculinity to situate himself, and those committed to a white polity, as worthy patriotic sons of the founding fathers. Furthermore, within a broader American culture concerned with domesticity, rejecting the love of a woman for one’s country to defend its racial order was perhaps the definitive expression of a masculine commitment to the white political family. Defining the ideal body politic of the fathers as a white body, a white body endangered by an incursion of black voters, Democrats rejected African Americans’ membership in the political family by using race to delineate that fictive family’s boundaries.

As Democrats used whiteness to control the borders of the political family, they used gender to reintegrate its white members. To reconnect the northern and southern political communities, Democrats adopted fraternal rhetoric to reconstruct southern white men as the true, if errant, “brothers” within the political family. For example, Wisconsin Senator Charles Eldridge declared that now that the war had ended the nation could return to its original form, “the Republic ...[of] States in fraternal union!” Andrew Rogers of New Jersey echoed this language, arguing that the men of the sections should “bind [them]selves together as a band of brothers.”

Like Eldridge and Rogers, Reverdy Johnson argued that “the time had passed when we [the North and the South] were to esteem ourselves as different peoples. Our fathers esteemed us as one. The Constitution deals with us as one.” Therefore, he asserted, the best way to deal with the consequences of the rebellion was to treat

southern whites as “prodigal sons,” returning to the fraternal Union of their fathers. Johnson contended that Congress should say to the South: “you have wandered away from the household of your fathers; you have seen the error of your ways; ... we receive you with open arms and with warm and gushing hearts’... Look at the conduct of their military men and our military men. How do they meet? ... They meet ... as brothers.”129 Clearly, Johnson asserted, the bonds of race and gender, whiteness and manhood, could overcome any political and ideological differences between the prodigal brothers.

In the context of the recent war, Democrats like Johnson appropriated martial language to create a political brotherhood defined by male military relationships. Because referencing the military actions of the South had the rather unfortunate consequence of evoking memories of the rebellion, many Democrats turned instead to the Revolution of the “fathers” to reconnect the men of the South and the North. In February, Reverdy Johnson again articulated this martial connection:

We want to be brothers all ... We want to be what our fathers were ... going shoulder to shoulder through the perilous conflict of the revolutionary struggle, moistening every field of battle in which they were engaged with their joint blood ... We came out of that struggle as we went in, brothers, animated by an equal love of country.130

The joint spilling of blood and the intimate connections of war during the Revolution, Johnson argued, had cemented the fraternal relationship between the sections, relationships that could now be resumed. Thomas Hendricks of Indiana also emphasized the intimacy of military life among men to construct a political relationship that relied on the bonds of homosocial connection to overcome

129 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 9, 1866, 769.
130 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 9, 1866, 769.
sectionalism. He argued that during the Revolution, “the men of every section had mingled … they had dwelt under the same tent together; they had shared the hardships of the field, the dangers upon the rough edge of the battle; their comrades had fallen together and slept in a common grave.” Both Johnson and Hendricks invoked the masculine military connections between white men, southern and northern, in a distant, sanitized Revolution. This strategy enabled Democrats to avoid uncomfortable references to the more immediate war the brothers made on each other, and to emphasize the gendered connection between men to reconstruct political relationships on the grounds of common gender identity. Through gender, therefore, these Democrats sought to render southern white men safe members of the family politic.

While arguing for a reunification of the white political brotherhood Democrats also occasionally used gender to challenge Republican visions of the fathers’ legacy. Because southern whites were brothers within the white political community created by the fathers, some congressmen contended that any denial of the fraternal southerners’ rights was an act unworthy of political sons, and therefore, unmanly. In February, Reverdy Johnson queried his peers: if the southerners were not, essentially, emasculated because of their defeat in the Civil War, then why were northern Republicans reluctant to reunite with those impotent brothers? “You have proved yourselves adequate to the duty of defeating them in their mad and … traitorous purpose. And now, having proved your physical manhood, do you doubt your intellectual manhood?” If Northern Republicans were “man enough” to defeat their southern brethren in the war, then they were certainly “man enough” to manage them politically when they returned to the Union without resorting to unmanly and

131 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 16, 1866, 876.
illegitimate expansions of the limits of fraternity. Like Johnson, Representative John Nicholson of Delaware also challenged the masculinity of his congressional colleagues, arguing that if the Republicans desired an immediate enfranchisement of African American men they should express that purpose openly: “If this be your real object, come out like men and avow it.” Furthermore, he asserted that if Republicans attempted to amend the Constitution without the presence in Congress of the southern brethren, “their conduct must at least be pronounced unmanly and ungenerous…”

By emphasizing the manly connections between white men regardless of region, and by defining a common manly standard of behavior, Democrats created a masculinized white political brotherhood. Challenging the members of Congress to defend their masculinity by recognizing this brotherhood, Democrats sought to redeem the white southern prodigal sons of the fathers. In this Democratic conceptualization of the family politic white southern men, regardless of their recent sins against the family, occupied the role of brothers to white northern men. This role, Democrats claimed, the fathers had designated to them when they structured an exclusively white republic. Mobilizing these metaphors of male family connections enabled Democrats to justify their conservative policies toward African Americans, legitimate their liberal stance toward the white South, appropriate the founders as their ideological and political “fathers,” and to validate their opposition to amending the Constitution.

“We Are Coming Back to the Doctrine of our Fathers”

Like the Democrats in the Thirty-Ninth Congress, Republicans turned to metaphors of male familial roles to reconstruct the political relationships damaged by civil war. Like Democrats, Republicans posited the founders as the “fathers,”

presented themselves as worthy “sons,” and argued for the return of the nation to political brotherhood. Unlike their colleagues, however, Republicans portrayed the founders as fallible “fathers” who, through their compromises with slavery, had undermined their own egalitarian political ideals and consequently sacrificed a true political brotherhood among all men. Good Republican “sons,” they argued, would resurrect the tainted legacy of the “fathers” from the ashes of the Civil War by becoming political “fathers” themselves to finally create an equal political family among all men. In this idealized political community, Republicans constructed African American men as “brothers” in equality, solidifying this fraternal relationship by appropriating gender to obscure ideas about racial difference that had been fundamental to delineating antebellum political belonging.

As they considered amending the Constitution, Republicans could not ignore the fact that they were seeking to rewrite a portion of the founders’ Constitution by replacing its provision for congressional representation. To justify their right to make such a significant change, Republicans argued that the “fathers” themselves had been tainted by slavery and so had been unable to fully implement their own egalitarian ideals. Republicans claimed that this failure had led to the Civil War, and worse, they argued that if the fathers’ compromises remained in the Constitution, inequality and injustice would be perpetuated. While no Republican, save perhaps Charles Sumner, went as far as the radical abolitionist William Lloyd Garrison did when he proclaimed the Constitution “a covenant with death,” many Republicans had been influenced by abolitionists’ ideas and so remained uncomfortable with the founders’ compromises with slavery.\textsuperscript{134} Illinois Representative John Farnsworth argued in January that,

We have learned by sad experience, that what have been called in these days "the compromises of the Constitution" have proved a Pandora's box, out of which have come all manner of evils to afflict this country. They have brought on this war. They have produced all of this bloodshed in the struggle through which we have passed for the last four years.\textsuperscript{135}

Daniel Clark, Senator from New Hampshire, called the founders' compromise with slavery "the sad, the wretched mistake..."\textsuperscript{136} But despite critiques like this, most Republicans were reluctant to be too critical of the exalted founders. Instead, they solved the paternal problem of the founders' imperfection by separating the founders themselves from their actions; they argued that while the founders' mistaken compromise with slavery was shameful, it did not reflect the fathers' real intentions. For example, Republican William Windom argued on January 24, 1866 that the founders' mistake was based on their assumption that the institution of slavery was on the verge of extinction: "I do not now complain that our fathers, in a spirit of compromise more liberal than just, made these concessions to slavery. I do not stand here to doubt their patriotism or impugn their wisdom.... The Constitution went into effect ... with the expectation that slavery would soon die out forever..."\textsuperscript{137} Kansas Senator Samuel Pomeroy, although bemoaning the fathers' failure, took solace in the fact that the founders did not reference slavery by name. He declared that, "slavery ... got a recognition, I am sorry to say, in the Constitution itself. The fathers gave it a place there, but thank God, they left it without a name."\textsuperscript{138} Regardless of whether they explicitly named slavery in the text of the Constitution, Republicans asserted that the

\textsuperscript{135} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 23, 1866, 383-4.

\textsuperscript{136} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 14, 1866, 832.

\textsuperscript{137} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 24, 1866, 403-4.

\textsuperscript{138} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., March 5, 1866, 1181.
founders had failed their descendants. These Republican “sons,” Massachusetts Senator Charles Sumner asserted, should,

while confessing sorrowfully [the founders’] inconsistency in recognizing slavery, and throwing over their shame the mantle which the son of Noah threw over his father ... reject every argument or inference on this account against the true idea of a Republic, which is none other than where all citizens have an equal voice in the Government.\[139\]

By painting a picture of the founding fathers as fallible, but well intentioned, Republicans were able to argue that the Constitution was a flawed text badly in need of revision because did not represent the “true” legacy of the fathers.

The true legacy, Republicans argued, was most clearly expressed in one of the founders’ earlier political treatises, the Declaration of Independence. Republicans used the Declaration as evidence that in the Constitution the “fathers” had not only compromised with slavery, but had compromised their own original intentions. In the House, Thaddeus Stevens argued that,

Sir, our fathers made the Declaration of Independence... [that] they intended to be the foundation of our Government. If they had been able to base their Constitution on the principles of that Declaration it would have needed no amendment during all time ... [but] an institution hot from hell appeared among them ... It obstructed their movements and all their actions, and precluded them from carrying out their own principles in the organic law of this Union.\[140\]

The founders, Stevens argued, were flawed for succumbing to the seduction of the slave power, but they had had better original intentions that were articulated more fully in the Declaration than in the Constitution. Looking to the Declaration rather

\[139\] U.S. Congress, Senate, *Congressional Globe, 39th Cong., 1st sess.*, February 6, 1866, 682.

than the Constitution not only relieved the Republicans of the uncomfortable compromises, but it also allowed them to refute the Democratic claim that the founders had deliberately created a political community bounded by whiteness. In this, Pennsylvania Representative Glenni Scofield declared, “We are coming back to the doctrine of our fathers ... In the Continental Congress they asserted that ‘all men are created free and equal’ ... Both the precept and practice of our fathers refute the allegation that this is exclusively a white man’s Government.”[141] To those Democrats who claimed the founders legitimated their partisan vision of a “white man’s government,” Charles Sumner argued that that narrow interpretation must be compared to “the early and constant postulates of the Fathers, the corporate declarations of the Fathers, the avowed opinion of the Fathers, and the public acts of the Fathers, all with one voice proclaiming: ... that all men are Equal in rights.”[142] In fact, some Republicans argued, it was not the founders’ connections to slavery that made the Constitution problematic, it was the way that people after the founders had interpreted the document. For example, William Higby, a Representative from California, argued that the problem with the Constitution was not its text but that “the practice has been false to the principles contained in the Constitution...”[143] Separating the interpretations of the Constitution from the document itself, Sumner, like Higby, shifted the blame for the current constitutional crisis to a disjunction between antebellum constitutional interpretation and the fathers’ true ideals expressed in the Declaration:

For generations the Constitution has been interpreted for Slavery. From this time forward it must be interpreted, in harmony with the Declaration of

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Independence, so that Human Rights shall always prevail. The promises of the Fathers must be sacredly fulfilled. This is the commanding rule, superseding all other rules ... It is nothing less than the Emancipation of the Constitution itself.\textsuperscript{144}

By depicting the founders as fallible, well-intentioned egalitarian idealists, the Republicans could reconstruct the founders as radical Republicans, as well as sanctify their own policies with the fathers’ approval. This Republican “emancipation of the Constitution” would fulfill the founders’ original ideals and serve as a redemptive mission for their sons, who would, essentially, save the fathers from themselves.

Republicans who sought to revise the Constitution argued that it was the political sons’ duty to complete the unfinished construction of an equal polity, and thus realign the ideology expressed in the fathers’ two seminal texts. Like Sumner, Thaddeus Stevens asserted that Congress’s special mission was to amend the Constitution and implement the equal rights proclaimed in the Declaration: “The time has come when we can make the Constitution what our fathers desired to make it ... Now ... when the rebels have lifted their parricidal hands against the country ... shall we so recall this desire of our fathers as to place [the Constitution] upon the broad foundation of human rights[?]”\textsuperscript{145} True Republican sons, Stevens claimed, would reconstruct the political family to conform to the egalitarian principles of the Revolution. Naturally, Sumner agreed, and in March reiterated his conviction that it was the duty of the congressional children to redeem the principles of Declaration from the failure of the fathers: “Our fathers solemnly announced the Equal Rights of all men ... Looking at their Declaration now, it is chiefly memorable for the promises it then made ... And now the moment has come when these vows must be fulfilled to the letter. In securing Equal Rights of the freedman ... we shall perform these early

\textsuperscript{144} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 6, 1866, 684-5.

\textsuperscript{145} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 8, 1866, 739. Webster’s 1860 dictionary defined “parricide” as “1. A person who murders his father or mother. 2. One who murders an ancestor, or anyone to whom he owes reverence.” Webster, \textit{An American Dictionary of the English Language}. 

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promises of the Fathers.” Senator Henry Lane of Indiana likewise construed the duty of Republican sons to complete the unfinished business of the fathers. He argued that

We to-day are to stand true to our own grand mission ... to declare the equality of all men before the law as they are equal before God ... we have come back to the proud position of the fathers, and we stand upon that principle, and there may stand with safety ... upon that grand principle enunciated by the fathers in the Declaration of Independence.147

As Sumner claimed, for Republicans ultimately, “it is idle to show that, in certain instances, the fathers failed to apply the sublime principles which they declared. Their failure can be no apology for us, on whom the duty is now cast.” 148 Instead, Sumner argued, it was the mission of Thirty-Ninth Congress to circumvent the tainted legacy of the fathers’ Constitution and to revert to the principles of the Declaration of Independence. Congressmen, he claimed, must adopt the “masculine sense and exalted love of liberty” displayed by the British Enlightenment philosopher John Locke, in order to complete the work of the fathers and create a polity where all men would be equal.149

Through this explicitly gendered argument, Sumner implicitly challenged Republicans essentially to “be men.” Some Republicans echoed this challenge by positioning themselves not in the subordinate role of sons to fallible fathers, but rather by defining themselves as the next generation of political fathers. These Republicans drew parallels between the early days of Reconstruction and the nation’s founding. Illinois Representative Henry Bromwell stated that his “opinion is, that in matters of

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146 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 6, 1866, 674.
147 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 8, 1866, 739.
149 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 7, 1866, 1226.
this kind, ...this Congress sits, for all practical purposes, as a convention revising the Constitution.” If the Congress was a constitutional convention, then its members were surely the new founding fathers. As constitutional “fathers,” leading moderate and member of the Joint Committee on Reconstruction, John Bingham, argued, “this Congress, charged as it is, like the first Continental Congress, with the care of the liberties of all, ...[must] perform the duty enjoined upon it, and send to the people, the necessary constitutional provisions and guarantees for the future safety of the Republic.” In making this same argument, Senator Samuel Pomeroy explicitly appropriated the role of political fathers for Republican members of Congress:

    I think I know and feel somewhat of the responsibilities of this hour. These responsibilities are upon us. They cannot be laid aside or transferred to another. The fathers have gone to their rewards, and posterity sleeps. We, the men of to-day, must make our triumph secure or lose all, and plant the path of coming generations with thorns. We must do it! The founding fathers were neither available to account for their mistakes, nor to remedy them. It was therefore the responsibility of the “men of today” to step into their place, and amend the Constitution to make all men equal. Pomeroy continued: “We are put in trust of this great estate, and what will the heirs say when they come to demand their rightful legacies?” In comparing the state to property, Pomeroy defined the current generation of political men as patriarchs, with duties not merely to their fathers in the past, but to the sons of the future, the heirs of a Republican legacy. Arguing even more explicitly that Republicans needed to become political fathers, Sumner asserted that, “you cannot consent that the child Emancipation, born of your

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152 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 5, 1866, 1183.
153 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 5, 1866, 1183.
breath, shall be surrendered to the custody of the enemies. Take it in your arms, I entreat you, and nurse it into strength.”

Good and benevolent fathers, radicals like Sumner argued, must enfranchise to protect the “child Emancipation.” Enfranchisement, they asserted, would fully realize the fathers’ dream of equality among all men and would integrate the nations’ African American brothers into what Nevada Republican James Nye called “the family of American citizenship.”

In their roles as redeeming sons and as Reconstruction’s political fathers, Republicans seeking to integrate African American men into the family politic used gendered language to construct them as political brothers. Like Democrats, they referenced the military fraternity to construct this brotherhood, but unlike Democrats construed the Civil War as the site where fraternal bonds were forged. When African American men offered their lives during the fight for the Union, radical Republicans argued, they earned both their manhood and the ballot, the dual badges of membership in the political family. In January, Massachusetts radical George S. Boutwell asserted that African American soldiers had “stood in the place of our sons and brothers and friends. They have fallen in defense of this country. They have earned the right to share in the Government.”

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154 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 7, 1866, 1231.
155 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 28, 1866, 1074. Interestingly, Sumner’s language could also be read as maternal here, as giving birth and nursing are both women’s biological tasks.
157 By emphasizing the military service of African American men during the Civil War, Republicans drew on a long history in America in which the disfranchised were granted voting rights in exchange for their military service. In the antebellum period, the argument that disfranchised men who provided military service to the government had earned voting rights was a persuasive and ultimately successful tool for advocates of “universal” white male suffrage. See Chilton Williamson, American Suffrage: From Property to Democracy, 1760-1860, (Princeton, NJ: Princeton University Press, 1960), 79-82.
in place of white sons, brothers, and friends, African American men had in war performed the martial role of those male family members, and therefore, Boutwell implied, joined the political family of American men. Emphasizing black men’s military service enabled Republicans to identify black men as the nation’s loyal brothers who were supportive of the northern cause in the face of the betrayal of the white southern brethren, particularly because they had replaced in the Army the recreant white brothers who were either attempting parricide or rejecting their fraternal duty to the Union. For example, Representative Julian of Indiana argued that African American men:

Have done their full share in saving the nation’s life. Many of them went into the Army as the substitutes of white ruffians and vagabonds who daily “damn the nigger,” and whose unprofitable lives were saved by the black column which stood between them and the bullets of the rebels ... it would be a very mean mockery of justice to withhold the ballot from loyal negroes who ... furnished the Government with their full share of men.\footnote{159}

James Wilson of Iowa, like Julian, asserted that African American men “took the risks which justly belonged to the white residents ... these colored troops discharged their duties as soldiers of the Government ... Many of them are buried with their white comrades on scores of battle-fields.”\footnote{160} While battle rendered African American men substitute brothers and members of the military community as “soldiers of the Government,” it was in death, Wilson implied, that a permanent fraternal bond was forged between men in shared soldiers’ graves. Thus, in the reconstructed political family that was shaped by the fathers’ fundamental texts and implemented by loyal Republican sons, African American men’s service for the family, that Charles Sumner

\footnote{159 U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 16, 1866, 259.}

\footnote{160 U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 10, 1866, 175.}
called “a filial throb for the Republic,” placed “in the very heart of the Rebellion,”
elevated them from political and social outsiders to honored brothers.161

"All Persons of Such Color or Race"

As they considered the first proposal to amend the Constitution’s
representation provision, members of the Thirty-Ninth Congress outlined what the
terms of debate on representation would be for the remainder of the session. Deprived
of a clear precedent by the inconsistencies between the behavior of the founders and
their foundational texts in relation to slavery, partisans in Congress had to develop
their own ideological principles upon which to base a new formula for representation.
Not surprisingly, each party advocated a solution to the representation problem that
would benefit their own particular self-interest. Republicans, fearful that a loss of
majority power in Congress would diminish their party's power, posited
enfranchisement of African American men as the solution, envisioning them as
brothers-in-arms, literally and figuratively. Democrats, frustrated with the
subordinate minority role they had been relegated to by the war and seeing potential
electoral gains if the South returned to Congress with full representation, preached
compassion for the white southern brethren. To legitimate these policies and cloak
them with an aura of power, each party turned to the “fathers,” claiming that their own
particular approach best represented the true legacy of the revolutionary paternity.
Interpreting the “fathers” as supportive of their policies enabled partisans not only to
lend historical legitimacy to their own ideas, but also to rescue the founders from
themselves. If the true legacy of the founders was not the problematic three-fifths
compromise, but rather, the policies advocated by either Republicans or Democrats,

161 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 7, 1866, 1225.
then the founding fathers themselves could be reconstructed and cleansed of the taint of the failure that had contributed to the Civil War.

By appropriating familial metaphors for political organization and emphasizing the fraternal connection between men in the political community, partisans in Congress introduced gender into the debate on representation. H. Res. 51, proposed at the beginning of this debate, did not specify the gender of voters, it merely referred to them as “persons.”

Perhaps as a consequence of this neutral language, language that did not reflect the Congress’s use of male familial relationships as political metaphor, H. Res. 51 did not pass Congress. After it was postponed by the Senate in early March, it was never again considered. By the end of debate on H. Res. 51, however, gender had become central to congressional rights-based rhetoric. It had become so crucial that the next proposed constitutional amendment dealing with representation, H. Res. 127, which when passed by Congress in June of 1866 would become the Fourteenth Constitutional Amendment, referenced voters as “male” three times in its second section. Thus, as members of Congress began to redefine political relationships among States and peoples in the postwar nation, partisans reified the centrality of masculinity to the political community by identifying the public as a male political family.

At a moment in time when national political relationships were in flux, Congress adopted what they understood to be a “natural” category of social

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162 In early debate on this resolution in the Joint Committee on Reconstruction, New York Representative and rising Republican star, Roscoe Conkling, had proposed a version of the bill that did specify that voters were “male.” This proposal was not adopted. A few days later, he proposed a version that did use gendered language. This version was accepted by the Joint Committee and proposed as H. Res. 51. Benjamin B. Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction, ed. The Faculty of Political Science of Columbia University, vol. LXII, Studies in History, Economics and Public Law (New York: Columbia University; Longmans, Green & Co., Agents, 1914), 41-44; and James, The Framing of the Fourteenth Amendment, 56-57.

organization, the family, to reconstruct those relationships. Not coincidentally, the
very category they turned to for stability was also in a state of flux, being
reconceptualized in American culture to be less reliant on the patriarchal power of
men and more concerned with the sentimental power of maternity.\textsuperscript{164} But by
reinscribing political masculinity through a metaphor of family, political men in the
mid-1860s were not only attempting to stabilize the masculine political sphere against
challenges from "strong-minded women," but also to stabilize male social power in
the face of an ever shrinking sphere of influence.\textsuperscript{165} Thus, ultimately, within the
family politic, defined by Republicans and Democrats as a masculine political
community, there could be no room for mothers, daughters and sisters.

\textsuperscript{164} Ann Douglas, \textit{The Feminization of American Culture}, (New York: Alfred A. Knopf, 1977); Nancy
Cott, \textit{The Bonds of Womanhood: Woman's Sphere in New England, 1780-1835} (New Haven, CT: Yale
University Press, 1978). See also Lydia Maria Child, \textit{The Mother's Book}, (Boston: Carter, Hendee and
Babcock, 1831).

\textsuperscript{165} A few Congressmen referred to female activists as "strong-minded" during rights-based debate in
the early Thirty-Ninth Congress. See \textit{Congressional Globe}, House of Representatives, January 26,
1866, 448; \textit{Congressional Globe}, Senate, January 29, 1866, 477.
CHAPTER 3

THE RIGHTS OF MANHOOD

Late in the afternoon on Thursday, June 14, 1866 Iowa Congressman Josiah B. Grinnell stepped out of the chambers of the House of Representatives into a sudden deluge.\textsuperscript{166} Accustomed to Washington’s brief summer showers, Grinnell ducked under the portico between the House and the east side of the Capitol building to wait for the downpour to end. Peering into the rain for a break in the shower, Grinnell was approached by a group of three unfamiliar intent men.\textsuperscript{167} They were accompanied by a man Grinnell knew – his congressional colleague from Kentucky and Union Party member Lovell H. Rousseau. The six-foot tall and physically imposing Rousseau, a former Union Army General, strode up to the stocky Congregational minister and demanded that Grinnell apologize for insulting him during a debate in the House a few days earlier. Undaunted by either Rousseau’s demands or his intimidating cronies, Grinnell refused to apologize. Rousseau then raised his cane and began to strike Grinnell, thrashing him about the face and head. Grinnell covered his head with his arms to protect himself, but it was hardly necessary. After about six to ten weak blows, Rousseau’s narrow, iron-ended rattan walking stick broke, leaving Grinnell relatively unharmed. After this brief moment of physical violence Rousseau’s

\textsuperscript{166} Josiah Grinnell was a two-term Republican Representative from Iowa. An unremarkable Congressman, Grinnell’s greater claim to fame was his status as the founder of Grinnell College and the town of Grinnell, Iowa.

associates looked on as the two congressmen continued to exchange insults and
arguments for a few minutes before they broke apart and went their separate ways.168
Mirroring the infamous attack on Senator Charles Sumner ten years earlier that some
deemed one of the Civil War’s first blows between white men, this incident, perhaps
one of the Civil War’s last blows between white men, also involved the assault of an
unarmed and non-resistant northern anti-slavery Republican by a southerner with a
cane.169 Like the attack on Sumner, this incident also involved a question of personal
honor that was raised by positions taken in congressional debates. However, in this
case, ideas about gender lay at the heart of the violence. Three days before this attack
Grinnell had declared on the floor of the House that Rousseau was a coward during the
Civil War who had shirked his duty to the state as a soldier, in a most unmanly
fashion, and instead had “whine[d] off with a woman’s plea, taking refuge under
feminine skirts.”170

This was not the first time Grinnell and Rousseau had expressed their political
differences in personal terms. But after five months of intermittent skirmishes with
Grinnell, Rousseau found this particular comment too much to bear. While Rousseau
had long been willing to tolerate Grinnell’s various jibes at his politics, his ideology,
his beliefs about race, and the virtue and honor of his home state, by June 14 he had
lost patience. On this day, he decided, he simply could not tolerate being called a
woman. Enacting the ritual forms of a duel, Rousseau sought to deal with Grinnell as
a good southern man should. He waited a set period of time for an apology after a
serious insult, and when he did not receive one, called out his opponent in the presence

168 U.S. Congress, House of Representatives, Congressional Globe, 39th Congress, 1st sess., July 14
1866, 3818-3819; Josiah Bushnell Grinnell, Men and Events of Forty Years: Autobiographical
Reminiscences of an Active Career From 1850 to 1890, (Boston: D. Lothrop Company, 1891), 163-170.
169 For an analysis of the Sumner incident see David Herbert Donald, Charles Sumner and the Coming
170 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., June 11, 1866,
3096.
of carefully selected witnesses. But rather than demanding an equal exchange of
blows or pistols, Rousseau attacked Grinnell with his cane. Caning was a procedure
southern men reserved for subordinates, for those unequal and therefore unworthy of
dueling. By caning Grinnell, Rousseau indicated his contempt for the Iowan. He was
treating Grinnell as a white southerner might treat a slave, rather than permitting him
the forms of the ritual granted to a man of equal status. 171 By using his stick to beat
Grinnell, Rousseau attempted to subordinate Grinnell, responding in kind to Grinnell’s
insults by implicitly denying his manhood.

Perhaps Rousseau would have let Grinnell’s comment about his manhood go
unchallenged were it not for the serious political defeat he and his conservative and
Democratic allies had suffered that same day. Before the House had adjourned on
June 14, freeing Grinnell and Rousseau to hang about the portico, the Speaker of the
House and the President of the Senate had signed H. Res. 127, enrolled the Resolution
as passed by both the House and Senate, and sent it to the Secretary of State for
distribution to the various states for ratification. 172 H. Res. 127 granted civil rights to
all persons in the United States, reapportioned representation to be based on
population, except where any male citizens were denied the right to vote, repudiated

171 John Lyde Wilson, governor of South Carolina (1822-1824) published a code duello in 1838
outlining the procedures for duels between southern gentlemen. In it he justified dueling as a natural
defense of one’s manhood and honor when no other mode of redress for an insult was available. “When
one finds himself avoided in society, his friends shunning his approach, his substance wasting, his wife
and children in want around him, and traces all his misfortunes and misery to the slanderous tongue of
the calumniator, who, by secret whisper or artful innuendo, has sapped and undermined his reputation,
he must be more or less than man to submit in silence.... [Dueling] will be persisted in as long as a
manly independence, and a lofty personal pride in all that dignifies and ennobles the human character,
shall continue to exist.” John Lyde Wilson, The Code of Honor, (Or. Rules for the Government of
Principles and Seconds in Dueling), etext #6085 ed. (Project Gutenberg, 1838, 2004), 2. For a
discussion of the relationship of violence, and especially dueling, to southern male culture see Bertram
Wyatt-Brown, Honor and Violence in the Old South, (New York: Oxford University Press, 1986). On
the connections of physical violence to nineteenth-century constructions of masculinity see Elliott Gorn,
14, 1866, 523, 527; U.S. Congress, Journal of the House of Representatives, 39th Congress, 1st sess.,
June 14, 1866, 841.
Confederate debt, and prevented Confederate officials from participating in governance. It also represented some of Congress’s first steps toward clarifying the status of the emancipated and officially defining the rights of the freedman. When ratified by the states, H. Res. 127 would become the Fourteenth Amendment to the Constitution.

It was no coincidence that a virulent dispute about manhood broke out between political rivals on the day that the Fourteenth Amendment was officially passed by Congress. During the five month period between February and June of 1866, as Congress debated civil rights, the Freedman’s Bureau, black suffrage in Washington D.C., and ultimately, the Fourteenth Amendment, Rousseau and Grinnell enacted at the personal level the larger partisan disputes going on between Republicans and Democrats as they considered the relationship of emancipated African Americans to the state. At the heart of these debates lay the rights of manhood – what they were, how they were most properly protected and enacted, and most critically, who should have them.

In the early days of Congressional Reconstruction Republican congressmen seeking to redefine the postbellum civil and political community used the core rights and responsibilities of nineteenth-century white manhood – the possession of property, control over home and family, and access to the state – as a template for including African American men in the family politic. Many of these Republicans, like Grinnell, argued that the right to securely head a household, to contract one’s skills, safely possess the fruits of one’s labor, and to contribute to, participate in and benefit from the political community were essential rights owed to African American men both as a tool for their future protection and as payment for their past military service. But more fundamentally, they claimed that these rights of manhood could not legitimately be denied free male African Americans simply because they were men.
Deeply invested in preserving the antebellum racial hierarchy Democrats and conservatives, like Lovell Rousseau, rebutted the Republican position by asserting that the safety of the American community relied on white men’s exclusive control of property, family, and the state. They argued that permitting black men equal access to the rights of manhood would result in an uncomfortable and “unnatural,” social equality among black and white Americans with violence as the only possible outcome. Granting black men the rights of manhood, congressional conservatives claimed, would lead to an overthrow of gender and racial boundaries in an already unstable post-slavery South and would permit black men sexual access to white women, a transgression they claimed that southern white men would not permit without brutally violent reprisals.

Both the personal dispute between Rousseau and Grinnell and the partisan disputes between Republicans and Democrats indicate the multiple ways that members of the Thirty-Ninth Congress used gender to conceptualize the relationship of people to the state, to delimit the boundaries of the political community, and to define the legitimate rights belonging to those included within the family politic. Republicans seeking to incorporate African American men into the postwar political community, and thus to gain a major voting bloc in a region where they lacked a significant constituency, defined civil rights to align closely with the privileges and duties that belonged exclusively to white men in the nineteenth century. In the process, these Republicans redefined the gender assignment of male African Americans from effeminized dependents to manly members of the political community. By claiming the rights of manhood for the newly emancipated, Republicans capitalized on the power of gender to make black men voting citizens, both for their party’s benefit and for the safety of the emancipated. They did this by using gender-based arguments and gender-specific language to claim for African American men the right to protect their
families, to possess property and contract their labor, and the right to serve and benefit from the state. In this way, congressional Republicans defined black men as men, deeming them full citizens and, presumably, Republican voters.

Democrats and conservatives also proved adept at interpreting the rights of manhood to support their partisan views. Unlike Republicans, who focused on the political and economic power attributed to men in the nineteenth century, Democrats and conservatives instead emphasized the legal and social power of manhood. In particular, they focused on the control over women that nineteenth-century America granted to men. They argued that the most critical and potent rights possessed by white men were the right to sexually access white women, to contract marriages with white women, and to rule over those women within a family. If all of the rights of white manhood were extended to African American men, these Democrats reasoned, then the right to control, access, and rule over white women must necessarily be extended to black men as well. In linking the social and political power of manhood to white women, Democrats posited dominance over white women as the ultimate goal of male power. As well, they sought to capitalize on Americans’ racist fears that black men would seek this power through violence. Refuting many Republicans’ assertions that political and economic power did not necessarily convey social and sexual power, Democrats contended that the rights of manhood were not divisible – that granting any one right of manhood implied the recognition of all of those rights. In this way, Democrats indicated their belief that the rights of men to control women could not be made separate and distinct from the rights of men to control property, labor, and politics.

As Democrats and Republicans used the rights of manhood to defend their different respective visions of the proper body politic, the members of the Thirty-Ninth Congress situated gender as central to the way that they understood the
connection between citizens and the state. Their use of gendered language created a rhetorical context that shaped individual congressional interactions, like the conflict between Grinnell and Rousseau, and partisan debates like those between Democrats and Republicans about the rights of African Americans. But, most critically, emphasizing gender profoundly shaped postbellum understandings of political citizenship. Associating the rights of manhood so closely with the rights of citizens ensured that in early Reconstruction debate and policy, the default imagined citizen remained male—a vision that was then solidified in the language of H. Res. 127, the Fourteenth Amendment.

The postwar connection between ideas about manhood and political rights can be seen in three different ways. First, examining nineteenth-century Americans’ general definition of manhood indicates that in addition to the possession of a family, and the ability to contract one’s labor and possess the resultant property, Americans understood the right to both benefit from government protection and to participate in governance to be a central component of men’s gender identity. Second, a close reading of the multiple interactions between Josiah Grinnell and Lovell Rousseau in the House of Representatives shows that, on a micro-level, individual congressmen were grappling with the meaning of manhood and its changing connection to race, identity, and political rights. Their conversations show that congressmen were drawing on the general components of manhood (family, property, contract, and the state) to understand these changing meanings and connections. Finally, at the macro-level of congressional discussions, partisan debates about suffrage in the District of Columbia, the Civil Rights Act, the Freedman’s Bureau, H. Res. 51, and H. Res. 127 reveal the way that ideas about manhood permeated congressional discussions of the civil and political rights of the freedmen, and resulted in the creation of a gender-based
vision of political citizenship that ultimately shaped the language of the Fourteenth Amendment.

**American Manhood**

The ways that members of Congress used ideas about the rights of manhood were, necessarily, derived from the ways that Americans understood and defined what it meant to be a man in the mid-nineteenth century. While of course, manhood in the early- to mid-nineteenth century was racially determined, class-based, and regionally focused, there were common elements that held true for the way that Americans defined manhood across class, race, and regional lines. All men in nineteenth-century America possessed the right to head a household, to contract their labor in exchange for remuneration, to make contracts in general, to protect and defend the country, and to benefit from and participate in government. This definition was closely tied to both the emerging market economy and the consequential development of what many understood to be separate spheres of influence and activity for men and women. The meaning of manhood was shaped by values that persisted from the early republic that associated independence, economic and political autonomy, and virtue with the gender identity of men. But manhood was also being transformed in the mid-nineteenth century as ideas about gender were shifting along with the family economy. What emerged was a gender identity defined in relation to three related and interconnected social institutions: family, property, and the state. While free American men understood themselves in relation to other men, to women, and to the broader political community, they mediated these relationships through an

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173 The exception was, of course, enslaved African American men. But, as I argue below, this group was not generally understood to be men in the antebellum period.

understanding of their roles as fathers and husbands, as possessors of property, and as citizens of a participatory democracy. In particular, white adult men viewed themselves as heads of households, as owners and/or as earners, and as political actors.175

While nineteenth-century adult manhood was enacted in the public worlds of the market and politics, young men initially learned manhood within the family in relation to adult men, other boys, and women. Early in the nineteenth century, the structural transformations in the family brought about by the market revolution – in particular, the removal of the father’s primary remunerative work from the home to the market, dictated that most middle-class fathers had less time within the household and so could be less intimately engaged with day-to-day family activities.176 This cultural shift did not necessarily translate into reduced power for a father within a household. Although fathers began to take a more remote role in the daily activities of childrearing, leaving moral education and daily disciplining to mothers, and although they had fewer rewards to offer sons who in this market-driven world necessarily had seek career training outside the home, they were still the ultimate authority within the household. When nineteenth-century fathers were at home, historian Anthony Rotundo argues, they meted out discipline and attempted to control growing sons, who were increasingly unruly as their labor power became less critical to the family economy and so therefore had more free time independent from direct adult

175 Because the members of the Thirty-Ninth Congress were, for the most part, Northern middle- and upper-class white men, the analysis of manhood rights that follows will focus on that regional and class identity.
176 Stephen M. Frank has found that until 1870 this shift in the focus of men’s work lives did not necessarily translate into less time within the household, as many men worked from the home or quite near the home. However, he acknowledges that there was a cultural shift in the way that men’s presence in the household was perceived. Stephen M. Frank, *Life With Father: Parenthood and Masculinity in the Nineteenth Century North*, (Baltimore: The Johns Hopkins University Press, 1998), 55-72.
supervision. In their free time outside of the home, middle-class boys developed an autonomous independent culture that valued strength, stoicism, hierarchy, and courage, values that would persist through their transition to adulthood. Thus early in their lives boys learned to associate manhood with the world beyond the home, with homosocial male interactions, and with power and authority in a family.

As young men reached adulthood the true indicator of the transition from childhood to manhood was their acquisition of a family through marriage and fatherhood. Ascending to the head of their own households enabled young men to claim the male power and status allotted to adult American men. This power was not simply the power to control and guide the members of one’s family. Men’s public political power was also closely tied to head of household status. As heads of households, antebellum men were the public face of their family – they were their family’s recognized representatives in the world beyond the borders of the home. Eighteenth century American political culture had equated marriage and fatherhood with a man’s political fitness and worth and viewed with suspicion any man who was not a master of his own small world. Nineteenth century American culture also recognized the public power that men gained from private life, and viewed family men as the most valuable stable citizens and ideal producers. In part, this equation of family power with public political power came from an acknowledgement that married men constituted the legitimate authority over their households, and therefore over social and political organization in America. In antebellum America, therefore, an

unmarried man who was not the head of a household lacked the stature attributed to adult men.\textsuperscript{181} As southern writer William Gilmore Simms asserted, “a man without a loving woman and a comfortable home was incomplete.”\textsuperscript{182}

Unmarried men in the nineteenth century were also deprived of status gained from the legal power over women in marriage and family life. Having dependents enabled men to understand themselves as independent, and thus, as men.\textsuperscript{183} As one nineteenth-century analyst of the family wrote, “In the domestic constitution the superiority vests in the husband; he is the head, the lawgiver, the ruler.”\textsuperscript{184} As heads of their households, nineteenth-century men were legally and socially entitled to control family members and to benefit from their labor.\textsuperscript{185} Although the eighteenth-century ideal of coverture, the subsuming of a married women’s legal identity into her husband’s, was somewhat mitigated by the mid-1800s, it still persisted as the foundation of marriage law.\textsuperscript{186} In most antebellum states married women had no official identity that the government recognized. Furthermore, in the separate spheres ideology that emerged in the antebellum period to explain and justify the changing family economy based on cash acquisition and consumption, married men served as their families’ ambassadors into the “public.”\textsuperscript{187} Although within individual

\textsuperscript{181} Rotundo, American Manhood, 115.
\textsuperscript{182} Cited in Frank, Life with Father, 27.
\textsuperscript{183} In historian Stephanie McCurry’s pithy assessment, “dependence was the stuff of which independence – and manhood – were made.” Stephanie McCurry, Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country, (New York: Oxford University Press, 1995), 72.
\textsuperscript{184} Cited in Rotundo, American Manhood, 133.
\textsuperscript{186} On the evolution of coverture in nineteenth-century marriage law, see Cott, Public Vows, 2-55.
\textsuperscript{187} While the notion of separate spheres represented an ideal that many middle-class white families were told to expect, some historians’ work has indicated that there were distinct limits to the public/private dichotomy. These limits are shown particularly clearly in work that focuses on women’s involvement in the “public” world of politics and on men’s involvement in the “private” world of the family. An excellent article critiquing the separate spheres model is Linda Kerber, “Separate Spheres,
relationships, men and women negotiated differing degrees of power and autonomy, nineteenth-century society officially recognized and legitimized men’s status as heads of their households and granted them the right to represent that household’s interests politically. In 1854, the Southern Quarterly journal reported that “the husband acquires from the union increased capacity and power. He represents the wife in the political and civil order.” The acquisition of this political power from a wife and family definitively determined one’s status as a man, and admitted one into an imagined fraternity of white men who ruled both the home and the state. As a correspondent for the Charleston Mercury put it in 1830, “We are equally interested [in politics] as citizens – as owners of the soil – as the fathers of families…” While this editorialist’s primary interest was in the protection of slavery, the clear connection he drew between citizenship, landed independence, and head of household status indicated how intertwined those ideas were for antebellum men, regardless of region.

While head of household status conveyed to men a degree of power, both within the home and in public politics, it also carried a heavy burden of responsibility to protect, maintain, and support the subordinate and dependent members of one’s household by acquiring and successfully managing property. In the antebellum period, this support increasingly relied on the acquisition of cash income from outside the home as subsistence farming gave way to market exchanges. Thus, participation

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191 Cited in McCurry, Masters of Small Worlds, 259-260.
in the public world of the market, and eventually in industry and the professions, profoundly shaped ideas about manhood in the nineteenth century. Within men's roles as wage-earners, providers, property owners, and economic agents the most "manly" men were understood to be independent, successful, and self-made.

Independence had been a quality associated with American manhood since the days of the Revolution. Americans understood that freedom from the control or power of others was a necessary trait among citizens for a healthy democratic republic. Hence independence was praised in republican texts and reflected in eighteenth-century suffrage laws that restricted political participation to owners of substantial property. Set in relief against varying states of dependence, usually represented by women, slaves, servants, and children, independence became a state usually achievable only by some white men. However, in the first half of the nineteenth century as middle-class men moved away from land accumulation and toward commerce, industry, and professions as the best route to prosperity, ideas about independence shifted as well. With the emergence of the market economy, Americans began to view independence not so much as contingent upon a man's possession of landed property, and therefore his freedom from impositions by others, but upon on how successfully he contracted his skills in exchange for wages.

Historian Eric Foner aptly summarized this trend toward the increasingly dominant

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192 While property ownership was associated with political participation (and therefore independence) in the colonial period, a man's autonomy took on greater importance after the Revolution created a new democratic political structure that relied on an independent citizenry.


194 Michael Kimmel, Manhood in America, 27.
ideology of free labor in the North in the antebellum period: “every man had a property in his own labor.”

A man’s gender identity in the nineteenth century depended on how well he marketed his own labor “property.” Those most successful at this, deemed “self-made” men, were esteemed as the best of what American manhood could be. Evidence of this cultural ideal can be seen in the frequent use of a mythic rise from log cabin origins in nineteenth-century political campaigns, where the most admirable men (and thus presumably the most “electable”) were those who had managed to sell their labor power the most profitably, permitting social advancement, economic success, and political power. This cultural myth was successfully wielded by presidential candidates throughout the antebellum period, and was best embodied and most successfully manipulated by Abraham Lincoln. The process of becoming successfully self-made was a source of great anxiety for many middle-class nineteenth century men. They were aware that not only their livelihood and economic prosperity depended on their abilities to provide, and that their family's status and class position was riding on their achievements, but that their very identity as men was at stake. Those deemed the most manly in the nineteenth century were successful breadwinners and providers who overcame the uncertainties of the market, acquired property in through their efforts, and intelligently managed their own laboring power.

As antebellum white American men defined themselves in relation to their families, their work, and their property, definitions that led them to public as well as

196 Kimmel, Manhood in America, 36-39.
197 Rotundo, American Manhood, 167-180.
private power, they also understood their gender identity through their political citizenship – their active membership in the American political community. At its simplest, for nineteenth-century men citizenship meant merely possessing nationality and belonging as a member of the nation state. This belonging carried with it both rights and duties. Typically these rights were understood as the rights of freedom of person, speech, and religion, the right to possess property safely, to enter into contracts, and to expect equal justice from the laws. Duties citizens owed to the state were to protect the state through military service, to uphold equal justice with jury duty, and to perpetuate the governance of the state by holding office and voting. While these rights and duties offered a general picture, the explicit rights and duties that citizen-membership conveyed were not always completely clear or unanimously agreed upon. In particular in antebellum practice who could legitimately access those rights and perform those duties varied from state to state, and from community to community.\(^{199}\)

Consequently throughout the antebellum period states grappled with whether or not immigrants, free African Americans, indigent white men, and widowed or single women could be considered full members of the body politic.

The same concept of independence that identified property owners and workers as those able to contract their labor and head households, had also long identified the American citizens capable of political participation. In the earliest days of the American nation, the clearest marker of independence was property ownership, which conveniently linked political rights to economic status, gender, and racial identities.\(^{200}\) In the early republic most states protected the civic community by


preventing “unsafe” dependents like married women, the enslaved, the impoverished, or servants from possessing the franchise by requiring voters to possess a certain amount of real property. Property possession was also a convenient measure that usually also indicated that one was responsible for dependents, rather than a dependent oneself. This responsibility for dependents offered a category against which to define independent white political manhood. As Nancy Cott has suggested, for nineteenth-century men “having and supporting dependents was evidence of independence.”

However critical the presence of dependents was to defining white men’s independent political status, in the colonies and early republic some individual women and African Americans, although categorically deemed dependent, translated their possession of sufficient property into participatory citizenship. Unmarried or widowed wealthy women could vote in New Jersey until 1807, and free African Americans could vote in various northern states until well into the 1850s. However, the Jacksonian-era expansions of the franchise to include all white men in the participatory political fraternity regardless of their economic status simultaneously excluded free African Americans from the franchise in all but 5 states, and women in all states.

The antebellum expansion of the franchise to all white men explicitly tied gender identity to participatory citizenship. Further, by exchanging property for gender and racial position as indicators of political independence, and hence, legitimate status as political actors, white men created a collectivity across class, ethnic, sectarian, regional, and partisan divides grounded in gender. This collective white male identity alleviated and diffused tensions between and among white men that had the potential to threaten the peace and safety of the nation state. This

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201 Glenn, 21-23; Cott, “Marriage and Women’s Citizenship in the United States, 1830-1934,” 1452.
203 Nelson, National Manhood.
imagined fraternity, that literary critic Dana Nelson calls "national manhood," tied all white men to each other and to the state through their gender. By linking gender and racial identity to participatory citizenship, and creating national manhood, white men ensured that what they understood to be fixed identity categories, rather than mutable categories (like social status) or acquirable contingencies (like property) would define the limits of the political community. By aligning participatory citizenship with white manhood, antebellum Americans reciprocally defined participatory citizenship and manhood. Through this logic if only white men vote, then voting must indicate white manhood. Thus just as Americans came to understood head of household status and economic independence as gendered qualities, so too did they come to see voting both as an exclusive right of white manhood and as a means of defining that manhood.

Connected to ideas about the family and property, participatory citizenship formed the foundation of a man's public, civic identity. Voting on election day, along with possessing a family and developing a profitable profession, skill, or job in the workplace, marked a man as an adult, as a citizen, and as a full member of the political community. Consequently voting evolved as a gendered public ritual, one that took place in public, defined as the male realm by separate spheres ideology. Further elections were often held in venues understood as male space, like taverns. In this way, as a public ritual taking place in male space, the primary act of participatory citizenship allowed nineteenth century men both to enact and to publicly display their manhood. Ultimately, it was this connection between participatory citizenship and white manhood that defined the relationship of men to their government. White men, as voters, claimed the most direct connection to the state, as well as power over and

204 Nelson, National Manhood, 15.
205 In Unequal Freedom Glenn offers an excellent synthesis of scholarship on the connections between gender, race, and the evolution of citizenship. See especially pages 18-55.
within it. By defining participatory citizenship and manhood as synonymous, antebellum white men created, maintained, and exercised their political and social power – power they were not likely to surrender lightly.

**The Inevitable Negro**

Sharing political power with men outside of the imagined community of white men was exactly what many Republicans in the Thirty-Ninth Congress contemplated. To congressmen faced with repairing the damage done by Presidential Reconstruction, precisely how much power – and which rights of manhood – should be shared with the emancipated was both extremely controversial and patently unclear. As Maine Senator Lot Morrill declared three days into Senate debate on the Civil Rights Act (S. 61), “if there is anything which the American statesman is perplexed and vexed, it is what to do with the negro, how to define him, what he is in American law, and to what rights he is entitled. What shall we do with the everlasting, inevitable negro? (sic) is the question which puzzles all brains and vexes all statesmanship.”207 In slavery, the legal and political status of the enslaved was clear. They were dependent on those who owned them, members of white men’s households akin to women and children, and ostensibly represented by that owner, who was the head of the plantation household and the sole possessor of the rights of manhood. Citing the British legal authority *Blackstone’s Commentaries*, Charles Sumner acknowledged the male slave’s dependent and feminized status. “The slave,” he said, “was always regarded legally and politically, as a part of the family of his master ... master and servant were grouped with husband and wife, parent and child, and as in the case of wife and child, the male slave was represented by the head of the family, who also paid the taxes on

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his account.”208 By tying productive labor, manhood duties to the state, and head of household status to white men exclusively, slavery had created an anomaly whereby enslaved African American men, who were producers and whose labor produced products that were “the proper subject of taxation,” lacked both the political right of participation that was associated with taxation in American political myths and the manhood rights that productive labor created. Slavery had created men who were “natural persons,” “producers,” but who, like women and children, were not “political persons.”209 But emancipation disrupted this arrangement. New York Representative Roscoe Conkling declared that emancipation created “a new anomaly,” whereby “four million people are suddenly among us not bound to any one, and yet not clothed with any political rights. They are not slaves; but they are not, in a political sense, ‘persons.’”210 Although presumably emancipation made some progress to arresting the dehumanizing effects of slavery, Conkling made a valid point: that in the eyes of the law the emancipated former slaves were in a liminal state. No longer property, the emancipated lacked political personhood but yet were released from the hierarchy of power that deemed them dependent and that granted white male slave owners the power to represent them.

Many Republicans like Conkling wondered what would happen to the power of representation once granted to slave owners on behalf of their human productive property. “Does this fraction of power still survive?” Conkling asked his colleagues, “if it does, what shall become of it? Where is it to go?”211 He reflected the emerging Republican Party policy when he claimed that, “there is no place logically for this

208 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., January 26, 1866, 682.
power to go save to the blacks.” If African Americans were to have this power of representation, other Republicans argued, they must be members of the political community. These congressmen contended that emancipation alone had transformed slaves into American citizens. Ohio’s John Bingham declared that “Every slave the moment he is emancipated becomes a free citizen ... a ‘free person,’ [who] ... becomes equal before the law with every other citizen of the United States.” Union Republican Richard Yates asserted that this citizenship meant that

> every man made free by the [Thirteenth Amendment] is ... one of the people of the United States, one of the citizens of the United States, and entitled to the same rights and privileges as ... myself or any other one of the people of the United States, by force of the Constitutional Amendment abolishing slavery and emancipating that people, as I contend, into the sovereignty, into the body-politic of the United States.

No longer dependent members of other men’s households, the emancipated, these Republicans contended, were now citizens, full members of the American political community and entitled to the rights of citizenship.

However all of those people in the United States who possessed sovereignty, were full members of the body politic with the right of participatory citizenship, and held the status of “political persons” were white men. Race, as a marker for dependence and property status in the South, and political disability in the North, had mitigated against the full participation of African Americans in the democratic political process in both regions. Despite the Thirteenth Amendment prejudice that persisted in both the North and the South was a powerful barrier to Republican efforts

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to change definitions of participatory citizenship. Thus as Republicans sought to incorporate the emancipated into the political community and protect their rights to that membership, they turned to gender as a means of overcoming the disability of race. As a slave, Conkling acknowledged, a black man was “a man and not a man ... a native, an inhabitant, a producer, but without recognized political attribute or prerogative ... he was nowhere.”\footnote{U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39th Cong., 1st sess., January 22, 1866, 356.} Without the rights of manhood, an enslaved man definitively lacked manhood status. But emancipation, many Republicans contended, granted that status; because African American men were liberated from dependence on other men as owners, and were no longer members of other men’s households, then they were now independent men. Every former slave, Henry Lane of Kansas argued, had “become a freedman and is counted for the purposes of taxation as a man – a free man.”\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39th Cong., 1st sess., February 8, 1866, 739.} Lot Morrill, answering his own haunting question about the “inevitable negro,” also turned to manhood. When debating the Civil Rights Act, Morrill argued that the act was vital because it “defines [the freedman] to be a man and only a man in American politics and American laws; it puts him on the plane of manhood.”\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39th Cong., 1st sess., February 1, 1866, 570.} It was as a “citizen and as a man,” Lane asserted that “his rights shall be protected.” Lane’s fellow Kansan Samuel Pomeroy concurred, arguing that, “without his rights of manhood he had better remained a slave ... it is adding insult to the long injury of centuries to give them the shadow of liberty without the substance, to invite them to freedom and not give the guarantees.”\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39th Cong., 1st sess., March 5, 1866, 1182.} While there was apparent agreement among most Republicans that emancipation had profoundly altered the freedmen’s legal status and transformed them into men, congressmen disagreed about exactly which rights the freedmen were entitled to posses. Did they, with freedom and manhood,
acquire all of the rights afforded white men? And if not, which ones did (and should) African American men have?

The Company of Gentleman: Grinnell vs. Rousseau

While Congress considered these critical questions, two minor and relatively powerless members of the House enacted on a personal level the broader issues facing their parties, their colleagues, and their nation. Interwoven into the interaction between Josiah Grinnell and Lovell Rousseau were the embedded assumptions each held about American manhood. Reflecting their partisan affiliation, their regional backgrounds, and their political ideologies, Grinnell and Rousseau identified different manhood rights as the most critical to possess and defend. As a northern Republican with abolitionist sympathies, Grinnell saw the connection between a man and his government as the most vital. In his disputes with Rousseau, Grinnell defended the right of emancipated African Americans to have legal rights recognized and protected by that government. But beyond this standard Republican position, Grinnell was most concerned with the rights of men to offer their service to the state. Seeing this service as a constitutive component of American manhood, and perhaps the most important one, Grinnell’s attacks on Rousseau were grounded in a critique of Rousseau’s military activities during the Civil War. Focusing on the reciprocal connections of obligation and benefit between men and their government, Grinnell portrayed himself as the better man in his conflicts with Rousseau because he had rendered better service to the state, while he defended the rights of African American men to enjoy those same connections and offer that same service.

The southern conservative Rousseau rejected the idea that African Americans should have legal rights or obligations, and he defended the right of white men to exclusively possess the rights of manhood. In particular Rousseau focused on the
rights of men to possess and protect a family against intrusions from other men or from the government. Like other congressional conservatives Rousseau defined manhood primarily as the control over women and dependents. Consequently his challenges to Grinnell’s manhood focused on Grinnell’s ability and desire to control and to protect his own family. Rousseau contended that true manhood lay in the ability and willingness to wield violence in defense of the family, rather than to wield violence in defense of the state. When he understood Grinnell to be rejecting a violent defense of the family, Rousseau asserted that Grinnell clearly lacked the requisite qualities of white manhood – qualities that Rousseau simultaneously denied to African American freedmen.

The dispute between Grinnell and Rousseau, although unusual in its vituperatively personal nature, paralleled the larger debate in the Thirty-Ninth Congress between Republicans and Democrats about the rights of manhood and the status of African Americans.219 In that debate Republicans like Grinnell focused on the public aspects of manhood to claim those rights for the freedmen. Democrats and conservatives like Rousseau focused on the private factors defining manhood to reject African American men as members of the political community. As with the broader congressional debate the ongoing disagreements between Grinnell and Rousseau explicitly demonstrated the extent to which gendered rhetoric had permeated congressional rhetoric. The violent outcome of these disagreements, however, indicated both the emotional power that that rhetoric conveyed and the passionate investment that each side had in their own particular definition of and vision for the best distribution of the rights of manhood.

219 Personal attacks were generally infrequent in Congressional debate during the Thirty-Ninth Congress because questions of personality were explicitly prohibited in the rules of the House. U.S. Congress, “Appendix: Standing Rules and Orders for Conducting Business in The House of Representatives of the United States During the 1st Session of the 39th Congress,” Journal of the House of Representatives, 39th Congress, 1st Session, 1206.
Day 1: 2/3/1866 – White Men’s Rights

The conflict between Josiah Grinnell and Lovell Rousseau began on Saturday, February third as Grinnell sat as Speaker pro tempore in the House. After a full day of debate on whether to enlarge the power of the Freedman’s Bureau (S. 60), Rousseau rose to give the last speech of the afternoon session. In this speech Rousseau declared his opposition to the bill because, he contended, the Freedman’s Bureau already had too much power. In particular Rousseau was concerned that Bureau agents in his home State of Kentucky had used their positions as federal officials to subvert racial hierarchies and, consequently, had abused their power by challenging white men’s exclusive possession of manhood rights. Evidence of this subversion and abuse came from a story Rousseau told about a Bureau agent in Louisville who had arrested white Kentuckians based on evidentiary statements made by African Americans. This “outrageous” agent, Rousseau declared,

would arrest any man, no matter whom … on the ex parte statement of a negro. And when the man was brought into his presence, he would turn to the negro making the statement and say, “Brother,” or “Sister,” as it might happen, “what has this man been doing to you?” And he would take the testimony of negroes against him, and sitting as a court, he would punish him.

Specifically Rousseau claimed that this agent arrested an acquaintance of his on the basis of an African American woman’s testimony:

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221 U.S. Congress, House of Representatives, Congressional Globe, Appendix to the Congressional Globe, 39th Cong., 1st sess., February 3, 1866, 70.
A man by the name of Blevins in my town came home one evening and found his wife engaged in some controversy and collision with a negro woman who had been her servant – not one who had belonged to her as her slave. He took part with his wife, as I think any gentleman ought to have done, whether his wife were right or wrong. The negro woman complained to this agent of the bureau, and a couple of negro soldiers were sent there to arrest him and his wife. And because one of his little girls had said something in the matter an order was also sent for her arrest.222

Rousseau’s reliance on this story for his opposition to the bill reveals his understanding of the way that white manhood rights were tied to both the family and, ostensibly, defended by the state. Rousseau was uneasy that the Bureau agent could arrest “any man, no matter whom” and bring about an egalitarian overthrow of southern social hierarchy. With the Freedman’s Bureau present in Kentucky, Rousseau was saying, white manhood did not confer any special status. In this context, and changing political environment, white manhood did not protect men like Rousseau and Blevins from problematic charges from social inferiors. Further Rousseau was clearly disturbed that the statement of an African American woman would be treated as legal testimony, legally binding speech recognized by the state sufficiently powerful to enable the arrest of “any man.” In this context not only did the Freedman’s Bureau subvert longstanding southern social arrangements, but it conveyed legal meaning to the word of African Americans. By honoring their testimony, the Freedman’s Bureau agent gave African Americans a voice that was heeded by the government; this must have seemed dangerously close to Rousseau to permitting them a voice in choosing that government. Further, the agent’s use of familial terms for those African Americans, “Brother” and “Sister,” indicated that he was acknowledging a common belonging in the family politic that transcended the

222U.S. Congress, House of Representatives, Congressional Globe, Appendix to the Congressional Globe, 39th Cong., 1st sess., February 3, 1866, 70.
race and gender boundaries that had defined the limits of the southern political community since the antebellum period.

More disturbing to Rousseau than these transgressions, however, was the challenge extended by the Freedman’s Bureau agent to Blevins’ rights as the head of his own household. In any given situation, Rousseau argued, the dictates of manhood required “any gentleman” to protect his dependents and to actively support his wife against any intrusion in the home from either government or social inferiors. In this way, Rousseau posited the arrest of Blevins’ wife and daughters as a crime against white manhood. By incarcerating Blevins’ wife and daughters, the Bureau’s agent exerted control over another man’s dependents and violated Blevins’ rights as head of household — a crime clearly exacerbated by the presence of “negro soldiers” in a position of authority over whites. Rousseau’s tale tapped into southern fears, but offered an interesting inversion of a story far too familiar to most southerners, black and white. Substituting the white southern family for the black family, Rousseau reenacted the helplessness of enslaved black men to act as heads of household and to protect their families from white men who took away wives and children from the custody of their husbands and fathers.223 Rousseau also inverted another story familiar to southern African Americans as he protested that the Freedman’s Bureau agent and the black soldiers “sat as a court” and meted out punishment, thereby violating the white southerners’ right of due process. Echoing the deprivation of civil rights and due process from African Americans throughout the South, whether enslaved or free, Rousseau was outraged that this agent could deny the exclusive right of a white man to know without question that that state protected and valued his civil rights.

Ultimately, Rousseau's concern was that the Freedman's Bureau, in challenging the rights of white manhood, would essentially transform white men into enslaved black men. What were white men without the rights to protect their families and to possess exclusive control over the state? Rousseau sought an answer in a traditional mode of southern white manhood—violence. He reported to his colleagues that Mr. Blevins, the beleaguered white man in this incident, asked Rousseau to meet with the Freedman's Bureau agent. At this meeting, Rousseau told the agent that,

If you want to protect the freedmen of this community I am with you heart and soul: I will stand by you in all measures; but if you intend to arrest white people on the ex parte statements of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me, I would kill you when you set me at liberty; and I think that you would do the same to a man who would treat you in that way, if you are the man I think you are, and the man you ought to be to fill your position here.\(^{224}\)

With this statement Rousseau articulated a vision of southern manly honor that claimed the right to meet any insult to one's manhood with violence, and he looked to his congressional colleagues to confirm the legitimacy of this position, claiming that any man would necessarily recognize this as a just exchange. Unwilling to submit to a social authority that acknowledged the words of African American women as legal testimony, that relied on African American men to enforce and uphold that testimony, and that so egregiously challenged the authority and manhood of white men, Rousseau declared his intention to murder the government agent whose actions lay at the heart of this challenge. Furthermore Rousseau attacked the Freedman's Bureau agent for betraying white male solidarity. Unwilling to believe that any white man would be such a traitor to his gender and racial position by granting black men and women some of the rights of white manhood, Rousseau suggested that any such man who did so

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was clearly less than a "real" man. By telling this story to his congressional colleagues, Representative Rousseau laid claim to his own manly honor by defending the rights of white southern manhood. He defined that manhood as the right of unquestioned authority over women and African Americans, as well as unchallenged status as the head of household status and control over dependents. In this way Rousseau asserted his own (and by implication other white southern men's) masculine right to use violence to remedy unacceptable situations, reinscribed the rights of white manhood, and reasserted its authority over both African Americans and unmanly government agents.

**Day 2: 2/5/1866 — Challenging White Manhood**

As the last speech of the afternoon session on February 3rd, Rousseau's remarks elicited little immediate comment, particularly from Grinnell, who as Speaker pro tempore could not address the chamber. When Rousseau's congressional colleagues in the House resumed debate on S. 60 the following Monday, the impact that his speech had on his colleagues soon became apparent. Both the subject and tone of debate had shifted and the consideration of the Freedman's Bureau became an argument about the state of race relations in Kentucky. As members of the Kentucky delegation sought to dispute the need for a Freedman's Bureau in their state, they

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225 In further debate, when interrogated by Massachusetts Representative Thomas Eliot, Rousseau revealed that the agent in question (a Mr. Kennedy) had not been appointed to the post by the Freedman's bureau, but was the representative of another military hierarchy who served in his post only a few days before he was replaced by an agent that Rousseau himself had recommended. Eliot then asked Rousseau to name any other agent, other than Kennedy, with whom he had a complaint. Rousseau could not. U.S. Congress, House of Representatives, *Congressional Globe*, Appendix to the *Congressional Globe*, 39th Cong., 1st sess., February 3, 1866, 70-71.

asserted both Kentucky’s loyalty and its ability to “handle” the “problem” of emancipation without federal interference.

After a number of Kentucky delegates defended even their most blatant racially biased policies, a clearly shocked and outraged Grinnell rose to speak. In his remarks Grinnell attacked Kentucky’s loyalty, equality, and justice in their treatment of African Americas. He found it patently problematic that the same Kentuckians who “dislike … the presence of schools and real courts of justice [for African Americans established by the Freedman’s Bureau] … were not so unwilling that twenty-five thousand of these men whom we now propose to protect, the negroes, should come in and save the whites from the draft.”²²⁷ Furthermore, Grinnell argued, the persistence of Kentucky’s blatantly racist legislation, even applied to black soldiers, was proof of the questionable loyalty of the state.

I ask … why Kentucky has not repealed or amended or changed her barbarous laws … against the loyal black people of the state. For instance, that law which makes it a penal offense of a man who has worn the Government uniform and fought our battles to go into that state.

If the men of Kentucky were truly just, loyal, and honorable, Grinnell argued, they would protect their fellow African American citizen-soldiers, welcome them into the state, and acknowledge their rights as men. Particularly after those men had performed their manly duty of service to the government.

Grinnell was also concerned that Kentucky’s legal system made distinctions between men based on race and, therefore, denied African American men the manhood right of participating in and being protected by the state:

The white man in Kentucky can testify in the courts; the black man can testify against himself. The white man can vote; the black man cannot. The white man, if he commits an offense, is tried by a jury of his peers; the black man is tried by his enlightened, unprejudiced superiors. The rape of a negro woman by a white man is no offense; the rape of a white woman by a negro man is punishable by death, and the Governor of the state cannot commute. A white man may come into Kentucky when he pleases; the free negro who comes there is a felon, though a discharged solider and wounded in our battles. A white man in Kentucky may keep a gun; if a black man buys a gun he forfeits it and pays a fine of five dollars, [even] if presuming to keep in his possession a musket which he has carried throughout the war ... If a white man is guilty of insurrection or rebellion he is punished by being called "chivalrous" ... If a negro rebels, or conspires to rebel, he is punished with death.228

Critiquing both the southern manhood code and the racial hierarchy upheld by Kentucky's laws, Grinnell interwove a subtle and sarcastic critique of southern honor with a political argument that sought to assert the political and social rights of African American men. He argued that the white men of Kentucky systematically permitted racial prejudice to interfere with the rights of manhood, preventing African American men from claiming the equality of public rights that were due them as men in exchange for their service to Kentucky's political community. And the worst offender, Grinnell argued, was General Rousseau, who "declared...as I caught his language, that if he were arrested on the complaint of a negro and brought before one of the agents of this bureau, when he became free he would shoot [the negro]."

Although Grinnell misunderstood which individual was to the object of Rousseau's proposed violence, he clearly understood the Kentuckian's intent to defend the racial and gender structure of the Old South with violence. It was with this intent, Grinnell argued, that Rousseau "degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him." In his recourse to violence Rousseau, Grinnell implied, had

violated manhood and disgraced his service to the state as a soldier through this “unworthy” sentiment. Grinnell was willing to concede that perhaps Rousseau had not actually said such a thing, but he could not confirm it since Rousseau had not yet submitted his speech for publication to the Globe. If proved wrong, however, Grinnell declared that he had “no desire to do him the least injustice or impugn his honor,” permitting Rousseau an honorable way to back down without losing face – in a maneuver akin to a pre-duel ritual.229

**Day 3: 3/6/1866: Attacking Grinnell’s Manhood**

Despite Grinnell’s attempt to give his colleague the benefit of the doubt, it is clear that Rousseau did view Grinnell as having impugned his honor. On the day after Grinnell had deemed the southerner’s behavior “unworthy” and “barbarous,” Rousseau requested, and was granted, time for a personal explanation on the floor of the House. Under House rules personal explanations were single statements of controlled length that clarified a member’s comments in debate or to explain absences from roll-call votes. Rather than clarifying his own statements, however, Rousseau used his allotted time to attack Grinnell. He charged that Grinnell’s statements about him were “false, a vile slander, and unworthy to be uttered by any gentleman upon this floor.” Stung by this attack, Grinnell demanded the chance to reply. In his own personal explanation, he retorted that the real dishonor was Rousseau’s delay in submitting his statements for publication. He claimed that this indicated that Rousseau had something to hide, so was being less than open about his previous statement, behavior that Grinnell deemed to be most unmanly. Not one to let yet

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another challenge to his manhood pass by unaddressed, Rousseau attacked Grinnell’s professional ability, accused him of un-gentlemanly behavior, and more damingly, implied he was cowardly during the war:

I understand the gentleman is a preacher of the Gospel. But he has got to learn that charity that all other men understand. ... [I]t does seem to me that [criticism of Kentucky] came with exceeding ill grace from gentlemen who sat in their houses, who remained in the bosoms of their families in that safety which we were fighting for in the battlefield to come here and not exercise even ordinary charity toward us.²³⁰

Rousseau’s comment feminized Grinnell in a number of ways. The statement rendered Grinnell childlike by placing him at the “bosom” of the family during the war; only infants spend much time at any “bosom.” It also depicted Grinnell within the private sphere of the home, deemed the domain of women in nineteenth-century culture, if not practice. Grinnell, Rousseau contended, had remained within the safety of the female sphere and had timidly avoided the manly battleground. In so doing Grinnell had not performed his duty to the state and so had not upheld his manhood. Grinnell, Rousseau claimed, had rejected the link between men and the state by failing to perform military service. Rousseau’s challenge also attempted to trap Grinnell in his own logic: if military service conveyed manhood rights to African American men, did its lack indicate a lesser degree of manhood in men like Grinnell who had not served?

Grinnell did not miss the point of these statements. When permitted an additional personal explanation, he reasserted his own claim to proper masculine behavior and service, and affirmed his own manhood. “If [Rep. Rousseau] says I am a clergyman, or was a minister, I have to answer that I was a man before I was a

minister; and I claim now to be a man and an American citizen. I am not ashamed of my origin or of my profession. I am here to stand up for my principles and for my constituents and for my country. Military service, Grinnell claimed, was not the only way of enacting manhood’s connection to the state. Grinnell reminded Rousseau and his colleagues that office-holding and governmental service were long acknowledged and accepted substitutes for military duty to fulfill a man’s obligation to the political community. This argument had to have resonated with Grinnell’s fellow Representatives, as most did not serve in the Union Army because they were members of Congress. Grinnell also explicitly declared that his own manhood was closely tied to his citizenship. In doing this, Grinnell privileged the rights of men to participate in governance as a determinant of manhood. Essentially, he was saying that more than any other right of manhood, service to the state was what defined a man. His manhood, therefore, could not be denied because he was a full, participatory citizen in the American political community. This manhood, and sense of honor, pushed Grinnell to refuse to back down to Rousseau’s challenge – perhaps signaling to Rousseau that he was ready for a fight. Even northern abolitionist ministers placing more value on service to the state than any other marker of manhood were clearly not immune to the rituals of jockeying for power among men.

**Day 4: 2/8/1866 – Attacking Grinnell’s Manhood Again**

When Rousseau’s speech was published on February eighth, it offered the two congressmen yet another chance to grouse at each other and display their ideas about gender. Requesting time for another personal explanation, Grinnell acknowledged to

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the House that he had misunderstood Rousseau’s original statement. While he had originally believed that Rousseau would shoot any African American witness upon whose word a white man was detained, Grinnell found Rousseau’s real statement even more problematic. He asked the Representative to explain why “his declaration that he would kill a white officer acting under oath and in the discharge of his duty, ... is a less unworthy action than to shoot an American citizen of African descent.”

Granted a chance to explain Rousseau responded that his action was defensible because it would have been undertaken in defense of manhood rights; it was the right of southern white men to protect their households from any “threat” posed by the political and social power of African Americans. Rousseau also maintained that all white men universally understood that violence was also a right of manhood:

The gentleman [Grinnell] can have his own ideas as to what he would do if his wife and children were arrested ... and ordered to be held by the agent of the Freedmen’s Bureau ... to be tried, at his convenience. The gentleman can have his own notions; I have mine. And I say here that a man who would allow such outrages to be committed ... any gentleman would allow his wife and children to be arrested and taken from him without law, and led away between two bayonets, in the hands of negroes ... he is at perfect liberty to do so; but I would not submit to it. I would resist it, and if bloodshed came of it, let it come ... I believe there is not a man upon this floor who would not indorse the sentiments I have uttered, that under any circumstances he would stand by his wife and children. And if the gentleman from Iowa [Mr. Grinnell] chooses to tell the House here to-day that he does not indorse that sentiment then let him do so; I shall not envy his position.

By asserting that no manly head of household would permit “attacks” on their families, particularly those that so clearly subverted gender and racial hierarchies, Rousseau sought congressional approval for his particular version of manly duties, and

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thus condemnation of Grinnell. By claiming that most members of Congress would not permit such a subversive “attack,” even if Grinnell seemed to suggest that he himself would, Rousseau sought to create a collegial race-based masculine community in Congress among the white men present who believed that their manhood permitted them to use violence to sustain social hierarchy and to protect their gendered prerogatives – prerogatives that he grounded in the control of the family.

While Rousseau primarily attacked what he assumed to be Grinnell’s failure in his duty as head of household, and contended that it rendered him most unmanly, he also attacked Grinnell personally by contending that he was also unmanly because he had failed to serve the state. Perhaps uncertain of his claim that any violation to a man’s head of household status justified violence, Rousseau again yet again asserted that Grinnell’s credibility and manhood were at stake because of his lack of military service – for either North or South. Even “rebels” in Kentucky, Rousseau declared, had more manly courage and better served the state than Grinnell: “I will tell [Rep. Grinnell] one thing that whether on the Union side or on the rebel side, he cannot point to a Kentucky man who ever turned his back upon danger or degraded himself by deserting or failing to defend the cause he espoused.”

Grinnell responded to this charge with equanimity, again firmly asserting his own manhood and honor and articulating a vision of masculinity less dependent on physical violence. “It is not for me to boast that I belong to the profession of gory Mars, and I have not had much experience in fast running, but trust I have a comfortable amount of that quality which means standing still and both awaiting and meeting the consequences of my acts and

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words at home and abroad." A real man, Grinnell implied, neither lashed out in unthinking violence nor sought to bluster his way out of problems of his own making, but rather was steadfast and responsible, calm and accountable. He did not need to serve the nation with his violent prowess, he could serve the country by using his mind and representing the people in office, keeping manhood and honor intact. In making this statement, Grinnell again let Rousseau know that he would not back down, or run away, from the challenges the Kentuckian was extending him. Manliness, Grinnell claimed, lay in refusing to give in to attacks and critiques, it lay rather in standing one’s ground. Whatever result of these disputes, then, Grinnell signaled to Rousseau that he would meet the consequences.

**Day 5: 6/11/1866 – Challenging Rousseau’s Manhood**

Throughout all of these exchanges, Grinnell defended his own manhood, challenged Rousseau’s assertions and his intent, questioned his sense of racial justice, and even interrogated his honor, but did not directly and explicitly challenge the southerner’s manhood. Although Rousseau had repeatedly attacked Grinnell’s manhood, his ability as a head of household, and his sense of duty to the state, Grinnell seemed willing to let the defense of his manhood rest on fairly mild assertions of his own manly honor, and on his service as a public servant. Nevertheless, he signaled his refusal to back down and, perhaps, willingness to engage in a violent defense of his own honor and manhood. However subtle or mild, Grinnell’s comments clearly rankled the Representative from Kentucky, perhaps because he felt Grinnell had gotten the upper hand in the February debate. So four months later when given the opportunity, and possibly prompted by political defeat on

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this same issue of African American rights, Rousseau revived the dispute. This time, however, Grinnell responded to Rousseau's gendered attacks in kind, escalating the situation and antagonizing Rousseau to the breaking point.

Two days after the House of Representatives had passed H. Res. 127, which outlined the freedmen's post-emancipation status and by using gendered language explicitly declared that manhood was a necessary prerequisite for participatory citizenship, Grinnell and Rousseau again openly sparred about the rights of manhood and who could legitimately claim those rights. This new exchange began while the House debated when to allow the southern states to return to Congress. In defending southern states' right to speedily regain full representation in Congress Rousseau critiqued Grinnell for, as he remembered it, insulting the state of Kentucky in their earlier encounters. Obtaining the floor soon after Rousseau's speech, Grinnell ridiculed the Kentuckian.

I claim to be a man of peace and to demean myself as becomes a gentleman. But, sir, when any man, I care not whether he stands six feet high, whether he wears buff and assumes the air of a certain bird that has a more than usual extremity of tail, wanting in the other extremity, says that he would not believe what I utter, I will say that I was never called to stand under an imputation of that character in the company of gentlemen.\footnote{U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., June 11, 1866, 3096.}

Grinnell insisted that Rousseau's physical stature, blustering and aggressive manner, and excessive pride while possible to interpret as indications of manliness, did not demonstrate his manhood. Indeed, Grinnell claimed that Rousseau's behavior more closely resembled a rooster than a man, with an extremity of tail but not much else on top — all brawn, no brains.\footnote{In nineteenth-century parlance a rooster symbolized many things. In some Union iconography, the South is depicted as a rooster being defeated by the Union Eagle. However, similar iconography also} Rousseau, by failing to accept the word of another man,
especially another white man engaging in public service to the political community, Grinnell contended, had violated the manly code. Rousseau had failed to uphold "the company of gentlemen."

Furthermore, Grinnell claimed that even Rousseau's most potent claim to the right of manhood as Grinnell valued and understood them — his military service — was suspect. Having heard a story about Rousseau during the war from a former Union officer, perhaps when complaining to friends about their personal enmity, Grinnell claimed that even Rousseau's service to the state revealed the depth of his unmanly cowardice:

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\text{a leading officer from [Iowa], ... not two weeks ago ... told me that when there was a noise in camp, the men said, it is either a rabbit or a general R. He the defender of the soldiers of Iowa! ... He has not led our regiments in campaigns, and it is all pretense; it is the merest mockery; it is the merest trickery, the merest blowing of his own horn for him to say that he led our soldiers to victory in the deadly hail under his command.}^{238}
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Striking the final rhetorical blow, and leaving no doubt that Rousseau's masculinity was in question, Grinnell declared that "then the member whines off with a woman's plea, taking refuge under feminine skirts, as a certain other gentleman in rebeldom went off in disguise."^{239} Barely bothering to veil his insults, Grinnell challenged Rousseau's loyalty by comparing him to Jefferson Davis, who had been characterized

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by the Northern press as escaping apprehension while wearing women's clothing. Grinnell declared that, like a rabbit, Rousseau had bolted at the first sign of danger, implying that Rousseau was a coward during the war, who had never even seen actual combat. Grinnell then suggested that Rousseau had gratuitously referenced women and children to cover over and justify his earlier threat to a Freedman’s Bureau officer. But most critically, in these comments Grinnell called Rousseau a woman. He declared that Rousseau was so far removed from manhood that he was close to transgressing gender boundaries, not only behaving like a woman, but also covering himself with women’s clothing – the most visible social marker of gender. Probably a bit shocked at the vehemence and personal nature of Grinnell’s attack, the Speaker of the House called him to order.

As seemed only fair, the House permitted Rousseau a few minutes to reply to Grinnell’s assertions, and he defended his manly honor by again referencing head of household status and duties.

I believe there is not a member in my hearing, unless it be the member from Iowa, who would not utter the same sentiment, and who would not do what I declared I would do – who would not stand by his wife and children in

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240 The May 15, 1865 New York Tribune quoted a letter from Brevet Major-General J. H. Wilson to the Secretary of War, Edwin M. Stanton: “Jeff. tries to escape in women’s clothes… the captors report that he [Davis] hastily put on one of his wife’s dresses and started for the woods, closely followed by our men, who at first thought him a woman, but seeing his boots while he was running, they suspected his sex at once.” “Highly Important. The Capture of Jeff. Davis... Jeff. Tries to Escape in Women’s Clothes,” New York Tribune, May 15, 1865. Davis’s apparel was the subject of much discussion and ridicule. From the New York Tribune on May 17, 1865: “A lady correspondent begs us to suggest that Mr. Davis should be compelled to wear the usual costume of women during the period of his imprisonment. No woman, she declares, could wish him a severer punishment. She adds that if he were compelled to run in that dress one hour every day, as fast as when he was captured, it would probably be the death of him.” “Untitled Editorial,” New York Tribune, May 17, 1865. Despite the fact that Davis had not actually worn a dress, but rather “a large iron-gray water-proof tweed cloak, with a belt to confine it around the waist, and somewhat worn; a black shawl, with scroll-work border,” the parallel between Davis’s adoption of feminine attire and Grinnell’s insult to Rousseau is clear. “Jeff. Davis – His Trial – the Feminine Apparel – Interesting Statements,” New York Daily Tribune, May 26, 1865.
defending their rights when illegally and oppressively invaded. The man who
would not do this is unworthy of the name of man.\textsuperscript{241}

It was as heads of households and public representatives of the family, Rousseau
argued, that men defined their own manhood. Grinnell, and any other listeners who
undermined traditional interpretations of the rights of white household heads to protect
their families, Rousseau declared were unworthy men. Amending his tone slightly,
perhaps anticipating an apology from Grinnell, Rousseau continued, “I believe that
even the member from Iowa himself would not prove so recreant to all the principles
of manhood.”\textsuperscript{242} Ultimately, Rousseau seemed unable to envision that his
understanding of white men’s rights was not necessarily universal, or that a
dissociation of ideas about gender roles and racial hierarchy was possible among
rational men. He was not willing to concede that any white man would not defend the
rights of white manhood against encroachments by African Americans. Fully aware
that there were white men, northern abolitionists and Republicans like Grinnell and his
congressional colleagues, who disagreed and who had just successfully extended some
of the rights of white manhood to African American men in the South with the
Fourteenth Amendment, Rousseau was making his disgust and frustration with those
men clear.

Despite his chance to rebut Grinnell’s statements, Rousseau clearly left the
House that day feeling that he had been unjustly treated when Grinnell had challenged
his manhood.\textsuperscript{243} As was honorable in his culture and consistent with his code of

\textsuperscript{241} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., June 11, 1866, 3097.
\textsuperscript{242} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., June 11, 1866, 3097.
\textsuperscript{243} Still seeking to defend his own honor, Rousseau claimed that the “rabbit” story was a well-known
anecdote among the Union troops that referenced his popularity among the soldiers. Rather than
indicating his cowardice, any noisy disturbance, cheering or yelling, among the soldiers, Rousseau
claimed, was attributed to either their enthusiastic acknowledgement of his presence, or their attempts
to capture a rabbit to supplement their rations. U.S. Congress, House of Representatives, \textit{Congressional

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honor, he gave the Iowan a few days to retract his statements, and when this failed to happen, Rousseau defended himself in what he understood to be an honorably masculine way – with violence ritualized as a duel. Four days after debate, Rousseau cornered Grinnell outside the House chambers and thrashed him with his cane.244

Although Grinnell was not truly harmed, the House appointed a special committee to investigate the incident. In July this committee recommended that Grinnell be reprimanded for engaging in a personal attack on Rousseau’s character in violation of the rules of the House. But Rousseau, it suggested, in committing assault upon the Representative from Iowa, had “justly forfeited his privileges as a member of this house,” and should therefore be expelled. It advised that Rousseau’s witnessing friends be ordered to appear before the House and answer charges of contempt.245

When sent to the floor, the House rejected the committee’s recommendations; it did not censure Grinnell, and rather than expel Rousseau, it merely reprimanded him for

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244 While most papers examined reported the assault, only a few took sides in the dispute, clearly lining up along partisan fault lines. Fellow moderate Representative Henry J. Raymond, Editor of the fairly moderate New York Times declared that, “unquestionably Gen. Rousseau received such insulting provocation from Mr. Grinnell.” Quoting Grinnell’s statements, the editorial declared that “Kentuckians may be accused of being either saints or philosophers, but no one of the tribe, be he philosopher or saint, has ever yet been charged with failing to take due notice of such language when applied to him ... We think it time that Congress should adopt some means of preventing such outrageous and disgraceful assaults as that made by Mr. Grinnell.” “Gen. Rousseau,” The New York Times, vol. XV, no. 4594, June 16, 1866, 4, col. 4. Horace Greeley’s more radical New York Tribune, on the other hand, supported Grinnell. “Who will say that we are not coming back to Plantation Times? Gen. Rousseau is a soldier – by the record, a gallant and faithful officer. We feel bound to tell him that no valor and no record of service done will permit him to play the part of Preston S. Brooks without sharing his infamy.” “Plantation Times,” New York Tribune, vol. XXVI, no. 7859, June 15, 1866, 4, col. 5. The Chicago Tribune declared that, “it is admitted on all hands that Mr. Grinnell was not justified in his snubs at Rousseau’s military career, and was not particularly dignified in his comments on the General’s political course. But the time has gone by when even Washington will sustain a resort to such southern bullying as Rousseau displayed, and his cowardly assault is condemned by all lovers of fair play.” “Assault upon Mr. Grinnell,” Chicago Tribune, vol. XX, no. 12, June 16, 1866, 2, col. 3-4.

his conduct. Characteristically Rousseau resigned his seat rather than submit to censure.  

At issue in the Grinnell/Rousseau dispute were personal definitions of manhood and masculinity, the broader cultural and partisan constructions of masculine behavior and its acceptable limits, and the emerging changes to the rights of manhood Republicans were proposing. Both Grinnell and Rousseau laid claim to manhood, but filtered their understandings of masculinity through conflicting regional cultures, personal ambitions, political ideologies, and partisan rhetorics. As Grinnell emphasized the rights of men to serve the state and the ability of African American men to engage in that service, Rousseau emphasized the right of men to protect their family and head a household. Each man rejected the other’s interpretation and challenged the manhood status of his opponent as suspect. Each presented a particular vision of a male social hierarchy and held a different sense of where men stood on that hierarchy. Each had a different group that they believed should benefit from the status associated with manhood. Yet, despite these differences – differences that ultimately led to a physically, violent conflict – both men saw gender as central to their debate. They situated gender at the heart of their disputes about the Freedman’s Bureau and the status of African Americans. Both congressmen recognized that what was at state in this debate were the rights of manhood.

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246 U.S. Congress, *Journal of the House of Representatives*, 39th Cong., 1st sess., July 17, 1866, 1033-1038; July 21, 1866, 1076. The timing of Rousseau’s resignation seven days before the adjournment of the House at the end of the first session rendered it a mere gesture, and to a scant audience at that. By that time a strikingly large number of Representatives had already absented themselves for the remainder of the session. Rousseau was apparently vindicated when he was re-elected by his constituents to replace himself, and returned to Congress in December of 1866. U.S. Congress, *Biographical Directory of the American Congress*, 1774-1961, H.Doc. no. 442, Washington, D.C.: Government Printing Office, 1961.
The Rights of Men

As Grinnell and Rousseau wielded a common gendered language to present their opinions about African American rights they also used this same gendered language to frame their relationship to each other and their congressional colleagues, as evidenced by their repeated statements that "no man" would take the position that their opponent had taken. Although Grinnell and Rousseau’s interactions were extreme examples of how personal ideas about manhood came in conflict during the Thirty-Ninth Congress, the two men were not alone among congressmen in seeing the connections between the rights of manhood, government service, and political citizenship. Throughout the Thirty-Ninth Congress many of its members used masculinity language to shape and define their collegial relationships. Most typically this language emerged in references to the members’ own behavior. In either attacks or defenses of party policies congressmen attributed manly or unmanly behavior to themselves and their colleagues. For example to spur congressional action on Reconstruction, Thaddeus Stevens declared in his seminal "state suicide" speech that, "the President invites Congress to take this manly attitude" toward reconstructing the southern states.\(^{247}\) If the members of Congress would support his policies, Stevens implied, they would be upholding the standards of manhood. Illinois Republican Jehu Baker also referenced masculinity to justify the Republican legislative agenda, arguing on January 27, 1866 that constitutional protection against the return of rebels to power was necessary for the nation’s safety. If congressmen "would assert [their] manhood," Baker declared, they would pass such a measure.\(^{248}\) Wisconsin Republican Ithamar


Sloan argued that congressmen should act promptly to base representation on voters. “Let us adopt [the principle] like men,” he proclaimed. Congressmen like Stevens, Baker, and Sloan, who used manhood to prod fellow members into supporting their policy goals, adopted a coded language for cowardice and bravery that mirrored Grinnell and Rousseau’s rhetoric. This language indicated to the members of Congress that not only was martial bravery required of men within the reforming national community, but political bravery was needed as well. Republican Senator Pomeroy of Kansas made this connection best when he declared that, “when the soldier was mustered out Congress was mustered in.”249

It was not only radicals and Republicans who used manhood language politically with their colleagues. Defenders of the president frequently used ideas about manhood to connect congressional policies to the presidential agenda, creating male collegial relationships among members of the two branches of government at a point when such connections were increasingly hostile. For example in debates about representation, moderate Republican Senator James Lane of Kansas indicated his support for the president’s agenda was in part due to the chief executive’s manliness. The president, Lane declared, was “a man . . . I learned to respect and admire for his pluck, his ability, and integrity, and to love for his manly virtues.”250 Democrat Daniel Voorhees concurred, declaring that in challenging restrictive tariff measures, the president had struck a "manly and honest blow aimed at . . . monopoly."251

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249 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., March 5, 1866, 1181.
Describing the president as manly was a way of indicating that he was worthy of political support; manhood became a coded language for political value.

Democrats also used ideas about manhood to indicate political worth. They particularly used gendered language to challenge what they viewed as Republican deceit in their pursuit of equality for African Americans. John Nicholson, a Democrat from Delaware, attacked the Republicans debating the representation proposal H. Res. 51 for not being sufficiently clear in their meaning: “It is hard to discover from this amendment whether you do or do not desire the negroes of the South to be clothed with the elective franchise. It is therefore obnoxious to the charge of duplicity. If such be your real object, come out like men and avow it.”252 Real men, Nicholson claimed, would forthrightly state their intent and openly pursue it. Openness, honestly, and principled persistence were qualities that Democrats repeatedly identified as manly, particularly when wielded in defense of their minority views. For example New Jersey Democrat Edwin Wright described moderate Republicans who refused to accede to partisan pressure in gendered terms: “thanks to the conservative members upon the other side of the House for their manly resistance against this stifling debate upon so momentous a question…”253 Delaware Senator Williard Saulsbury went so far as to laud himself for his resistance to the Republican agenda.

I have never ... seen a bill so fraught with danger ... as the bill now under consideration [Civil Rights Act]. Deeming it to be of this character, my duty to my country, duty to my State, duty to myself as a man, as a citizen, and as a legislator, duty to my children, and duty to my fellow-citizens everywhere, demands that I should utter my protest against its enactment into law.254

Here Saulsbury drew on the rights of manhood to justify his political position. His manly duty to protect his household and to best serve his country required him to oppose the bill. Further, he argued, his role as a participatory citizen of the political community informed his political decision-making process and led him to defend the rights of white manhood against encroachment from outsiders.

Although most of these uses of manhood were incidental comments embedded within other arguments, unlike the directly gendered confrontations between Grinnell and Rousseau, congressmen's use of manhood to characterize political allegiance demonstrates gender's potency in political debate on Reconstruction-related legislation. It also indicates that a masculine political culture was permeating congressional language, even in issues as remote from manhood rights as the tariff. This language shows that ideas about manhood were not merely important to congressmen because of their ideas about black men, but that ideas about manhood were important to congressmen because of their ideas about themselves.

While congressmen occasionally wielded gendered rhetoric to frame their relationships with each other, it was in debates that dealt with the rights of African American men explicitly, such as representation and suffrage, that moved gendered rhetoric into the center stage of political debate. In these discussions, gender-based rhetoric permeated congressional speech as American ideas about manhood became a model for understanding and redefining the rights of citizenship. Like Grinnell and Rousseau, the congressmen engaging in these debates grappled with the connection between gender identity, legal rights, and political and social power. Like Grinnell and Rousseau, these congressmen contested which rights of manhood lay at the core of white gender identity, and like Grinnell and Rousseau, they emphasized different manhood rights as the most critical to grant or deny to African Americans.
Moderate Republicans, seeking political accord with President Johnson and cautious about exciting "negrophobic" northern public opinion, emphasized the rights of freedmen to head households, to possess property and to contract their labor, particularly in debating the Civil Rights Act. In these debates, Democrats and conservative Republicans reluctantly acknowledged the black man's right to own property and contract his labor, but were uneasy about its consequences for white workers and owners/bosses. But it was the right to head households that concerned them more. Arguing that granting black men patriarchal power over women within families would mean that black men would have both power over and access to white women's bodies and labor, particularly if this power was reinforced by the ballot, Democrats opposed granting full participatory manhood rights to African American men. Frustrated with the blatant and regressive racism of the Democrats and with the conservatism of the moderate Republicans, radical Republicans emphasized the right of all men to participate in governance, to benefit from the protection that political power conveyed, and to serve the state. Thus in discussions of representation (H. Res. 51) and D.C. suffrage (H.1, S. 1) they argued that black men's enfranchisement would be an instrument of protection, a moral justice, and a vital recognition of their manhood.

Regardless of which manhood right Republicans, Democrats, conservatives, moderates and radicals emphasized, their debate was grounded in the gender identity of men. Women did not possess property in all its forms; women did not head households. Women did not access the power of the state. These rights were reserved for men. Thus as the most radical Republicans contended, one's manhood should sufficiently qualify one to possess those rights. Depicting the imagined black citizen as male these Republicans used gendered language to incorporate African American men into the nation's political community - a community of men.
Throughout the antebellum period, slaves had been deprived of any kind of safety or security in their family relationships. Denied by their owners and ignored by the state, legal familial ties between bondsmen were fundamentally non-existent.255 The slave-system’s disruption of family life offered fodder for persuasive abolition arguments in the antebellum years, guaranteeing that protecting African American family life would be a cornerstone of postwar Republican policy agendas. Throughout debates on the Civil Rights Act (S. 61), both moderate and radical Republicans pointed to the disruption of the traditional patriarchal family as a crime of slavery, and argued that the secure possession of a family was a fundamental civil right belonging to citizens of the United States. Republicans’ language when making this argument indicates that most congressmen envisioned the “owner” of that right as a male head of household. For example, Michigan Republican Jacob Howard used gender to characterize the crimes of slavery against the black family. The slave, he said, “had no rights nor nothing which he could call his own. He had not the right to become a husband or father in the eyes of the law, he had no child, he was not at liberty to indulge the natural affections of the human heart for children, for wife, or even for friend.”256 The system of slavery not only served to separate African American family members from each other, but worse, Howard argued, it severed African American men from their rights as men to possess a household — from their right to benefit from patriarchal family structure.

255 This did not mean, however, that enslaved people did not forge strong and meaningful familial relationships despite the numerous institutional barriers to those connections.
With emancipation, however, many Republicans contended that black men’s status was transformed from “slave” to “freeman,” a term used since the earliest days of the nation to define a man eligible for rights within the community. This transformation, many Republicans argued, determined that black men were from this point forward entitled to head a household, and to securely possess a family – a right of manhood that could not be denied to free men. Howard asked, “Is a freeman to be deprived of the right of ... having a family, a wife, children, a home? What definition will you attach to the word ‘freeman’ that does not include these ideas?”257 Howard’s rhetorical question implied that the right to possess a family was so closely associated with free manhood that it was unthinkable to separate the two. Implicitly, then, black men’s acquisition of “freeman” status had also meant they acquired legal head of household status.

Along with a man’s right to head a household, however, came his responsibility and duty to protect that household. Republicans argued that acknowledging black men’s right to protect his family would also help to stabilize gender relationships in the South among freedmen, relationships that under slavery had not necessarily conformed to nineteenth-century white gendered norms. Recognizing black men’s right to head a household and protect their family, some Republicans claimed, would restore gendered order in the South while it helped to define freedman’s status. For example, moderate Republican and New York Times editor Henry Raymond argued that the Civil Rights Act gave the black man a “defined status; he has a country and a home, a right to defend himself and his wife and children.”258 This right of self-defense, applied to the dependent members of one’s household, reinforced the manhood of the male head of household and indicated his

power as a man. All heads of household, Samuel Pomeroy of Kansas contended, had the right to protect their family and household from predation by other members of society.

Every man should have a homestead, that is the right to acquire and hold one, and the right to be safe and protected in that citadel of his love.... he should have the right to bear arms for the defense of himself and family and his homestead. And if the cabin door of the freedman is broken open and the intruder enters for purposes as vile as were known to slavery, then should a well-loaded musket be in the hand of the occupant to send the polluted to another world.259

Like Lovell Rousseau, Pomeroy was concerned about a man’s ability to protect his family from predation and associated that right with manhood. Unlike Rousseau, and many Democrats, Pomeroy situated that manhood (via the musket) in the hands of African American men in the South, reinforcing both the rights of men as the exclusive heads of families and the rights of African American men to claim manhood status.

While the right to safely possess a family was not a truly radical demand, white conservatives believed that granting African American men the power accorded to heads of households was the greatest threat to southern gender relationships. The image of a musket in a black man’s hands being used to protect his family may have reassured Republicans, but it was profoundly threatening to Democrats and conservatives who viewed the transformation of black men from dependents to household heads as a serious attack on gender and race relations. In particular, they were concerned that granting black men the power to head households meant granting them power over women. Conservative congressmen recognized that independent men with families possessed the legal right to control the labor power of the women

and children of their household. But they asserted that granting freedmen the power to control women and children would not necessarily be contained by racial boundaries. They claimed that if black men were given patriarchal familial power over black women, there was nothing to prevent them from claiming this same power over white women. Conservatives were clearly concerned that the patriarchal arrangements of family and marriage that had long benefited white men in the United States, a relationship between men and women characterized by one Senator as “quasi-servitude,” would be shared with black men.260 This imagined power over white women would be expressed in two ways, Democrats and conservatives contended, as interracial marriage and as rape.

Claiming that patriarchal power over a household would translate into sexual power over white women was in many ways evidence of conservative paranoia. However beyond simple racism there was a kind of logic to the Democrats’ assertions. Essentially, these conservatives were acknowledging that at the heart of patriarchy lay sexual power. The right of men to head households, while tied to their claim to benefit from the labor power of their dependants, was also derived from their sexual power over the women in that household. Ownership of women’s sexuality constituted the power men had over women in patriarchal communities. Thus, these conservatives argued that granting the right of manhood to head a household was the equivalent of granting them the power to control women’s sexuality within that household. But, what would contain that power? Power over some women, these men seemed to be arguing, would automatically translate into power over all women. In

260 Edgar Cowan of Pennsylvania argued that the Thirteenth Amendment did not offer justification for the Civil Rights Act because it did not disrupt all dependent relationships, only the very specific liberation of the slave from the master. He contended that it did not change the “involuntary servitude of my child to me, of my apprentice to me, or the quasi-servitude which the wife to some extent owes to her husband.” U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., January 30, 1866, 499.
many ways, these politicians were recognizing what Republicans had been insisting upon in these debates— that ideas about gender had the potential to obstruct embedded assumptions about race and to override pre-war racial barriers. Just as Republicans were claiming that recognizing African American men's manhood rights overrode racial distinctions among men as workers, owners, and citizens, these Democrats and conservatives argued that legally recognizing and protecting those rights would override racial distinctions among men as the possessors of sexual power over women, thereby permitting black men to sexually access white women— with or without those women's consent. Legally protecting black men's manhood rights would make gender, it seemed to these conservatives, more powerful than race. This was the very same argument that their more radical colleagues were making.

The more moderate congressmen were concerned that granting black men head of household status would translate into legal protection for interracial marriage which, they implied, would endanger white women. In particular they worried that the rights of states to make race-based laws regulating marriage would conflict with a federally enforced Civil Rights Act. Reverdy Johnson, moderate Democrat and member of the Joint Committee on Reconstruction, pointed to this potential conflict between state and federal law should the Act pass, saying that,

there is not a State in which these negroes are to be ... which does not make it criminal for a black man to marry a white woman, or for a white man to marry a black woman; and they do it not for the purpose of denying any right to the black man or the white man, but for the purpose of preserving harmony and peace of society. Do you not repeal all that legislation by this bill?261

Although his central concern seemed to be with federalism, Johnson was also worried about the prospects for interracial marriage. Recognizing the civil rights of manhood,

261 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., January 30, 1866, 505.
Johnson contended, required the recognition of the family rights of manhood—rights that he claimed would not be contained by legal segregation. Johnson was unusual among these conservatives in acknowledging that the legal restrictions against interracial marriage also applied to white men.262 Most of those articulating this concern were more fearful that black men would see the opportunity presented by an equal right to head a household as a chance to take white wives. The way conservative Republican Edgar Cowan of Pennsylvania articulated the problem was more typical:

A black man in Maryland, after the passage of this act, marries a white woman, and he is arraigned under the law of Maryland forbidding it, and the Maryland judge, does what? What would the Maryland judge do? ... Here is an act of Congress which declares that, as to all civil rights and immunities, the negro is to be put upon precisely the same footing as the white man... What is the remedy of this bill? ... is it that the President shall intervene with bayonet and bail in order to do, what?

The states, Cowan argued, should be “competent” enough to define the boundaries of racial interactions and to determine for themselves whether or not black men were entitled to access white women, an issue that Cowan classed along with issues of polygamy and incest.263 But the Civil Right Act, by putting black men on the “same footing” as white men and by denying the states the right regulate and police its racial boundaries, Cowan argued, would result in further violence and bloodshed in the

262 Although his approach was unusual, Johnson was not alone in identifying white men marrying black women as a potential source of racial intermarriage. In response to some of the Democrats’ concerns, Lyman Trumbull mockingly declared that he “supposed that at his [Senator Davis (D-KY)] time of life he would feel protected against [amalgamation] without any law to put him in the penitentiary if he should commit it.” Davis then pointed to Illinois, Trumbull’s home state as a northern state with anti-interracial marriage laws. Trumbull replied that the presence of so many southerners in Illinois had required the law. This exchange indicated that some members of Congress were aware that the more likely source of “amalgamation,” or “miscegenation” was likely to be white men’s relationships with black women, not black men’s connections with white women. U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 2, 1866, 600.
South. While Cowan and Johnson’s ostensible interest was in protecting the right of states to control their own laws, it was not the reduction of state power that they seem to fear. Rather they were concerned that interracial marriage would accompany any federal protection of African American men’s rights as men.

Permitting black men the uncontested right to possess families of their own inspired fear among conservatives like Johnson and Cowan as to how far that right extended. Did they have the right to make families with whomever they chose? Did the right to head a household mean that a black man could take possession of, and therefore have power over, a white wife? Most Republicans denied that this would be a likely outcome of any protective legislation, contending that cultural restrictions and social choices would serve to replace legal authority in enforcing racial boundaries. But President Andrew Johnson thought that this issue was a serious enough to cite it as one cause of his veto of the Civil Rights Act in his message to Congress, a tactic that Trumbull argued was merely designed to excite racial fears and prejudice.264

While moderate conservatives mostly confined themselves to articulating fears about interracial marriage, more extreme Democrats contended that empowering black men with the rights of manhood would result in the rape of white women. In the immediate postwar period the fear of black men’s sexual relationships with white women took on an urgency that had not existed in the antebellum years. With the institutions of slavery to uphold the power of white southern men to control sexual access to both white and black women, the need to carefully regulate black men’s sexual relationships was minimized. It was the possibility of sharing that power with black men that pushed conservatives and southerners to use social and sexual interactions between black men and white women as a political weapon.265 In the

264 U.S. Congress, Congressional Globe, Senate, March 27, 1866, 1679-80; April 4, 1866, 1757.
Thirty-Ninth Congress, the most vehement wielder of that weapon was Garret Davis of Kentucky, one of the most outspoken opponents of extending the rights of manhood to black men in the states. Davis claimed that granting equal civil rights to African American men, particularly the manhood right to access women sexually, would inspire a violent sexuality in black men.\textsuperscript{266} Further he argued that if Republican policies were successful states would be restricted penalties they could impose on those convicted of rape: “by the law of my State a negro who commits a rape upon a white woman is subject to death, as he ought to be; and he ought to die, and I hope he always will die for any such offense. When that offense is committed by a white man, it is punished by confinement in the penitentiary for a term of years.” Despite his vehemence about the brutality of rape as a crime, Davis did not then claim that the death penalty was an appropriate punishment for white rapists. Instead he seemed to believe that a legal distinction between white and black rapists was necessary to protect white women. The Civil Rights Act, Davis argued, would make this distinction illegal, which was “preposterous … absurd and unsound to the last degree.”\textsuperscript{267} While Davis claimed to be objecting to the federal government’s right to supersede state laws, his frequent use of this example in debate indicates that it was not necessarily the legal precedent that concerned him. His determination to protect a sharp distinction in punishments between white and black rapists shows how important Davis felt it was to enforce this particular racial boundary.

By favoring the death penalty for black rapists, Davis demonstrated his belief that the exertion of sexual power by a black man over a white woman was one of the most heinous crimes possibly committed, akin to murder and treason. Davis implied

\textsuperscript{266} Toby Ditz also situates control over women’s sexuality at the heart of male power in “The New Men’s History and the Peculiar Absence of Gendered Power: Some Remedies From Early American Gender History,” \textit{Gender & History} vol. 16, issue 1, (April 2004): 1-35, 11.
\textsuperscript{267} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 2, 1866, 598.
that there was a vital need for the distinction in punishments between the two crimes—that without harsher punishment for black rapists of white women, there would be little states could do to deter the crime. While Davis was slightly oblique on this point, Wisconsin Democrat Charles Eldridge came closer to explicitly articulating his belief in an intensified need for a harsher punishment of black rapists. He argued that,

it may be said that there is no reason for this distinction; but I claim that there is. And there is no man that can look upon the crime, horrid as it is, diabolical as it is when committed by the white man, and not say that such a crime committed by a negro upon a white woman deserves, in the sense and judgment of the American people, a different punishment from that inflicted upon the white man.\(^\text{268}\)

Eldridge does not actually explain to his colleagues why this different punishment is required, perhaps presuming that they understood his implication that a deterrent was more vitally necessary to prevent such racial transgressions.\(^\text{269}\) Reading into his and Davis’s statements, one can speculate about what these congressmen were actually attempting to protect—the ostensible sanctity of white womanhood, the “purity” of the white race, or the right of white men to control all women’s sexuality. If black men were granted the rights of men to control a household, and therefore were to have power over and access to women’s sexuality, then this would have disrupted southern white men’s exclusive monopoly on this right of manhood. While these congressmen may have feared for white women’s safety, and viewed interracial sexual interactions as distasteful and dangerous, it seems likely that they were also concerned that white

\(^{268}\) U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., March 2, 1866, 1155.

\(^{269}\) Interestingly, in the next paragraph of his speech Eldridge infantilizes African Americans, perhaps to appeal to the majority Republicans. He said: “it is said that the negro race is weak and feeble; that they are mere children—wards of the government” and implied that therefore they may need a weaker punishment for some crimes until education shall equalize their situation. The juxtaposition of the violent black rapist and the child-like innocent in this speech seems incongruous. U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., March 2, 1866, 1155.
men will lose power if black men were granted the right of men to possess and protect a family.

**Property/Contract**

Because conservatives like Davis and Eldridge centered white male power in the control over the family and emphasized head of household status as the core of gender identity, they focused much of their energy on rejecting black men’s right to possess this measure of manhood. Republicans, on the other hand, seemed less concerned with this particular issue, but not because they were any more favorable to interracial sexual interactions. Republicans who supported extending the rights of manhood to black men did not expend much energy arguing about the possible sexual power head of household status would give to black men because they focused their main arguments on the other two components of manhood—property/contract and connection to the state. The right to contract one’s labor power, along with the right to securely possess property resulting from that labor, formed the core of Republicans’ arguments about civil rights owed to the emancipated, and they conceptualized this connection between citizenship and property rights as a right of manhood.\(^{270}\)

The rights to possess property and contract one’s labor formed the foundation of Republican arguments in support of the Civil Rights Act. At the earliest debates on the Act, Republican Lyman Trumbull, Chair of the Judiciary Committee responsible for shepherding the Act through the Senate, identified a man’s connection to property

\(^{270}\) Amy Dru Stanley offers an excellent analysis of the relationship between marriage and contract for the emancipated in *From Bondage to Contract*. While she carefully considers the ways that Congress, American culture, and the freedmen themselves conceptualized the marriage contract, she does not tie the right of contract to manhood. Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation*, (Cambridge: Cambridge University Press, 1998).
as a “civil right.” In his first speech introducing the bill Trumbull declared that the bill’s purpose was to recognize the emancipated as “entitled to the rights of citizens,” which he identified as: “the right to acquire property, the right to go and come at pleasure, the right to enforce rights in the courts, to make contracts, and to inherit and dispose of property. These are the very rights ... [of] every free man.”271 A few minutes later when he was pressed by California Democrat James McDougall, Trumbull was even more specific about how property and contract formed the core of civil rights. McDougall, who apparently had not been paying close attention to Trumbull’s earlier comments, asked the Illinois Senator “how he interprets the term ‘civil rights.”’ Trumbull replied by pointing to the bill’s text:

the first section of the bill defines what I understand to be civil rights: the right to make and enforce contracts, to sue and be sued, and to give evidence, to inherit, purchase, sell, lease, hold and convey real and personal property, and to full and equal benefit to all laws and proceedings for the security of persons and property. These I understand to be civil rights, fundamental rights belonging to every man as a free man, and which under the Constitution as it now exists we have a right to protect every man in.”272

Every free man, Trumbull declared, had the right to engage in contractual relationships with other men, and to possess and hold property. Only the enslaved, married women, children, and the institutionalized could be denied these rights in nineteenth-century America. Black men, by virtue of emancipation, were no longer dependents, but free adult men, and so could not justly be denied these rights. More radically, Trumbull was essentially arguing that it was the duty and mission of the United States government to protect African American men’s right to manhood and its accompanying benefits. This legally innovative notion of governmental intervention

in the protection of individual rights would change American law forever when it was incorporated into the Fourteenth Amendment.

Trumbull was not alone among Republicans in arguing for government protection of a man’s right to property and contract. Other Republicans also identified contract and property as central to the definition of civil rights they were forging. Pennsylvania Republican Russell M. Thayer expressed disbelief that any man in Congress would oppose the Act:

I ... challenge any man in this House to give me, if he can, a sensible reason ... which he can reconcile with his own sense of justice... why the rights which are enumerated in the first section of this bill should not be extended to the freedmen of the South? The sole purpose of the bill is to secure to that class of persons the fundamental rights of citizenship; ...those rights which secure life, liberty, and property, and which make all men equal before the law...273

If the right of property made all men equal before the law, conversely all equal men must therefore have the right of property. Even some moderate Republicans who were reluctant to extend manhood rights beyond property and family were fairly vehement that the right to possess property safely and legally was a right that African American men had acquired in their transition from slave to freeman. Maryland Republican John L. Thomas, declared that even though he could not in any way support any measure of “social” or political equality between black and white men, his position on the right of property was clear:

I shall vote for no measure or connect myself with any party that would either deprive the black man of what he already has or that would oppose the conferring upon him all the rights necessary and essential in securing to him life, liberty, the pursuit of happiness, and the enjoyment of the fruits of his own labor ... the negro is free. I will do all in my power to make his freedom a

blessing to him and to us. As a freeman he is entitled to acquire and dispose of real and other property, to labor and receive the avails and proceeds of his labor... I will go further, and say that as he shall have the right to contract.”274

Like Thayer and Thomas, Iowa Representative James Wilson viewed property as a fundamental right of men within organized communities. Referencing Blackstone’s Commentaries, as had Charles Sumner two months earlier, Wilson declared that all “constituent member[s] of the great national family” had the right to personal security, to liberty, and to “personal property; which [Blackstone] defines to be, ‘the free use enjoyment, and disposal of all his acquisitions, without any control or diminution save only by the law of the land.’”275 Like the right of contract ownership of property indicated one’s status as a man, and so without these rights, Republicans argued, black men would not be secure in their status or safe in their identities as citizens or as men.

The language that each of these congressmen used to describe property rights indicates that they understood this right to be a gender-based right restricted to men. Thomas’s use of the word “freeman” is notable, as is Wilson’s point that independence was a critical component of controlling property. Most importantly, however, is the fact that married women did not have the free use and enjoyment of their property in 1866 – they were subject to the control of their husband’s dual ownership of them and their personal property. This point was not lost on the members of Congress and at least one conservative, Edgar Cowan, used the idea to express his opposition to the Civil Rights Act. Essentially protesting granting African American men the rights of manhood, Cowan argued that the language of the act was too specific. “That all men should have the right to contract, I agree. That all people

should have the right to enforce their contract, I agree,” he said in early April of 1866. But, the bill’s language seemed too vague for him.

The bill has been taken to mean to confer those rights as they are conferred upon white citizens in the several States. That is not so. These rights are not conferred absolutely ... Now, a married woman in no state that I know of has a right to make contracts generally... Is it intended ... that this bill confers upon married women the unlimited right to contract?276

Concerned with enforcement, Cowan worried that judges faced with state laws restricting married women’s property would not know whether to follow the state law or the federal act. But more seriously because the language of the bill was flawed, he contended that it “confers upon married women, upon minors, upon idiots, upon lunatics, and upon everybody native born in all the States, the right to make and enforce contracts, because there is no qualification in the bill ... the power given to these people by this bill is unlimited as to persons ... and to contracts.”277 If he believed that “all men” should have the right to contract, perhaps the term “men” was not meant to include those legally deemed dependent like women, children, and the mentally ill. The danger of the bill, Cowan argued, was that it indiscriminately granted rights to those incapable of managing those rights. It granted manhood rights to those who were not men.

While worried that the Civil Rights Act would grant inappropriate contract rights to those unworthy, dependent, and unmanly, Democrats and conservatives like Cowan were also concerned about the impact of an expansion of African American men’s civil rights on white Americans, revealing an acute interest in preserving a racial hierarchy that maintained the power of white men. Reverdy Johnson, again

277 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., April 5, 1866, 1782.
demonstrating the Democrats’ interest in the connection between family, sexual power, and manhood, tied the right of contract to marriage. Johnson argued that the Civil Rights Act definitively protected the right of black men to marry white women because marriage was a contractual relationship. When “white and black are considered together, put in a mass,” Johnson contended, “the one is entitled to enter into every contract that the other is entitled to enter into. Of course, therefore, the black man is entitled to enter into the contract of marriage with a white woman.”278 If black men were granted the right to contract, they could then contract to marry whoever they chose, another means of accessing power over white women that Democrats like Johnson seemed to either fear or feel was their most emotionally powerful and persuasive argument against granting black men the rights of manhood.

While certainly taken less seriously than the respected lawyer Johnson, Garrett Davis was also concerned with the impact on whites if black men were granted the right to contract. In particular, he expressed concern for the labor market if African Americans were able to contract. In the March debate to override President Johnson’s Veto, Garrett Davis declared that the Civil Rights Act, would

introduce...competition between the white and black laborers for employment, for wages; and this competition on the part of the white men will be limited to the poorer classes who do not wish to employ labor themselves ... the passage of such a bill as this is calculated to produce interference between, and disturbance of, the relations of the black laborer and his white employer, to get up feuds and quarrels and contentions between them by interested and sinister persons, to alienate the white employer from the black laborer...279

Equality among whites and blacks, Davis contended, would cause problematic competition for white laborers and unnecessary and inappropriate differences between

black workers and white bosses. Echoing the arguments made by pro-slavery advocates against abolition, that agitation for emancipation would produce a disharmonious relationship between blacks and whites where a domestic tranquility was claimed to exist, Davis argued that these changes would harm the black laborer more than the white worker or boss. Problems and issues between black workers and white owners would, he claimed, “induce the employer to resort to the white instead of the black laborer to cultivate his fields and perform his other work.”

Granting black men the right to contract, Davis argued, could only lead to problems for workers, both white and black. How he envisioned a labor system without either slavery or contract rights was unclear, but it was clear that he opposed granting black men any right traditionally held by white men exclusively.

Other conservative members of Congress worried that giving African American men the rights to contract would result in granting their acquisition of other undesirable rights, like access to public education, gun ownership, and public transportation, among others. Indiana Representative Michael Kerr argued that the bill enabled any person to open any kind of business venture.

under the laws of Indiana, no person except white male inhabitants can be allowed to engage in the business of retailing spirituous liquors ... now, it cannot be said that selling liquor ... is not a civil right. It certainly is; but if it is not, yet a license is a contract, and this bill says the negro shall have ‘the same right to make and enforce contracts’ as the white man. It is as much a contract or civil right as would be a license to sell meat in their market houses or to run a dray in their streets or to carry on any other business.

Perhaps the danger of permitting an African American man to sell liquor was self-evident to Kerr. He seemed to feel no need to explain why this was problematic.

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Instead, he continued to argue that equal school attendance would also be mandated by the Civil Rights Act, permitting a mingling of black and white children in the schoolroom, another problem he did not feel warranted explanation. Despite his oblique approach, Kerr's argument implies that social disruption would result from equal civil rights; equal property rights would permit black men to encroach on white businesses and permit black children to encroach on white schools, violating a perceived sense of social separation between the races. More importantly, though, these Democrats seem to be contending that the expansion of civil rights to enable African American men to own property and to contract disrupted white men's right to control black men's labor and property, reducing their social and economic power.

Some Democrats argued much more explicitly that granting African American men the rights of manhood would harm whites and reduce their power. New York Democrat John Chanler argued that the changes Congress was attempting to make to the southern system of labor and social organization would materially damage white workers. If equal citizenship was given to black men, Chanler argued, whites would leave the South, allowing it to be overtaken by African Americans. "The exclusion of the white laborer of the Northeast and West [from the South]," he argued, "will eventually give the finest and fairest land in the South to the black man in perpetuity to the exclusion of the white working men of this country." This exclusion, Chanler claimed, violated the rights of white Americans. "To parcel out to the black race the richest lands in the southern country," he declared, "is unjust to the white laborer and a mockery. The white immigrant must be secured in a preemptive right of the soil on this continent."\(^2\) Chanler hoped that preventing black men from becoming property owners would restrict competition in a region where African Americans often

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constituted a majority of the population. This restricted competition, Chanler believed, would ensure white men’s continued control of southern property.

Democrats like Chanler claimed that permitting competition among men equally entitled to property, to contract, and to access the legal system to protect those rights would significantly restrict white men’s economic, and therefore, social power, resulting in a problematic disruption of southern hierarchies. “Ingraft the black man into the term ‘people,’” Chanler declared, “and you surrender the South to the black race, and the question comes up not between slave and free, but between white and black.”283 If there were no legal distinctions made between men, if all men were equally permitted to possess property, then race would be the only measure of economic and social power. Here Chanler seems to be threatening that without property rights to define men’s status, race would become the only way that power was understood in the South, with potentially disastrous consequences for both blacks and whites. While Chanler’s claims grossly exaggerated the potential power realignments that could result from a public recognition of black men’s right to property, he was accurate in predicting that permitting black men to own property would mean that white men lost some measure of control over black labor power and over all southern property.

Just as Democrats had interpreted black men’s right to head households as an affirmation of their manhood that threatened white women, so too did they see a threat in recognizing black men’s right to contract. Acknowledging this right shifted black men’s status from dependents to men, and thus threatened white men’s exclusive control of property in the South. Embedded within these arguments attempting to affirm white men’s superiority and power was a fear that if the economic and social

“playing field” was leveled whites in general, and white men in particular, would suffer. Whether that suffering would result in the loss of sexual power over white women, or economic power in the marketplace, these Democrats and conservatives seemed to be worried not about white superiority, but inferiority. For them protecting white supremacy was paramount, and so was closely tied to restricting the rights of manhood to whites, ensuring that African American men did not legally become men.

**Participatory Citizenship**

While Democrats were concerned that granting black men rights as heads of households and owners of property would lead to social equality, violent predations on white women, and an overthrow of white men’s monopoly on economic power, they were most worried about suffrage. Many conservatives grudgingly acknowledged the justice in granting limited manhood rights to black men, and seemed to believe that it was reasonable to permit black men secure families, property, and labor contracts. But the prospect of sharing political power elicited vehement objections from congressional conservatives.\(^{284}\) During debates on the Civil Rights Act most Republicans, both radical and moderate, insisted that civil rights were distinct from participatory citizenship rights, and that the franchise was not a civil right conveyed by the bill. Anxious not to extend their mandate beyond the realm of public support, these congressmen felt confident in their ability to separate the civil rights of citizenship from participatory political citizenship. While they argued that black men should have the right to a legal, official relationship with the state as represented by

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the court in order to enforce their rights of contract, they frequently repeated their assertion that the Civil Rights Act did not address the question of suffrage.

Despite these protestations, many Democrats were skeptical that some of the rights of manhood could be granted to African American men without granting all of those rights. Delaware Senator Williard Saulsbury argued that the close ties between all of the rights of manhood made it impossible legally to separate family, property, and citizenship. In January’s civil rights debate, he asked, “what is one means and a very important means of securing the rights of person and property? It is a voice in the Government which makes the laws regulating and governing the right of property.”\(^{285}\) A few days later, he continued this train of thought, challenging the Republican attempts to separate civil rights and suffrage:

> It will not do for the honorable chairman of the Judiciary Committee [Trumbull] to say that by specifying ... the right to sue and be sued, and to give evidence, to lease and hold property, he limits these rights. He does no such thing ... when these rights are given to the negro a freely as to the white man, I say, as a lawyer, that you confer the right of suffrage, because under our republican form and system of government, and according to the genius of our republican institutions, one of the strongest guarantees of personal rights, of the rights of person and property, is the right of the ballot.\(^{286}\)

These conservatives were quite aware that the Republicans who were proclaiming so earnestly that the Civil Rights Act was not an attempt to enfranchise black men, were the same Republicans who declared the right of suffrage a necessary right for black men when debating the apportionment of representation and the expansion of franchise in the District of Columbia. In these debates on enfranchisement in D.C. and representation many Republicans, particularly the radicals, stressed the interconnections between one’s right to head a household, to possess property, and the

right to serve the state and to be a participatory citizen, claiming that the freedmen required all of the rights of manhood for their safety, as a just reward for their service to the state, and as a recognition of their newly acquired gender identity as men.

In representation and enfranchisement debates, many Republicans who supported black male enfranchisement argued that black men needed the right to full participatory citizenship for purely practical reasons – to protect themselves, their families, and their property. Essentially, Republicans claimed, black men needed the ballot in order to defend their rights of manhood. "Black Codes" passed in the South since the end of the war, pro-suffrage Republicans argued, indicated the extent to which the rights of African Americans were endangered without the vote. Much like their Democratic critics, these Republicans contended that the rights of manhood could not be separated from each other. Unlike their Democratic opponents, however, they argued that the ballot was the best guarantee of civil rights available in the American political system. Furthermore they claimed the most effective and the most natural way to protect the freedmen in the South in the possession of their rights, they claimed, was not to maintain a permanent Union Army occupation, but was to give African American men the political power to protect themselves. Samuel Pomeroy of Kansas claimed most simply that the black man "should have the ballot, for he has no security short of it." 287

Having the political power to protect one's property and household was a critical right of manhood, and, some congressmen argued, a fundamental right of all male citizens. Illinois Representative John Farnsworth argued that, "the right of self-defense is the first law of nature. The right to vote, the ballot, is the freeman's defense; and if his right to freedom is an inalienable and natural right, then, too, is the

287 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 5, 1866, 1182.
right to protect that freedom an inalienable and natural right. Comparing the ballot in political communities to violence in a state of nature, Kansas Republican Sidney Clarke contended that African American men

must have the means of protection, whether it be the simple force of the savage, or the complex forms of modern civilization. This means of protection belongs to all men, not as a bestowed privilege, but as a right inherent to existence as members of society ... the right of suffrage ... is not to be measured by other men's prejudices.

Within the American political community the right to protect one's self and property, was enacted by men's relationship to the state; men in America protected their own interests with the ballot. James Wilson agreed with Clarke's assertion that race alone was no longer a sufficient reason to deprive a man of his right to access the political community. He asked, "why should the color of a man's skin deprive him of the political right of defense?" While slavery had prevented black men from becoming "real" men in the eyes of the state, race served as a code for this dependent status. Wilson contended that with emancipation, however, "other men's prejudices" could not be used to separate an independent, free man from possessing "the great defensive right of the ballot." It was up to Congress, Wilson argued, to remedy the injustices of the past that permitted racial distinctions among men's participatory citizenship "by placing in each man's hands the power to defend his own freedom and rights."

Indiana Republican George Julian also denied the legitimacy of race to divide men

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from their rights. “Color has nothing whatever to do with the question of suffrage,” he argued. “The negro should not be disfranchised because he is black, nor the white man allowed to vote because he is white. Both should have the ballot because they are men and citizens, and require it for their protection.”

Pro-suffrage Republicans were particularly concerned that the emancipated needed protection from the persistence of southern racial prejudice and violence and from the attempts there to institutionalize this prejudice and reinstate slavery-era restrictions on the freedmen. They interpreted the ballot as the best means by which black men could overcome both prejudice and restrictions. Pennsylvania Republican Glenni Scofield argued that a hypothetical African American man in Washington D.C. needed the ballot “because ... he is hated in this city, and justice denied him by prejudiced officials ... his vote is necessary for his own protection.” Ohio’s Martin Welker was also concerned with the impact of prejudice on black men’s rights in the South. He argued that black men should have the right to vote because in the South there existed “a spirit of bitterness, a determination to oppress and harass them in every way possible, [that] now pervades the legislation of most of these States. In many of them there is no protection afforded the colored men.” New Hampshire Senator Daniel Clark agreed, arguing that guaranteeing civil rights was simply not enough.

You may open the courts to him by law, you may make him a competent witness, you may give him land for a home, you may sweep away all distinction by law between him and others, and leave him at liberty to go and to come, to sue and be sued, to contract and labor when and where and

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however he pleases ... and still, in my judgment, you will have failed to do
what most of all you need to do – put the black man in a position to protect
himself ... to do this fully you must give him the ballot.\footnote{295}

Like Clark, Welker, and Scofield, Minnesota Representative Ignatious Donnelly was
also concerned about southern treatment of the freedmen and worried that the South
would benefit politically in the national arena if black men were not enfranchised. He
argued, “it is ... clear that an oppressed race should not lend power to their oppressors,
to be used in their name and for their destruction. It is a mockery to say that a man’s
agent shall be his enemy and shall be appointed without his consent and against his
desire, and by other enemies.”\footnote{296} If the freedmen were not given the power to protect
themselves by participating in their own governance, Republicans like these claimed,
then that power would remain in the hands of their former owners. In statements like
these, Republicans reaffirmed the manhood of African American men by claiming
their agency as men and identifying their right to participate in the political
community as a fundamental right of that manhood, irrespective of race. They
contended that black men were free, independent, autonomous men who should not be
represented by others and who required the ballot in order to protect their rights of
manhood.

As pro-suffrage congressmen styled the ballot as a means of self-protection
endowed to men, they used distinctly martial language to describe its power and
purpose. Frequently, they argued that the ballot was a weapon appropriately wielded
by men in political community. Daniel Clark claimed that by granting a black man
some of the rights of manhood, but by denying him the ballot, “you will have fitted
him to use his weapon, but not have supplied him with the weapon.” But when black

\footnote{295} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 14, 1866, 834.
\footnote{296} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 23,
1866, 377-8.
men had the ballot, he declared, they would gain "a feeling of independence and self-respect. There is nothing like the ballot for this. Take it from your northern men and they would feel powerless and degraded.... Arm three or four millions of people with this weapon and they will protect themselves and teach their oppressors caution and respect."297 Wielding a manly weapon like the ballot, Clark seemed to be saying, was fundamental to one's identity as a man. Without it one was dependent, feminized, and subject to the whims of others. With the ballot as a weapon, one could claim the dignity of manhood and demand that others recognize that manhood. Future president and representative from Ohio James Garfield also depicted the ballot as a weapon of manhood, arguing that the ballot was "the shield, the sword, the spear, and all panoply that best befits a man for his own defense in the great social organism to which we belong."298 Coming out of the recent war, these Republicans' references to a society at war with itself was undoubtedly familiar, and tapped into fears generated by the war that were being reinforced by the growing racial violence in the South. That men would need weapons for their own protection in this environment seemed almost self-evident.

Representing the ballot as a political weapon of manhood pointed Republicans to a more literal way in which African American men had wielded weapons in order to enact a man's relationship to the political organism of the state. Throughout debates on representation and suffrage pro-suffrage Republicans repeatedly argued that black men's service to the state in the Union Army during the Civil War entitled them to the ballot.299 Many Republicans compared this self-sacrificing behavior to that of the

297 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 14, 1866, 834.
299 Linda Kerber has argued that it is the right to serve the state that truly constitutes the differences in men and women's legal status. Linda K. Kerber, No Constitutional Right to be Ladies: Women and the Obligations of Citizenship, (New York: Hill and Wang, 1998).
southern rebels. For example Ohio’s Martin Welker contended that, “those who used
the musket against rebels should be armed with the ballot to defend themselves against
the rebels they have fought in the battle-field.” Clark of New Hampshire explicitly
asked his colleagues which group was a safer repository of political power:

Tell me, sir, if called upon to put arms into the hands of men in the disloyal
States, into whose hands would you put them? Would you do as they have
done, or attempted to do in Mississippi – arm the rebel militia, and disarm the
loyal black soldier? ... Surely not, sir. You would retain the arms in the hands
of the black men. Let, then, your ballots go where you would intrust your
bayonets.301

Why should southern rebels be trusted with political power any more than they would
be currently trusted with military power? In fact, Clark claimed, southern rebels
abandoned their manly duty to the political nation – to the Union. Emphasizing black
men’s military service enabled pro-suffrage Republicans to argue that black men were
loyal, supportive of the Northern cause, and had vitally contributed to Northern
victory. It enabled Republicans to argue that that African American men were already
participatory citizens. “Tell me, then,” Clark asked, “why two hundred thousand
black men ... who rushed in to save the burning house of your Government, should
not be permitted to participate in that Government which they helped to preserve?”302
If service to the state was one means by which a man proved his manhood – had not
these men done their duty? Charles Sumner who stated this point most succinctly: “If
he was willing to die for the Republic he is surely good enough to vote.”303

300 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., February 17, 1866, 727.
301 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 14, 1866, 833.
303 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 6, 1866, 685.
More than offering mere service to the state through their participation in the late war, some Republicans argued, black men overcame barriers that white soldiers did not face, making their sacrifices the epitome of manly duty. William Windom, a Republican Representative from Minnesota, argued that when they enlisted, black men knew that they faced greater risks than white soldiers, with less chance of reward:

When it was decided to accept the proffered services of the blacks, and to permit them to aid in fighting our battles, we were still unwilling to do them full justice; and they entered the Army with less pay than white soldiers, and without any of that protection which the laws of war accord to belligerents. The black soldier knew full well when he was enrolled in the Army it was with a halter about his neck, and that if taken prisoner no quarter would be shown him.\textsuperscript{304}

Black men had known the danger they faced when enlisting, Windom suggested, but were brave and loyal enough to fight despite increased personal risk because of their race. Notwithstanding this risk, Windom continued, “two hundred thousand strong arms sized the musket, and two hundred thousand dusky heroes grappled with the foe. Nobly have they performed their part, and largely have they contributed to our victory.”\textsuperscript{305} Using words like “strong,” “heroes,” and “noble” enabled Windom to depict black men as manly — as worthy men sacrificing themselves for their community and protecting the state as they would their families. His language confirmed that these men had enacted the duties of participatory citizenship. Like Windom, James Wilson also painted a heroic picture of the black male soldier.

[The] States summoned the black man to fight the battles of the endangered country, put the musket in his hands, gazed with beaming eye upon his glittering steel, and heard the inspiring music of his tramp as he moved away to

\textsuperscript{304} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., March 2, 1866, 1159.

\textsuperscript{305} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., March 2, 1866, 1159.
fight, bleed, die, that the nation might live, and saw those men come back maimed and wounded. These States know that thousands of them are in their graves.... And yet, after all the fidelity and heroic conduct of these men, prejudice, party spirit, and conservatism and all that is base and mean on earth combine to deny the right of suffrage to the brave soldier of the Republic.306

If Congress refused to enfranchise the black soldiers who served the nation, Wilson declared, it risked losing their loyalty: “God alone can forgive such meanness; humanity cannot.”307 Through arguments like these, Republicans defined the returning black soldier as strong, self-sacrificing, and profoundly courageous in the face of racism and hatred in both the North and South. Further, these men, pro-suffrage Republicans argued, were ideal men who fulfilled their public duty to the community by offering themselves in service to the state.308

Pro-suffrage Republicans who argued that black soldiers were brave, self-sacrificing, and virtuous were appropriating qualities defined by nineteenth-century Americans as manly, therefore were mobilizing gender-specific definitions of participatory citizenship to justify black men’s enfranchisement. This rhetorical strategy of focusing on manhood was the third critical way that Republicans argued for granting full participatory citizenship to black men. As they asserted that emancipation transformed black men from slaves to citizens, and from feminized dependents to men entitled to the rights of manhood, some Republicans contended that

308 Although most suffrage arguments sounded like this, Kansas Representative Samuel Pomeroy offered a depiction of black southern men at odds with these portrayals. Arguing that southern States should not benefit from the representation of the emancipated, Pomeroy asked if the black man was denied the right to vote, “what kind of compensation is that for all his long years of fidelity to our old flag? What an answer to his earnest prayers for his freedom and our triumph! What a reward for his faithful nursing and kind treatment of our Union soldiers and prisoners!” This image of a faithful, submissive, religious African American was more consistent with pro-slavery rhetoric than with the emergent manhood language other pro-suffrage Republicans were using. It emphasizes a more nurturing and feminized kind of service to the political community. U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 5, 1866, 1182.
military service reflected and helped to form black men’s new manhood status. Burt Van Horn of New York lauded black men who “rose up as one man to the rescue, first of that Government, which had always denied them their liberty, and second, to assert, in the fiery shock of battle, their manhood and their claims to freedom and its immunities.” In this way, military service confirmed and created manhood for a group of men historically denied that status. Like Van Horn, William D. Kelley of Pennsylvania declared that “the colored man ... attest[ed] his manhood upon the field of battle.”

While military service seemed to have allowed black men to demonstrate their manhood, other pro-suffrage Republicans contended that even without this service to the state black men were entitled to the ballot by the fact of their manhood alone. New Hampshire Senator Clark declared, “not chiefly ... do I advocate this right of the black man to vote because he fought the battles of the Republican and helped to preserve the union, but because he is a citizen and a man, one of the people, one of the governed, upon whose consent ... the just powers of the government rest.” While valuing the service black men rendered the state, it was their inherent manhood that he viewed as justification enough for including them in the family politic. Now emancipated, black men were transformed from dependent to independent and so had no need to earn manhood status. The mere fact of emancipation had rendered them men. This status alone, Clark claimed, permitted them to join the political community – a community that he defined as male. It was as men that the freedmen become “one of the people.” Radical Massachusetts Representative George Boutwell agreed with Clark, and stated that, “I am for dealing justly with [black soldiers] because they have

311 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 14, 1866 832.
performed service. But I am more anxious to deal justly by them because they are men.”312 For these Republicans, manhood was the key that opened the door of participatory citizenship. Voting rights, Clark argued, were determined by manhood alone: “Man derives the right from his manhood and the equality of his manhood with his fellow men.”313

If manhood was required for political rights, so did political rights reinforce manhood. Some pro-suffrage congressmen argued that without the ballot, the nation would not fully acknowledge black men as men; it would deny their manhood status. Participatory citizenship, as the ultimate marker of manhood, would cement the transformation of black men from dependents to independent freemen. Daniel Clark declared that “when you have given him equal rights, equal privileges, and equal security with other citizens...you have opened the way for him to be a man.”314

Granting African American men the rights of manhood would acknowledge their equality among all men and would indicate their acquired status. “The freedman is no longer a dependent,” Charles Sumner proclaimed, “the ballot comes to him ... filling him with the strength and glory of manhood.”315 If the ballot was denied to black men, pro-suffrage Republicans warned, not only would the state be harmed by its failure to mete out just rewards to men who offered it service, but the nascent public manhood of black men would be imperiled. In a March debate on representation, Sumner warned, “the elective franchise [is] essential to the security of the freedman, without which he will be the prey of slavery in some new form, and without which he cannot rise to the stature of manhood ... suffice it to say ... that Emancipation will fail in its beneficence if you do not assure to the former slave all the rights of the citizen.

313 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 14, 1866, 833.
314 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 14, 1866, 832.
Until you do this your work will only half done, and the freedman will be only half a man.\textsuperscript{316}

Of all of the rights of manhood, participatory citizenship was at once the most powerful and the most coveted. Almost exclusively possessed by white men in the antebellum period, it had come to be so closely associated with white manhood it was a radical revolution to extend it to black men. In order to overcome race-based objections, pro-suffrage Republicans sought to deemphasize racial distinctions that had been critical to creating a white male polity in the Jacksonian era. They sought instead to emphasize the common bonds of manhood among men regardless of race. Many of them argued this connection between men explicitly, in the process articulating an expanding and changing definition of manhood that was not dependent on whiteness. For example, Daniel Clark declared that “the black man has just as much right to his vote as the white man has to his and it is no more a gift or a boon in the one case than in the other; and the white man has no more authority to confer or withhold it than the black man.”\textsuperscript{317} Among men, Clark asserted, there were no distinctions of power that meant that one man could dictate the rights of another. All men were equal because of their status as men. Like Clark, John Farnsworth drew the bonds of manhood explicitly between white men and black men:

Sir, the test of suffrage is manhood, as I have before remarked ... Our fathers ... declared that all men were created equal ... that one man is equal to any other man.... they said that the just powers of the government were derived from the consent of the governed. If that be true ... Will some gentleman, in God’s name, tell me why this body of men who are under the government have not the same right as I have to participate in it? What business have I to elbow another man off, and say to him that he has no right there?

\textsuperscript{316} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., March 7, 1866, 1231.
\textsuperscript{317} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 14, 1866
Farnsworth, as a white man and a member of Congress, rejected the power to regulate the rights of other men in favor of emphasizing a common bond of manhood that transcended race (and class) boundaries. All men are equal, he declared, so not even pre-war definitions of manhood that relied on whiteness could disrupt the newly emerging male political fellowship. It was, in fact, manhood alone that determined the membership in that political fellowship. Taking this argument a step further, George Julian asserted that there was a common collegiality between white men and black men based on manhood, and so challenged his opponents to apply the standards they sought to impose on African American men to themselves.

Are you willing to rest your right to the ballot on the purely contingent fact of your color? Your manhood tells you instantly that that is not the foundation. You are a man, endowed with all the rights of a man, and therefore you demand a voice in the Government; but when you say this you assert the equal rights of the negro.\textsuperscript{318}

His fellow congressmen, Julian argued, knew that race was an insufficient marker of political participation. If they thought about it rationally, he claimed, they would sense that race was contingent, not fundamental, to their right to access the state. On the other hand, Julian argued, the bonds of manhood were immutable. Republicans like Julian, Farnsworth, and Clark were asserting that the commonalities between men were more important in determining the boundaries of the political community than the contingencies that divided them. It was clear to these Republicans that race was not a persuasive test of political fitness or participatory citizenship. It was equally clear to them, however, that gender was.

\textsuperscript{318} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 16, 1866, 256.
Conclusion

When Lovell Rousseau cornered Josiah Grinnell outside the Capital building on June 14, 1866 he probably was not thinking about black men and their right to the franchise. Nor is it likely that as he brought his cane down onto Grinnell’s head Rousseau was actively considering the ways that Republicans and Democrats used gender to defend or refute black men’s political rights. However, Rousseau’s dispute with Grinnell, as much as it depended on ideas about personal honor, was prodded toward its violent, if abortive, conclusion by the way that each man engaged in the congressional debates about gender, race, and rights. As Republicans asserted that the rights of manhood must apply to African American men because of their service to the state, their newly acquired right to contract their labor, and their inherent manhood, so too did Josiah Grinnell articulate a vision of a race-blind postwar voting polity of male equals. Like the Democrats, on the other hand, Rousseau asserted that the rights of manhood belonged exclusively to white men because those rights were derived from sexual access to white women. Like his fellow Democrats, Rousseau thus defended a vision of a reconstructed South that preserved white men’s exclusive possession of political power—a defense that was so vital that he violently conflated the personal with the political.

However interesting and revealing this attack and its preceding disputes are, the way that members of Congress intertwined the rights of manhood with the rights of political participation in the early days of Reconstruction had a far greater impact than merely prodding two insignificant single-term junior congressmen to personal enmity and violence. Primarily, the Thirty-Ninth Congress’s use of the rights of manhood as a model for postwar political relationships put gender at the heart of the national conversation about suffrage and rights. Although they profoundly disagreed
about the meanings, qualities, and locales of the rights of manhood, by using these rights as a template for reconstructing the political community Republicans and Democrats alike defined political rights as dependent upon one's gender. Whether those political rights were derived from one's status as a head of a household controlling the labor power of one's dependents, from one's possession of the exclusive sexual control over women, from one's ability to engage in contractual relationships, or from one's service to the state, both Republicans and Democrats identified manhood as their foundation. Thus, in their partisan debates, gender became the primary means by which identity was translated into political power and linked to participatory citizenship. These powerful men explicitly and deliberately linked manhood to suffrage both to defend and reject its expansion.

By situating gender at the heart of discussion about political rights, members of both parties defined gender identity as the linchpin linking individuals and the polity. This was significant because it meant that they did not necessarily engage in a reconsideration of political citizenship. The members of the Thirty-Ninth Congress did not sit down with each other and debate a wholly new definition of political rights. Instead, they turned to familiar means of organizing power – gender and race. While Democrats insisted on the primacy of race as one of those means and defined manhood as a racially determined identity, Republicans developed a new and interesting strategy that privileged gender over race. In this way, Republicans used gender to redefine black manhood. They sought to use the duties and privileges of manhood, and black men's right to perform those duties and benefit from those privileges to cover over the race of black men and redefine them as men. They hoped that by emphasizing the importance of gender to determine political rights, they could deemphasize the antebellum connection between whiteness and voting rights, and thereby justify enfranchising the freedmen. By reconstructing black men as *men* with
access to the rights and privileges of manhood, pro-suffrage Republicans sought to transform black men's public identity and to fight the divisive power of racial distinctions by creating common gender bonds among all men. Privileging a race-neutral gender identity defined by a common manhood, Republicans redefined black men as worthy and legitimate citizens and as Americans who shared the burden of governing the nation.

In some ways, this was quite a logical strategy. Black men's identities were already in a state of flux. They were already being redefined nationally as the majority of African American men transitioned from slavery to freedom, from property to personhood, from legal dependents to freemen. Insisting on the manhood of black men enabled Republicans to attempt a radical change, without truly attempting a radical change. They could alter the composition of the body politic, but not necessarily redefine the rules governing its membership qualifications. By defining African American men as men, Republicans implied that black men already were legitimate members of the political community. No boundaries needed to be shifted to incorporate them into the body of voters – the body politic – because by existing definitions black men already were incorporated as men. The only change required was the full implementation and just realization of America's own self-definisions.

Emphasizing the link between gender and participatory citizenship, and using manhood as a passport for black men's entry to that citizenship, Republicans created a gendered vision of the reconstructed American polity. In this vision of a post-civil war political community, the participants would all be men, equal to each other, but possessing political privileges denied to women. Conflating the rights of manhood with the rights of citizens, these congressmen created a race-neutral male body politic—one that left no room for women as political actors or decision makers.
CHAPTER 4

“AWAKENING THE PUBLIC” OR “BLOCKING THE WHEELS”?

On Wednesday, January 24, 1866, one month into the 39th Congress, Missouri Democratic Benjamín Gratz Brown presented a petition to the Senate from “women of the United States.”319 It was the twenty-ninth Reconstruction-related petition the Senate had received since the beginning of its session in December, and like the twenty-eight previous petitions, it was referred to the Joint Committee of Fifteen on Reconstruction. Like earlier Reconstruction petitions, Brown’s petition was a direct request from the people to their elected representatives for a properly reconstituted postbellum American polity. Like its predecessors, this petition sought an expansion of the political community to include the disfranchised. Unlike the other petitions, however, this was sent by a group of women asking for a citizen’s right in a democracy to choose her elected officials. It was the first woman suffrage petition sent to Congress in the history of the United States. Twenty-seven other similar petitions would follow in the next few months.

319 Unfortunately the extant papers of the Joint Committee of Fifteen are quite limited. The National Archives and Records Administration has only a very few petitions and documents that the committee preserved. (See Committee on Reconstruction; (Box 6, Folder 7); 39th Congress; Records of the Joint Committees of Congress, Record Group 128; National Archives Building, Washington, D.C. This woman suffrage petition is not among them. However, judging by the wording the Journal of the Senate used when recording its submission, it seems safe to assume that it was a copy of the standard woman suffrage petition developed and printed by Susan B. Anthony and Elizabeth Cady Stanton and distributed for submission when completed with signatures. Many copies of this petition can be found in the committee records of the 39th Congress at the National Archives. The source for this text came from an identical petition presented to the House of Representatives by Sidney Clarke (R-KS): Petition of Mrs. N. W. Barber, Mrs. E. D. Shear, Mrs. S. D. Marsh and one hundred and thirty six others, women of Douglas County, Kansas, praying for Universal Suffrage, January 31, 1866; Committee on the Judiciary; Petitions and Memorials – Woman Suffrage (HR39A-H14.9); 39th Congress; Records of the U.S. House of Representatives, Record Group 233; National Archives Building, Washington, D.C. In St. Louis in September of 1865, Brown had given a fairly well publicized speech supporting woman suffrage, leading the supporters of woman suffrage to identify him as an ally. Ann D. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. I, In the School of Anti-Slavery, 1840 to 1866, (New Brunswick, NJ: Rutgers University Press, 1997), 563, n.1.
Although some activists had sought gender equality in the antebellum period, in 1866 woman suffrage was a new issue for both congressional politics and the woman’s rights movement. Prior to this moment women’s rights campaigns had been conducted within the states, both because the women’s movement was in its early stages of organization, and because in the antebellum years civil and political rights were understood to fall under the jurisdiction of state governments. By 1865, however, as Congress began to contemplate federal action to define African American men’s civil and political status, some woman suffrage advocates saw Congress as a more fertile ground for their activism. These women began a campaign to bring the cause of gender-neutral suffrage rights to the center of the national reconstruction discussions. Thus as Congress undertook a general reassessment of suffrage rights and sought to redraw the boundaries of political citizenship, one small group of woman suffrage activists saw an opportunity to remind the national legislature that women of all races were disfranchised outsiders in the American political community, just as were the African American men whose status so concerned radicals and Republicans. As suffrage advocate Susan B. Anthony wrote in January of 1866 to Wendell Phillips, abolitionist and head of the American Anti-Slavery Society, “…our [petition] form will awaken the public to the fact that woman demands political recognition in the new order of things.”

Anthony was correct in her prediction. The woman suffrage petition awoke the congressional public, at least, to women’s demand for inclusion in the reuniting

\[320\] It is difficult to label the advocates of woman suffrage at this point in time. Prior to the late 1860s, women engaged in gender-equity activism were understood to be “women’s rights” activists. After the 1860s, as the movement’s focus shifted from broader civil, property, and social equality to focus on achieving the franchise, its activists became known as “suffragists.” Because 1866 is a transitional year, I will refer to the proponents of woman suffrage as “woman suffrage activists” or “advocates” as well as “suffragists.”

\[321\] Susan B. Anthony to Wendell Phillips, January 28, 1866 in Gordon, ed. The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 574.
political community. In the uncertainty of early Reconstruction, however, woman’s rights activists like Anthony dramatically miscalculated the impact of their petitions. Awakening the congressional public did not translate into that public’s acceptance of women’s enfranchisement. Instead, the women’s petitions indicated to the members of Congress that long-held associations between gender and voting rights were no longer understood to be “natural” by the whole political community. Further these petitions explicitly challenged the connection between manhood and suffrage in the national public arena, and did so at the precise moment that Republicans were using manhood as a rhetorical strategy to argue for black men’s voting citizenship. These petitions contested the gendered vision of a voting polity being created by congressional suffrage rhetoric. Anthony’s “awakening” petitions ultimately prompted the Reconstruction Committee to identify men explicitly as the reuniting nation’s only legitimate political participants by referring to voters as “male” three times in the text of the Fourteenth Amendment.

The earliest woman suffrage petitions sent to Congress constitute one part of a public conversation about race, gender and suffrage rights the taking place between women’s rights advocates and members of Congress in 1865 and 1866. Woman suffrage petitions, drafts of the Fourteenth Amendment, and congressional floor discussions about women’s relationship to the state illustrate the public dialogue between disenfranchised women and those with the opportunity (and power) to integrate them into the political community in the late 1860s – congressional partisan politicians. Throughout this dialogue, woman suffragists appropriated partisan language and ideas in order to make their claims heard, understood, and, they hoped, persuasive to their congressional audience. Thus in the 1866 petitions that argued for women’s right to the ballot, these advocates adopted and adapted most of the arguments used by Republicans in suffrage debate.
The suffragists’ appropriation of partisan language did not mean, however, that voting-rights dialogue was exclusively one-way. Although the conversation between suffragists and Republicans about women’s access to the political community was carried out in language used and controlled by the party, the linguistic relationship between suffragists and Republicans was reciprocal. Just as Republican rhetoric influenced woman suffragists’ language choices, so too did woman suffragists’ petition rhetoric shape Republicans’ language choices. These petitions prompted those framing the Fourteenth Amendment to make explicit their assumptions about the connection between manhood and voting rights, or else risk the possibility that the constitutional amendment they were drafting would inadvertently enfranchise women. Republicans’ responses to the 1866 suffrage petitions indicate that the presence of the word “male” in the Fourteenth Amendment was not merely an accidental oversight or a linguistic convention unconsciously used. Rather they suggest that Republican members of Congress felt gender to be fundamental to how they understood Reconstruction and how they were redefining political citizenship in the postwar period.

This chapter seeks to demonstrate both that that there was a reciprocal relationship between the language used by woman suffragists in their congressional petitions and the language used by Republicans when arguing about suffrage early in 1866. It contends that that relationship prompted Republicans to include gendered language in the second section of the proposed Fourteenth Amendment. The use of the word “male” in the Fourteenth Amendment, therefore, was not only a reflection of the gendered rhetoric partisans created in debates about reconstructing the legacies of the “fathers” and enfranchising African American men, but also reflected their response to the emerging women’s suffrage movement.
The woman suffrage petition campaign as it was initiated and perpetuated by women's rights activists in December of 1865 and January of 1866, the fate of the resulting petitions in Congress between January and April of 1866, and the congressional discussion about women's right to the ballot between January and June of 1866 show the impact that the woman suffrage movement had on congressional rhetoric. Three critical results demonstrate the connections between the petitions and the Fourteenth Amendment. First, the legislative trajectory of the petitions shows that they were sent to many of the same men who were responsible for drafting the Fourteenth Amendment, ensuring that these men were aware that some people, at least, were challenging the connection between gender and suffrage. Second, aligning the timing of the petition presentations and the various draft versions of the Fourteenth Amendment indicate that the word "male" was a consistent feature of the proposed Amendment only after the woman suffrage petitions had appeared in the House and Senate. Finally, Congress's periodic, if abortive, discussions about the relationship of women to the state, particularly in debates about representation, civil rights, and voting citizenship, demonstrate that the majority Republicans openly opposed a gender-neutral franchise and were prepared to take steps to ensure its defeat should the suffrage petitioners be successful in bringing the issue to the congressional floor.

The presence of the word "male" in the Fourteenth Amendment reveals that a majority of congressmen believed that manhood and voting were, and should be, synonymous. The gendering of the Constitution was their definitive declaration that the right of political participation in post-Civil War America was not going to be determined on the basis of an American citizenship defined merely by birth within the nation's boundaries. Instead, the gendered Constitution indicated that belonging in the postwar American political community was to be based on and defined by social identity. In this way Republicans deemed gender, as a fundamental social identity, to
be the central qualifier for membership in the postbellum body politic. Thus, the members of the Joint Committee on Reconstruction deliberately, consciously, and actively used gender-specific language in the Constitution in order to prevent the inadvertent enfranchisement of women at a moment when such an action would undermine the ideological foundation of a newly reconstructed voting citizenship.

"The Educator of the Race"

When examining the 1865-66 woman suffrage petition campaign, three critical questions emerge: why did the suffrage activists choose to inaugurate this campaign in 1865 and 1866? Why did they use petitions as their primary means of activism? And finally, why did they send those petitions to Congress, rather than the states as they had done in the past? The history of the suffragists’ activism in the 1860s offers answers for these questions. The suffragists’ previous involvement in the anti-slavery campaign broadly, and with the Women’s National Loyal League in particular, shows that in many ways they understood that petitioning Congress was a logical next step for their movement at the moment that Congress itself was reevaluating American suffrage requirements.

By 1863 many conservative northerners were growing increasingly dissatisfied with the war effort and so had begun to make overtures to the Confederacy for peace without abolition. Fearing that these conservatives would influence policy, more liberal northerners began to organize “loyalty” organizations. These groups emphasized commitment to the current government and the principles of union in order to mobilize public opinion and generate support for the Republican Party. Northern women founded many of these societies.322 Sensitive to criticism that

322 Appeal by Elizabeth Cady Stanton, “To the Women of the Republic,” in Gordon, ed., The Selected
southern women were more passionately committed to their region’s cause than their northern counterparts, these women’s associations sought to emphasize “patriotism over partisanship, unqualified condemnation of northern traitors and … unconditional support of the Union.”

Joining this organizational trend, in April of 1863 Elizabeth Cady Stanton and Susan B. Anthony issued a call for the organization of northern loyal women. Although they had eschewed agitation on women’s rights issues through the early years of the war in favor of abolitionist activities, they hoped that the group they proposed, which became the Women’s National Loyal League, would offer a new forum for advocating women’s rights. As Anthony wrote to fellow abolitionist Amy Kirby Post, the Loyal League would provide “an opportunity for Woman to speak her thoughts on the War.” Stanton likewise saw the League as a unique forum for women’s political engagement. In her call for the first meeting she declared that, “thus far there has been no united public expression from the women of the North as to the policy of the War.” The Loyal League she envisioned would give northern women a chance both to unite and organize and to express their political views.

However, from the first meeting on May 14, 1863 it was clear that like many other loyalty groups the League would primarily use women’s political energies to advance abolitionist principles. Despite the vague wording of Stanton’s call for a meeting of the North’s loyal women, a call that emphasized liberty, republican rights, anti-aristocracy sentiment and discussed anti-slavery ideals in only the broadest terms,


323 Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 1, 480.

324 Susan B. Anthony to Amy Kirby Post, April 13, 1865, Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 1, 481.

the resolutions and speeches at the first Loyal League meeting at New York's Church of the Puritans indicated the group's strong abolitionist leanings. To the dissatisfaction of some members who wanted the organization to simply serve as a support for the Union's wartime policies, five of the seven resolutions the women considered at this meeting dealt with slavery in some form. These five resolutions explicitly linked the cause of the war with emancipation and contended that women had a unique moral and political responsibility to get involved in wartime political agitation.326 Some Loyal League members, like Anthony, saw this responsibility as the most critical component of the League; "the hour is fully come," Anthony said, "when woman shall no longer be the passive recipient of whatever morals and religion the trade and politics of the nation may decree; but that she shall now assume her God-given responsibilities, and make herself what she is clearly designed to be, the educator of the race."327 Statements like Anthony's led to a significant disagreement between those who agreed with Anthony and those attendees who thought that bringing women's rights into the League's purview would unnecessarily complicate the issues they sought to advocate. Those attendees, like William Lloyd Garrison, wanted to downplay the actors engaged in the activism in favor of the cause. Garrison disgustedly described the meeting to his wife as "a dead failure ... in fact ... a woman's rights convention."328 By the League's May 14th business meeting, members like Garrison steered the League away from women's rights and codified its central goal as abolition. To further this goal, the League's Executive Committee decided to gather one million signatures on a petition to Congress asking for emancipation of all

enslaved persons in the United States. Throughout the summer of 1863, Loyal League members began circulating this petition requesting Congress to amend the Constitution to end slavery. The members gathered signatures from and cultivated connections with both anti-slavery and women’s rights reformers in order to prompt local organizations to continue the petition gathering.

While this petition drive solidified connections between abolitionists and women’s rights activists, one of its most critical results was to pull Stanton, who was elected President of the Loyal League, and Anthony, its secretary, into the realm of congressional politics. While both women had long been engaged in national political agitation and counted the nation’s premier radicals and abolitionists among their friends and correspondents and while both women always closely followed national political events, with the Loyal League Stanton and Anthony began to interact with national politicians in a sustained and formal way. In the process, they became national political actors. Because the Loyal League’s petition efforts coincided with the American Anti-Slavery Society’s decision in December of 1863 to petition Congress for the end of slavery, Stanton and Anthony gained crucial support from other radicals for the League’s petition drive. Likewise offering institutional support for their activism, their petitions were welcomed by some congressmen. Charles Sumner in particular became an important ally to the Loyal League’s campaign, using his franking privilege to help distribute the Loyal League’s petitions. Once completed

329 "Meeting of the Women’s Loyal National League," in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 498. The text of the petition that the League proposed to circulate was later attributed to social reformer Robert Dale Owen, who would play a critical role in the drafting of the Fourteenth Amendment’s text two years later. Gordon, The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 499, n. 2.
330 Venet, Neither Ballots Nor Bullets, 94-122.
331 Venet argues that the Loyal League helped shift women’s rights activism away from moral reform and toward political action. Venet, Neither Ballots Nor Bullets, 148.
332 Pennsylvania Congressman William D. Kelley spoke to the League, and Massachusetts Senator Henry Wilson credited the League’s efforts as helping the anti-slavery cause in Congress. Venet, Neither Ballots Nor Bullets, 114, 122.
with signatures, Sumner then presented the petitions to Congress in the spring of 1864. In this way the Loyal League and Anti-Slavery congressmen like Sumner developed a mutually beneficial relationship. The League received financial assistance from national politicians, and in return produced a massive petition that the congressmen presented to their colleagues at critical moments in policy debate.

Almost as important for Stanton and Anthony as their increasing contact with national political actors was the success of the Loyal League's petition in Congress. The first sign of this success was the congressional treatment of their petitions. Much to Stanton's delight, these petitions were not tabled like many earlier anti-slavery petitions. Instead the Loyal League's petitions were referred to the Senate Committee on Slavery and Freedmen. This ensured that they received a fair congressional hearing, as well as spread word of the Loyal League's actions to a wide congressional audience. The second sign of the Loyal League's success was the impressive numbers of signatures their activists had collected. By the end of the first session of the Thirty-Eighth Congress in July of 1864, the Loyal League had collected and presented over 400,000 signatures in support of emancipation. So critical were these numbers that Sumner later credited the Loyal League with having had a

333 "Between 1836 and 1844, the 21st rule of the House (the so-called gag rule) provided that no petition relating to the abolition of slavery would be entertained in any way; therefore, all such petitions and memorials received during that period were tabled. During this period, hundreds of petitions (5 ft.) relating to the abolition of slavery, slavery in the District of Columbia, fugitive slave laws and fugitive slaves, the admission of slave states, slavery in the Territories, African colonization, and repeal of the 21st rule were tabled." From "Online Guide to the Records of the United States House of Representatives at the National Archives, 1789-1989 (Record Group 233)," <http://www.archives.gov/legislative/guide/house/chapter-14-judiciary.html#13-79>, (accessed September, 2008). Web version based on Charles E. Schamel, Mary Rephlo, Rodney Ross, David, David Kepley, Robert W. Coren, and James Gregory Bradsher, Guide to the Records of the United States House of Representatives at the National Archives, 1789-1989: Bicentennial Edition (Doct. No. 100-245), (Washington, DC: National Archives and Records Administration, 1989), 14.71.

334 In a letter to Frances Miller Seward, the wife of Secretary of State William Seward, Stanton said that, "Mr. Sumner presented the 'emancipation petition' last week, made a good little speech which called out some discussion & that the petition instead of being thrown under the table was referred." Elizabeth Cady Stanton to Frances Miller Seward, February 15, 1864, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 510.
significant impact on the passage of the Thirteenth Amendment ending slavery.\textsuperscript{335} Despite its focus on abolition through its interaction with Congress in this petition campaign the Loyal League had become quite a successful women's organization. As Stanton declared, the League was "the first and only organization of women for the declared purpose of influencing politics. In petitioning Congress for an act of emancipation ...[we] have made ourselves a power for freedom with the people and with their representatives."\textsuperscript{336}

The power to petition the government was an especially acceptable mode of women's political activity in the 1860s, given the reservations that even some of the most radical activists had about women's direct participation in politics. The controversy about the League's purpose at its first meeting reveals this conservatism, as does its decision to petition rather than to engage in any more direct political action. A favorable bias toward petitioning continued through the League's existence. For example, on May 1, 1864, Caroline Healey Dall, a transcendentalist and long time advocate of women's rights, replied to Stanton's invitation to the Loyal League's first anniversary meeting with concern that the meeting would turn into an "electioneering caucus" for the upcoming presidential election. Dall feared that women's political inexperience would lead them into politics, where they would forfeit any moral advantage they had. Further, she suggested that women "must not enter the political arena until invited."\textsuperscript{337}

\textsuperscript{335} At least Stanton and Anthony later recalled this to be true in their History of Woman Suffrage. Despite the flawed and biased nature of this source, there was a significant correspondence between Sumner and both Stanton and Anthony in this period and it is not impossible that he had expressed his support for their efforts. Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage, History of Woman Suffrage, vol. 2, 1861-1876, (New York: Fowler & Wells, Publishers, 1882), 50-89.

\textsuperscript{336} Elizabeth Cady Stanton to Caroline Healey Dall, May 7, 1864, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 519.

\textsuperscript{337} Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 522, n. 1.
Petitions, however, were another matter. Throughout the antebellum period women had petitioned governments for a variety of causes, from opposition to Indian removal and slavery to women’s property rights and temperance laws. Although understood as a passive activity by those who sympathized with Dall and opposed women’s overt political actions, many antebellum women used petitioning to create political identities for themselves as legitimate political actors and participants in political processes. As Anthony reminded her listeners in a speech at the American Anti-Slavery Society Meeting in December of 1863, “as women we could have no voice as to what should be the basis of reconstruction of this government, save through the one right which the nation has left us, the right of petition. Women can neither take the ballot nor the bullet to settle this question ... therefore, to us, the right to petition is the one scared right which we ought not to neglect.” Without voting rights, petitioning was the best (and least controversial) way for women to access their government, and Anthony was a savvy enough political actor to understand this. Further, when abolitionist activists and congressmen acknowledged and harnessed the political energies of Anthony and the other Loyal League members in the petition campaign it indicated that women’s petitioning activities and were acceptable to mainstream political actors. Despite this general conservatism among her peers and congressional allies, Stanton, at least, recognized the radical potential in women’s political activities and hoped that petitioning would lead women to an expanded and more participatory role in government: “By our earnestness and zeal in the exercise of


this one right,” Stanton declared of the right to petition, “let us prove ourselves worthy to make larger demands in the readjustment of the new government.”

The Loyal League petition campaign thus brought some activist women like Stanton and Anthony into the sphere of congressional activity, connected them to individual congressmen, and offered them a means of engaging in political action that was understood to be “appropriate” for women. It gave them a sense that their political actions were not only heeded, but valued and respected. It taught them how to interact with Congress, as well as how to benefit from national political relationships. The campaign’s marked success also offered a clear precedent for any future political action that these women would take. And both Anthony and Stanton were confident that the national political activity they engaged in through the Loyal League would continue after the war.

“The Negro’s Hour”

Anthony and Stanton were determined to continue the women’s political activity begun in the Loyal League. As early as her speech to the American Anti-Slavery Society in 1863, Anthony revealed her confidence that women would be active participants in the postwar reconstruction of the political community. Toward this end, throughout 1864 both she and Stanton became involved in the campaign to replace President Lincoln on the Republican ballot with the radical John C. Frémont. They considered themselves as having a legitimate voice in that movement.341

341 In a letter to Wendell Phillips, Stanton demonstrated this influence, telling him that, “we are very strongly urged, to declare ourselves for Fremont by some of his special friends.” Elizabeth Cady Stanton to Wendell Phillips, April 26, 1864, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 517.
Anticipating a surge of women’s support for Frémont, Stanton declared to Dall in April, “Woman will undoubtedly be a power in the coming Presidential campaign, & is already speaking on all phases of the question.” Women, Stanton contended, could be vital actors in the ’63 election because they had already proved they could be influential in past elections:

In the exciting campaign of ‘Tippecanoe and Tyler too,’ who so firmly and eloquently kept up the standard of freedom – who so thoroughly understood the momentous issues of that hour, as did Abby Kelley Foster? ... Have not women for the last twenty years taught our legislators higher laws of justice, and compelled them to clean their books of many barbarous statutes? What man did more than Anna Dickinson to save the election in Connecticut and Pennsylvania?

Beyond the upcoming election Stanton saw a broader purpose for women’s political action, arguing that women’s participation in government was vital to maintaining a balanced society: “I believe the best interests of the nation demand the united, equal power and influence of man and woman, in politics, religion and social life; and woman will never ‘interest’ herself in national questions until she feels she has a right to be heard.” Stanton herself had no doubt that women had that right. As the war ended and Reconstruction began Stanton continued to demonstrate her belief that a new American government would necessarily be based on a united, equal power of all men and women, eliminating what she called the “class legislation” that had restricted suffrage, and hence official and direct participation in government to a few. By the

342 Elizabeth Cady Stanton to Caroline Healey Dall, April 22, 1864, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 514. See also Susan B. Anthony to Charles Sumner, March 1, 1864, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 512.
343 Stanton to Dall, May 7, 1864, in Ann D. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 518-520.
summer of 1865, many of her radical colleagues were starting to agree, at least when it came to the direct political participation of all men.

Throughout the summer of 1865 the way that abolitionists, radicals, and politicians started to think and talk about expanding the franchise to include African American men seemed to Stanton and Anthony to be a positive sign for the cause of women's rights.\(^{345}\) The Republicans they had worked with so successfully in the Loyal League petition campaign had swept the northern elections in 1864, and although Republicans rejected the suffragists' choice of Frémont for the presidency, throughout 1865 Stanton and Anthony remained hopeful that Reconstruction would present an opportunity to remake the government along more radically egalitarian lines.\(^{346}\) They maintained this hope despite some clear indicators that woman suffrage was simply not a central concern of abolitionists, politicians, or the American public. Not even all of the activists who had supported antebellum woman's rights were willing to take up the cause of woman suffrage immediately after the war. Indeed, many actively rejected associating woman's enfranchisement with the enfranchisement of African American men.

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\(^{345}\) The documents are scarce between August and December of 1865. In this period, Anthony was visiting her brother in Kansas, participating in political activities there, and then engaging in a speaking tour along her route back to the East. Between August and September she visited relatives, and then returned home to Rochester. By October, she was traveling and visiting friends. Her diary indicates, however, that in the fall she spends a lot of time at the New York offices of the Anti-Slavery Standard and the American Anti-Slavery Society, for which she was a paid lecturer. By December, though, her correspondence begins to discuss the petition campaign and to urge her friends to support and participate in the drive for petition signatures. Patricia G. Holland and Ann D. Gordon, "Papers of Elizabeth Cady Stanton and Susan B. Anthony," series 3, reel 11 (Wilmington, DE: Scholarly Resources Inc., 1991), microfilm.

\(^{346}\) By December of 1865, Anthony indicated in a letter to the well-respected Republican General Carl Schurz her belief that the only "right or safe basis of a republican government" was universal suffrage and implied that these ideas were held by others. In this letter Anthony asked Schurz to participate in a series of lectures she was organizing because "we believe you fully with us in the sentiment that the work of this hour is to establish a genuine republican government whose codes and constitutions shall be for persons, citizens, taxpayers, the governed — and not for race or color, sect or sex." Susan B. Anthony to Carl Schurz, December 30, 1865 in Patricia G. Holland and Ann D. Gordon, "Papers of Elizabeth Cady Stanton and Susan B. Anthony," series 3, reel 11 (Wilmington, DE: Scholarly Resources Inc., 1991), microfilm.
The most publicized of these rejections occurred at the thirty-second annual meeting of the American Anti-Slavery Society on May 10, 1865 when Wendell Phillips, the newly elected President of the Society, denounced outright any connection between woman suffrage and black male suffrage. In his inaugural address, Phillips declared that he wanted to see Congress amend the Constitution to prohibit states from making “any distinction in the civil privileges of those born on the soil, of parents permanently resident there, on account of race color or condition.” This was a rather startling proclamation given than there had not been any audience comment or previous discussion about women’s rights at the meeting. With women’s enfranchisement clearly on his mind, Phillips continued his statement and rejected women’s voting rights as inopportune: “I hope in time to be as bold as [English Philosopher John] Stuart Mill, and add to that clause ‘sex.’ But this hour belongs to the negroes. As Abraham Lincoln said: ‘One war at a time.’ So I say one question at a time. This hour belongs to the negro.”\footnote{347 “The Anniversaries, Thirty-Second Anniversary of the American Anti-Slavery Society,” \textit{New York Daily Tribune}, May 10, 1865, 8.} This definitive rejection, coming from such an important radical ally, was certainly a blow to Stanton and Anthony’s hopes of a common radical movement to expand the franchise. Throughout the winter of 1865-66, Stanton and Anthony although privately pushed Phillips to change his position, but he remained adamant. He told Stanton in a January 14 letter that, “I’m fully willing to ask for women’s vote now & will never so ask for negro voting as to put one single obstacle in the way of her getting it. But, I shall not do much or go out of my way or spend money or time on it [woman suffrage] largely, deeming the old rule of ‘one thing at a time’ wise – & this time is the negro’s.”\footnote{348 Wendell Phillips to Elizabeth Cady Stanton, January 14, 1866 in Patricia G. Holland and Ann D. Gordon, “Papers of Elizabeth Cady Stanton and Susan B. Anthony,” series 3, reel 11 (Wilmington, DE: Scholarly Resources Inc., 1991), microfilm.} Thus despite a close personal friendship with Stanton and Anthony, and regardless of his own belief in the
principle of women’s enfranchisement, Phillips declined to publicly engage in the kind of suffrage activism in 1865 and 1866 that Stanton and Anthony had hoped for, fearing that if woman suffrage was too closely connected to black male enfranchisement it would harm both causes.

Phillips’ May public statement haunted the woman suffrage movement through the next few years as other abolitionists and former women’s rights supporters echoed Phillips’ concern about timing and expressed reluctance to jeopardize any expansion of the franchise by including women. For example in early 1866 abolitionist Lucy McKim Garrison, refused to support woman suffrage in early 1866 because “it was out of time.”\(^{349}\) Even Quaker abolitionist and long-time friend of women’s rights Lucretia Mott deemed it a poor time to push woman’s claim to the ballot. After Anthony attempted to introduce the subject of enfranchising women at the West Chester Anti-Slavery meeting in October, 1865, Mott wrote to her sister Wright, that woman suffrage “as a general move … would be in vain, while the all-absorbing negro question is up.”\(^{350}\) Mott’s assessment of the abolitionist’s feelings about women’s rights was accurate. Most abolitionists were reluctant to consolidate the suffrage causes. Radicals like Phillips, Garrison, and Mott, who viewed expanding the southern franchise as the best way to preserve both the peace and to protect the civil rights of the newly emancipated, felt that associating universal male suffrage with such a controversial issue as woman suffrage would doom both issues to defeat. They therefore did not hesitate to reject publicly any connection between the two causes.\(^{351}\)


\(^{350}\) Lucretia Coffin Mott to Martha Coffin Wright, 2 November, 1865, Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 558, n. 1.

\(^{351}\) ECS wrote to Martha Coffin Wright in January of 1866 that Wendell Phillips Garrison had told SBA that his wife would not sign the Woman Suffrage Petition because “it was out of time.” ECS to
Abolitionists were certainly not alone in characterizing the Reconstruction period as “the Negro’s hour.” Not surprisingly, the Republican press showed little interest in women’s enfranchisement. Reflecting this lack of interest, reporters and editors writing about suffrage in the mid-1860s used language that explicitly excluded women from the new political community Republicans were beginning to create. For example, throughout the summer and fall of 1865, radical reformer Horace Greeley’s New York Tribune included an article or editorial advancing the enfranchisement of African Americans in the South in almost every issue. None mentioned woman suffrage, and most used gender-specific language. For example, reporting on Chief Justice Salmon P. Chase’s visit to Charleston, the paper recounted that Chase “desired to see every man, black and white, entrusted with the ballot.”\footnote{352} The paper did not use the more general term “person” here, but instead, clearly indicated that men were Chase’s voters of preference. This language was not limited to reporting, but was also adopted by the paper’s editorials. One published on May 26 even acknowledged the problem with general language and voting as it attacked a rival paper for reporting that, “President Johnson does not think the colored people ought to vote.” The editorial corrected its rival with more gender-specific language, saying that the other paper had reported Johnson’s opinion erroneously, despite its “earnest advocacy of Negro Suffrage – or rather of Manhood Suffrage irrespective of color.”\footnote{353} The editor clearly understood the question of voting rights as an issue among men, even to the point of recognizing that “negro suffrage” was a general term that could include African American women. In June, the paper continued its advocacy of suffrage

\footnote{Martha Coffin Wright, January 20, 1866, Holland and Gordon, “Papers of Elizabeth Cady Stanton and Susan B. Anthony,” series 3, reel 11.}
\footnote{352 “Untitled Editorial,” New York Tribune, May 26 1865, 4.}
\footnote{353 “Untitled Editorial,” “Manhood Suffrage” was the most accurate term used to describe what was also called “universal suffrage,” or “negro suffrage,” the expansion of the franchise to include all African American men.}
rights as a general plan for Reconstruction by asserting that instead of creating bitterness and strife by punishing rebels, and thereby dooming the emancipated to a permanent “state of political impotence and semi-vassalage,” a better policy would be “to pave the way to a partial and ultimately thorough recognition of their [African Americans’] rights as men and citizens.”

Suffrage, the editorial declared, was a right that belonged solely to men who were citizens. Women who were citizens, it implied, were not entitled to have those same rights recognized.

Greeley’s paper was not alone in ignoring woman suffrage in late 1865. Other Republican-leaning periodicals also explicitly used gender-specific language and arguments when discussing suffrage, thereby writing women out of the political community and defining them as political outsiders. For example, in June of 1865, Harper’s Weekly magazine broadly used gender to restrict the political community.

In an article discussing President Johnson’s Reconstruction policy, the editors asserted that while the states’ constitutions determined voting rights for their members, the essential spirit of the federal Constitution determined that the “adult male population [were] the constitutional ‘people’ of the State.” Not only did the editors of Harper’s deem the legitimate voters “male,” but they implied that only males were understood to be the “people,” in the universal “We, the people,” an implied gendering of the nation’s fundamental law.

In an August 1865 editorial advocating an expanded franchise, the weekly magazine even more specifically defended the relationship between gender and political power. It declared that when Congress

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357 It is also interesting to note here that the editorial did not use the term “citizen,” which due to the Dred Scott decision, could not apply to African Americans. This would be remedied in the first section of the Fourteenth Amendment.
convened, it should “[entrust] the political power, according to the principle of our Government, to the whole adult male population.” Although attempting to advance an expanded vision of the political community, the article nonetheless reinforced an inviolable relationship between gender and voting rights by limiting political power to adult males. These periodicals reveal the embedded assumptions among Republicans that manhood was a necessary component of a voter’s identity and should have indicated to woman suffrage supporters who read them that they faced an uphill battle to get women’s rights onto the national political stage.

This was the same message that prominent Republicans were privately conveying to Stanton and Anthony in the summer and fall of 1865. Anthony spent the spring and summer of 1865 in Kansas visiting her brother Daniel Anthony, an antislavery advocate and radical Republican politician. While in Kansas Anthony socialized with her brother’s friends and colleagues, all prominent state Republicans and activists. On August fourth and fifth, Anthony met with Kansas Senator Samuel C. Pomeroy and with Republican Representative Sidney Clarke, continuing to build relationships with Republican politicians and congressmen that she had begun during the Loyal League campaign. Anthony’s diary indicates that she discussed women’s enfranchisement with Clarke, at least, and that his position on women’s rights echoed that of the abolitionists. Anthony recorded that she had addressed the topic to demonstrate that “no class can be trusted to legislate for another though that other be wife, daughter, mother, etc.” Clarke, Anthony wrote, “advised me not to bring in W. Rights.”

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360 Susan B. Anthony Diary, August 4, 1865, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 552.
Privately many key Republicans seemed either unaware or uninterested in the cause of women’s rights because their attention focused on enfranchising African American men. While the correspondence of woman suffrage advocates was mainly concerned with women’s rights, the correspondence of even the most radical members-elect of Congress before December 1865 neglects the question of enfranchising women. Instead, any letters to and from these congressmen that addressed suffrage questions focused solely on enfranchising black men in the South.\textsuperscript{361} Despite this omission, the language that the congressmen used to discuss suffrage indicates that conceptually they had not necessarily precluded the possibility of including women in the re-forming political community, as had the members of the press. Unlike the \textit{Tribune} and \textit{Harper’s Weekly}, the language used in private pre-session suffrage discussions indicates that gender was not necessarily a component of their vision of the political community. For example, in his correspondence in September and October of 1865, Thaddeus Stevens referred only to “Negro suffrage,” not indicating whether or not this expansion of the franchise included all “negroes” or only men. In July of 1865, Representative-elect George Boutwell, the former Governor of Massachusetts, wrote to the Secretary of the Treasury Hugh McCulloch urging the Johnson administration to adopt a Reconstruction policy that Republicans would support. He suggested to the administration that it only readmit southern states to the Union after they had extended the franchise to the freedmen. Like Stevens,

Boutwell did not use any specific language that would indicate a gender of the proposed new voters, instead identifying the issue as “negro suffrage.”

Even some Democrats who opposed black suffrage referenced voters in neutral terms. In a lengthy letter to the New York Tribune explaining his views on electing delegates for southern state constitutional conventions, Maryland Congressman Reverdy Johnson identified voters repeatedly as “people,” rather than as “men.” Suggesting that only those allowed to vote before the calling of a constitutional convention were legally entitled to participate in it, Johnson asserted that in Maryland that “the submission [of the proposed Constitution] could only be made to such of the people as had the right of suffrage under the existing Constitution ... In our case, there has been no extension of the right. No person who upon any principle should have it, and had it not before, have been allowed it.”

Like his political opponents Boutwell and Stevens, Johnson did not specifically identify the gender of those entitled to vote in his state. Voters, in his language, were “persons,” not men, freemen, or males.

Even the quintessential radical Charles Sumner, who was well acquainted with Stanton and Anthony and was certainly aware of their goals and interests, in his summer and fall 1865 correspondence did not adopt gendered language when discussing the franchise. For example he declared that, “colored persons are to have the right of suffrage.” Reconstruction, he claimed, must recognize “loyal people as voters.” There can be little doubt that Johnson, Boutwell, Stevens and even Sumner did not believe in and perhaps could not even conceive of women as voters. Probably they assumed that their correspondents and readers would understand that the gender of the voters they were discussing was obvious and known to be male, even if it was

merely implied. However, this implication would become less and less clear throughout the winter of 1865 and early 1866, and the language of these congressmen would become more explicit and more careful as woman suffrage advocates under Stanton and Anthony’s leadership began to make their claims for inclusion in the public sphere.

“The Broad Ground of Republicanism”

By early December of 1865 Stanton and Anthony had been engaged in discussions about women’s rights and reconstruction with politicians, friends, and abolitionists for months. But their correspondence reveals that they had not necessarily formed any particular plan of action for how to get women’s rights included in the Republican congressional agenda – or even if this was a central concern in their plan to resume women’s rights agitation. However, the first few days of the congressional session galvanized Stanton and Anthony into action. Although Stanton and Anthony were well aware that Congress would most likely take some action on African American voting rights, they were hopeful that this action would create a “universal” franchise and therefore also benefit women.

While most of the proposals to amend the Constitution and expand the national franchise that were floated in the early days of the congressional session mirrored the gender-neutral language that Republicans had used in their correspondence during the summer and fall of 1865, three specific resolutions proposed in the House in the first few days of the session indicated that the suffragists’ hope was a fragile one. Between December 5 and December 11 Congressmen Robert Schenck (R-OH), John Broomall (R-PA), and Thomas Jenckes (R-RI) proposed to amend the Constitution in such a way that explicitly excluded women from the franchise. These three congressmen’s
proposals either identified the gender of voters by using the words “men” or “male” or wrote women out of the political community by basing congressional apportionment on voters, thereby insinuating that women were not legitimate members of the state to be counted toward representation. When made aware of these proposals, Stanton and Anthony were clearly disturbed. Stanton seemed particularly outraged by these proposals. As she wrote in typically colorful prose to Wendell Phillips’ wife Ann in early January: “My dear Mrs. Phillips, do you see what the sons of the Pilgrims are doing in Congress? Nothing less than trying to get that irrepressible “male citizen” into our immortal Constitution. Schenck & Jenckes & Broomall are the guilty trio who have insulted the mothers of the republic by bringing such joint resolutions before the nation for consideration.” These proposals prompted the two suffragists, Anthony recorded in her diary entry for December 11, to “commence W.R. work in earnest.”

Two of these three such “insulting” proposals legitimizd males as political actors without using specific gendered language. Both were presented on December 5, the second day of the congressional session. The first resolution, H. R. No. 1, was submitted by former Union General and Ohio Republican Robert Schenck, and sought to amend the Constitution to base congressional representation on the number of voters in each state. Schenck’s resolution was referred to the Committee on the Judiciary, where it was discussed and then postponed, perhaps in favor of other versions of the Amendment being considered by the Joint Committee on Reconstruction. The second “insulting” proposal, H. R. No. 6, submitted by

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364 Elizabeth Cady Stanton to Ann Terry Greene Phillips, undated before January 9, 1866, series 3, reel 11, Holland and Gordon, “Papers of Elizabeth Cady Stanton and Susan B. Anthony.”
Pennsylvania Republican John Broomall also sought to amend Constitution to enumerate representatives by voters, thereby excluding women from the basis of representation. Like Schenck's proposal, Broomall's was referred to the Judiciary Committee, which asked to be discharged from its consideration on January 23, 1866.\(^{367}\)

While these two proposals were disturbing to Stanton and Anthony because they both failed to count women as members of the polity, from their perspective the most egregious proposal was the one Rhode Island Republican Thomas Jenckes submitted on December 11. Jenkes' resolution, H. R. No. 11, used gender-specific language when referencing voters by proposing to amend the Constitution so that only literate “adult males” could vote. By using this language this resolution specifically identified and defined the legitimate voter as “male.”\(^{368}\) Jenckes' resolution was referred to the Judiciary committee, and rejected.\(^{369}\) Despite its lackluster congressional career, Jenckes' early proposal indicated that some Republicans were not considering “universal” suffrage to be a gender-neutral proposition, nor were they considering the status of women as they thought about the connections between


\(^{368}\) New York Daily Tribune, December 14, 1865, in The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 563, n. 3. Many moderate to conservative Republicans in Congress seemed willing to expand the franchise to only include “literate” voters, thereby excluding many lower-class African Americans but also immigrants. Restricting the franchise to the “literate” seemed to be a way to apparently support Republican policy on African Americans and yet at the same time prevent a wholesale enfranchisement of the emancipated. This support for a “literate” franchise foreshadowed some of the means used to disfranchise African Americans after Reconstruction ended.

\(^{369}\) U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., December 11, 1865, 18; U.S. Congress, House of Representatives, Committee on the Judiciary, Docket Volume, 39\(^{th}\) Congress (HR21), Record Group 233, National Archives, Washington D.C.; U.S. Congress, House of Representatives, Committee on the Judiciary, Minutes, 39\(^{th}\) Congress, (HR 1863), Record group 233, National Archives, Washington D.C.
citizenship, voting and representation. Most critically, however, Jenckes' resolution raised the prospect that Congress could introduce gender-specific language into the "immortal" Constitution and create a new barrier to women's enfranchisement, a development that Stanton and Anthony hoped to prevent.

These three "insulting" bills galvanized Stanton and Anthony into action so urgent that they spent the Christmas holiday in 1865 organizing a strategic response. Anthony wrote in her diary that she had spent Christmas Eve at Stanton's house in New York, "writing and folding and addressing petitions" and the following morning "writing," most likely letters to suffrage allies.370 Not surprisingly in this work, Stanton and Anthony turned the political strategy that had proved so fruitful for the Loyal League — petitioning. Following the model of the very successful Loyal League petition campaign, Anthony wrote to Caroline Healy Dall that they would "scatter a thousand copies of the form of petition, and get it published in as many newspapers as possible — and thus leave evry representativ[e] woman to lead off in her own neighborhood and send a few names on each into Congress at the earliest day possible." By late December they had printed 1000 copies of the petition and mailed them to women they thought could gather sufficient signatures.371 In addition, Anthony, Stanton, and Lucy Stone sent copies of the petition to radical newspapers like the Liberator, the National Anti-Slavery Standard, and the Independent, with instructions to the readers to clip the newspaper petition text, attach signatures themselves, and forward them to Congress.372 The petition, Anthony told Dall,

371 Susan B. Anthony to Caroline Healey Dall, 26 December 1865 in The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 562-3.
“assumes that Congress will move to amend the Constitution to prohibit negro disfranchisement – and then to admit woman is to give Universal Suffrage.”

To make Congress see the necessity for admitting women and granting universal suffrage, Stanton and Anthony had to make their claim to the ballot both seem reasonable to their congressional audience and to be sufficiently persuasive that the majority Republican party would reconsider its position on women’s voting rights. Thus these woman suffrage advocates in their correspondence and public writings about the petition and in the text of the petition itself adopted a rhetorical strategy that would be familiar and meaningful to Republicans – they appropriated the very ideas and language Republicans themselves were using to discuss suffrage.

To articulate women’s claims to the ballot, Stanton and Anthony’s arguments mirrored Republican language about the political family, the justice of enfranchisement, the right of all citizens to the ballot, and the necessity of voting for self-protection. Essentially Stanton and Anthony took all of the Republican suffrage arguments for black men and applied them to women, thereby aligning their arguments with current political speech. In this way they integrated their cause with that of African American men, and used Republican partisan rhetoric for their own strategic goals. Anthony’s correspondence reveals that this was not merely a coincidence, but a deliberate political and ideological strategy. In the same letter that Anthony wrote to Caroline Dall on December 26 describing the petition campaign, she also described this rhetorical strategy by proclaiming that for the suffragists, “the broad ground of republicanism is the one true place for all advance[d] minds to occupy.”

373 Susan B. Anthony to Caroline Healey Dall, December 26, 1865, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 562-3.
374 Susan B. Anthony to Caroline Healey Dall, December 26, 1865 in Gordon, ed. The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 563.
rhetorical sense and in the broader theoretical sense, the suffragists deliberately sought
to appeal to the Republican dominated Congress.

As the petitions were being gathered in December 1865 and January 1866, Stanton also revealed this strategy by articulating women’s claim to equal citizenship and suffrage in Republican rhetoric and presenting it in a forum radical Republicans and abolitionists were likely to see, the official newspaper of the abolition movement, the National Anti-Slavery Standard. In a letter to the editor on December 26, 1865 Stanton adopted Republican Party suffrage language and arguments to make women’s claim to the ballot seem both just and necessary. In this letter Stanton first rejected Phillips’ argument that Reconstruction was not an auspicious moment for women to ask for the ballot. She did this by adopting the Republican construction of the ballot as a vital tool for self-protection. She asked her readers:

as self-preservation is the first law of nature, would it not be wiser to keep our [women’s] lamps trimmed and burning, and when the Constitutional door is open, avail ourselves of the strong arm and blue uniform of the black soldier to walk in by his side, and thus make the gap so wide that no privileged class could ever again close it against the humblest citizen of the Republic?375

Women, like men, Stanton clearly asserted, also had an equal right to self-protection. But her argument also shows the influence of Republican constructions emphasizing the masculinity of black men. Stanton suggested that the strong, manly black soldiers should help women achieve the goal of enfranchisement. Playing on the gendered social habits of women in this scenario, as well as capitalizing on the Republicans’ use of masculinity to construct black men as legitimate political citizens, Stanton here stressed the political equality of women and black men by metaphorically walking

375 Elizabeth Cady Stanton to the Editor, National Anti-Slavery Standard, December 26, 1865 in Gordon, ed. The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 564.
them alongside each other. Black men may have performed manly public military service, she seemed to be saying, but women were with them step by step. Thus as equal citizens of the American nation both women and black men are entitled to the rights of that citizenship.

In addition to attempting to capitalize on the gender roles Republicans were assigning to African American men, Stanton also adopted Republican arguments about citizenship and suffrage. In the following paragraph of her letter to The Standard, Stanton explicitly referenced the Republican assertion that suffrage was a fundamental right of citizenship. She argued that, “in changing the status of the four millions of Africans, the women as well as the men should be secured in all the rights, privileges, and immunities of citizens … the disfranchised all make the same demand, and the same logic and justice that secures Suffrage to one class gives it to all.” If, as Republicans were beginning to argue, it was an injustice to deny citizenship rights to southern black men, Stanton asserted that the suffrage rights of women were equally fundamental to their citizenship, and thus equally unjust to deny: “if our rulers have the justice to give the black man Suffrage, woman should avail herself of that newborn virtue to secure her rights.”

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376 To those who feared physical or emotional connections between white women and black men, Stanton’s argument surely did resonate — but perhaps produced the opposite reaction that she had intended.

377 Elizabeth Cady Stanton to the Editor, National Anti-Slavery Standard, December 26, 1865 in Gordon, ed. The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 565. Stanton’s use of African American women in this argument is typical of the woman suffrage arguments she made at this point in time. While there were a significant number of African American women involved in the suffrage movement, many of whom were allies of Stanton and Anthony in 1866, in this period Stanton seems more interested in using the idea of black women’s disfranchisement than she is in truly assisting black women to achieve equal rights in a way that is consistent with their needs, world view, and gender identities. I believe that at this point in her life Stanton was more intellectually intrigued by the intersection of black women’s race and gender than she was in black women’s rights. For more on how white women suffragists disregarded the goals of African American suffragists see Rosalyn Terborg-Penn, African American Women in the Struggle for the Vote, 1850-1920, (Bloomington, IN: Indiana University Press, 1998), 6-7; and Louise Michele Newman, White Women’s Rights: The Racial Origins of Feminism in the United States, (New York: Oxford University Press, 1999).

378 Gordon, ed. The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 565.
black men because of their citizenship, it seemed only logical to Stanton that they could be made to see the equal justice of woman’s suffrage.

While newspaper articles like this one were important for their cause, Stanton and Anthony pinned the bulk of their hopes on petitioning as the best means of persuading congressmen to see this equal justice. A close reading of the text of the woman suffrage petition they circulated and sent to Congress in early 1866 reveals how fully Stanton and Anthony relied on Republican Party language to state their case; almost every rhetorical justification used by Republicans in defending black men’s right to the ballot was also used in the text of the 1866 petition for woman suffrage.

The 1866 suffrage petition that Stanton and Anthony developed and persuaded Benjamin Gratz Brown to present to Congress on January 24, declared women’s right to political citizenship and echoed Stanton’s earlier assertion that women were entitled to suffrage by virtue of their membership in the political nation. The petition stated that the “undersigned, Women of the United States . . . In making our demand for Suffrage . . . would call your attention to the fact that we represent fifteen million people – one half the entire population of the country – intelligent, virtuous, native-born American citizens; and yet stand outside the pale of political recognition.” If, as congressional Republicans were arguing in 1866, voting was a fundamental right of citizenship in a democratic nation, then women as citizens must also receive the right to vote.

Adopting the Republican argument that it was an egregious injustice to deny political citizenship rights to African American men, the petition suggested that if the government denied this right to women it would also perpetrate a patent injustice. The petition fleshed out and further emphasized this argument as it referenced congressional efforts to guarantee the civil rights of African Americans and to
reapportion representation. The petition stated that “The Constitution classes us
[women] as ‘free people,’ and counts us whole persons in the basis of representation;
and yet are we governed without our consent, compelled to pay taxes without appeal,
and punished for violations of law without choice of judge or juror.” The injustice of
this denial, the petition implied, was clear. In case the congressional recipients of the
petition missed the connection between equal suffrage rights and justice, the petition’s
last line made such a relationship specific, closing with the statement: “for justice and
equality your petitioners will ever pray.”

Just as congressional Republicans in 1865 and 1866 justified creating a race-
neutral body politic by arguing that denying African American men the ballot was a
gross violation of republican ideological principles, the 1866 woman suffrage petition
applied this argument to women. Congress, woman suffragists argued, needed to
enfranchise women to fulfill its constitutional obligation to guarantee a republican
form of government to all people. The petition suggested that:

as you [members of Congress] are now amending the Constitution, and in
harmony with advancing civilization, placing new safeguards round [sic] the
individual rights of four millions of emancipated slaves, we ask that you
extend the right of Suffrage to Woman – the only remaining class of
disfranchised citizens – and thus fulfill your Constitutional obligation ‘to
 Guarantee to every State in the Union a Republican form of Government.’

Furthermore the petition argued that a refusal to meet this obligation would result in
danger to the nation because “all partial application of Republican principles must
ever breed a … discontented people.”

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379 U.S. Congress, House of Representatives, Committee on the Judiciary, “Petitions and Memorials –
Woman Suffrage,” File HR 39A-H14.9, Record Group 233, National Archives, Washington, D.C. The
other rights-related petitions submitted to Congress during this session that used the “will pray”
language did not consistently include either of the words “justice” or “equality” in their concluding
sentence.
380 U.S. Congress, House of Representatives, Committee on the Judiciary, “Petitions and Memorials –
Paralleling the argument put forth by radical Republican members of Congress that claimed the very safety of the nation was at stake in the denial of the just rights of citizenship to African American men, the 1866 petition suggested that woman suffrage was just as vital to the ideological and physical safety to the nation: “we would pray your Honorable Body, in order to simplify the machinery of government and ensure domestic tranquility, that you legislate hereafter for persons, citizens, tax-payers, and not for class or caste.” The petition adopted the constitutional language evoked by Republicans to justify an expansion of suffrage rights to suggest that “domestic tranquility” would be threatened if women were not enfranchised. This cautioning had a dual meaning – if women did not receive justice from the government, the petition hinted, “tranquility” within the home, as well as outside of it, would be disrupted – engaging all possible interpretations of the term “domestic.” The petition argued that not only would “domestic tranquility” be disrupted, but also individuals would be endangered if women were denied the franchise. Reflecting Republican arguments about national and personal safety, the petition claimed that women, like the southern freedmen, needed the ballot for self-protection: “the experience of all ages, the Declarations of the Fathers, the Statute Laws of our own day, and the fearful revolution through which we have just passed, all prove the uncertain tenure of life, liberty, and property so long as the ballot – the only weapon of self-protection – is not in the hand of every citizen.” 381

By arguing that justice, equal citizenship, and national and individual safety demanded the enfranchisement of women, Stanton and Anthony’s petition systematically adopted almost every specific Republican Party argument designed to support black male suffrage. Adopting Republican Party language and arguments in

their publications and petitions, Stanton and Anthony situated women’s enfranchisement within the current suffrage debate, making it seem logical to those in positions of party and governmental power. What Stanton and Anthony could not do, however, was to adopt Republican arguments about the connection between manhood and voting rights. They could not argue that the gender identities of American women entitled them to access the franchise, as Republicans were arguing about African American men. The way that nineteenth-century Americans defined women’s gender identity as incompatible with political action restricted Stanton and Anthony’s ability to wield gender-based arguments for enfranchising women in this early petition campaign. Their petition simply could not argue that women’s manhood entitled them to the ballot.

What Stanton and Anthony’s petition could do was “awaken the public” to women’s demand for suffrage rights and alert those amending the Constitution that the once natural and given relationship between manhood and voting was being challenged. Anthony’s hope, expressed in her January 1866 letter to Wendell Phillips that the petitions would “awaken” the public presumed that awareness would result in acceptance. Both Anthony and Stanton seemed confident that if congressmen, Republicans, and their abolitionist allies could simply see the logical links between the analogous, anomalous positions of women and African American men, then by reasonable principle they would move to enfranchise both. By appropriating Republican suffrage arguments, the suffragists revealed their belief that if only their claims could be expressed in the right way, in terms that would express clearly enough the logic and justice of enfranchising women, that the majority party would support woman suffrage. Instead, by awakening the congressional public to the fact that women were making a claim to the right of suffrage, the woman suffrage petition of 1866 indicated to Congress that a new degree of ideological caution and linguistic
specificity would be required when addressing any change in the franchise. While the congressmen’s letters in the summer of 1865 discussed enfranchising the “people” or “negroes,” women’s petitions in the early winter of 1866 revealed the potential danger of such general language. “Universal suffrage” was a sufficiently vague enough term to allow women to argue that it included themselves. Woman suffrage petitions revealed that the more specific terms adopted by the New York Tribune, “manhood suffrage irrespective of color,” would be a safer term for Republicans to use as it would not confuse the suffrage question, and simultaneously prevent women from voting.

The evidence shows that Stanton was aware of the possible negative consequences of her campaign. In early January of 1866, as she gathered petitions to send to Congress, Wendell Phillips quite plainly told Stanton that the petition campaign could have unintended consequences that she had not foreseen. In response to Stanton’s request that he join in a spring lecture tour for woman suffrage, Phillips questioned the wisdom of petitioning Congress for woman suffrage in 1866, and implied that the petition campaign could actually hurt the cause. “Indeed,” he wrote to Stanton, “do you need more than a few good sized petitions just to awaken Congress and block wheels that are only too willing to be blocked?”382 While Phillips was most likely concerned that associating the cause of woman’s rights with black men’s enfranchisement at this stage of the congressional debates could jeopardize both causes, his question nevertheless suggests that Stanton’s presumed connection between “awareness” and “acceptance” was problematic, at best. Despite the intentions and the hopes of the woman suffrage petitions’ authors and signers, awakening Congress, as Phillips suggested, did in fact block congressional wheels and

382 Wendell Phillips to Elizabeth Cady Stanton, between January 9 and 12, 1866, in Holland and Gordon, "Papers of Elizabeth Cady Stanton and Susan B. Anthony," series 3, reel 11.
led to the explicit exclusion of women from the elective franchise by the spring of 1866.

**Blocking Congressional Wheels**

For the suffragists the most critical unanticipated consequence of their petition drive was the fixing of gendered language into the Constitution. In 1881, the second volume of Stanton and Anthony's History of Woman Suffrage, reported that Charles Sumner, reflecting on the drafting process of the Fourteenth Amendment in early 1866, said that he "wrote over nineteen pages of foolscap to get rid of the word 'male' [in the second section of the Fourteenth Amendment] and yet keep 'negro suffrage' as a party measure intact; but it could not be done." 383 In fact, it could be and was done for the first three months of the amendment's lifetime in Congress. The word "male" was not a permanent or an original feature of the Fourteenth Amendment's early drafts. It did not appear as a sustained, recurrent component of the amendment's language until Congress had received, introduced, and passed on to committee, the petitions for woman suffrage. Of the seventeen different proposals for amending the Constitution considered by the drafting committee, only two, the second and the last, used the word "male" to refer to voters. Thus Sumner's recollection, that the Amendment could not be written to equate representation with enfranchisement

383 Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage, eds., *History of Woman Suffrage*, vol. 2, 1861-1876 (New York: Fowler & Wells, Publishers, 1882), 91. As far as I can tell, there is no record of this statement outside of the *History of Woman Suffrage*. In 1866 there is no letter from Sumner to Stanton or Anthony that has survived to be reproduced in their papers that discusses this, although there are a few letters between the Senator and the suffragists discussing the petition drive. The Sumner papers at the Library of Congress that I examined likewise yielded no document. It is a well-known and much lamented fact among women's historians that in the early 20th century, after the completion of her biography with Ida Husted Harper, Anthony held a 3-day bonfire to destroy papers and documents. It is possible that any communication between Sumner and Anthony on this topic was destroyed at that point. It is also possible that this idea was conveyed in a personal conversation rather than written text. Without further documentation we are forced to rely on Stanton and Anthony's recollection on this point.
without using gendered language, could more accurately be rephrased to say that the Fourteenth Amendment’s representation clause could not be written to equate representation and enfranchisement in gender-neutral language without potentially enfranchising American women in 1866, an eventuality that most Republicans, even the radicals like Sumner, wished to avoid.

Sumner’s assertion that the Fourteenth Amendment could not be written without the word “male” and yet still be “a party measure,” was undoubtedly true, as the statement reflected both the Republicans’ reluctance to advocate woman suffrage in the winter of 1865 and the Party’s use of gender to redefine suffrage rights in congressional discussions about black male suffrage in early 1866. As a Party the Republicans were definitively more concerned with the protection and enfranchisement of African Americans than with enfranchising women. Woman suffrage advocates hoped their petitions could overcome the Party’s reluctance and be so persuasive as to eliminate gender considerations in enfranchisement discussions. However, as Wendell Phillips had predicted, women’s petitions prompted Republicans to define suffrage with rhetorical specificity while amending the Constitution, essentially, “blocking the wheels” that Phillips had predicted were there for the blocking. The only suffrage expansion considered as a “party measure” by the Republicans in the earliest days of reconstruction was a “universal” manhood suffrage.

In early 1866, however, only the most radical Republicans were considering an outright congressional expansion of the franchise that could potentially disrupt the federalist balance of power between the states and the federal government. The majority of Republicans were instead seeking a way of ensuring that the newly emancipated would be protected in their civil rights and that the returning southern states would not benefit politically from the addition of those emancipated to their population totals. Most of these discussions, therefore, were centered on the question
of congressional representation. Constitutionally, Congress had complete control over how representation was apportioned. Politically, linking suffrage rights to representation represented much less of a risk for congressmen than any outright legislation on the franchise that could alienate northern voters. Linking suffrage and representation also enabled Congress to reconsider the nature of citizenship, to define civil and political rights, and to determine the limits of membership in the political community, all issues that would be addressed in the text of the Fourteenth Amendment.

The Joint Committee of Fifteen on Reconstruction was the group of congressmen charged with redefining congressional representation, and so were the people most directly responsible for deciding what citizenship meant, who should have political rights, what were civil rights, precisely, and how the political community should be bounded. They were also the group of men responsible for sorting through the various proposals brought to the floors of the House and Senate for apportioning representation, including proposals like those submitted by Shenck, Broomall, and Jenckes that had so agitated Stanton and Anthony. Between the first meeting of the committee on January sixth and the last meeting before the final version of the Fourteenth Amendment (H. Res. 127) was submitted on April 30th, there were seventeen versions of the apportionment clause considered by the committee. These can be broken down into two main categories: proposals that based representation on voters and proposals that based representation on population, but assigned penalties to states that withheld the franchise from African Americans.

Early in the life of the committee, the group favored proposals that based representation on voting populations. The first proposal that co-chair Thaddeus Stevens suggested at the Committee’s second meeting prompted the group’s first attempt to define legitimate voters, leading to the committee’s first use of the word
“male” in the proposed Amendment’s text. On Tuesday, January 9, Thaddeus Stevens offered the committee a joint resolution that based representation on “legal voters.” Most interestingly, the second component of the proposal explicitly defined what qualified one as a “legal voter.” Stevens’s resolution stated that,

Representatives shall be apportioned among the several States, which may be included within this Union, according to the number of their respective legal voters; And for this purpose none shall be considered as legal voters who are not either natural born or naturalized citizens of the United States, of the age of twenty-one years.384

To identify voters in this proposal Stevens relied on the most common antebellum definitions of voting rights as based on citizenship and age, but deliberately left off any racial qualification for voting citizenship. The negative language he used here also left some room for interpretation. However, unlike most state provisions for voting rights, and unlike common practice in the nineteenth century, Stevens’s proposal also neglected to make a gendered distinction among voters.385 Perhaps this omission reflected Stevens’s more liberal attitude toward women’s enfranchisement, or perhaps it was merely an oversight. Regardless, the committee did not wait long to correct the problem. After some discussion among the committee members, New Yorker Roscoe Conkling offered an amendment to “[insert] the word ‘male’ between the word ‘naturalized’ and the word ‘citizens.’” As the clerk of the committee George A. Mark tersely reported in the minutes, “the amendment was adopted.”386

386 Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction, 20, 41. The Chicago Republican’s entire report on the committee stated that, “The Reconstruction Committee held another meeting this morning, but the proceedings were not public.” "News from Washington ... The Reconstruction Committee," The Chicago Republican, January 9 1866, 4, col. 5.
While Mark did not record any discussion among members on any issue in the Journal of the Committee, including this one, the uncontested passage of Conkling’s amendment, as well as the committee’s subsequent actions, indicate that the committee was clearly thinking carefully about how to redefine voters. Most critically it did not simply accept all changes that were proposed. For example, after the committee approved Conkling’s proposal to add “male,” it rejected Justin Morrill’s amendment adding a literacy qualification. That the committee accepted one specific textual change and rejected another indicates that it was carefully considering the language being used in the amendment, as well as the consequences of that language for the voting community. Further, in this same debate the committee postponed discussing George Williams’ suggestion that it eliminate altogether the clause that defined voters, demonstrating that the group felt such a specific boundary was necessary. The members were clearly concerned about the changes that any amendment they drafted would have for the voting polity. Given this careful consideration of the amendment’s language, it is clear that the committee deliberately added the word “male” to the amendment’s text at this point in the discussion, thereby explicitly preventing women from voting under the amendment’s provisions.

The Stevens/Conkling proposal did not stand long for the committee’s consideration. It was soon replaced by an amendment of the second type, one that based representation on population, but omitted any group from enumeration that was denied the franchise because of race or color. These resolutions, unlike the modified Stevens proposal, were mostly gender-neutral, perhaps because they did not need a clause that positively identified voters. Instead, the population/restriction amendments implicitly accepted the existing definitions, but added the caveat that race-based discrimination in determining voters although permitted, would be punished. At the committee’s next meeting on January 12, Justin Morrill proposed a
population/restriction amendment as a substitute for the Stevens/Conkling voter-based amendment. It stated that,

Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers of persons, deducting therefrom all of any race or color, whose members or any of them are denied any of the civil or political rights or privileges.\textsuperscript{387}

Unlike the modified Stevens proposal, this proposal did not reference voters’ gender, and in fact, it deliberately used the neutral “persons” in order to encompass women in its calculation of population. Among the four different amendments to and variations on Morrill’s resolution offered by the committee at the meeting, none suggested adopting gender-specific language to restrict the “political rights” emphasized in the proposal. Faced with such numerous amendment proposals, by the end of the January 12\textsuperscript{th} meeting, it was clear that the committee needed to find a method for evaluating their various options. With too many suggestions on the table to vote upon, the committee appointed a five-member subcommittee consisting of Stevens, Conkling, William Pitt Fessenden, Jacob Howard, and John Bingham to consider all of the possible variations on the representation question. The subcommittee not only examined the committee’s internal proposals, but also evaluated the numerous proposals sent to the committee from the House and the Senate to develop a final constitutional amendment on representation. On January 16, the subcommittee reported back a population/restriction model of representation that did not use gender-specific language. This proposal was approved by the committee, sent out to the

\textsuperscript{387} Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction, 43.
House, and introduced on the floor by Thaddeus Stevens on January 22 as H. Res. 51.388

As discussed above, in the course of debating H. Res. 51 the members of Congress reconsidered the nature of belonging to a political community, as well as the relationship between individuals and the representative process. Because gender was central to these debates, it became increasingly clear to members of Congress that reevaluating the representation question would require addressing the question of whether or not women should be active participants in the American democracy. Thus, how women fit into the representation of the nation was a critical component of discussions on the two different enumeration modes: the voter-based model, or the population/restriction model. The question of women’s relationship to the state also played a critical role in the committee’s preference for the population model. The committee’s discussion of this relationship illustrates the way that Republican members of Congress were conceptualizing women as passive bodies to be counted when a state needed population numbers, but not as fully functioning political actors who were members of the polity. In the process Congress drew a distinction between citizenship as merely a national identity and citizenship as a participatory political identity. While they acknowledged women’s right to have a national identity, they explicitly denied their ability to possess citizenship as a political identity.

Debate among House Republicans about H.Res.51, like debates in the committee that framed it, focused on the differences between the population and the voter-based models for representation, at the heart of which lay a gendered problem. Population based representation models counted all inhabitants of a state toward their representation, including women and children. Voter based models, naturally, only counted voters, which did not include women or children. This meant that states with

a skewed gender ratio in their populations could potentially face an increase or decrease in their representation if the voter-based model was adopted, depending on the states’ demographics. In particular some eastern states with a high female-to-male ratio stood to lose representation, while western states with high male populations could gain. James G. Blaine, a Maine Republican and future Speaker of the House (41st-43rd Congresses) was the first to bring this issue to the floor. In a general discussion on the basis of representation on January 8, Blaine articulated the fears of the smaller eastern states that they would lose representation if Congress based it on voters. Blaine argued that because “the ratio of voters to population differs very widely in different sections, varying in the States referred to from a minimum of nineteen percent to a maximum of fifty-eight per cent … the changes which this fact would work in the relative representation of certain states would be monstrous.”389 As an example Blaine pointed to the fact that California and Vermont had roughly the same number of inhabitants, and so had the same number of representatives under the current system. But, he asserted, “California has 207,000 voters and Vermont has 87,000. Assuming voters as the basis of apportionment, and granting to Vermont three Representatives, California would be entitled to eight.”390 Eastern states like Vermont and Maine that had lost male inhabitants to the West, would therefore see their influence in Congress reduced dramatically.

Blaine’s central concern was clearly the loss of regional power in Congress, and the loss of power for Maine in particular, however in the process of expressing this fear he also articulated his understanding of women’s connection to the state. Blaine argued that a voter-based representation model violated women and children’s

right to be represented in the government. He said, "As an abstract proposition no one will deny that population is the true basis of representation; for women, children, and other non-voting classes may have as vital an interest in the legislation of the country as those who actually deposit the ballot." Although he acknowledged that women were not permitted to participate in the political system as actors, Blaine clearly believed that they had a stake in political decisions. He felt that they were a part of the represented political community, albeit as passive and non-participatory members.

Other House members shared Blaine’s worry about a regional gender disparity among the states under a voter-based representative system. To address this issue on January 22, Reconstruction Committee member Roscoe Conkling offered an analysis of population in all states in the union, demonstrating that there would be little or no difference in the number of representatives apportioned to eastern states regardless of the way that representation was calculated. He dismissed Blaine’s concern that “New England would lose very largely should men be made the basis of representation in place of including women and children,” and claimed that it “has no foundation.” Conkling argued that given the census numbers from 1860, California was the only state with such a wide disparity between the number of men and women in the population that a voter-based enumeration system would impact its representation. By bringing these figures to the floor Conkling effectively dismissed his colleague’s main regional political objections to the voter-based model, leaving only the more theoretical question of representation for the non-voting population. Conkling himself objected to a voter-based representation, he contended, because it did not give women and children a representative relationship with the state. He argued that “a voting

392 Note Conkling’s use of “men” here to mean male persons, rather than the generic human family. U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 22, 1866, 357.
basis ... restricting the enumeration to male citizens of the United States twenty one
years old and upward ... would shut out four fifths of the citizens of the country –
women and children, who are citizens, who are taxed, and who are, and always have
been represented." Thus Conkling, like Blaine, rejected a voter-based representation
because he felt it would exclude women from being counted as members of the
political community, even if they remained voiceless members.

Conkling’s support for women’s representation did not in any way indicate that
he favored their enfranchisement. Rather, to the man who first introduced “male”
language to the Reconstruction committee, the main downfall of the voter-based
model was its embedded incentive to states to expand their franchise to the
unqualified. More critical than its failure to represent women and children, a voter-
based representation plan, Conkling claimed, would encourage states to expand their
franchise recklessly in order to gain congressional power.

If voters alone should be made the foundation of representation, the actual ratio
would vary infinitely among different States. One State might let women and
minors vote. Another might – some of them do – give the ballot to those
otherwise qualified who have been residents for only ten days. Another might
extend suffrage to aliens. This would lead to a strife of unbridled suffrage.\textsuperscript{394}

While women had the right to be enumerated as members of the political community
for representative purposes, Conkling believed that including them within the political
community of decision makers would lead to a breakdown in social relations. Where
would such a suffrage expansion stop, he wondered? If the Constitution structurally
encouraged states to expand their franchise, what was to stop them from giving the

\textsuperscript{393} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 22, 1866, 358.
\textsuperscript{394} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 22, 1866, 357.
right to vote to women, children, immigrants, “Indians,” or even Chinese aliens in California.\textsuperscript{395} For Conkling, and ultimately for his colleagues on the Reconstruction Committee, representation based on population seemed to be the best way to prevent a reckless expansion of the franchise—a “strife of unbridled suffrage.”

Not all Republicans agreed with Conkling and the Reconstruction Committee, however. On January 23, Wisconsin Republican Ithamar Conkey Sloan disputed Conkling’s claim that a voter model would result in uncontrolled social chaos, and instead argued that H. Res. 51 was a backhanded and indirect way of attempting to base representation on suffrage, without actually doing so. The danger if a true voter model was adopted, Sloan asserted, was that Congress could place restrictions on the characteristics of voters that were not possible in a population model. Replying to Conkling’s fear of an unchecked expansion of suffrage, Sloan declared that:

\begin{quote}
The amendment which I propose will get rid [of Conkling’s] objection ... that the word “male” is not used, and that some of the States may give the right of suffrage to women. The word “male” inserted will obviate that objection. ... The amendment I propose is that “qualified male electors, citizens of the United States of the age of twenty-one years and upward, shall be the basis of representation.”\textsuperscript{396}
\end{quote}

By adding the word “male” to a voter-based model, Sloan argued, Congress could prevent states from recklessly enfranchising women. While Conkling had seen the value of the word “male” in committee discussions on voter-based representation, it was Sloan who brought the potential uses of gendered language to the floor of Congress.

\textsuperscript{395} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 22, 1866, 357.

\textsuperscript{396} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., January 23, 1866, 378.
The following day two different Ohio Republicans defended voter-based representation by rejecting women's right both to enfranchisement and to representation. Arguing instead that there was an explicit relationship between representation and voting rights William Lawrence and Samuel Shellabarger, both moderate Republicans, stressed the use of the word “male” in voter-based models as the best means of both protecting and restricting the franchise. Unlike Sloan and Conkling, Lawrence asserted that representation based on population was reckless. He declared that H. Res. 51 was problematic because “it gives representation to women, children, and unnaturalized foreigners, all declared by the laws of the States unsafe or unnecessary depositories of political power.” Conflating representation and political participation, Lawrence revealed his belief that only the enfranchised should be represented in Congress, offering a very different perspective than his colleagues had earlier, and a very different approach to representation than had been constitutional until that point. If it was “unsafe” or “unnecessary” to enfranchise women, Lawrence argued, then it was “unsafe” or “unnecessary” to include them in the basis of representation. Interestingly, as Lawrence advocated the exclusion of women and other disfranchised Americans from representation, he adopted the Republican rhetoric for defending black male suffrage. He asserted that women did not need to be counted when apportioning representatives because

it has never been deemed necessary for the protection of females that they should be regarded as an element of political power, and hence, they should not be an element of representation. If the necessity shall come, or, if our sense of justice should so change as to enfranchise adult females, it will be time enough then to make them a basis of representation.\(^\text{398}\)

\(^{397}\) U.S. Congress, House of Representatives, *Congressional Globe*, 39\(^{th}\) Cong., 1\(^{st}\) sess., January 24, 1866, 404.

All of the arguments that Republicans made for black suffrage, Lawrence claimed, did not apply to women – because they did not need the protection of the ballot, nor was it unjust to deny them the right of suffrage. Instead, he argued, it would be unsafe to grant them this right. Samuel Shellabarger agreed, and like Lawrence, associated representation with voting. Shellabarger adopted Republican rhetorical formulas to defend his position. Representation, and thus the limits of the political community, he contended, were to be determined by participation – either as a voter, or as a soldier. Shellabarger argued that a voter-based system of enumeration that incorporated the word “male” into its provisions would prevent an unjust representation based on those “men electors … whom the United States does not deem fit to be citizens of the United States.” Shellabarger claimed that this representative model would “[prevent] a race as between the States for cheapening the elective franchise by giving it to persons to whom experience has shown it not to be best to give it. This it does by confining representation to adult males.”

For Shellabarger, then, the term “citizen” meant only the active participants in the political system – adult males.

The Republicans who so closely aligned participatory citizenship and representation in this way argued that women did not need to be included in the enumeration of representation because it was both unsafe and unnecessary to include them. Further, for some congressmen letting states count women and children who did not vote seemed to violate the very principle the proposed Amendment sought to advocate: that states could not gain power from those within them who lacked a political voice. On the 25th of January, Reconstruction Committee member John Bingham suggested that H. Res. 51 violated this principle. He said, “I am by no

means sure that the East is entitled to count its women and children in its basis of representation unless it gives them a voice in the Government, any more than the people of South Carolina ought to count their negroes without giving them a voice in the Government.” But lest anyone mistake Bingham as an advocate for woman suffrage, he quickly followed his statement with a disclaimer: “But I am not here now to advocate that provision.”

As Congress debated the connection between representation and political action in a participatory democracy, the choice between enfranchising women or enabling numbers of passive non-participants to swell representative totals in the South seemed less than compelling for most Republicans. Using the word “male” in a voter-based model seemed to be one solution – it both prevented the enfranchisement of women and defined the political community of citizens entitled to congressional representation as the active participants in the democratic process. The gender-neutral population model offered by H. Res. 51 seemed to many to be inconsistent because it enabled some northern states to count their female inhabitants who were not full members of the political community, but prohibited southern states from counting their African American inhabitants who were also not full members of the political community. However, because H. Res. 51 sought to follow as closely as possible the existing formula for apportioning representation based on population, it found ample Republican supporters who seemed quite able to either overlook any inconsistency of principle the resolution implied, so long as they did not have to enfranchise women.

Some Democrats, on the other hand, were not willing to let this inconsistency pass, as Bingham seemed willing to do, and delighted in pointing out the Republicans' ideological irregularity on this issue. As perhaps the first hint that the woman suffrage

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petition was "blocking wheels" rather than "awakening the public," some of these Democrats used Stanton and Anthony's petition as ammunition in their attacks on the Republicans. For example, in the midst of representation debate, New York Democrat James Brooks based part of his critique of H. Res. 51 on its position on women. He contended that the resolution inconsistently excluded women from participatory citizenship, and he drew from Stanton and Anthony's petition to bolster his argument.\textsuperscript{401} On January 23, after first critiquing H. Res. 51 for its standpoint on race and voting, Brooks attacked the resolution for ignoring women's voting rights. Brooks declared that he broached the subject "in order to make [the] resolution consistent … I raise my voice here in behalf of fifteen million of our countrywomen, the fairest, brightest portion of creation, and I ask why they are not permitted to be represented under this resolution?"\textsuperscript{402} Claiming to support women's enfranchisement, Brooks asserted that because women themselves sought to be included as participants within the political community, as demonstrated by Stanton and Anthony's petition, the ambiguity inherent in H. Res. 51 about women's status was even more problematic. Brooks asked the Clerk to read to the House a letter Susan B. Anthony sent to him, as well as the text of the suffrage petition she had enclosed. Anthony's letter told Brooks that as a member of the minority party, he had the duty to "drive the Republicans to do good works … to hold the party to a logical consistency that shall give every responsible citizen in every State equal right to the ballot."\textsuperscript{403} Brooks seemed willing to follow this advice and to advocate the "logical consistency" Anthony sought. Although Anthony had designed her petition to appeal to

\textsuperscript{401} Because Brooks made his argument on January 23, 1866, he brought Stanton and Anthony's petition to the attention of Congress a full day before Benjamin Gratz Brown officially presented it to the Senate.

\textsuperscript{402} U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 23, 1866, 379-80

\textsuperscript{403} Susan B. Anthony to James Brooks, January 20, 1866, printed in U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 23, 1866, 380.
Republicans by adopting their language, she was certainly not above playing politics by sending copies of the petition to Democrats like Brooks in the hope that they would push the Republicans in the “right” direction.

The exchange with Roscoe Conkling that followed Brook’s initial statement revealed just how explicitly Republicans were connecting suffrage, representation and gender, and indicated how those connections limited Republicans’ receptivity to Anthony and Stanton’s petition. To Brooks’ question, why were women not represented under H. Res. 51, Conkling replied: “They are.”

Brooks: Persons are.
Conkling: I thought they were persons.
Brooks: And so they are, but they are excluded from all voting ... this is a new era; this is an age of progress ... why not, in a resolution like this, include the fair sex too, and give them the right of representation?  

Brooks conflated women’s status as legal persons and as voters, demonstrating that there were some congressmen who were making an explicit link between suffrage and representation, and so finding the language of the population-based representative model ambiguous, at best. In H. Res. 51, women were deemed persons, but yet not political persons. They were understood to be included in the basis of representation, but were not deemed active participants in the political community, a status that that some congressmen were arguing representation necessarily reflected and that Stanton and Anthony were actively seeking. Perhaps recognizing the legitimacy of Stanton and Anthony’s claim, as well as to remedy the political inconsistency involved, Brooks declared his intention to introduce an amendment to H. Res. 51 that would add gender to the race and/or color restrictions that a state could not impose on its

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franchise and receive full representation. Brooks never did offer this amendment to H. Res. 51, which perhaps indicated that he was more interested in using woman suffrage as a rhetorical foil than in actually enfranchising women. However, simply by referencing Stanton and Anthony’s petition, his point was made. Regardless of their current political standing, women desired the right to vote. They were asking to be included within the political community at the precise moment that Congress was considering whether to explicitly exclude them as active members, as in the voter-representation model, or implicitly exclude them and merely maintain their status as passive members of that community, as in the population-based models like H. Res. 51. Although ultimately Brooks took no action on this issue, his references to woman suffrage had a fairly significant impact. Brooks got the text of Stanton and Anthony’s petition read into the official congressional record and guaranteed that every Representative in the room understood that woman suffrage was a question on the legislative table. Brooks thus ensured that gender was a component of the representation debate that would have to be addressed.

Fortunately, the fate of Stanton and Anthony’s petition did not end with Brooks’ discussion. Because Brooks only read the woman suffrage petition in debate, it was unofficial and not registered as a petition submitted for consideration. Despite his protestations of support for enfranchising women, Brooks did not later present the suffrage petition to the House in a formal fashion, a further indication of his ambiguity about the cause. Instead, he opted for a more public presentation, most likely designed not to advance the cause of woman suffrage, but to embarrass Republicans for the inconsistencies in their proposals for modifying representation. Fortunately for Stanton and Anthony, other members of the House were not as duplicitous as Brooks

and submitted their woman suffrage petitions officially throughout the weeks that Congress debated H. Res. 51. Unlike Brooks’ copy of the petition, congressmen submitted these other petitions to the clerk, where they were then entered into the Journal and passed on to the appropriate committee. But because these were behind-the-scene actions, these petitions were not part of the public record.

In the eight days between January 22 and January 31 that the House debated H. Res. 51, three different congressmen presented woman suffrage petitions to the House, and two different senators presented petitions to the Senate. In the weeks between these January discussions and March 14, when the Senate rejected H. Res. 51 and returned the problem of representation to the Joint Committee on Reconstruction, fourteen more congressmen officially presented woman suffrage petitions. Thus, by the time the Joint Committee introduced H. Res. 127, the replacement version of H. Res. 51 that would become the Fourteenth Amendment, a total of twenty-seven congressmen had submitted petitions for woman suffrage. Table 1 below shows the petitions, who presented them, what the Congressman’s party affiliation was, where the petition originated, and the committee to which it was referred.
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<th>Date of Petition</th>
<th>Member of Congress</th>
<th>Party and (State)</th>
<th>Action Taken</th>
<th>Committee</th>
<th>Petitioners</th>
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<tr>
<td>1</td>
<td>S</td>
<td>1/24/66</td>
<td>Brown</td>
<td>D (MO)</td>
<td>referred</td>
<td>JC15</td>
<td>Women of the United States</td>
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<tr>
<td>2</td>
<td>H</td>
<td>1/25/66</td>
<td>Clarke, S.</td>
<td>R (KS)</td>
<td>referred</td>
<td>Judiciary</td>
<td>Linzie A. Sanderson and other women of the State of New York</td>
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<td>3</td>
<td>H</td>
<td>1/29/66</td>
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<td>R (PA)</td>
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<td>S</td>
<td>1/31/66</td>
<td>Lane</td>
<td>R (KS)</td>
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<td>JC15</td>
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<td>1/31/66</td>
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<td>H</td>
<td>2/1/66</td>
<td>Ferry</td>
<td>R (MI)</td>
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<td>2/10/66</td>
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<td>H</td>
<td>2/26/66</td>
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<td>19</td>
<td>H</td>
<td>3/5/66</td>
<td>Defrees</td>
<td>R (IN)</td>
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<td>Judiciary</td>
<td>Women of Staben country, Indiana</td>
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<td>22</td>
<td>?H</td>
<td>3/16/66</td>
<td>Marvin</td>
<td>U (NY)</td>
<td>referred</td>
<td>JC15</td>
<td>Ladies of Johnstown, New York</td>
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</table>

** = this petition requested no discrimination in voting based on race, color, or sex.
italicized = petitions that were presented as universal suffrage petitions.
† = Ambiguous petition without confirmation as a woman suffrage petition.

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The timing, legislative trajectory, and congressional handling of these woman suffrage petitions as Congress considered H. Res. 51 ensured that the majority of House and Senate members were aware that some women sought entry into the political community as active participants at the same moment that they were reevaluating the nature and characteristics of those participants. Even if congressmen could overlook the fact that most of the petitions for woman suffrage were presented on days that they were debating H. Res. 51, they could hardly ignore public readings and discussion of the petition in the House and Senate. While Brooks’ incorporation of the petition text into his speech opposing H. Res. 51 ensured that the members of the House could not plead ignorance to woman’s demands, the handling of petitions in the Senate ensured that the members of the Joint Committee on Reconstruction, as well as whole Senate, were aware that some women were asking to be enfranchised. Unlike the House petitions, which were referred to the Committee on the Judiciary, all woman suffrage petitions presented by Senators were referred to the Reconstruction Committee, guaranteeing that that the group drafting the Fourteenth Amendment knew women were demanding the right to vote.

The Senate’s referral of woman suffrage petitions to the Joint Committee on Reconstruction indicates that members of the Senate, at least, were making the connection between woman suffrage, black male suffrage, and representation. In the early days of Reconstruction the Senate referred all petitions relating to the apportionment of representation and reconstruction to the Joint Committee on Reconstruction. Of the 26 Senate petitions dealing with questions of representation that were sent to the Senate before April 30, 1866, 25 were referred to the Reconstruction committee. The Senate also sent most petitions regarding the

407 Of the twenty-seven petitions presented, fourteen (roughly 51%) were presented on days that either chamber was debating H. Res. 51. U.S. Congress, House of Representatives, Journal of the House of Representatives, 39th Cong., 1st Sess., December 1865-May 1866.
enfranchisement of African American men to the same committee. Between January and April of 1866 there were 16 petitions introduced in the Senate that dealt solely with black male enfranchisement and 19 petitions that dealt with black male enfranchisement in connection to other reconstruction issues. Of those 35 petitions, 29 were referred to the Joint Committee on Reconstruction. Of those that were not sent to the Joint Committee, three petitions dealing with the Constitution of Colorado were tabled, one was referred to the Committee on the Territories, the final petition was specific to suffrage in the District of Columbia and was referred to that committee.\textsuperscript{408} Thus the Senate established a pattern of sending all suffrage- and representation-related questions to the Reconstruction committee. It continued this pattern in its treatment of Stanton and Anthony’s woman suffrage petition. Of the five woman suffrage petitions introduced in the Senate between January 1, 1866 and April 30, 1866, four were referred to the Joint Committee.\textsuperscript{409} These numbers indicate that when woman suffrage petitions were introduced in the Senate, its members believed that the Joint Committee of Fifteen was the logical body to handle them. This guaranteed that the Joint Committee was aware of suffrage as a question with unclear gendered boundaries, perhaps prompting their decisions about representation to take this into account.\textsuperscript{410}

The trajectory of Stanton and Anthony’s petition in the Senate also enabled some senators to express openly their opinions about woman suffrage. Because the rules of the Senate, unlike the House, permitted petition presenters time to comment

\textsuperscript{408} The first petition presented was referred to the Judiciary Committee as the Senate had not yet passed the resolution establishing the Joint Committee. U.S. Congress, Senate, Journal of the Senate of the United States of America, 39th Cong., 1st sess.

\textsuperscript{409} U.S. Congress, Senate, Journal of the Senate of the United States of America, 39th Cong., 1st sess. The fifth petition, presented by Missouri Republican John Henderson, was tabled at his request. U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 21, 1866, 952.

\textsuperscript{410} House petitions followed a different trajectory. Most of the black male enfranchisement petitions sent to the House were referred to the Joint Committee. Fifteen of the nineteen woman suffrage petitions introduced in the House, however, to the Judiciary Committee.
on the petitions and time for its members to ask questions of the presenter, the woman suffrage petitions sparked some discussion about women’s rights, suffrage, and representation. In these discussions, the senators revealed both their biases about enfranchising women and their faith in the link between gender and voting rights. Primarily, the senators who presented woman suffrage petitions expressed a serious reluctance to support the woman suffrage cause. For example, Charles Sumner brought two woman suffrage petitions to the Senate on February 14, 1866, but he claimed that he did so under protest. When offering the first petition, Sumner stated, “I present this petition at this time, as it has been sent to me for this purpose; but I take the liberty of saying that I do not think this is a proper time for the consideration of that question.” At this point it was clearly important to Sumner to let the Senate know that his presentation of the petition did not indicate that he supported its request. Other Senators likewise rejected woman suffrage even as they presented petitions advocating its advancement. On February 21, 1866, Missouri Republican John Henderson presented a woman suffrage petition to the Senate and his initial comments may have led listeners to believe he advocated the woman’s cause. He said, “I present this petition without any apology. Indeed, I present it with pleasure. It is respectful in its terms, and is signed by ladies occupying so high a place in the moral, social, and intellectual world, that it challenges at our hands at least a respectful consideration.” However, Henderson undermined both the force of the petition and his declared pleasure in presenting it by stating that,

the petitioners claim, that as we are proposing to enfranchise four million emancipated slaves, equal and impartial justice alike demands the suffrage for fifteen million women. At first view the proposition can scarcely be met with

411 Each body of Congress established its own set of rules, regulated by a committee on the rules. Given the large number of representatives compared to the relatively few senators, it seems reasonable that the House did not permit discussion over routine matters such as petitions.

denial, yet reasons ‘thick as blackberries’ and strong as truth itself may be urged in favor of the ballot in the one case, which cannot be urged in the other.\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 21, 1866, 951.}

Although Henderson did not elaborate too extensively on his justification for denying women the ballot, he did assert that his primary reason for opposing woman suffrage was that “it is wholly unnecessary as a means for their protection.”\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 21, 1866, 951-2.}

Just as William Lawrence had looked to Republican arguments for black male suffrage in order to consider woman’s claim to the ballot in the House in January, Henderson likewise turned to Republican suffrage ideology, and accordingly, found women’s claim wanting. He asserted that because women dominated the moral and social spheres, they could not be conceived of as powerless, and so did not need to participate in government in order to protect themselves from abuses of power. Furthermore, he argued, unlike black men, women did not fight in the name of the state. Drawing on Republican arguments about the connection between black men’s military service, manhood, and the ballot, Henderson asserted that women could not earn the ballot through manly service to the state as soldiers.

Perhaps perplexed by Henderson’s mixed message about the merits of woman suffrage, a fellow Senator asked Henderson directly if he supported the petition’s cause. Henderson, less direct than Sumner, and perhaps reluctant to express his true opinion, took refuge in procedure. He replied that he did not believe it to be a point of order to debate merits of a petition. Finding this answer unsatisfactory, Illinois Republican Richard Yates pressed Henderson further, at which point Sumner stepped in and declared, as he had the week before, that regardless of the merit (or lack thereof) in woman’s request for the ballot, the timing of woman’s request was inappropriate. Concluding the exchange, the President Pro Tempore asked Senator
Henderson what he would wish to do with the petition, and Henderson requested that it be tabled. Ultimately, it seemed, Henderson did not think the cause of woman’s enfranchisement was as pressing as that of African American men, or else he would have recommended the referral of the petition. Henderson’s ambivalence reflected his party’s failure to support woman suffrage, just as the logic behind his concerns reflected his party’s rhetoric about black male suffrage rights.

Just as Republican members of the Senate presented Stanton and Anthony’s petition half-heartedly, some members of the House likewise demonstrated their Party’s ambivalence about enfranchising women. While some Representatives presented woman suffrage petitions in good faith, identifying them in the House Journal and Globe as petitions advocating women’s enfranchisement, eleven of the nineteen total House petitions from women presented as H. Res. 51 was being debated were submitted merely as “universal suffrage” petitions. In the committee records could the real meaning of the petitions be discerned, as the text was identical to Stanton and Anthony’s petitions. Whether the members of Congress presenting these petitions sought to deliberately obfuscate their nature to appropriate the weight of those signatures for “universal manhood suffrage,” or whether this was a simple oversight, is unclear. Regardless, it is plain that as a rule Republicans did not have any great passion for enfranchising women, despite the pressure from the suffragists’ petitions.

Woman suffrage petitions presented during debates about H. Res. 51 in both the House and the Senate challenged Republican rhetoric about black men’s suffrage rights and forced members of Congress to alter that rhetoric. Prior to the presentation of woman’s petitions, Republicans could safely refer to “black suffrage” and know

416 See Table 1, italicized petitions.
that they meant “black male suffrage.” After the presentation of Stanton and Anthony’s petitions, however, that generalization was no longer so safe. On January 31, when presenting his woman suffrage petition, Senator James Lane of Kansas demonstrated this potential danger. Lane first drew upon the rhetorical and collegial masculinity of the Senate to present the petition. After expressing his pleasure in presenting a petition from “one hundred and twenty-four beautiful, accomplished, and intelligent ladies of the city of Lawrence, Kansas” he asked that “a gallant Senate may hear it read.” A “gallant” group of gentlemen, Lane suggested, could not refuse the request of “beautiful, accomplished, and intelligent ladies.”

417 After reading the petition into the record, Lane then suggested the petition be referred to “the committee that is considering the subject of extending the right of suffrage to the blacks, the male blacks of the United States.” This committee, he declared, “seems to me [to be] the proper one to which to refer the petition of the white women of the United States on that subject.”

418 Clearly, in his recommendation for referral, Lane stumbled. By initially declaring that the committee was that considering “black suffrage,” Lane reflected the general assumptions and linguistic codes embedded in antebellum suffrage language — that is that, without question, the only voters were male. But catching himself as he presented a request to change this general assumption, Lane was forced to rephrase exactly which “blacks” were being considered for suffrage — only the “males.” Lane’s blunder was a revealing moment. It demonstrates that women’s demand for enfranchisement made it necessary for congressmen to specify the gender of those African Americans that they were considering as likely candidates for suffrage.

417 It is questionable whether Lane knew that the petitioners were beautiful, but by claiming this he legitimated their position as respectable, feminine ladies rather than “strong-minded” masculine women, as well as positioning himself as the manly protector of those ladies.

Gendering the Constitution

Woman suffrage petitions challenged congressmen’s assumptions about the connection between manhood and suffrage and rendered the relationship between gender and voting rights more complicated than had yet been imagined. While on January 31, Lane found himself needing the word “male” to clarify his support for enfranchising African American men without indicating similar support for enfranchising any women, three months later his colleagues on the Joint Committee on Reconstruction likewise found themselves needing gendered language in order to clearly specify their meaning when defining suffrage. As Stanton and Anthony’s woman suffrage petitions prompted Lane to gender his suffrage language, they prompted the committee to gender their suffrage language, and hence, the Constitution.

On January 31, 1866 the House passed H. Res. 51 over the objections of radicals, who thought it too vague about suffrage rights, and Democrats, who thought it imposed overly harsh conditions on southern whites. It was then sent to the Senate, where it was tabled until the chamber had completed debating the Civil Rights Act. When it came up for the first time for debate on February 5, the problems the resolution had faced in the House were amplified. Most importantly, the resolution faced fierce opposition from Senate radicals. Following the lead of Charles Sumner’s pivotal speech on February 6, his radical colleagues refused to support the resolution because it failed to extend the franchise explicitly and in positive language to African American men. They objected to the way the resolution instead tacitly permitted states to discriminate against African Americans with the only a loss of congressional representatives – too minimal a cost, the radicals felt. They also were concerned that
the resolution violated the fundamental link between taxation and representation by enabling states to collect tax revenues from disfranchised African Americans who were not included in the basis of representation.\footnote{See for example, Sumner's extensive speech opposing H. Res. 51 on February 5-6, 1866, U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 673-687.}

This concern with taxation and representation brought gender into the Senate discussions of representation. As in the House debate on H. Res. 51, this discussion revealed that the question of woman suffrage was not far from the surface of the Senators' thoughts. In these debates more moderate congressmen repeatedly rejected the radicals' critique of H. Res. 51 as separating taxation and representation by pointing to women's status as disfranchised taxpayers who were represented. This status, they argued, was a natural and accepted state of being that indicated that there already existed a separation between taxation and representation. And so, they argued, H. Res. 51 would not violate this principle.

The best example of this argument occurred in an exchange between Charles Sumner and William Pitt Fessenden, moderate Republican and chair of the Joint Committee on Reconstruction, in early February. On February 7, the day after Sumner presented his lengthy objections to the proposition, setting the tone for the radicals' rejection of the resolution, Fessenden rebutted Sumner's arguments. Primarily, he asserted that the Joint Committee was most concerned when drafting H. Res. 51 with expediency – they merely sought to determine "what can pass?"\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 7, 1866, 704.}

While suffrage rights for all men was the ideal principle, Fessenden argued that it did not seem feasible to the committee. Further he claimed that even Sumner himself was inconsistent in his insistence on this ideal:

The [theory that the] honorable Senator from Massachusetts argued ... that taxation and representation should go together, would just as well apply to
women as to men; but I noticed that the honorable Senator dodged that part of
the proposition very carefully ... When it came to the question whether
females should vote or not, I did not hear that he expressed any opinion upon
that subject whatever; and yet his argument goes to that extent ... If a
necessary connection between taxation and representation applies to the
individuals in a State ... I should like to have him tell me why every female
that is taxed ought not to vote.421

Using women as an example, Fessenden rejected Sumner's notion that the only people
represented were those who could actively participate in the political community. And
again by raising the question of women suffrage in connection to representation,
Fessenden was forced to use gender-specific language when referencing voters later in
his speech.

The principle of the Constitution, with regard to representation, is that it shall
be founded on population; that the people who are voters, males of twenty-one
years of age (as has been the ordinary construction,) are not the whole people
of a State; and when a State has representation, the representatives, whoever
they may be, do not consider themselves as representing males over twenty-
one years of age alone, but as representing all, those under age as well as those
over age, females as well as males.422

Clearly committed to upholding the antebellum definition of voters as male, regardless
of how the Senate ultimately defined the connection between voting and
representation, Fessenden concluded his point by making a joke that dismissed both
Sumner's concern and women's request for voting rights:

I do not know how the honorable Senator from Massachusetts feels, but I could
hardly stand here easily if I did not suppose I was representing the ladies of my
State. [Laughter.] I know, or I fancy I know, that I have received considerable
support from some of them, not exactly in the way of voting, but in influencing
voters. [Laughter.]423

422 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 7, 1866, 705.
423 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., February 7, 1866, 705.
Fessenden was able to use gender in a number of ways in this statement. Primarily, he used it to embarrass a colleague who supported all manner of radical changes short of woman suffrage to point out inconsistencies in that colleague’s argument, and to challenge radicals’ conceptualization of representation and suffrage as an individual, one to one relationship. But Fessenden was also able to use gender for his own purposes, creating a position for himself as the gallant male protector of women and implying that Sumner lacked these qualities. He thus situated the radical senator outside the framework of “proper” nineteenth century gender relations. Fessenden’s reference to the ladies he represented also served to reinforce the nineteenth-century gendered model of women as dependent upon the protection of men, as well as being represented by men like Fessenden. “Ladies” did not desire the right to vote, they were represented by others. This distinction that Fessenden was making was confirmed in the language of Stanton and Anthony’s petition as it clearly specified that “women,” not “ladies,” were the ones requesting the ballot.

As the Senate continued to debate H. Res. 51 sporadically throughout February, it became increasingly clear that the resolution would not pass. During these debates, both Senators and Representatives began to suggest alternatives to H. Res. 51. Like the proposals that produced H. Res. 51, these alternative proposals could be divided into two groups: those based on voters and those based on population. However, these newer proposals prominently featured gendered language when discussing voters. For example, Wisconsin Republican James Doolittle introduced a compromise measure that apportioned representation based on voters and used “male” to define those voters:

After the census be taken in the year 1870 and each succeeding census, Representatives shall be apportioned among the several States which may be
included within this Union according to the number in each State of male electors over twenty-one years of age qualified by the laws thereof to choose members of the most numerous branch of its Legislature.\footnote{424}

While gendered language made particular sense in voter-based models, and had been consistently brought to the floor in debates on the voter-based model, after the Senate defeated H. Res. 51 on March 9 gendered language also began to appear in representation-based models.\footnote{425} For example, on March 12, James Grimes, moderate Republican and member of the Joint Committee on Reconstruction, offered a representation resolution that merged elements of the voter-based and population-based models. Grimes’ resolution was very similar to the language the Committee would use in its final representation proposal:

Representation shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each States, excluding Indians not taxed; but whenever in any State the elective franchise shall be denied to any portion of its male citizens above the age of twenty-one years, except for crimes or disloyalty, the basis of representation of such States shall be reduced in the proportion which the number of male citizens so excluded shall bear to the whole number of male citizens over twenty-one years of age.\footnote{426}

The calculus that Grimes proposed upheld the notion that representation was gender-neutral, but the use of the word “male” in the resolution simultaneously affirmed that voting rights were not. “Persons” were counted toward representation, but “male citizens” could not be denied the right to vote. In this way Grimes’ proposal

\footnote{424} U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 6, 1866, 673. \footnote{425} Bolstered by the growing schism between the president and the radicals in Congress caused by the president’s veto of the Freedman’s Bureau bill and Civil Rights bill, the radicals who earlier in the year may have compromised by agreeing to H. Res. 51 in order to avoid a party schism, instead voted against the resolution. U.S. Congress, Senate, \textit{The Journal of the Senate of the United States}, March 9, 1866, 221; Joseph B. James, \textit{The Framing of the Fourteenth Amendment}, (Urbana, IL: University of Illinois Press, 1956), 55-91; Eric L. McKitterick, \textit{Andrew Johnson and Reconstruction}, (Chicago: The University of Chicago Press, 1960). \footnote{426} James, \textit{The Framing of the Fourteenth Amendment}, 92.
introduced a connection between a gendered-definition of voters and the population-based model of representation. After March 9, The Joint Committee on Reconstruction also began to make this connection.

The first time the committee discussed representation after the defeat of H. Res. 51 was on April 21, when Thaddeus Stevens presented a proposal based on one offered to him by social reformer Robert Dale Owen. It was an omnibus amendment that provided terms for the protection of civil rights, enfranchisement of freedmen, apportionment of representation, repudiation of the Confederate debt, and the means of congressional enforcement of these provisions.\textsuperscript{427} This proposal, along with a similar one that Stevens followed up with on April 23, was notable for its lack of gendered language; it repeatedly referred to voters as “persons,” rather than as men or males. But on April 28 when considering Stevens’s third gender-neutral proposal apportioning representation by population, Oregon Senator and committee member George Williams offered a substitute:

Representatives shall be apportioned among the several states which may be included within this Union according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But, whenever in any State the elective franchise shall be denied to any portion of its male citizens, not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the portion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.\textsuperscript{428}

Following Grimes’s earlier lead, and echoing Conkling’s January 12 proposal for H. Res. 51, Williams’s representation provision blended the gendered specification of the

\textsuperscript{427} James, The Framing of the Fourteenth Amendment, 100-1; Kendrick, The Journal of the Joint Committee on Reconstruction, 83-84.

\textsuperscript{428} Kendrick, The Journal of the Joint Committee on Reconstruction, 102.
voter-based models with the population-based means of determining representation.\(^{429}\) It offered the committee a way to base representation on a state’s population, and yet convey their preferences for a political community of male participants. Williams’s proposal deemed it illegitimate to deny adult male citizens the right to vote, but implicitly permitted states to deny it to adult female citizens, as every state in the union did. Williams’s amendment was adopted by the committee, opposed only by Stevens, Washburn, and Jacob Howard. Williams’s gendered language was then sent to the House and Senate as section 2 of H. Res. 127, which the Committee reported to the House on April 20, 1866.

"To Throw Out the Ladies"

The second section of H. Res. 127 outlined a new policy for apportioning representation that was not all that some of its more radical drafters had hoped. Like the earlier provision in H. Res. 51, this means for apportionment steered a middle course between population-based representation and voter-based representation. It compromised significantly on the question of suffrage and representation. Further, it did not actually enfranchise anyone. As with most compromise measures, this one garnered little passionate support. Those Republicans supporting H. Res. 127 in the 2-day House debate most frequently expressed a disappointed resignation about its moderation. Thaddeus Stevens, the first to speak on the resolution in the House, set the tone when he acknowledged that the committee had hoped for a more radical measure, but settled on the compromise that he privately had called “shilly-shally” and “bungling.”\(^{430}\) “This proposition is not all that the committee desired,” Stevens

\(^{429}\) James, *The Framing of the Fourteenth Amendment*, 112.
declared, "it falls far short of my wishes, but it fulfills my hopes. I believe that it is all that can be obtained in the present state of public opinion." While Stevens's own radical wishes were not met by this provision, he acknowledged that the larger nation did not wholly endorse his own views. Like Stevens, other members of the House seemed resigned to the representation provision. When they discussed it specifically, they recognized the limitations of public opinion on this point and conceded that the proposed measure was the best they could likely achieve. Massachusetts Republican Thomas Eliot's statement is representative of most House members' tones: "The second section, Mr. Speaker, is, in my judgment, as nearly correct as it can be without being fully, in full measure, right."

Lukewarm praise like this was about the most attention given to the provision in the House. Most members spent little time or energy discussing an issue that they had so thoroughly covered in earlier debates. Reconstruction Committee member George Bingham only spared four short sentences for the second section in his speech supporting the resolution. After two days of relatively uneventful debate, the House passed H. Res. 127 by a vote of 128 to 37, with 19 abstentions.

Starting on May 23, 1866, the more extensive Senate discussions explicitly illustrated the connection between woman suffrage and the gendered language of the second section of H. Res. 127. Certain key moments in the Senate's debates made it especially clear that the word "male," the critical difference between the representation provision of the gender-neutral H. Res. 51 and the gendered manhood-based H. Res. 127, was a deliberate decision made to prevent women's enfranchisement. The first incident that illustrated the connection between woman

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432 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., March 9, 1866, May 9, 1866, 2511.
suffrage and the gendered language of H. Res. 127 was an interesting exchange between members of the Joint Committee when the resolution was first presented for consideration. This exchange revealed exactly how central gender had become to congressional thinking on representation and suffrage. In a brief debate Jacob Howard and Reverdy Johnson exposed the assumptions that members of the Joint Committee were making about the relationship of women to the new American polity. Howard and Johnson’s exchange shows that in the newly reconstructed union, outlined first in the provisions of H. Res. 127, women had no political place.

On the first day of the Senate’s debate, Reconstruction Committee member Jacob Howard of Michigan, standing in for William Pitt Fessenden who was ill, presented the resolution to the Senate. After briefly discussing the first section on civil rights, Howard echoed his House colleagues when he confessed that the second section was not all that he would have wanted.

It is true and I am sorry to be obliged to acknowledge it, that this section of the amendment does not recognize the authority of the United States over the question of suffrage in the several States at all nor does it recognize, much less secure, the right of suffrage to the colored race. I wish to meet this question fairly and frankly; I have nothing to conceal upon it; and I am perfectly free to say that if I could have had my own way ... I certainly should secure suffrage to the colored race to some extent at least.\textsuperscript{433}

Howard, like Stevens, also recognized that his views were more radical than that of the broader population, and contended the critical question was not what congressmen like himself would have wanted, rather “the question really is, what will the Legislatures of the various States to whom these amendments are to be submitted do[?]” The committee had decided that those legislatures were “not yet prepared to

\textsuperscript{433} U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., May 23, 1866, 2766.
sanction so fundamental a change as would be the concession of the right of suffrage to the colored race.” Because of this lag between congressional and public opinion, Howard contended that the representation provision outlined in the second section was the best that the committee could do.434

Unlike others, Howard did not dismiss the provision as a mere compromise measure. He claimed that it was actually the most optimal because it did not interfere with the right of the states to regulate suffrage, nor did it permit the southern states to gain power from the disfranchised freedmen. In fact, Howard argued, the committee’s compromise method for apportionment was the most consistent with the founders’ understanding of representative democracy. To support this assertion Howard cited James Madison’s discussion of suffrage from his (then) recently published writings:

> It seems indispensably that the mass of citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them. And if the only alternative be between an equal and universal right of suffrage for each branch of the Government, and a confinement of the entire right to a part of the citizens, it is better that those having the greatest interest at stake, namely, that of property and persons both, should be deprived of half their share in the Government, than that those having the lesser interest, that of personal rights only, should be deprived of the whole.435

If, Howard claimed, one applied this principle broadly and consistently, “how can any man of true republican feeling, attached to the essential principles of our system of government, refuse the right of suffrage to the whole negro population as a class?”436

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435 Madison’s collected writings had been published in 1865. James Madison, *Letters and other writings of James Madison: Fourth President of the United States*, (J.B. Lippincott), 1865.
This sweepingly broad interpretation of Madison's principle prompted his fellow member of the Joint Committee and well-respected lawyer Reverdy Johnson to protest, and to point to an inconsistency in the Republican Party's selective extension of suffrage rights. Johnson interrupted Howard to ask if the principle he discussed applied to all citizens, to the whole class of the "negro population." He tersely asked Howard, "Females as well as males?" Given his expansive reading of Madison's statement, Howard's reply was fairly dismissive: "Mr. Madison does not say anything about females." Although Madison did not say anything specific about African Americans either, this fact seemed not to bother Howard. Johnson's reply to this was pointed and simple: "Persons." Seemingly flustered at having to explain his assumptions to his colleague, and perhaps a bit annoyed at having to make this statement on the record, Howard denied that women had an equal right to the franchise as African American men.

I believe Mr. Madison was old enough and wise enough to take it for granted that there was such a thing as the law of nature which has a certain influence even in political affairs, and that by that law women and children were not regarded as the equals of men. Mr. Madison would not have quibbled about the question of women's voting or of an infant's voting. He lays down a broad democratic principle, that those who are to be bound by the laws ought to have a voice in making them; and everywhere mature manhood is the representative type of the human race.

With this statement Howard ended his discussion of the representation provision, perhaps deeming it wise to move on. Probably not too committed to the issue, Johnson did not press Howard further.437

What Howard contended seemed patently obvious to himself, and he assumed, to most of the members of the Senate chamber: women and infants were equivalently qualified as voters in the eyes of the state. No matter how broad an interpretation was

given to the principle of representative democracy, no matter how Congress sought to
delimit the boundaries of the franchise, a higher “law of nature” precluded women
from political participation. As he said, “women and children were not regarded as
the equals of men.” It was manhood alone that entitled one to a stake in the state.
Manhood qualified one to vote and to represent others. H. Res. 127, with its gendered
language, definitively identified voters as male, legitimated gender as a determinant of
voting rights, and sought to enshrine Howard’s assertion that “manhood is the
representative type of the human race” into the Constitution.

Even when Senators debating H. Res. 127 took gendered language off of the
table, gendered ideas about voting rights remained. For example, the first proposed
amendment to the second section, presented by Benjamin Wade of Ohio, eliminated
gendered language altogether. Wade proposed to replace the second section of H.
Res. 127 with this text:

No class of persons as to the right of any of whom to suffrage discrimination
shall be made, by any State, shall be included in the basis of representation,
unless such discrimination be in virtue of impartial qualifications founded on
intelligence or property, or because of alienage or for participation in rebellion
or other crime.\footnote{U.S. Congress, Senate, \textit{Congressional Globe}, 39\textsuperscript{th} Cong., 1\textsuperscript{st} sess., May 23, 1866, 2768.}

In defending this masterpiece of passive language, however, Wade made clear that
despite the lack of explicitly gendered text, his amendment still assumed that
discriminating on the basis of gender in determining voters was a permissible
“impartial qualification.” This language was better than the existing text, he claimed,
because,

Under this amendment you ascertain the classes of the population, and when
any discrimination shall be made upon any of those subjects the whole of that
particular class will be excluded. There is only one question to be determined. If the exclusion is because of race or color, the question is what amount of colored population is there in the State, and in exactly that proportion she is to lose the representation.439

The only question, Wade declared, was tied to race. Gender was clearly not a factor that he had considered important. Furthering this interpretation, Wade later declared that his amendment was the most flexible because it permitted states like Massachusetts to institute an educational qualification to restrict its suffrage, but not be penalized as it could be under the original provision. Personally, “as a general thing the bias of my mind is entirely in favor of free suffrage to every man who is subject to the laws, in the language of Madison,” but to be most considerate to the states, his provision for apportionment was best.440 Like Howard, Wade believed that Madison’s intent was gender-specific, and that suffrage was intended for “men.” Three days later, perhaps because of its confusing wording or perhaps because it lacked gender-specificity, Wade withdrew his amendment. The few other proposed amendments to the representation provision did not seek to alter its language referencing voters.

But the ultimate question remains – was the use of “male” referencing voters in the second section of the proposed Fourteenth Amendment a deliberate attempt to exclude women who were actually asking for the franchise at this point, or was it simply a reflection of the generalized belief in a natural law that deemed men more qualified for political thought and action? The arguments one conservative Senator from Pennsylvania indicates that this was a deliberate decision. While complaining about Congress’s rethinking of political rights, Republican Edgar Cowan of

Pennsylvania revealed that the inclusion of gendered language in H. Res. 127 was purposeful.

While most of the Republican Senators conceded that some sort of constitutional change was necessary, Cowan decried his colleagues’ efforts to change the basis of representation as an unjust interference in the right of the states to determine their own political membership:

It does seem to me there are most extraordinary notions of political power here, what constitutes it, where it is vested, and how it is wielded. What conceivable difference can it make to a citizen of Pennsylvania as to how Ohio distributes her political power? ... Mr. President, to touch, to venture upon that ground is to revolutionize the whole frame and texture of the system of our Government; to turn it over; to violate our own canons.  

All the Constitution required, Cowan argued, was that the states had republican forms of government, and he believed that this was the duty of the states themselves to determine. But the varied ways that his colleagues sought to define “republican government” disturbed Cowan: “Now we are told that a republican form of government is this, that, and the other. One man says it is ‘universal suffrage;’ another man says it is ‘universal manhood suffrage,’ so as to throw out the ladies; another says it is ‘universal white suffrage,’ and so on. Who can agree as to what a republican form of government is?”  

While Cowan’s discomfort with the varying and shifting ways that Congress sought to agree on how to define a “republican form of government” is interesting, his statement inadvertently reveals some of his colleagues’ motivations in their linguistic choices. According to Cowan, gendered language was used in referencing suffrage to prevent women from being included in the ideal body of voters. His fellow congressmen used the term “manhood” explicitly

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441 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., June 6, 1866, 2987.
442 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., June 6, 1866, 2987.
and deliberately “so as to throw out the ladies.” Acting on this belief, two days later the Senate passed H. Res. 127, and added the first gender-specific language to the United States Constitution.

**Conclusion**

The gendered language of the proposed Fourteenth Amendment that “threw out the ladies” was not a permanent fixture of the Amendment’s text as it evolved in Congress. Instead, gendered language entered into the discourse on representation as members of Congress adopted a metaphor of male family relationships for reconstituting the state, appropriated a rhetorical masculinity to redefine black men as voters, and, most critically, as they listened to, presented, and discussed the first woman suffrage petitions to Congress. Unfortunately for woman suffrage advocates, their petitions did not have the desired effect. Instead of prompting members of Congress to refrain from passing any provision that would preclude women’s future enfranchisement, as Stanton and Anthony had hoped when they expressed the faith early in 1866 that their petitions would “awaken the public,” their petitions drew attention to the fact that gendered boundaries between political participants were being challenged. These petitions dramatically and openly questioned the limits of the male political community at the precise moment that congressmen were using manhood as a powerful rhetorical tool for expanding that community in their discussions on black men’s enfranchisement. As Republicans mobilized masculinity, woman suffrage petitions challenged masculinity as a determinant of voting rights. These petitions not only conflicted with Republican’s partisan goals, but with the very means they were using to achieve those goals. In many ways Republicans could not avoid gendering the Constitution without undermining the power and efficacy of their own political
weapons. They could not afford to acknowledge women’s claim as legitimate, let alone to support that claim, or they would risk losing gender as means for redrawning the boundaries of the political community and as an effective argument for enfranchising the freedmen. Stanton and Anthony’s petitions, therefore, required that members of Congress specify the gender of any voters they were discussing. These petitions did “awaken” the congressional public, as Stanton and Anthony had believed they would. However, as Wendell Phillips had warned, this awakening blocked the congressional wheels of suffrage progress. Essentially, these petitions pushed the Congress to gender the Constitution.
CHAPTER 5

"TO BURY THE BLACK MAN AND THE WOMAN IN THE CITIZEN"

On May 10, 1866, a group of women and men gathered in New York City for the eleventh annual national women's rights convention, the first women's rights meeting held since the end of the Civil War. As the war had been over for a year and emancipation accomplished, these activists felt that the time was right to resume the women's rights agitation that had been set aside "for the duration." Further motivation for renewing and reorganizing the women's rights movement came from congressional action on the Fourteenth Amendment. Despite the massive woman suffrage petition drive of the previous six months, Congress had nevertheless included the word "male" in the Amendment's clause defining voters, thereby disappointing and angering many woman suffragists. Susan B. Anthony revealed just how dissatisfied these suffragists were on the first day of the convention. After some routine convention business, Anthony took the podium and proposed that the convention send Congress an open letter objecting to the Amendment's gender-specific language. 443 This letter placed the blame for the Amendment's restrictive and discriminatory words squarely on the Republican Party. Republicans, Anthony

443 H. Res. 127, which would become the Fourteenth Amendment, had been reported to the House on April 20, 1866. It was passed by the House on April 22 and by the Senate on June 18, 1866. Its second section stated that "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election of the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state." U.S. Congress, House of Representatives, Journal of the House of Representatives, 39th Cong., 1st sess.; U.S. Congress, Senate, Journal of the Senate of the United States of America, 39th Cong., 1st sess.
argued, had refused to give the women's petition a fair hearing in Congress, and so the petition drive had failed to effectively "protest against the propositions ... to introduce the word 'male' into the Federal Constitution." Those Republican congressmen who rejected women's right to the ballot while arguing for the universality of suffrage rights for African American men, Anthony's letter contended, were acting out of pure political interest and "sell[ing women's] birthright" of equality to "save from a timely death an effete political organization." It was especially egregious for radical Republicans like Charles Sumner, Anthony's letter claimed, to tell women that their petitions for the ballot were "untimely" and unwelcome. "When you propose legislation so fatal to the best interests of woman and the nation, shall we be silent till the deed is done? No! As we love republican ideas, we must resist tyranny. As we honor the position of American Senator, we must appeal from the politician to the man." Anthony's open letter, which The New York Times reported was "received with tumultuous clappings of kidded hands," was one of the first indicators that some woman suffrage supporters were beginning to feel discontented with their ostensible allies in the Republican Party, a sentiment that would continue to grow in the next two years of suffrage-rights activism.

Despite her dissatisfaction with the Party, in the spring of 1866 Anthony was not instigating a split in the woman suffrage-Republican association. Instead she suggested that a closer connection with those who advocated the enfranchisement of black men would increase general partisan support for enfranchising women. If the activist advocates of black male suffrage would champion woman suffrage, she reasoned, then perhaps the logical connections between the two causes would persuade Republicans to also enfranchise women. So Anthony proposed that all

suffrage advocates unite to form a new organization, the American Equal Rights Association (AERA). Consolidating activist energies and funds, Anthony argued, would make both suffrage movements more effective and efficient, since it seemed no longer sustainable for them to be divided. Such divisions, said Anthony, "must be at double cost of time, energy, and money" for suffrage activists. The new, more efficient joint organization should "concentrate all our forces for the practical application of our one grand, distinctive, national idea – Universal Suffrage."

Fortunately for this new organization, the chance to test this grand idea was on the horizon as New York had scheduled a constitutional convention for the summer of 1867. New York, as the home state of many of the suffrage and abolition activists present at May's national convention, seemed an ideal place for the AERA to begin their campaign for universal suffrage. In New York the AERA had the chance to persuade the convention to enfranchise all of the state's adult citizens, as Anthony put it, to convince the delegates to "strike out from our Constitution the two adjectives 'white male.'" Or as Anthony's partner in activism Elizabeth Cady Stanton rephrased the goal, the AERA's objective in New York would be to "bury the black man and the woman in the citizen."

Despite the high hopes woman suffragists had for the AERA's success in the spring of 1866, the strategy of linking black men's enfranchisement with woman suffrage had not yet proven successful for woman suffragists. Rather, in 1865-66

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when suffragists suggested that women had the same equal right to the franchise as did black men, supporters of “universal” manhood suffrage had explicitly denied women the ballot by defining the vote as a right exclusively held by men. Given this context, from its founding moment the AERA faced an even greater challenge than merging two separate social movements. Their project, to “bury” specific gender and racial identities within the neutral category “citizen,” was not simply a matter of changing laws or minds. The AERA had to persuade lawmakers and partisans that the social meanings attributed to whiteness and manhood were not commensurate with the fundamental requirements for voters in a democracy—virtue, intelligence, skill, maturity, and political prowess. Further, the AERA had to convince the majority Republicans that their use of gender to obfuscate the racial meanings that had delegitimized black men as voters in the past, defining voting as a male privilege rather than as a white male privilege, was both ideologically wrong and a flawed political strategy.

To convince Republicans that gender and voting were not inextricably linked, in the New York constitutional campaign Anthony and Stanton, as the most prominent representatives of the AERA, most frequently adopted two rhetorical strategies. The first strategy was to argue that the sameness of men and women entitled them to identical rights as adult Americans. As in Stanton’s statement about the AERA’s goal for New York, this strategy emphasized that citizenship was a neutral category that subsumed, and took precedence over, all other identities. This was a familiar strategy in 1866, comparable to the strategy that the suffragists had used throughout their congressional petition campaign. But for New York they hoped that a closer alliance with abolitionists and a common mission with the supporters of black suffrage would lead to greater success in the state’s constitutional convention than they had had in Congress.
The AERA’s second strategy in New York was to challenge more directly the link between manhood and political power. Anthony’s open letter to Congress at the AERA’s founding convention hinted at this strategy. In her attack on the congressmen Anthony’s language suggested that the Republicans who had rejected woman suffrage petitions had not only failed in their duties as congressmen, but also had been particularly unjust and unmanly, failing in their duties as men.\textsuperscript{448} Further, by calling the Republican Party “effete,” her letter implied that that the party itself was ineffectual, and worse, effeminate. There remained hope, however, that Republicans could still be appealed to “as men,” and that “as men,” they would behave more justly than they had as partisans. While this letter offered an oblique critique of the political power attributed to masculinity, the AERA’s New York campaign fully developed and utilized this critique. In particular, on the two occasions when Anthony and Stanton directly engaged the convention, the suffragists argued that manhood and voting were not mutually dependent and that to associate the two so closely was problematic at best, and patently absurd at worst. In their most direct attack on the link between gender and political power, Anthony and Stanton explicitly challenged the manhood of the chair of the suffrage committee, well-known newspaper publisher and radical Horace Greeley. This attack failed to achieve the results they had hoped for. Instead it subjected Greeley to the ridicule of his colleagues and the press and damaged irreparably the friendship he had had with the two suffragists.

More disturbingly, however, the AERA’s challenge to manhood prompted the convention to reject their request for a gender-neutral franchise in New York because

\textsuperscript{448} It is most likely that this letter was written by Elizabeth Cady Stanton. The language the letter used is more typical of Stanton’s effusive and pointed prose than of Anthony’s more practical language. Furthermore, some of the phrases used in the letter appear later in speeches that are attributed to Stanton. See discussion of Stanton’s appeal to the New York State Legislature below, “Address in Favor of Universal Suffrage,” in Stanton, Anthony, and Gage, \textit{History of Woman Suffrage}, vol. 2, 1861-1876, 273.
of gender. Already disinclined to advance so radical a cause as woman suffrage, in general debates and in committee discussions the members of New York’s constitutional convention argued that enfranchising women would not simply result in a change in the composition of the polity, but would cause a profound disruption in gender identity. Relying on ideas about manhood to justify enfranchising African American men, the convention members likewise turned to ideas about manhood to justify women’s continued disfranchisement. Ultimately, despite the AERA campaign, manhood was understood to be more fundamental than incidental to the way that New Yorkers defined voting rights. As Greeley’s suffrage committee report declared, women in New York should not be enfranchised in 1867 because it would be a change “so openly at war with a distribution of duties and functions between the sexes as venerable and pervading as government itself.”

In the AERA’s first suffrage campaign in New York in 1867 the suffragists’ political imperative – their goal of burying the black man and the woman in the citizen – led them to make the first explicit challenge to the Republicans’ connection between suffrage and manhood. This challenge refuted Republican arguments that linked manhood, military service, and voting rights. Unfortunately, the suffragists’ challenge to manhood as a determinant of voting rights ended in a personal attack, alienating critical Republican allies and confirming some Republicans’ worst fears that female voters would disrupt both political order and gendered social roles. Despite its failure, this ineffectual and ill-advised attack on manhood did represent a critical step away from the suffragists’ earlier strategy to seek Republican support by structuring their arguments in Republican terms. It shows that as early as the fall of 1866 some woman suffragists were starting to look for an alternative to the constraints of Republican partisan language and ideology that they had adopted in 1865-1866. Thus the

challenge to manhood in New York in 1867 represented the suffragists’ first steps away from the Republican-abolitionist alliance, steps that would eventually lead them to the Democratic Party.

"Women form a Part of the People"

Between the Women’s Rights Convention in May 1866 and the start of the New York Constitutional Convention in June of 1867, the AERA had thirteen months to campaign for universal suffrage in New York. This left ample time for the AERA to “make a thorough canvass of the entire State, with lecturers, tracts and petitions.”450 Starting in November 1866 members of the AERA’s leadership began to tour the state, holding conventions, giving speeches, and gathering petition signatures. By the time the convention began, the AERA had held 48 meetings throughout the state. While Stanton appeared at a majority of these meetings, Anthony was almost always present. She was often joined by Charles Remond, a prominent African American activist and orator, Bessie Bisbee, a promising young speaker new to the movement, Parker Pillsbury, a well-known radical newspaper editor, Olympia Brown, the first ordained female minister in the United States, and Louisa Jacobs, daughter of author, abolitionists and escaped slave Harriet Jacobs.451


451 The schedule of lectures was so tight, however, often with meetings every day, that the speakers had to “stagger their arrivals and departures” and so the speakers may not have shared the stage at any given meeting. Editorial Note, Ann D. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, Against an Aristocracy of Sex (New Brunswick, NJ: Rutgers University Press, 2000), 23.
In their earliest meetings in the upstate region Anthony and the AERA speakers divided their focus between the organization’s general goal of persuading the future members of the constitutional convention to “frame the section prescribing qualifications of electors as to secure the right of suffrage upon equal terms to both men and women” and its more specific and immediate goal of convincing the legislature to permit all adults to vote in the special elections held to select convention delegates.452 In New York’s two previous constitutional convention years, in 1801 and 1821, the state had restricted the franchise in regular election contests to adult men who possessed a certain amount of property, but permitted all men regardless of their net worth to choose convention delegates. This change was justified by the belief that constitutional conventions reconstituted the whole political community in order to recreate the state’s fundamental compact, and so required all of the community members’ consent. By the winter of 1866, most Republicans in the Senate and Assembly supported applying this same principle to African American men who did not meet the current $250 property qualification for general elections, thereby permitting all of New York’s men to vote for convention delegates. With this growing support, the AERA saw the special election as an opportunity for women, as well as African American men, to acquire a political voice as voters and to gain a measure of political influence in the upcoming convention.

When claiming in the fall and early winter of 1866-67 that women had a right to select constitutional convention delegates as well as to vote in general elections, the AERA activists continued the arguments developed during the congressional petition campaign. They contended that because men and women were equally alike as citizens, they were therefore entitled to the same rights. These arguments situated

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452 Petition, New York State Equal Rights Convention, November 20, 1866, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 1, 603.
women's gender as incidental to the fundamental equality of all humans within the American democracy. As Anthony phrased it in her speech to an equal rights meeting in December in New York City, the goal of the AERA was “to establish the equality of every individual who is subject to the government of the United States.” Now was the hour, she claimed, for the AERA to “remin[d] the American nation that women form a part of the people … the ‘glittering generalities’ of to-day are impartial suffrage, equal suffrage, and the like. If men will talk … of impartial suffrage, universal suffrage, we mean to have them understand that women are to be included in its impartiality and universality.”

In fundamental law, the AERA claimed, women were a part of the “people” that constituted the government. They argued that because women were equally subject to the laws of the state, they were therefore equally entitled to participate in the making of those laws. This argument was reflected in resolutions adopted at the conventions Anthony and Stanton held on their winter tour of the upstate cities. The meeting held in Syracuse on December 12, 1866 asserted that because “women as well as men, are made to bear the burdens of, and to yield obedience to the government” they were equally entitled to the franchise. The meeting held in Auburn on January 7, 1867 resolved:

\[\textit{Whereas},\text{ As all just governments derived their powers from the consent of the governed, and a State Constitution should originate with and be assented to by a majority of the people, including as well those whom it disfranchises as those whom it invests with the suffrage; and \textit{Whereas}, the New York State Constitutional Convention of 1801 and 1821 were composed of delegates elected by both the enfranchised and disfranchised classes … And, \textit{Whereas} there is nothing in the present Constitution of the State of New York to prevent women from voting for, or being elected as delegates to the Convention about to assemble to revise the Constitution of the State; therefore, \textit{Resolved}, That}\

453 Susan B. Anthony, Speech to the Equal Rights Convention Meeting, December 6, 1866, in Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 1
we recommend to the people to elect their delegates to said Convention, *irrespective of sex or complexion*; and we shall call on the Legislature to enact that women, as well as men, shall be admitted to vote for such delegates.\footnote{455}

Designing these arguments to appeal to politicians rethinking the meaning of political rights, the AERA claimed that fundamental democratic principles supported their assertion that men and women were essentially the same in the eyes of the law. In a meeting in Troy on February 18, Anthony continued this line of argument, claiming that because the nation did not recognize women’s equality it had only imperfectly enacted the ideals of the American Revolution. She argued that the original principles of the Revolution had been sacrificed to expediency when the country began, despite Abigail Adams’ objections to women’s exclusion. The founders, she claimed, “had fought for the principle that all mankind are entitled to equal rights and that just governments derive their power from the consent of the governed, and yet they founded a government denying to certain subjects their rights.” Just as the founders had focused on questions of taxation, so too did Anthony. Men and women were equally taxed, she argued, and so should be equally entitled to the franchise. “The property of women is assessed to pay for canals, for the support of militia, for bridges, railroads, and public works, and yet she has not a voice in aiding these enterprises or saying how they should be carried [out].”\footnote{456} It was just as unjust for women of the post-Civil War era to be taxed without representation, Anthony claimed, as it was for the men of the Revolution. After America’s “second revolution,” the late Civil War, she argued that the nation had a chance to remedy the mistakes made by founders’ capitulations to expediency and fulfill their vision of equality.

\footnote{455} *Auburn Daily Advocate*, January 7, 1866, vol. 21, no. 262, 3.
These general arguments, consistent with the suffragists’ immediate postwar strategy, sought to convince the general public that the ideas that they already believed in and treasured could and should be applied to American women. Throughout the winter and early spring of 1866-67, the AERA made these arguments in city after city in the upstate region. Although these meetings usually attracted fairly small audiences, the AERA’s representatives seem to have met with some support from the localities where they appeared.\textsuperscript{457} For example, the \textit{Yates County Chronicle} reported of Stanton’s December 23\textsuperscript{rd} appearance in Penn Yan, that her lecture “was attended by a very small audience, but was an excellent entertainment for each as did attend … [Stanton] discussed the ballot for women and presented her cause with an earnestness and eloquence seldom equaled.” More critically, the paper reported a growing support for women’s enfranchisement. “The cause [Stanton] supports is rapidly gaining adherents these days, and those who oppose it will soon be in the minority, unless they had better arguments against it than those heretofore in vogue.”\textsuperscript{458} In a different article published a few days after Stanton’s appearance, the paper declared that female suffrage was a good idea, despite the fears of the “fogies [who] tremble at the mention of this further step.” “We believe,” the \textit{Chronicle} reported, that “the influence of women will be as salutary, as constitutional and as legitimate at the polls as at the fireside.”\textsuperscript{459} Reports like these were encouraging to the AERA, and indicated that their efforts in New York were enjoying some success in shifting public opinion. While the ideas of citizens’ equal rights that Anthony and her colleagues advocated certainly seemed to be well-received by the few listeners that heard them in the upstate cities and counties, and while these meetings were vital to the cause, the AERA’s

\textsuperscript{457} The meeting held in Rochester attracted a larger crowd, at 600. However, the Syracuse meeting was also reported to have only attracted “a small audience.” Gordon, ed., \textit{The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony}, vol. 2, 6, 8.

\textsuperscript{458} \textit{Yates County Chronicle}, December 20, 1866, vol. 23, no. 51, 2.

\textsuperscript{459} \textit{Yates County Chronicle}, December 27, 1866, vol. 23, no. 52, 2.
more immediate goal was to persuade New York’s political leadership that women were legitimate members of the political community and deserved a vote in the special election selecting convention delegates. While this leadership was not particularly inclined to support woman suffrage, New York’s legislators did grant Elizabeth Cady Stanton a hearing before the State Assembly on behalf of the AERA on January 23, 1867 so that she could plead her cause.

Just as the Auburn and Syracuse resolutions and Anthony’s Troy speech had referenced the gender-neutral fundamental rights of all citizens, before the Assembly Stanton likewise advocated the essential equality of individuals. Stanton’s general argument was that men and women, alike as citizens of a democracy, were entitled to the same rights. She began by claiming that because the Constitution was being revised, the political community of the state was being re-made, therefore the voices of all its citizens were needed for that remaking. “It is the opinion of many of the ablest men of the country,” Stanton asserted, “that, in a revision of a constitution, the State is, for the time being, resolved into its original elements and that all disfranchised classes should have a voice in such revision and be represented in such convention.” To support this assertion, Stanton cited numerous legal precedents, including the cases of the two previous constitutional conventions in New York, as well as in Rhode Island. Further, Stanton argued, the exclusion of women and poorer African Americans from the franchise violated the very terms of the existing New York Constitution. “Art. 1., sec. 1: ‘No member of this State shall be disfranchised or deprived of any the rights or privileges secured to any citizen thereof, unless by the law of the land and the judgment of his peers.’ Now, women, and negroes not worth

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two hundred and fifty dollars, however weak and insignificant, are surely ‘members of
the state.’” In fact, these two “minority” groups together, Stanton contended,
constituted a majority: “on our republican theory that the majority governed, women
and negroes should have a voice in the government of the State; and being taxed,
should be represented.” Perhaps more frightening to her listeners, Stanton declared
that, “women and negroes constituting a majority of the people of the State, do not
recognize a ‘white male’ minority as their rightful rulers.”

Backing away from this fairly radical claim, at this point in her speech Stanton
shifted tactics and tone and began addressing the perceived social differences between
men and women that prevented women from being enfranchised. It was at this
moment that Stanton moved away from her earlier common-rights argument, and
instead focused on the problem of gender differences between men and women. It
was an important moment for suffrage rhetoric and strategy; from this point on the
question of differences began to appear more and more frequently in the suffragists’
speeches, supplementing the earlier arguments about similarities and equality. By
recognizing that some arguments could be made for woman suffrage based on gender
differences, Stanton opened the door for other arguments based on differences, as well
as for a critique of Republican policy basing voting rights on gender difference.

Before New York’s Assembly in January Stanton argued that if the legislators
would not accept the claim that men and women were the same and deserved the same
rights, then she reasoned that perhaps it was the very differences between them that
necessitated women’s enfranchisement. In the second portion of her speech, Stanton
argued that either men and women were the same citizens under the law, and therefore
were entitled to the same right to the franchise, or men and women were so
profoundly different that men could not adequately represent women and their

461 Stanton, Address in Favor of Universal Suffrage, 6.
interests, therefore women should represent themselves. Either way, she contended, women must have a voice in the government. Continuing her consideration of the Article 1, section 1 of the New York Constitution, Stanton asserted:

The law of the land is equality. The question of disfranchisement has never been submitted to the judgment of [the peers of women and African Americans with little property]. A peer is an equal. The ‘white male citizen’ who so pompously parades himself in all our Codes and Constitutions, does not recognize women and negroes as his equals; therefore, his judgment in their case amounts to nothing.462

Associating the differences of gender and race with political power, Stanton argued, created an aristocracy within the supposed American democracy. “‘White males’ are the nobility of this country; they are the privileged order, who have legislated as unjustly for women and negroes as have the nobles of England for their disfranchised classes.” If the theories of gender and racial difference were true, Stanton argued, then those differences were insurmountable. “If the history of England has proved that white men of different grades can not legislate with justice for one another, how can you, Honorable Gentlemen, legislate for women and negroes, who, by your customs, creeds and codes, are placed under the ban of inferiority?”463 These differences, Stanton contended, meant that women and African American men required the franchise in order to represent themselves fully.

In the current climate of Reconstruction, Stanton recognized that African American men were on track to become enfranchised – that New York’s Republicans, at least, were turning a blind eye to the perceived differences of race. The change in the status of the southern freedman from dependent to independent was in many ways fueling this change, she claimed. “In demanding suffrage for the black man of the

462 Stanton, Address in Favor of Universal Suffrage, 6.
463 Stanton, Address in Favor of Universal Suffrage, 7-8.
South, the dominant party recognizes the fact that as a freedman he is no longer a part of the family therefore his master is no longer his representative, and as he will now be liable to taxation, he must also have representation.” Women, she argued, however intimately considered to be members of the metaphorical (if not literal) family headed by white men, were never exempt from taxation. If women and men were so profoundly different that men could not adequately represent women’s interests, and women were taxed, Stanton claimed then they were taxed without representation, a violation of the fundamental rules of the American democracy: “If the ‘white male’ will do all the voting, let him pay all the taxes.”\textsuperscript{464} Worse, Stanton claimed, New York actively recognized that this was a problem because black men who had less than $250, and so did not vote, were not taxed. “Is it on the ground of color or sex, that the black man finds greater favor in the eyes of the law than the daughters of the state?”\textsuperscript{465} Unfortunately for Stanton and the AERA, the answer was “sex.” A majority of New York Republicans in 1867 considered black men – because of their manhood – more suitable voters than women.

The privilege and power Reconstruction-era politicians were attributing to manhood particularly frustrated Stanton. This frustration comes through in her speech to the legislature, where she began to challenge explicitly the link between manhood and voting rights, a tactic that she and Anthony developed more fully in their later encounters with the convention. In her speech to the legislature, Stanton’s most frequent challenge to manhood was the way she sarcastically used the term “white male” to dispute the connection between gender and political privilege.\textsuperscript{466} In policy

\textsuperscript{464} Stanton, \textit{Address in Favor of Universal Suffrage}, 8.  
\textsuperscript{465} Stanton, \textit{Address in Favor of Universal Suffrage}, 9.  
\textsuperscript{466} Stanton’s personal letters indicate that this sarcasm in her attack on the “white male” was a deliberate rhetorical strategy. In a January letter to Frederick Douglass discussing her plans for the speech, Stanton suggested that she would not be able to achieve the sarcasm that Douglass could. She said, “I hope if it is possible you will be in Albany for both our claims should be set off in the strongest way & you can attack the property qualification with all the force of your sarcasm far better than I
terms, however, Stanton particularly objected to the provisions in New York’s constitution that protected the franchise for “unfit” white men—paupers, those with mental illnesses, and criminals. Article 2, Section 3 of the state constitution declared that no person should have lost their voting residency requirements “while kept at any alms house or other asylum, at public expense; nor while confined in any public prison.” In her typically acerbic tone, Stanton declared: “what an unspeakable privilege to have that precious jewel—the human soul—in the setting of white manhood, that thus it can pass through the prison, the asylum, the alms-house ... and come forth undimmed to appear at the ballot-box at the earliest opportunity there to bury its crimes, its poverty, its moral and physical deformities all beneath the rights, privileges, and immunities of a citizen of the state.” \(^{467}\) Not only were the white men who had been to prison or the asylum unfit for the franchise in Stanton’s assessment, but she also contended that the growing number of urban poor were also suspect voters. “Just imagine the motley crew from the ten thousand dens of poverty and vice in our large cities, limping, raving, cringing, staggering up to the polls, while the loyal mothers of a million soldiers whose bones lay bleaching on every southern plain, stand outside sad and silent witness of the wholesale desecration of republican institutions.” \(^{468}\)

Vehemently declaring her own difference from these unfit voters, Stanton said: “I, for one, gentlemen, am not willing to be thus represented. I claim to understand the interest of the nation better than yonder pauper in the your alms-house, that the unbalanced graduate from your asylum and prison.” It was these unfit white male voters who unjustly represented others and who usurped political power more

\(^{467}\) Echoing her claim that the AERA would seek to “bury the black man and the woman in the citizen,” Stanton here saw personal failures also being subsumed by citizenship.

\(^{468}\) Stanton, *Address in Favor of Universal Suffrage*, 11.
appropriately placed in the hands of people like her, Stanton contended. "No wonder
that with such voters, sex and color should be exalted above loyalty, wealth, and
education." While the critique of white manhood that Stanton used here indicated a
new direction for the woman suffrage campaign in New York, it also presaged the
more elitist approach to suffrage advocacy that Stanton and Anthony would develop
later in 1867, when they attempted to capitalize on white women's race and class
status to justify their enfranchisement.

After her appearance before New York's legislature, Stanton continued her
campaign to allow all the state's adults to vote for constitutional convention delegates.
In this campaign Stanton continued to attack manhood, making the case in speeches
and publications that women were entitled to vote for convention delegates in the
special election because of the differences between men and women. In March she
delivered an altered version of her speech to the legislature at the prestigious
Fraternity Lecture Course at the Brooklyn Academy of Music. In this version of the
speech, Stanton more fully developed her assertion that men and women were so
profoundly different that men could not adequately represent women. While making
this argument, she engaged in the most explicit and direct attack on white manhood to
date. In Brooklyn Stanton cheerfully acknowledged that man's usurpation of
women's representation was finally being called into question: "On the Republican
theory that the majority governs, what is to become of the white male when the
woman wakes up?" The white men's monopoly on power, Stanton argued, was
coming under fire and was about to end. "Already behold [the white male as] the
target for all the jibs and jeers of the nation. Everybody is repudiating him, everybody
is pointing at him the slow, unavering finger of scorn. He is bayoneted in Congress;

he is bayonetted in all our State Legislatures. On the one side the Republicans and Abolitionists stab him on the ground of his color; on the other side, the Democrats and women stab him on the ground of his sex." To lessen the fearsome radicalism of this statement, Stanton softened her statement with a joke about how desolate the nation would be without men altogether. More seriously, though, Stanton argued that the challenge to manhood that was being undertaken by women demanding the franchise in New York was nothing for those “white men” to fear.

Reason and common sense alike teach us that the true interest of man and woman in the nature of things are identical, and that there can be no real antagonism in sex. This is the new idea of our day, not that woman shall become man or take from him one jot of power or honor, but that in her elevation and perfection he shall be made whole, crowned with new honor, power, and glory such as he could never know in the degradation of one-half of the race.472

Despite the differences that rendered men poor representatives of women’s interests, and despite women’s growing challenge to the male monopoly of the franchise, Stanton claimed that men should not be afraid of losing the social power that this monopoly gave them if they shared political power with women: “Fear not, ye of little faith. Woman is held by her sphere by the same immutable law which holds the fish in he sea, the bird in the air, and the planet in its prescribed order; and, after these false customs are all swept away woman will rise up in her native strength and dignity, and be woman still.”473

Unfortunately for Stanton and the AERA, the New York Legislature did not share her faith that suffrage rights would not disrupt the prescribed order of the gendered universe. Its members decided in March to prohibit women from

participating in the election to select convention delegates. Despite this setback, Anthony and Stanton and the other AERA activists continued their tour of the state through the spring and into early summer. But in these meetings they returned to the earlier theme of equality, to persuade New Yorkers to petition for equal suffrage when the convention began in June. This campaign was fairly successful; ultimately the AERA gathered about 20,000 signatures for equal suffrage for black men and women.\footnote{Stanton, Anthony, and Gage, History of Woman Suffrage, vol. 2, 286.}

**Challenging Manhood, Reaffirming Manhood: New York’s Constitutional Convention**

Almost as soon as New York’s Constitutional Convention began on June 4, 1867, the delegates began to reassess New York’s suffrage rules, considering the connections between gender, race, and suffrage. In this reassessment women’s enfranchisement was in the forefront of suffrage discussions. For example, only six days after the convention began, Ezra Graves of the 20th Senate district offered a resolution suggesting the convention appoint a special committee to decide “whether in their opinion a provision should be incorporated in the Constitution authorizing the women of the State to exercise the elective franchise, when they should ask that right by a majority of all the votes given by citizen females over the age of twenty-one years, at an election called for this purpose, at which the women alone shall have the right to vote.”\footnote{Edward F. Underhill, ed., Proceedings and Debates of the Constitutional Convention of the State of New York, Held in 1867 and 1868, in the City of Albany, (Albany: Weed, Parsons, and Co, 1868), June 10, 1867, 38. Although this motion was tabled, the committee on suffrage was ultimately responsible for woman suffrage, as all petitions dealing with the issue were referred to that committee.} While this support appeared on the surface to be a significant advancement, for the AERA a separate woman suffrage committee would defeat their
central goal of disconnecting suffrage from gender and race, and of uniting the causes of black men’s and women’s enfranchisement. Therefore to protest this proposal Stanton wrote an editorial in the *New York Tribune* published on June 19<sup>th</sup> that criticized Graves’s motion as “a work of supererogation” and suggested that the suffrage committee alone should decide for all New Yorkers whether or not the franchise was to be universal. Stanton got her wish. Graves’ motion was tabled and no separate female suffrage committee was formed. A more encouraging sign for the AERA was the early appearance of some of their suffrage petitions gathered during the spring tour. Longtime woman suffrage advocate George William Curtis presented the first woman suffrage petition on June 19<sup>th</sup>, and more followed throughout the early weeks of the convention. But for the AERA the most positive sign for the cause of universal suffrage came when the convention appointed influential newspaper publisher and delegate-at-large from Westchester, Horace Greeley, to chair the committee on suffrage. Greeley was formerly a radical, a Republican, and had in the past supported women’s rights as well as equal rights for African Americans. Although there were some indications that Greeley was becoming more conservative, as he supported the amnesty of all former confederates and had posted bail for Jefferson Davis, his long record on equal rights seemed to situate him ideally to support the AERA’s goals. When Greeley granted the AERA a hearing before his suffrage committee on the evening of June 27th, it seemed that there might actually be

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478 As late as May 10, the AERA considered a resolution proposed by Samuel J. May in its annual meeting in New York City praising Greeley for his support of woman suffrage in his newspaper. “Meeting of the American Equal Rights Association in New York,” May 9-10, 1867, Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 2, 62.

479 The *New York Times*, in a lengthy critical editorial, called this action repulsive and inexpedient, “simply detestable” and speculated that it derived from a growing “love of notoriety.” *New York Times*, May 28, 1867.
a chance for Stanton and Anthony to persuade the committee, and hence the convention, to eliminate any franchise exclusions based on gender or race.

At this committee hearing Anthony and Stanton’s attack on the link between gender and voting rights came to full fruition. On the evening of June 27th in the Assembly chambers in Albany, Anthony and Stanton addressed “a very large audience” of convention delegates and interested onlookers. As in the spring campaign throughout the state, Anthony and Stanton’s conversations with the delegates continued their arguments that emphasized the similarities between men and women, while simultaneously attacking the connection between manhood and suffrage. Stanton began the meeting, giving a version of her February speech to the legislature.\(^{480}\) Then Anthony opened up the floor for questions. In this question and answer session the critique of manhood really emerged.

The first few questions, from Greeley himself and from another Republican member of the suffrage committee, Stanton B. Hand, asked whether women would accept all of the obligations that accompanied the privilege of voting, obligations heretofore only undertaken by men. Anthony replied to Greeley, that yes, women would accept jury duty. But it was Hand’s question that really opened up the attack on the link between manhood and the rights and duties of citizenship. Hand asked whether or not women would be willing to submit to a draft if given the right to vote.\(^{481}\) Anthony’s response challenged the idea that military service was restricted to men alone. She replied to Hand’s question that “Yes, I am opposed to war; but if it must be, let them both serve. Yes, sir, we are ready to submit to a draft.”\(^{482}\) By


\(^{481}\) "Untitled," *New York Daily Tribune*, Friday, June 28, 1867, 5, col. 2.

\(^{482}\) *New York Herald*, no date. from DLC, Rare Books Division, S.B. Anthony Scrapbook no. 2, in Holland and Gordon, "Papers of Elizabeth Cady Stanton and Susan B. Anthony," 12:264. The *New York Tribune* reported that this remark received applause from the audience. “Hearing before the Committee on Suffrage, New York Constitutional Convention, in Albany,” June 27, 1867, *New York
indicating women’s willingness to undertake military duties as part of the obligations of citizenship, Anthony challenged the idea that only men could serve the nation. Furthermore, Anthony argued, not only were women willing to serve, but they already had served in the Civil War – disguised as men. Anthony then cited the numerous examples of women who donned male dress and fought as soldiers during the war, but were dismissed in disgrace when their sex was revealed, as evidence that women could and would assume the duties to the state that accompanied the franchise.483

By reminding the convention that women had fought in the Civil War, and by indicating their willingness to serve in the future, Anthony pointed to the delegates’ assumption that manhood and military service were synonymous. If military service conveyed manhood, were the women who served in the military now men? Although Anthony sought to separate the connections between manhood and military service by suggesting that military service was not restricted to men alone, her example of women who donned a male identity in order to fight pointed the committee members to the gender transgression engaged in by these women, perhaps encouraging them to think of similar gender transgressions that could occur if women were enfranchised. Rather than demonstrating a logical inconsistency, as she had clearly hoped, Anthony instead may have confirmed the worst fears of the politicians who were closely associating political activity with manhood.

Stanton’s reply to the same question characteristically took a more direct approach. Instead of basing her arguments on women who did serve in the military, she instead turned to men who did not. After Anthony answered Hand’s question, Greeley pushed the suffragists further on the idea of women’s military service, asking

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Stanton: “if you vote are you ready to fight?” Stanton bitingly replied, “Yes ... we are ready to fight sir, just as you did in the late war, by sending our substitutes.” If military service conveyed manhood and manhood conveyed political power, Stanton pointed out that in New York the most politically powerful men, for the most part, had not served in the military but rather had paid others to do so for them, as was permitted at the time. Yet these men still voted. Stanton hoped that by pointing out this logical problem she had delivered “a crushing blow,” as she called it in a letter to a friend describing the incident, to the delegates’ assumption that only men could vote.

Stanton and Anthony’s efforts to disconnect manhood, suffrage, and military service fell upon deaf ears. By the date of the AERA’s hearing, the committee had already decided to recommend that the convention not enfranchise women, and had prepared a report saying just this. The very next day, June 28, Greeley submitted this report to the convention. The language of the committee’s report on woman suffrage reveals just how seriously gender conventions governed ideas about suffrage, and how closely tied the committee believed manhood and suffrage to be. The committee had decided that “adult rational manhood” was the best means of determining voters’ qualifications. Suffrage, the committee reported, should go to “every man of the age of twenty one years” who met the residency requirements. While this was damning enough for the cause of woman suffrage, the report went further. It explicitly rejected the enfranchisement of women as a change “involving transformations so radical in social and domestic life” that most people in New York would not accept.

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The convention’s debates on the suffrage committee’s proposal indicate that the delegates accepted and supported the committee’s expressed desire to maintain an all-male body politic. In floor debates on suffrage the convention’s Republican delegates situated the link between gender and the franchise at the heart of their arguments for granting black men the right to vote in New York. They did this in two vital ways. Primarily, they argued that black men’s military service during the Civil War was one indication of their manhood, and, therefore, their voting fitness. But New York’s convention delegates did not necessarily need military service to link gender ideology with voting rights. Pro-suffrage Republicans at the convention also insisted that simply because black men were men, their gender qualified them to access all male privileges. Like their congressional colleagues, by emphasizing masculinity as the fundamental qualification for voting, New York’s convention delegates were able to de-emphasize whiteness as a qualification.

The argument that military service qualified African American men to vote in New York began with the suffrage committee’s report. To explain the committee’s recommendation to eliminate any distinction among male voters based on race when he presented the suffrage report on June 28 Greeley argued that, “whites and blacks were indiscriminately drafted and held for service to fill our State’s quotas in the war whereby the Republic was saved from disruption,” and so should be equally enfranchised.\footnote{Proceedings and Debates of the Constitutional Convention of the State of New York, 178.} Echoing national discussions of black men’s enfranchisement in the South, as well as the suffrage committee’s report, supporters of black male suffrage in the New York convention frequently argued that the Civil War had transformed black men from slaves and virtual children to men – connecting manhood, military service, and the franchise.\footnote{Beginning with the American Revolution, the argument that military service bestowed voting privileges had long enabled the disenfranchised to acquire the right to vote. Chilton Williamson,}
Republican from the 19th Senatorial district, argued that black men had sacrificed for their country by becoming Civil War soldiers. Because that sacrifice had been made not only for the nation, but for each person individually in the nation, Dwight concluded, the black man was therefore as much of a man as Dwight was himself.

Dwight made this argument by telling the convention an extended story describing his first encounter with African Americans, first admitting to having felt prejudice against people of color and having voted against black suffrage in the 1860 referenda. However, while in New York City during the Civil War, Dwight witnessed a parade of soldiers going to war. He told the delegates he saw

Men clad in the United States Uniform, standing erect with a manly port ... and ... looking as though they had some great thought to inspire them. I looked a little downwards, and as I raised my eyes and looked upwards, I saw that they were soldiers with black faces – the first of this class I had ever seen, and the first of the class, I believe, who marched down the street of New York to go to war ... I saw that ... they thought the time had come when their race should show that they were men, and thus should be enfranchised. And from that hour, sir, I have felt that the negro was a man. 489

Dwight recognized that the soldiers he had seen were “go[ing] forth to protect me and my wife and children, and my friends and society, and above all his country ... And men who have done that for me, I believe, sir to be men. I have no doubt about it.” 490 Whether or not we take Dwight’s story at face value as a personal confession of a conversion to racial egalitarianism, or more cynically, as a clever use of narrative for partisan purposes, the connections he drew between manhood, military service, and voting were connections drawn by many of the delegates. As Dwight had articulated

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489 Proceedings and Debates of the Constitutional Convention of the State of New York, July 12, 1867, 270.
490 Proceedings and Debates of the Constitutional Convention of the State of New York, July 12, 1867, 270.
the notion that black soldiers were “manly,” he argued that to recognize that manliness meant recognizing the soldiers’ right to the most important privilege that adhered to manhood, voting.

In addition to arguing that military service rendered black men manly, and therefore eligible to vote, convention Republicans repeatedly argued in suffrage debates that voting eligibility should only be determined by adult male status, regardless of one’s race.\footnote{Proceedings and Debates of the Constitutional Convention of the State of New York, July 9, 1867, 207.} For example, on July 9 Jerome Fuller, a Republican from the 28th Senatorial district, argued that “the qualification for the elective franchise, undoubtedly, as a general proposition is manhood.”\footnote{Proceedings and Debates of the Constitutional Convention of the State of New York, July 9, 1867, 213.} On the same day of debate, Seth Wakeman, a Republican from the same district, stated that “I am disposed to base the right to vote upon manhood, without reference to color ... I must vote for the amendment ... doing away with all property qualifications, for the white as well as for the colored man, and put each on his manhood.”\footnote{Proceedings and Debates of the Constitutional Convention of the State of New York, July 9, 1867, 213.} Manhood alone could determine whether a person could or should vote. Even some Democrats recognized the connection between manhood and voting. Joseph Masten, Democrat-at-large, in debate called the vote a “manly privilege.” Fuller, Wakeman, and Masten all directly

\footnote{Since the terms “man” or “men” were sometimes used generically to include all people, and sometimes used specifically to refer to men, I took the terms “manly” and “manhood” when in appropriate contexts to specifically refer to male persons. Likewise, when the context indicated, I understood “men” to also mean male persons. When discussion was based on the universal equal rights of all men, and topics related to natural rights, I understood “men” to mean all humans, male and female. For a discussion of the term “manly” see Gail Bederman, Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917, (Chicago: University of Chicago Press, 1995), 16-23; Elliott Gorn, The Manly Art: Bare-Knuckle Prize Fighting in America, (Ithaca, NY: Cornell University Press, 1986), 140-147; and Anthony Rotundo, American Manhood: Transformations in Masculinity from the Revolution to the Modern Era, (New York: Basic Books, 1993), 10-30. A contemporary source indicates that the term “manhood” did not refer to all persons. Parker Pillsbury, at the first annual meeting of the AERA on May 9, 1867, stated: “Manhood or malehood suffrage is not a remedy for evils such as we wish to remove.” Stanton, Anthony, and Gage, eds., History of Woman Suffrage, vol. 2, 205.}
articulated the prevailing assumption that manhood and manliness qualified a person to vote.

Convention debates about the relative importance of manhood and whiteness in determining one’s voting ability sparked numerous attacks on the manliness of individual delegates, which indicated how closely voting, political power, and masculinity were associated in the minds of the delegates, even as they thought about themselves. Delegates called into question each other’s manhood most frequently in debates surrounding the question of whether black suffrage should be included within the text of the proposed constitution or submitted to the voters as a separate referendum.\textsuperscript{494} For example, Magnus Gross, a Democrat from the 6th ward, argued that the manliness of all the convention delegates was at stake in their decision to enfranchise all men.\textsuperscript{495} He stated: “Suppose in the Constitution we shall adopt, we take manhood suffrage ... saying nothing about white men and nothing about black men, but say all men – every man of twenty-one years of age, and with certain other qualifications, shall vote. Does not that look manly and bold, to recognize a man – a man as a man.”\textsuperscript{496} His language pressured the rest of the convention delegates to behave “like men,” indicating that for Gross, at least, political behavior was closely tied to a masculine identity. Like the Democrat Gross, some Republicans favoring the inclusion of black suffrage in the whole constitution claimed that the Democrats who

\textsuperscript{494} Republican advocates of universal manhood suffrage believed that embedding black male enfranchisement in the text of the whole Constitution was the best way to ensure its passage, forcing the voters to reject the whole Constitution if they wanted to prevent an expansion of the franchise. Democrats, who had proclaimed with ritualized regularity in the antebellum period that America was a “white man’s country,” hoped to avoid expanding the franchise to include black men and attempted to get black suffrage submitted to the voters as a separate question knowing that it would most likely be rejected, as it was in 1846 and 1860. For a more extensive discussion of postbellum Democratic attitudes toward race, see Lawrence Grossman, \textit{The Democratic Party and the Negro: Northern and National Politics, 1868-92}. (Urbana, IL: University of Illinois Press, 1976).


\textsuperscript{496} \textit{Proceedings and Debates of the Constitutional Convention of the State of New York}, July 17, 1867, 320.
were urging for a separate suffrage referendum were timid, cowardly, and attempting to hide from the issue in an unmanly fashion. Their way, that of an integrated presentation of the suffrage issue, was the “manly and bold” policy plan. Republican E.A. Brown asked the convention, “why not act like full-grown men on this subject? Why not stand up and say boldly ‘We wish to exclude these men from the elective franchise.’ We do not wish to dodge the question by submitting it separately ... Let us settle the question here like men.” Brown declared that gendered standards of manly behavior required the delegates to recognize black men as men, and to not shirk the problematic political decision facing them by passing it along to the voters. Further, Brown asserted that unlike those supporting a separate referendum, his own manhood was not threatened by recognizing manliness in men of another race. Democrats, and even some Republicans, disagreed that the joint submission of the suffrage question was the most manly way of dealing with suffrage. They argued instead that the most manly thing to do would be to let the people of New York decide the question of black suffrage. Republican Judson Landon defended the Democratic position: “I affirm, sir, that the plan of separate submission is bold, direct, and manly, and that the plan of joint submission is a plan that savors timidity and indirection.” Whichever approach was deemed most manly, direct submission of a black suffrage referendum to the people or its inclusion in the text of the whole Constitution, it is clear that some delegates believed their own manhood was at stake in this decision. To them, political behavior shaped their self-image as men; political behavior shaped their gender identity.

497 *Proceedings and Debates of the Constitutional Convention of the State of New York, July 11, 1867, 248.*
498 *Proceedings and Debates of the Constitutional Convention of the State of New York, July 12, 1867, 258.*
This concern with manhood was not lost on Anthony and Stanton, who continued their attack on the link between manhood and voting even after their appearance before the suffrage committee. On July 4 both women spoke at a massive rally for the AERA in Westchester, near Horace Greeley’s home. In her speech Stanton reiterated her challenge to the link between gender, military service, and voting rights. In this speech Stanton sharpened her attack by focusing on the convention’s politicians who had so recently rejected woman suffrage. She contended that there was no inherent connection between voting rights, manhood, and military service because she “presumed not a member in the constitutional convention had gone to the war, or could show the scar of a bullet received in battle. The ballot and the bullet certainly did not go together.” By pointing out that convention members were men, entitled to vote as men, yet were most likely not Civil War veterans, Stanton was critiquing the political leaders of the convention for not practicing what their party was preaching. These men who were exalting martial experience for African American men, simply could not live up to their own standards. Stanton’s attack on the delegates for failing to engage in active military service also demonstrated her developing awareness of how to use social differences to argue for women’s enfranchisement. Clearly, only the wealthy could pay poorer men to fight in their place. The wealthiest women, Stanton asserted, could just as readily pay a

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500 *National Anti-Slavery Standard* (New York), July 20, 1867. On July 12, Stanton sent a letter to the editor of the *New York Tribune* (Horace Greeley!) that began, “Sir: Allow me through your column to ask the pardon of Gens. Merritt and Morris, Cols. Duganne, Seaver, and Axtell, for ignorantly robbing them of the glory and honorable scars won in the second revolution. But, Mr. Editor, if the ‘bullet and ballot’ do go together, remember women fought in the late war; some fought and died on the battlefield. If they did not do as much as man to prosecute the war, they did far more to mitigate its horrors.” *New York Tribune*, July 12, 1867. Clearly, Stanton’s more assertive tactic only brought embarrassment, and it seems she reverted to Anthony’s more subtle argument that women had already served in the military as well.
501 There is some indication that the $300 fee for sending a substitute was accessible to many, regardless of social class. See James McPherson, *Ordeal By Fire: The Coming of War*, (New York: McGraw-Hill, 2000). However, it was certainly easier for the wealthy to come up with this amount of
poorer man to fulfill the military service required of them if enfranchised. Wealthy white women’s class status, Stanton implied, was equal to that of wealthy white men. If equal in class status, Stanton’s statements suggested, why not equal in political privilege? If the ties between military service, manhood, and voting rights were a formality that could be overcome by men with money, as Stanton so cleverly noted, women with money could similarly overcome these formalities.

But the convention was not associating class with suffrage, they were associating gender, manhood in particular, with suffrage. This focus prompted Stanton and Anthony to undertake a more aggressive attack on manhood by challenging the manliness of Horace Greeley himself. In this endeavor they were helped by the Democratic delegate from Richmond county George W. Curtis. Curtis was a longtime supporter of woman suffrage, and was the delegate Anthony considered to be the convention’s best woman suffrage advocate. On July 16 Curtis presented a particularly critical petition, which, unlike the many earlier AERA petitions, gained significant public attention because of the names of the signers. On July 16, as the convention debated Horace Greeley’s suffrage committee report, Curtis presented a petition from “Mrs. Horace Greeley and other citizens of Westchester County, asking for equal suffrage for men and women.”

money than it would have been for the poorer classes. Thanks to Kathryn Lawton, William Smith College, for her discussion of Civil War commutation clauses and class in her Honors Project, Class of 2009.

502 Anthony wrote to Anna Elizabeth Dickinson on July 12, 1867, that Curtis “is very earnest & true, it seems to me.” Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 79.

503 Proceedings and Debates of the Constitutional Convention of the State of New York, July 16, 1867, 283. In a September 1 letter, Stanton reported to Emily Howland that Curtis had presented the petition at the behest of she and Anthony, “by our engineering.” Elizabeth Cady Stanton to Emily Howland, September 1, 1867, in Stanton, Stanton, and Blatch, Elizabeth Cady Stanton as Revealed in Her Diary, Letters, and Reminiscences, vol. 2, 117. Mary Greeley’s suffrage activism continued after the New York Convention, when she became an executive officer of the AERA during 1868, and petitioned Congress in 1868 during the Fifteenth Amendment debates. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 189-190, n. 6.
When Curtis presented the petition under Horace Greeley’s name, as it was from “Mrs. Greeley,” rather than from Mrs. Mary Greeley, he sought to make clear exactly which “Mrs. Greeley” had signed this petition. Consequently, Curtis emphasized the differences in opinion on woman suffrage within the Greeley household and exposed marital discord in the Greeley home for the entire state to see. Even more vital, however, the petition had revealed that Horace Greeley did not control, or perhaps was not even aware of, his wife’s opinions. The petition implied that Horace Greeley was not an effective head of his household, that he was not fulfilling his duties as a husband, and that he could not control his wife. Early in their petitions drive before the convention, Stanton and Anthony had persuaded Mary Cheney Greeley to sign one of their universal suffrage petitions. But by pressing Mrs. Greeley’s petition on the convention after Horace Greeley’s suffrage committee report had indicated his disfavor of the issue, Stanton and Anthony (through Curtis) were effectively challenging the manhood of the chair of the suffrage committee. Unlike their challenge to the link between manhood and military service, this was a decidedly personal challenge.

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504 Petitions from women were presented to the convention in many different ways. On June 26, Curtis presented a petition headed by the signature of Elizabeth Cady Stanton’s mother, which was presented as from “Mrs. Daniel Cady,” perhaps because Daniel Cady was a well-known lawyer in the state. But on June 28, there were multiple petitions presented from women. These were presented using the honorific “Mrs.” and the woman’s own first name (Mrs. Eliza Osborn, Mrs. Lina Vandenberg) or under her own name or initials, “Lucretia Sutton, A. H. Sabin.” Proceedings and Debates of the Constitutional Convention of the State of New York, 157, 176-7.

505 In her biography of Victoria Woodhull, Other Powers, Barbara Goldsmith presents an image of Mary Cheney Greeley as a deeply unhappy, depressed, manic woman who probably killed one of her children through neglect. She argues that the Greeley marriage was extremely troubled. Stanton and Anthony must have known this and taken advantage of both the rift in the family and Mary Greeley’s increasing interest in the ‘60s in spiritualism and women’s rights. Barbara Goldsmith, Other Powers: The Age of Suffrage, Spiritualism, and the Scandalous Victoria Woodhull, (New York: A.A. Knopf, 1998), 55-62, 132-133. The depth of Greeley’s anger may have been revealed in a conversation he had a few weeks after the presentation of the petition with Stanton and Anthony. Stanton reported that Greeley told her at a party some weeks after the petition was presented that he had “given strict orders at the Tribune office that you and your cause are to be tabooed in the future, and if it is necessary to mention your name, you will be referred to as ‘Mrs. Henry B. Stanton.’” ECS to Emily Howland, New York, NY, Transcript prepared for T. Stanton and H.S. Blatch, NJR, Douglass Library, T. Stanton Collection, in Holland and Gordon, "Papers of Elizabeth Cady Stanton and Susan B. Anthony," 12:305.
the floor, and when its presentation occasioned "much amusement" in the rest of the convention, the ambushed Greeley was quite upset. When the convention adjourned for the day, the suffragists later recalled, Greeley "had disappeared through some side door, and could not be found."506

Greeley's embarrassment was noted in all of the major New York papers, providing the perfect opportunity for partisan ridicule and further public challenges to his manhood.507 The New York World headlined the petition's presentation in very large, bold print on the front page: "Mrs. Horace Greeley petitioning for female suffrage," and reported that the petition's "announcement created a general laughter in the convention at the expense of Greeley."508 The editors of the New York Herald wrote that the petition was "clearly a domestic protest against the tyranny of that gay deceiver Horace." Later in the editorial, in the racist language typical of their party in this period, the Democratic editors stated that "there is room enough for the women on the broad platform of universal suffrage, and we have a poor idea of the manhood that would crowd these gentler ones away to make room for the niggers."509

Ridicule of Greeley was not limited to the press, but emerged in the convention itself after the presentation of his wife's petition. On July 19, during the debate on suffrage committee's proposal, George Curtis proposed to amend the state's suffrage

The footnote on this transcript indicated that "this custom was persisted in even for several years after the death of Mr. Greeley." However, the editors of the Selected Papers of Elizabeth Cady Stanton and Elizabeth Cady Stanton have found that Greeley did not begin referring to Stanton as "Mrs. Henry Stanton" until after her National Woman Suffrage Association passed a resolution criticizing Greeley and his paper on July 7, 1869. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 77, n. 3. Regardless of the specific timing, I think that Anthony and Stanton correctly recalled Greeley's anger about this incident.

507 The suffragists later suggested that the timing and strategic presentation of Curtis's petition was a deliberate strategy specifically designed to draw attention to Greeley in the press. Stanton, Anthony, and Gage, History of Woman Suffrage, vol. 2, 286-287.
508 The World (New York), July 18, 1867, 1, col. 4.
509 New York Herald, July 18, 1867, 6, col. 5.
provision by removing the word “male” from its text. This led to direct and explicit debate on woman suffrage on the convention’s floor. On two different occasions during these debates, delegates obliquely referenced Greeley’s public embarrassment, continuing the challenge to his masculinity generated by the petition and its press coverage. The first challenge came on the 22nd of July, five days after Mrs. Greeley’s petition was offered to the convention, when Marcus Bickford referenced Greeley as he argued that women who received the right to vote would also then have the right to hold office. The election of women, Bickford argued, would result in a dramatic spectacle, “when the Speaker recognizes ‘the Lady from Westchester.’” The records of debate indicated that at this, the convention laughed. Horace Greeley, as the most prominent representative from Westchester County, was likely Bickford’s target. Greeley, Bickford implied, was less than a man, either because his role could be readily supplanted by a woman, or because Greeley himself was implied to be the “Lady” in this scenario. Thus it seems that Mrs. Greeley’s petition undermined her husband’s position in the eyes of his peers.

The second attack on Greeley’s masculinity occurred on July 25, one of the last days that woman suffrage itself was explicitly debated in the convention. Democrat Erastus Brooks from the 1st Senatorial district argued that woman suffrage was not a popular demand among women, and that the men of the convention were evidence enough of this lack of support. He stated that, “there are in this convention one hundred and sixty household gods, so to speak, representing our homes and firesides. All of these are represented by us in our respective heads of families. How many of these homes, how many of our wives and daughters and sisters desire to be

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510 Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 2, 85, n.1. 511 Bickford went on to say, “Small chance then will gentlemen have to ‘catch the speaker’s eye,’ especially if the speaker be a ladies’ man, as he will be if any man at all.” The association between sexual prowess, promiscuity, manhood, and political power is clearly embedded in this statement. *Proceedings and Debates of the Constitutional Convention of the State of New York, July 22, 1867*, 443.
intrusted [sic] with this right of franchise?" In quite recent memory, at least one of the "household gods" of the convention, Horace Greeley, had a wife who desired to be entrusted with the right. At least one of the "household gods" had been "outed" to the rest of the convention only days before as not having total control over his household.

Stanton and Anthony's attempt to challenge the connection between manhood and voting by undermining the manhood of the chair of the suffrage committee was unsuccessful and problematic. As an intentional strategy designed to point out logical inconsistencies it played out as a personal attack, making it seem more of an angry reaction born of spite, hurt, and feelings of betrayal than as a reasoned political strategy. Further, Stanton and Anthony's challenge to manhood did not transform the opinions of delegates at New York's constitutional convention. It may have even alienated them further from the cause of universal suffrage. Stanton and Anthony's use of Mary Greeley instead may have played into the worst fears of the delegates: that woman suffrage would result in domestic discord, undermining the "natural" authority of men as the heads of households. Combined with the suffragists' attack on the relationship between military service and voting rights, the challenge to masculinity indicated to the delegates that women could not be enfranchised without disrupting existing gender arrangements. Contrary to what Stanton and Anthony had hoped, their arguments merely played on the delegates' fears that enfranchising women would result in gender disruption – that giving women access to the male political sphere would transform the "natural" organization of both politics and gender.

In the floor debates on Curtis's proposal to incorporate woman suffrage into New York's constitution, the delegates revealed their belief that universal suffrage

would bring about gender disruption, and that it would fundamentally transform what it meant to be a man and what it meant to be a woman in the postbellum nation. Just as the delegates’ use of manhood characterized political behavior as gendered, even amongst themselves, their positions on woman suffrage during convention debates demonstrate that political rights were also understood to be gendered. Thus, for the convention delegates, not only was manhood a necessary qualification for voting, but voting was a necessary determinant of manhood.

In the convention’s woman suffrage debates, opponents of a gender-neutral franchise argued quite plainly that women should not have the right to vote simply because they were not men. For example, Horace Smith, Republican from the 15th Senate district, argued that the natural right of suffrage did not apply to women because gender was not an “unjust or invidious distinction.” He stated that the Declaration of Independence “demands the same rights and privileges for the colored man that belong to the white man, other things being equal. But, sir, it does not ignore natural distinctions, nor does it involve an identity of sphere or sameness of functions.”

Seeing race as not a “natural” distinction, but perceiving gender as such, Smith claimed that discriminating between the races was clearly not consistent with the founders’ vision of equality, while discriminating between the sexes was. Smith continued his statement with a definitive declaration about the relationship between masculinity and voting rights. He argued that, “we demand the right of suffrage for colored men because they are *men*, and exclude women because they are *women*, and this is not incompatible with equality before the law as enunciated in the Declaration of Independence.”

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woman suffrage to black male suffrage. He stated that relating the two causes “is illogical because the questions have no connection with each other; the distinction depends upon sex and not upon color,” and reiterated again “We claim the right of suffrage for colored men because they are men, the same measure of political rights for black as for white, under the Principles of our government and the Declaration of Independence; but we object to women, both white and black, participating in government because they are women.”515 Clearly, for Smith, manhood alone enabled participation in government. Manhood alone connoted voting rights. In his vision of the political community, the only legitimate voters were men.

Other delegates agreed with Smith and foresaw gender chaos if women voted. Republican Francis Silvester was clearly influenced by Stanton and Anthony’s argument that women would serve in the military if they were allowed to vote. He found the idea of this service laughable. Silvester entertained his fellow delegates with a hypothetical scenario:

> suppose we consider [women] enrolled in the militia, what uniform are they to support? Are they to don the regulation pattern of the national guard of the State of New York, or are they to appear in expansive crinoline, in flowing train, in head dress and waterfall? [Laughter] ... Here is a regiment composed of male and female; here is a rank ... the inspector stations himself next to private William Brown, and ranges his eyes along the line of warriors to test its straightness, but the poor masculine soldiers are completely hidden by the crinoline of the feminine warriors, and the inspector, completely baffled, is obliged to relinquish his task.516

Although Silvester intended to amuse his colleagues, the problem of women joining the male sphere was quite serious and far more worrisome to the delegates than

choosing appropriate uniforms for "feminine warriors." "Feminine warriors," by their very presence, would undermine military discipline and order. But Silvester also raised a specter of soldiers in drag, a fundamental transgression of the boundaries between masculine and feminine behavior and dress. Women voters would result in women soldiers, both trespassing in the male sphere and generating political and social chaos. To Silvester, it seemed obvious that enfranchising women would result not merely in military disorder, but gender disorder, a prospect that seemed laughable, but was clearly a serious concern.

Other delegates reiterated Silvester's fears that gender disorder would result from enfranchising women. John Francis, a Republican from the 12th district, expressed his concern by bemoaning the loss of sacred masculine space if women were permitted to vote. He said, "Why, sir, if we admit this exercise of the franchise we are substantially told that the ladies shall wrangle at the bar, shout in the auction room, speculate at the Bourse, and be present at the bickering of the gold room ... There will be no door to office so concealed or jealously guarded upon which there will not be the gentle but preemptory knock of woman." Francis's fear that voting women would trespass on male space speaks forcibly to the powerful connection between how Americans understood the relationship between gender and political power. The vote could enable women to access all male spheres; the vote could enable women to break down the boundaries separating the gendered spheres of public and private. The vote could empower women to challenge male political and economic power and could break down the meanings of nineteenth-century gender roles.

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Silvester and Francis expressed a fear of gender disruption with women’s enfranchisement because clearly, in their views, voting was fundamentally defined as a male privilege and manliness was fundamentally tied to voting. Giving women the vote would de-feminize women, as Marcus Bickford inadvertently indicated by calling suffragist Lucy Stone “Mr.” when she spoke before the convention on July 10.518 But, giving women the vote would also feminize men as Bickford’s earlier comment about “the Lady from Westchester” and Silvester’s “feminine warriors” revealed. Giving women the vote would transform women to men, men into women. Thus, giving women the vote challenged a definitive marker of manhood. Repeatedly, the delegates to the New York State convention in 1867 argued that enfranchising women would disrupt society by overthrowing the gendered social order, thus revealing that the connections between gender and voting were not merely incidental. Black suffrage supporters among convention delegates recognized that just as manhood was a necessary component of voting, voting was also a necessary component of manhood. Acknowledging the manhood of and enfranchising black men transformed them from slaves to citizens. It was this transformative power of the vote and its potential to transform gender relations and gender identities that opponents of woman suffrage feared and that its supporters sought.

"Heard as Women"

On July 12, Stanton published an article in The Independent addressing the problem of gender disruption that the committee and the convention feared from

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518 Proceedings and Debates of the Constitutional Convention of the State of New York, July 22, 1867, 434. On July 10, 1867, Lucy Stone and Henry Blackwell spoke at the capital, arguing that even if woman suffrage was not made part of the constitution, it should be submitted to the voters as a referendum. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 80, n. 1.
women’s enfranchisement. Stanton critiqued the convention for suggesting that voting women would “disrupt the function of the sexes.” She asked,

What particular function is required to vote? In the discussion on this point we hear of property, education, morality, sanity; yet ‘white males’ vote without either, and women possessing all are denied the right ... Because a man is a father, must needs he be nothing else? Are lawyers, merchants, tailors, cobblers, boot-blacks less skilled in their specialties because they vote? Because some women are mothers, shall all women concentrate every thought in that direction? And, can those who are mothers be nothing else? ... If women should vote one day in the year, must every duty and function of her being be subordinated to that one act during the whole 365?

Like men, Stanton argued, women had the ability to be many things at once, to hold multiple positions and identities. Like men, women could think and act in a public way and not disrupt their private lives. “On what principle does the history rest that, if woman had this right, she would desert husband, child, and home, and reserve all her love and care, her smiles and enthusiasm, for the ballot-box? Now, woman’s love for man is not based on the statutes of the state, nor the maternal instinct on the second article of the Constitution.” Nature, Stanton contended, was so powerful that it was immune to any changes that humans could create. The passage of women’s property rights earlier in the century in New York had proved this. While critics had contended that permitting married women to own property would disrupt gender relations, such a change had not come about. Likewise, “the ballot in the hand of woman will bring neither the millennium nor pandemonium the next day; but it will surely right many wrongs. It will open to her the colleges, the professions, the profitable and honorable walks of life, and give her better wages for her work.” Enfranchising women, she argued, would enable them, like men, to have “self-respect, independence, and power,” which would then “purify and exalt our social relations.”519 New York’s

519 Elizabeth Cady Stanton, “Constitutional Convention,” The Independent, July 18, 1867, in Gordon,
constitutional convention, however, seemed to fear just this: that enfranchising women would empower them, it would enable them to access male-dominated institutions like colleges and professions, and that in this it would not simply undermine womanhood, but would challenge manhood.

By mobilizing the language of masculinity to defend both black male enfranchisement and their own activities, the delegates to the constitutional convention revealed a distinct anxiety that Reconstruction produced about gender roles. While antebellum white masculinity was associated with political privilege denied to men of color and all women, as the postbellum political world considered sharing those privileges the definitions of masculinity were undermined. What would determine manly behavior in this new political landscape, the recognition of black men’s maleness, and manhood earned by military service, or a retrenchment of white masculine privilege? Black men’s claim to male status was a powerful argument for their claim to the masculine privilege of voting, a connection that all delegates seemed to recognize regardless of their position on the question of black suffrage. This connection proved difficult for supporters of woman suffrage to refute. However, the delegates themselves drew upon a rhetorical strategy that Anthony, Stanton, and the AERA also used. By challenging the manliness of each other, the delegates demonstrated that there was some anxiety about postbellum manhood, and opened the way for challenges to the connection between manhood and political power. Anthony and Stanton contributed to this anxiety by developing more fully the preliminary attacks on manhood as a determinant of suffrage rights that they had begun in the AERA’s spring tour. As Anthony and Stanton questioned the connections between manhood and military service and attempted to disrupt the ties between masculinity and political behavior, they challenged the manliness of the delegates themselves. If

voting, manhood, and military service were fundamentally connected, Stanton and Anthony asked, were those among the delegates who did not serve in the Civil War not men, and therefore not entitled to vote? By pointing out the logical inconsistency inherent in the argument that military service connoted manhood, and therefore voting status, Stanton and Anthony hoped to disconnect voting from manhood in the eyes of the New York State convention delegates and encourage the passage of universal suffrage. But, their attempt “to bury the black man and the woman in the citizen,” failed in spite of their reasonable arguments that men and women had the same natural rights of citizenship and that the connection between manhood and suffrage was artificial and contrived. Rather, the convention delegates believed that voting was fundamentally gendered and that enfranchising women would disrupt “natural” gender relations that restricted women’s political activity. This disruption would not only threaten male power and privilege, but would potentially undermine the meaning of gender itself. The AERA could not redefine the gender norms of nineteenth-century America sufficiently persuasively to convince the white men in power in New York in 1867 that burying the woman in the citizen would not also bury all gendered distinctions. Ultimately, the AERA failed because in 1867, New Yorkers did not believe that voting citizenship was neutral ground into which gender identities could be buried.

The convention proved this when it overwhelmingly defeated Curits’s proposal for enfranchising women, first by a vote of 9 to 133, then by a vote of 19 to 125.520 Immediately before the final vote was taken on whether or not to include woman suffrage in the suffrage committee’s plan for New York’s expanded franchise, Horace Greeley rose and took the floor to protest against the gender disruption that would result from enfranchising women. He stated that he did not wish for women to lose

their femininity, to become masculine women by the imposition of the vote. He said that instead, "I wish the women of this State to be heard as women, and not to be mixed up with and commingled with men in caucuses, on nominating committees, and at the polls, but allowed to have their views heard as women of the State ... I am very sure they will be heard as women." The women seeking universal suffrage as a right of all citizens in New York State in 1867 were not heard as citizens, as neutral persons with inherent natural rights. They were heard as women, as gendered individuals requesting a revolution in how masculinity and femininity were defined.

Thus both of the suffragists' goals in the New York campaign, their attempt to bury the black man and the woman in the citizen and their attempt to dissociate manhood and voting, failed to convince the Republicans to grant voting rights to New York's women. However, although these strategies failed, they represented the suffragists' first attempt to seek an alternative argumentative framework outside of the abolitionist/radical Republican rubric. It was their first challenge to the Republican's partisan rhetorical hegemony and foreshadowed the suffragists' forthcoming split with the Party of Lincoln. But within the partisan world of Reconstruction politics, there were limited alternatives to Republican alliances and rhetorical culture. To successfully navigate this partisan world, the suffragists had to work within the constraints it imposed. Thus, when looking away from the Republicans, the remaining option was the other political party competing with the Republicans for institutional control, the Democrats.

521 Proceedings and Debates of the Constitutional Convention of the State of New York, 537.
CHAPTER 6

"CONSORTING WITH COPPERHEADS"

Looking back on the early winter petition campaign of 1866, the authors of the *History of Woman Suffrage*, Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage, recalled three things about the partisan politics that shaped the fate of their congressional petitions: that Republicans were reluctant to introduce the petitions; that when they did, they did so “under protest” and with a lack of respect; and that as a result, Democrats “saw how completely Republicans were stultifying themselves and violating every principle urged in the debates on the 13th Amendment,” and so “volunteered to help the women fight their battle.” 522 These “friendly Democrats,” the suffragists recalled, pressed the cause of women’s voting rights at a moment when Republicans had explicitly rejected women’s claim to the ballot.

The suffragists’ identification of Democrats as voluntary allies fighting for a gender-neutral polity in the 1866 petition campaign was flawed. The vast majority of woman suffrage petitions in the 39th Congress were presented by Republicans. In this the *History of Woman Suffrage* better reflects the suffragists’ recollection of their partisan relationships in the late 1860s, rather than their political strategy during the spring of 1866, which had relied almost exclusively on Republican support.

After the summer of 1867 some of the suffragists who felt openly rebuffed by both the Republicans’ gendered Fourteenth Amendment and by the Party’s rejection of woman suffrage in New York’s constitutional convention sought a new partisan

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political strategy, shifting from one that exclusively appealed to Republican and abolitionists to a more wide-ranging strategy designed to appeal to Democrats as well. This new strategy began to emerge in Susan B. Anthony and Elizabeth Cady Stanton’s critique of manhood in the New York campaign in 1867, where Stanton and Anthony openly attacked the Republican association between manhood and voting rights. When this attempt failed to gain women’s enfranchisement, Stanton and Anthony took the fight to Kansas, where referenda were on the ballot to enfranchise both African American men and women in the fall of 1867. During their time in Kansas, Stanton and Anthony began to change their partisan political tactics, forging new alliances with some Democrats. They hoped that the Democratic Party would prove more “friendly” to woman suffrage than had Republicans.

In Kansas, and in their protests against the Fifteenth Amendment in the years that followed the Kansas campaign, Stanton and Anthony began to make explicitly racist arguments suggesting that white women would make better, more prepared, and safer voters than African American men. This racist language, most often articulated in their new Democratically financed women’s rights newspaper *The Revolution*, caused an uproar among their fellow reformers. The anger and disillusionment that resulted from clashes between Stanton and Anthony and their supporters, who believed that any means justified the end of women’s enfranchisement, and suffragists like Lucy Stone and Henry Blackwell, who believed that no argument advocating inequality could result in equality, ultimately caused the division of the woman suffrage movement into two separate organizations in 1869. Stone’s American Woman Suffrage Association rejected race as a weapon in the suffragist arsenal and maintained the traditional abolitionist-Republican alliance. Stanton and Anthony’s National Woman Suffrage Association, on the other hand, used whatever weapon was
at hand to advocate women's enfranchisement, including appeals to those "friendly Democrats" who opposed enfranchising African American men.

Current suffrage historiography has had difficulty understanding what I call Stanton and Anthony's "racist turn." Past work on the early suffrage movement has dealt with the question by attributing their use of racist language to the influence of the dynamic and eccentric Democrat financier George Francis Train, who joined the woman suffrage platform during the Kansas campaign and who provided the initial funding for *The Revolution*. Other work has situated Stanton and Anthony's racism in the larger cultural reconceptualization of gender and race emerging from scientific evolutionary theories. 523 These explanations, while compelling, are incomplete because they do not fully examine the forms, formats, and imbedded meanings of the early racist language used by these woman suffragists. 524 Furthermore, these studies neglect to contextualize Stanton and Anthony as activists working within a partisan political system where Republicans and Democrats controlled access to public political institutions and created competing and contrasting discourses on suffrage rights. 525 In short, they do not seriously consider the partisan politics that constrained Stanton and Anthony as political actors.

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524 Louise Michele Newman's excellent book *White Women's Rights* does take the racism of the suffragists seriously, both as a political strategy and as a cultural artifact. The only limitation of her work, however, is that it focuses on the period from the mid-1870s through the early twentieth century. Because of this focus, she grounds the racism of the suffragists within the context of a scientific rhetoric permeating the popular culture of the early modern American past. Her analysis of the suffragists' actions in the 1860s is brief and divorced from the partisan politics of that era. See Louise Michele Newman, *White Women's Rights: The Racial Origins of Feminism in the United States*, (New York: Oxford University Press, 1999), 3-6, 62-65.

525 Studies that do analyze the women's connection to partisan political culture have either focused on antebellum women or on the twentieth-century suffrage movement. See Jo Freeman, *A Room at a Time: How Women Entered Party Politics*, (Lanham MD: Rowman & Littlefield, 2000); Melanie S. Gustafson, *Women and the Republican Party, 1854-1924*, (Urbana, IL: University of Illinois Press, 2001); Melanie S. Gustafson, Kristie Miller, and Elisabeth Israels Perry, *We Have Come to Stay: American Women and Political Parties, 1880-1960*, (Albuquerque: University of New Mexico Press,
As reformers seeking access to the American political system, any action Stanton and Anthony took was constrained by partisan political culture, rhetorical norms, and the current issues and ideas partisans focused on. Because they wanted to become legitimate participants in this system, the suffragists had to work within it, regardless of the constraints it placed on their actions, ideas, or language. In other words, suffragists who wanted the ballot could have as many radical ideas as they wanted, they could articulate their goals in whatever terms they wished, but if they wanted to succeed they had to persuade those with power to share it with women. The best way to achieve this goal, they believed, was to find allies on the inside by making arguments that would be meaningful and persuasive to those insiders.

The opportunity for what they considered to be a new and viable alliance with powerful political insiders appeared in Kansas in the fall of 1867. While the submission of African American and female suffrage as two separate referenda encouraged a competitive relationship between advocates of women’s enfranchisement and advocates of African American men’s enfranchisement in the state, the local politics and public opinion also pushed Stanton and Anthony, as well as some other members of the American Equal Rights Association (AERA), to see some potential benefits to a Democratic alliance. Further, the way that some national Democrats had expressed a preference for white female voters when faced with enfranchising African American men offered the suffragists some hope that a new alliance was on the horizon. While not exactly “volunteering to help the women fight

their battle,” these Democrats’ arguments certainly could be interpreted by hopeful listeners as extending some degree of support for white women’s enfranchisement.

Just as the suffragists had almost exclusively engaged with Republican rhetoric before 1867 in their congressional petition campaign by adopting Republican language, and then challenged that language in the New York campaign, the suffragists’ strategic shift toward the Democrats that began in Kansas and continued through their protests against the Fifteenth Amendment also relied on partisan suffrage rhetoric. Nineteenth-century Democrats frequently used racism and racist rhetoric to justify the continued exclusion of voters of color, to solidify their own white, working-class constituency, and to define their partisan agenda and identity. When Stanton and Anthony began to use Democratic language between 1868 and 1869, they likewise began to use racist rhetoric. This rhetoric, typical of the ante- and postbellum Democratic Party, employed race to define the limits of the political community and to identify the most appropriate participants in that community. Most critically, however, the suffragists used this language to claim that white women had a legitimate right to the ballot because of their race.

Although this racist turn was acutely problematic, if not immoral, it does demonstrate that Stanton and Anthony could adeptly navigate Reconstruction-era identity politics. They had watched Republicans use gender to delineate the limits of the polity, subsuming the racial identity of African American men in their manhood. Following yet inverting this pattern, these suffragists sought to subsume their gender identity in their race and instead use whiteness to define belonging in the political community. Stanton and Anthony’s fluid shift between the political rhetoric of the Republican and Democratic parties was a calculated political move designed to make white women’s claim to the ballot bear meaning in the intensely partisan world of nineteenth-century politics. This strategy, while elitist, controversial, nasty, and
ultimately self-defeating, was, however, a strategic choice that seemed logical to these suffragists given the constraints on their available political options. It was a calculated decision made by savvy politicians attempting to navigate their partisan world. And like many political choices, it relied more on expediency than morality.

"Such a Fearful Deglutition"

Even as New York was rejecting the AERA's request for a gendered revolution in voting rights, the members of the suffrage organization were already looking to their next campaign in Kansas. While there were some early indications that the suffragists would turn to the Democrats when they found Republicans hostile to their cause, as in their appeal to some Democrats during the congressional petition campaign and in their alliance with George William Curtis in the New York constitutional campaign, their first significant appeal to the Democrats came in Kansas in the early fall of 1867.526 After repeated rejection in the East, the AERA held out hope that the younger states in the West would prove more receptive to universal suffrage than had the Empire state or the Congress.527 They had reason to hope. In Kansas, the Republican Party had succeeded in getting a referendum for black suffrage

526 In the petition campaign of 1866, Elizabeth Cady Stanton wrote to Martha Coffin Wright that, "when we have had a thousand petitions printed, and when they are filled they will be sent to Democratic members who will present them to the House. But if they come back to us empty, Susan and I will sign every one, so that every Democratic member may have one with which to shame those hypocritical Republicans." Elizabeth Cady Stanton to Martha Coffin Pelham Wright, New York, January 6, 1866, Patricia G. Holland and Ann D. Gordon, "Papers of Elizabeth Cady Stanton and Susan B. Anthony," (Wilmington, DE: Scholarly Resources, Inc., 1991), ser. 3, reel 11, microfilm.
onto the November ballot. More importantly for woman suffragists, the influential
state senator Samuel N. Wood had also succeeded in placing a referendum to
enfranchise women on the same ballot.528 These parallel referenda seemed to offer the
perfect opportunity for the AERA to demonstrate the close relationship between the
rights of black men and those of all women. Instead the election in Kansas codified
the Republican Party’s resistance to women’s enfranchisement and confirmed that
both political parties believed black male suffrage and woman suffrage were
incompatible. Consequently, the campaign and defeat in Kansas served as a catalyst
for Stanton and Anthony, who then began asserting the primacy of woman suffrage
over black male enfranchisement and actively seeking Democratic Party support for
their cause.

In the spring and summer of 1867, as New York was debating suffrage, Kansas
State Senator Sam Wood had extended invitations to several prominent eastern
suffrage advocates to come to Kansas and “stump” for his woman suffrage
referendum.529 In the spring and early summer the AERA sent suffragists Olympia
Brown, Lucy Stone, and Henry Blackwell to speak for equal rights across the state.
However, Brown, Stone, and Blackwell found little support among Kansas
Republicans who, like New York and congressional Republicans, feared that the
association of woman suffrage and black male suffrage would defeat both. Instead,

528 Wood’s position on black suffrage was consistent with the position that Stanton and Anthony were
evolving — he consistently refused to support the expansion of the franchise to include black men if it did
not also include women. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B.
  3. Although Wood was a Republican, historian Rosalyn Terborg-Penn has argued that he was never a
  supporter of black male suffrage. From this, one could surmise that he worked so vigorously to get
  woman suffrage on the ballot to “balance” the presence of black male suffrage at the November
election. Terborg-Penn, African American Women in the Struggle for the Vote, 1850-1920, 30. Wood
  had convened an “impartial suffrage” convention in early April, but none of the prominent eastern
  radicals he was courting were present. Further, African American activist and leader in Kansas, Charles
  Langston, reported that Wood’s April convention was less friendly to black suffrage than to woman
  suffrage. Lucy Stone to Elizabeth Cady Stanton, April 10, 1867, in Gordon, ed., The Selected Papers of
Kansas Republicans sought to distance the black suffrage campaign from woman suffrage. By early summer Stone and Blackwell had returned to the East, discouraged by the lack of support they found in the state. Upon further urging from Wood, Stanton and Anthony came to Kansas in September of 1867 hoping to revive the lagging woman suffrage campaign.\textsuperscript{330}

By the time Stanton and Anthony arrived, it was already clear that Republicans in Kansas were not only failing to support the woman suffrage referendum, but that many were actively opposing it. When the Party’s State General Committee met on the September 18, Anthony reported to fellow suffragist Anna Elizabeth Dickinson that they “pronounce[d] for the Negro, and neither for nor against the woman … thus the contest stands now – the republican \textit{party neutral} – saying each speaker is left free to express his individual opinion on all ‘\textit{side issues}’ – calling Woman suffrage – a side issue.”\textsuperscript{331} However, there was enough activity among Kansas Republicans to keep their hopes for success alive. At least two prominent Republicans, Senator Samuel Pomeroy and the state’s ex-Governor Charles Robinson, expressed their individual opinions in favor of universal suffrage. For the first few weeks of their campaign Robinson accompanied Stanton on her tour of the state, while Anthony remained in Lawrence at the home of her brother, Union Colonel and newspaper editor D. R. Anthony. As the campaign continued, Pomeroy’s support for woman suffrage prompted forty-four other politicians and editors to sign a document indicating their support for both suffrage referenda. In late September Wendell Phillips’s \textit{Independent}


\textsuperscript{331} Emphasis original. Susan B. Anthony to Anna E. Dickinson, September 23, 1867, in Gordon, ed., \textit{The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony}, vol. 2, 92-3.
endorsed woman suffrage in Kansas. Further, Horace Greeley’s *New York Tribune* published on October 1 a plea to Kansan voters from such notable eastern radicals as Benjamin Wade, Theodore Tilton, Wendell Phillips, Gerrit Smith and Henry Ward Beecher urging them to vote favorably on both referenda.\(^{532}\)

This support came too little and too late. Since late August, other local Republicans had been actively campaigning against woman suffrage, and had coordinated their anti-woman suffrage activities with Republican events.\(^{533}\) For example, citing Greeley’s New York Convention suffrage report, a Republican meeting in Emporia declared its opposition to the woman suffrage referenda.\(^{534}\) Likewise, at the same Republican State Central Committee meeting that had suggested its speakers could treat woman suffrage as they chose, one delegate friendly to woman suffrage offered a resolution protesting the inclusion on the canvass roster a number of prominent local Republicans who had “in the last few weeks, in public addresses, published articles, used un gentlemanly, indecent, and infamously defamatory language when alluding to a large and respectable portion of the women of Kansas, or to women now engaged in canvassing the State in favor of impartial suffrage.”\(^{535}\) Many woman suffrage supporters understood these speakers, who toured the state stumping for the manhood suffrage referendum, to be vehemently opposed to the enfranchisement of women. Olympia Brown, who was herself speaking across the state, recalled that these speakers “were sent out under the auspices of the Republican Party to blackguard and abuse the advocates of woman’s cause while professedly speaking upon ‘manhood suffrage.’”\(^{536}\) Because the Kansas Republican Party did not censure

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\(^{532}\) DuBois, *Feminism and Suffrage*, 90-91; Susan B. Anthony to Anna E. Dickinson, September 23, 1867, in Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 2, 92, 94, n. 6, 10. Notably absent from this statement of support was Greeley himself.

\(^{533}\) Gordon, ed., *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, vol. 2, 93, n. 5.

\(^{534}\) DuBois, *Feminism and Suffrage*, 88-89.

\(^{535}\) Stanton, Anthony, and Gage, eds., *History of Woman Suffrage*, vol. 2, 931.

\(^{536}\) Stanton, Anthony, and Gage, eds., *History of Woman Suffrage*, vol. 2, 260-1.
its speakers, nor remove them from the speaking tours, some woman suffrage
supporters read this inaction as hostility to their cause.\textsuperscript{537} Even more indicative of the
Republicans’ opposition to women’s enfranchisement was the active campaigning
some Republican papers engaged in against the referendum. Calling woman suffrage
a “nauseating dose,” editor of the Atchison Daily Champion, suggested that “the
stomach of our state ... is, as yet, too tender and febrile to allow such a fearful
deglutition.”\textsuperscript{538} Woman suffrage, in other words, was too much for Kansans to
swallow. Feeling abandoned by local Republicans, and frustrated by national radicals’
inaction, and late action, suffragists in Kansas started to seek a different constituency.

As early as April 1867, woman suffrage supporters in Kansas started to seek
support from the Democratic Party. Since the AERA had found various New York
Democrats, like George William Curtis, amenable to their cause, they began to pursue
this new partisan alliance in Kansas as well. Early in the campaign, Ex-Governor
Robinson discovered that some Democrats were “disposed to talk favorably of the
male proposition.”\textsuperscript{539} Lucy Stone reported to Stanton on April 10, that although the
Republicans were setting aside woman suffrage, “the Democrats all over the State are
preparing to take us up.” While they were, “a small minority, with nothing to lose,”
Stone hoped that with their help, “we shall carry the State.”\textsuperscript{540} Stone’s husband,
Henry Blackwell, wrote two weeks later that, “if the Republicans came out against us
the Democrats will take us up.”\textsuperscript{541} Despite these early indications of Democratic
support, in September the Party officially rejected both suffrage referenda. Meeting

\textsuperscript{537} Some suffragists later reported that they faced hostility from local African American leaders, but
there is insufficient evidence to fully substantiate this claim. See for example, Olympia Brown’s
contribution to the chapter on Kansas in Stanton, Anthony, and Gage, eds., History of Woman Suffrage,
vol. 2, 261.
\textsuperscript{538} Stanton, Anthony, and Gage, eds., History of Woman Suffrage, vol. 2, 249-250.
\textsuperscript{539} Emphasis original. Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B.
\textsuperscript{540} Stanton, Anthony, and Gage, eds., History of Woman Suffrage, vol. 2, 234.
\textsuperscript{541} Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 51, n. 10.
on the same day as the Republicans, the State Democratic Committee, Anthony reported, had “declare[d] against both propositions,” refusing to officially endorse either black manhood suffrage or woman suffrage. Despite the official Party’s opposition, some local Democrats went against Party policy to support the referendum. But it was the appearance in early October of a well-known and popular Democratic figure that fueled the hopes of the woman suffragists for such sufficient Democratic support that the defection of the Republican Party and the official Democratic Party’s rejection would not matter.

George Francis Train had been invited to stump Kansas in favor of woman suffrage by a Missouri suffrage organization, as well as by Samuel Wood. Train was an energetic and outlandish speaker who rarely restrained himself to one subject in his public speeches. Train was also known for his impromptu short poems, called epigrams, that ridiculed prominent political figures. Train was also a railroad financier and wealthy enough to be funding his own private campaign for president. A well-known southern sympathizer during the war, Train was associated in the public mind with the infamous Copperhead Clement Vallandingham. Further cementing his Democratic antecedents in the public eye, Train was an ardent Fenian and supporter of Irish independence. His close ties to the Irish-American community guaranteed that wherever he went in Kansas some Democrats at least would turn out to hear him speak. His national reputation for eccentricity guaranteed that wherever he went in Kansas, hundreds of others would turn out simply for the spectacle.

542 Emphasis original. Ellen Carol DuBois reports that Lawrence County Democrats collaborated with woman suffrage Republicans to oppose the standard Republican party line, and that in Leavenworth, Democrats added woman suffrage to their printed ballots. DuBois, Feminism and Suffrage, 92.
543 DuBois, Feminism and Suffrage, 93.
544 In a speech recorded in his published account of the Kansas Campaign Train described himself as: “that wonderful eccentric, independent, extraordinary genius, and political reformer of America.” George Francis Train, The Great Epigram Campaign of Kansas: Championship of Woman, Thirty Speeches in Two Weeks in All Parts of Kansas, (Leavenworth, Kansas: Prescott & Hume, 1867), 40.
Train’s appearance in Kansas was initially a bit of a surprise to Stanton and Anthony, but they soon embraced him for the publicity, attention, and financial backing that he offered the cause. Throughout October, he and Anthony toured the state together and spoke on the same platform. In his speeches on this tour Train’s racist views emerged. These views fueled his support for woman suffrage, undoubtedly because he preferred it to black suffrage. Train was not alone in believing that an expanded franchise that included African American men required the inclusion of white women to create a “balance” in the political community. Since the AERA lecturers had sought Democratic partisan support before Train appeared in Kansas, early in the campaign they began to make appeals for woman suffrage in terms that would appeal to Democrats. For example, in April Henry Blackwell circulated a pamphlet suggesting to the southern states that they could “counterbalance” the votes of the emancipated men the North was seeking to enfranchise with the ballots of “your 4,000,000 Southern white women.” Adding white women’s votes to that of white men, Blackwell argued, would enable southern states to gain political power nationally. Adding white women to the voting rosters, Blackwell seemed to be suggesting, would be one way to maintain regional white supremacy in the face of Northern pressure for racial equality.

545 Anthony wrote to Anna Dickinson about Train: “But, how funny; that Geo. Francis Train is coming into the state for a month – to talk for woman — what sort of a furor he will make.” Gordon, ed., The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 93.

546 Historians have long debated the importance of Train to both the success of the referendum in Kansas and to the suffragists’ racism. While some situate Train at the center of the move to seek Democratic approval, essentially blaming his influence for the suffragist’s use of racist rhetoric, doing so deemphasizes the active role that the woman suffrage supporters took in creating their own partisan political strategy. Focusing on Train as a cause of the suffragists racist rhetoric also shifts the focus of historical analyses away from the partisan political context that constrained and limited the suffragists’ actions. For example, Ellen Carol DuBois asserts that Stanton and Anthony abandoned their own abolitionist traditions and turned to “Train’s racism.” DuBois, Feminism and Suffrage, 96.

Like Blackwell, Train addressed many of his appeals to Democrats, suggesting that woman suffrage could be a weapon for white supremacy. Primarily Train sought to persuade Democratic voters in Kansas that enfranchising women would benefit them. In one early speech Train claimed that Democrats should support woman suffrage because Irish women would double the Irish presidential vote for the national Democratic Party.\textsuperscript{548} Train also made it clear that he thought local Democrats would benefit by supporting woman suffrage. If nothing else, Train repeatedly implied that if they enfranchised women, they would gain those new voters’ allegiance, which would bring the Democrats to power in the state, a goal that had to appeal to the minority party.\textsuperscript{549} In addition to declaring that women voters would be a distinct partisan benefit for the Democrats, Train also explicitly connected woman suffrage and questions of race. For example in Johnson County Train composed the following epigram:

\begin{quote}
White women work to free the blacks from slavery / Black men to enslave the whites with political knavery, / Woman votes the black to save, / The black he votes, to make the woman slave, / Hence when blacks and “Rads” unite to enslave the whites, / ’Tis time the Democrats championed woman’s rights.\textsuperscript{550}
\end{quote}

Train’s intent was not disguised by his rhyme: unless Democrats enfranchised white women, black male voters would turn white women into “slaves.” These women, Train implied, would be endangered by the change in the political hierarchy that black manhood suffrage would bring about. In one of his first speeches in Kansas, in Leavenworth on October 15, Train declared that,

\textsuperscript{548} Train, \textit{The Great Epigram Campaign of Kansas}, 11.
\textsuperscript{549} Train, \textit{The Great Epigram Campaign of Kansas}.
\textsuperscript{550} Train, \textit{The Great Epigram Campaign of Kansas}, 32.
Woman suffrage is right, and must and shall succeed ... Let me put the question thus: all those in favor of lifting women up to the level of negroes politically, by giving them votes say aye. (Cries of aye, and laughter.) ... Now then, again: all those in favor of placing the women below the negro politically ... say aye. (No response.)

In Ottawa, Train and Anthony shared a stage with General Blunt, a Republican speaker who, like the suffragists, was speaking across the state in support of the black suffrage referendum. Train addressed many of his comments to the General, but one of the most telling continued his strategy of capitalizing on whites’ fear of social equality, implying that any such equality would put white women in jeopardy. Train asked General Blunt:

You say, General, that you intend to vote for negro suffrage and against woman suffrage. In other words, not satisfied with having your mother, your wife, your sisters, your daughters the equals politically of the negro – by giving him a vote and refusing it to woman; you wish to place your family politically still lower in the scale of citizenship and humanity. (Sensation and cries of shame.)

From the audiences’ responses to these statements it seemed that Train’s appeals to racial fears were successful in generating, at least in the passion of the moment, support for woman suffrage. But regardless of his long-term success in persuading Democratic voters, like Blackwell Train viewed the enfranchisement of black men and of white women as oppositional. This juxtaposition would persist among Democrats and Republicans, as well as the suffragists, for the next few years as Republicans became more and more committed to enfranchising southern African American men and some suffragists like Stanton and Anthony increasingly turned to the Democrats in response.

552 Stanton, Anthony, and Gage, eds., History of Woman Suffrage, vol. 2, 244.
Defining white women’s rights and black men’s rights as oppositional, and pitching the two parties against each other in the referendum campaigns, benefited neither cause in Kansas. On November 5, Kansan voters rejected both referenda by a significant margin. Black male suffrage was defeated by a vote of 19,965 to 10,502; Woman suffrage was defeated by a vote of 20,234 to 9,091. The vast support of the state and national Republican Party failed to guarantee the passage of black suffrage and the racist appeals of Train failed to secure sufficient Democratic support for woman suffrage.553 But in spite of this defeat, Stanton and Anthony did not end their association with Train. Instead, the suffragists accepted Train’s offer both to fund their return trip east, and to finance a new suffrage newspaper, *The Revolution*, upon their return to New York. While marginally tolerated during the Kansas campaign, Stanton and Anthony’s continued connection with Train was viewed with suspicion by many of their radical friends and erstwhile allies. William Lloyd Garrison expressed shock that Stanton and Anthony would “have taken such leave of good sense” to abandon the Republican Party fold for “that crack-brained harlequin and semi-lunatic, George Francis Train!” Train, Garrison said, “is as destitute of principle as he is of sense, and is fast gravitating toward a lunatic asylum. He may be of use in drawing an audience; but so would a kangaroo, a gorilla, or a hippopotamus.”554 Despite a wealth of criticism like this that came to the suffragists from their friends and former allies, Train’s offer of a newspaper was too tempting to pass up. A woman suffrage newspaper would offer Stanton and Anthony the forum in which to express their views without having to conform to Republican Party principles or other editor’s policies. Further, it would enable them to continue to pursue Democratic allies.

553 DuBois, *Feminism and Suffrage*, 78-104.
Antidote to Political Arsenic: Democrats, Race and Woman Suffrage

Seeking Democratic alliances required a significant rhetorical shift for the suffragists. No longer could they use the justice, equality, and citizenship arguments that the Republicans had so systematically created when debating suffrage questions. Instead, the suffragists had to continue to challenge the dominance of gender in defining voters, while creating arguments for enfranchising women that would be meaningful to Democrats in positions of power. They did this in the pages the paper Train funded, The Revolution, by creating arguments for woman suffrage that, like Train’s Kansas arguments, were based on ideas about racial hierarchy, social equality, and the danger posed to white supremacy by enfranchising African American men. These arguments appropriated Democratic partisan racist rhetoric and demonstrated that any argument made against enfranchising black men could be turned to the advantage of white women. Mirroring the rhetorical slight of hand Republicans were attempting to disguise the race of black men in order to legitimate them as voters, Stanton and Anthony attempted to cover over the gender of white women by capitalizing on and emphasizing their race.

Recognizing that race had been central to the Democratic rhetorical culture and to the Party’s self-definition consistently throughout the nineteenth century, Stanton and Anthony sought to build a new alliance with Democrats by adopting their racist partisan political rhetoric. Although this racist language had vast political and rhetorical power within the partisan political culture of the late nineteenth century, the costs of using it were high. Stanton and Anthony’s racist turn resulted in not only a split in the suffrage movement, but more seriously, it legitimated racism as a powerful and lasting weapon in the suffragist arsenal. Thus to play the party game, Stanton and Anthony shifted their language to find a new public, demonstrating both their skill in
navigating partisan linguistic constraints and testifying to the power of parties to structure the terms of debate and the boundaries of political action during Reconstruction.

Stanton, Anthony, and those suffragists who were beginning to claim that white women and not black men should take precedence in any expansion of the franchise saw numerous encouraging signs from the Democrats. Not only had some Democrats supported them in Kansas, but a few had presented woman suffrage petitions in 1866, still others had supported woman suffrage in New York in 1867. Further, Democrats in Congress between 1866 and 1869, aware of women’s demand for the franchise, had appropriated the idea of white women’s voting rights in suffrage related debates during the Thirty-Ninth and Fortieth Congresses. The idea of white women as voters seemed to offer Democrats both a rhetorical foil for black suffrage, and a tool for maintaining a vision of a white political community. In debates Democrats used white women’s voting rights both negatively as a counter-argument against the connection between citizenship and suffrage, and positively as preferable to any expansion of the body politic that included African Americans. Thus a Democratic conceptualization of citizenship where race was more important than gender offered an opportunity for a partisan alliance to the suffragists who were willing to adopt Democratic rhetoric.

Democrats did not develop their racist rhetorical political strategy during the Reconstruction debates. Nor were their racist arguments merely shallow tools adopted in a moment of partisan necessity. Rather, racism was fundamental to the self-identification and party identity construction of nineteenth-century Democrats. Historian Jean Baker has argued that racism, and racist cultural production like minstrel shows and songs, provided the means by which Democrats could construct
party unity through an emphasis on the collective whiteness of its members. That Democrats relied most heavily on “ethnoreligious outsiders” and recent immigrant groups for its constituency reinforced the potency of race to unite its disparate members as Democrats through whiteness. The rallying cry repeated ad nauseam by Democrats in the Civil War period – that the United States had “a white man’s government” – reflected the party’s reliance on whiteness and its rejection of those defined as racial “others.”

Throughout Reconstruction Democrats drew on this tradition of using race to define themselves as a party as they opposed any expansion of suffrage rights to include African Americans. Although Democrats were convinced that black voters would support Republicans, the centrality of race to the Party’s self-definition necessarily led to their opposition of black suffrage. In debates in Congress to battle the enfranchisement of black men, Democrats sought to emphasize the importance of whiteness as a determinant of political privilege. Through this rhetoric, the party challenged the gendered association Republicans were making between African American men and voting rights. By adopting a virulently racist rhetoric, Democrats constructed African Americans as racially inferior, morally depraved, and ignorant, therefore positing them as unfit voters. Manhood, Democrats argued, was insufficient to balance the “natural” and “inherent” disabilities of race.

An examination of Democrats’ racist anti-suffrage rhetoric reveals that it was usually grounded in pro-suffrage arguments formulated by Republicans, but altered in one significant way: Democrats frequently situated white women, rather than black

men, as the subject of their arguments. For example, Democrats inverted the
Republican Party assertions that the ballot was a right of citizenship by claiming that
the fact that women could not vote indicated that citizenship alone did not connote
voting rights. Democrats, like Republicans, used the safety of the nation and
individuals to create their suffrage claims. Unlike Republicans, however, Democrats
argued that the safety of the nation would be imperiled if black men were
enfranchised. Furthermore, Democrats rejected the Republican claim that the ballot
was necessary to protect southern black men and instead argued, most insidiously, that
if those men were enfranchised the safety of southern white women would be
compromised. Finally, some Democrats argued that if the majority Republicans were
so intent on enfranchising African American men, they must also enfranchise white,
educated women to “balance” the influx of “ignorant” voters to the body politic that
they argued this move would produce.

In debates about whether to enfranchise the African American men of
Washington D.C. in early 1866, Democrats repeatedly challenged Republicans’ claims
that black men possessed the right to vote by virtue of their humanity and citizenship.
While most Democrats were not necessarily willing to advocate woman suffrage,
many used women’s disfranchised state as evidence that suffrage was neither a natural
nor a citizenship right. If the right of suffrage belonged to all citizens, they argued,
why did it not belong to women as well as black men, and why did Republican
policies and legislative proposals not reflect this? In the Senate, Garrett Davis, a
Democrat from Kentucky, argued that “the right to vote is not a natural, but an
artificial right, as well in our country as all others wherever it has been exercised; and
in the countries where it has been most diffused it never was allowed to one fourth of
the people, the women and minors and many other small classes not being permitted to
vote under the most popular Governments. Representative John Chanler of New York echoed these sentiments, and further rejected the Republican assertion that the denial of the franchise to African American male citizens was an injustice. He argued that:

The right to vote is not an inalienable right ... It is not a natural right at all, and is in this country made subordinate to the will of the majority, so that women, minors, and aliens are excluded from its exercise. Yet no disgrace attaches to them in being deprived of the privilege to vote, nor is any injustice committed on them. If the right to vote be, as asserted by some, an inalienable right, it naturally belongs to every human creature who lands on our shores, and should be granted to them without limitation of time or distinction of sex. This is denied by the friends of negro suffrage.

The majority of Democrats arguing that voting was clearly not a natural right because it was not granted to women assumed that this was the best way for public affairs to be ordered. Most Democrats, like most nineteenth-century Americans, probably felt like Chanler, that it "does not fix disgrace on the fair sex excluded by common practice from the right; it is rather an honor to them that they suffer this 'constraint which sweetens liberty.'"

Democrats were not so bold as to argue that the lack of the ballot "sweetened liberty" for African American men. They did, however, reject the idea that suffrage was either an inherent, natural right or a right of all citizens in a democracy. By defining African Americans, as mentally incapable of understanding the political process, like many nineteenth-century Americans defined women, Democrats argued

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557 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 16, 1866, 245. Although Davis was elected as a Whig to fill the vacancy of John C. Breckenridge in 1861, in 1867 he was re-elected as a Democrat. Given this fact, and the consistency of his language with racist, Democratic Party rhetoric, I classify him as a Democrat.
that African Americans were therefore incapable of voting regardless of what their "natural" rights may be. On June 16, 1866, Representative William Niblack from Indiana argued, "That all human beings, however low in the scale of humanity, have certain rights which ought not to be and cannot be without impunity, disregarded, I frankly concede ... But there is a very broad distinction between the protection of a person in his civil rights, his personal and property rights, and the conferring of political power upon him." Niblack continued, "I have always maintained, and certainly a very large majority of the people of Indiana have, heretofore at least, also maintained, that in the grand scale of humanity the negro race is inferior to the white race, and that anything like social or political equality between the two races is neither practicable nor desirable." Separating the civil rights of property and safety in one's person from voting, rights that Republicans were also seeking to protect through legislation, Niblack challenged the radical assertion that the ballot was a fundamental civil right. As Niblack disputed this claim by defining blackness as inferior to whiteness, he implicitly argued that this racial inferiority rendered black Americans incapable of voting. Senator James Doolittle of Wisconsin expanded this argument to include any non-Anglo-Saxon men,

We are Caucasians and represent that race. From history, from our education, from our experience, every man of full age of the Caucasian race in this country, as a general rule is competent. The Indians, the Africans, the Mongolians, the Asiatics in this country, from their history, from their position, are incompetent as a general rule, the exceptions only being competent ...When a man tells me that the Africans in this country just set free on the plantations – I now speak of them as a mass ... when a man tells me that as a mass these men just set free are competent to exercise the right of suffrage

and help shape the laws of this great Republic, he states what is perfectly abhorrent to my sense of justice, reason, or propriety. 562

Playing with the Republican assertion that denying the franchise to African American men would be an injustice, Doolittle argued instead that any inclusion of African American men in the body politic would be abhorrent to his sense of justice. Doolittle’s association of whiteness with competence, and racial “others” with incompetence, was echoed throughout Democratic suffrage arguments. As New Jersey Representative Andrew Rodgers argued, the ballot was a political privilege that would be sullied by extension to those “ignorant others”: “it is degrading to the people and the District to permit a class of poor minded negroes who have no idea of government, many of whom have just emerged from a state of slavery, to exercise the highest political privilege given to man on earth – to wit, the elective franchise.” 563

By arguing that African Americans were inherently ignorant, Democrats could justify rejecting their enfranchisement because of the important responsibilities that accompanied political rights in a democracy. Representative Rodgers argued early in the 39th Congress that this supposed ignorance was such an inherent impediment that no country had ever allowed the black man to have the right to vote:

It has become a settled notion of the people ... that the negro race were not sufficiently intelligent to exercise the right of suffrage, and they have not been allowed that right since the formation of the government ... The wisdom of more than five thousand years had refused to allow the political equality of the

562 U.S. Congress, Senate, Congressional Globe, 39th Cong., 2nd sess., December 11, 1866, 252. At this point, Doolittle is a Republican, however he supported President Johnson, and in 1868 joined the Democratic Party. In light of his later defection, his statements were considered as Democratic rhetoric. See U.S. Congress, H.Doc. no. 442, Congress, Biographical Directory of the American Congress, 1774–1961, Eighty-Fifth, 2nd Session, Washington, D.C., 823.

Paralleling the circuitous argument made by Democrats that because women lacked the right to vote, voting was not a right of citizenship, Rodgers asserted that because black men had never had the right to vote, it therefore must not be a right to which they were entitled.

Situating African American men as uneducated drew on American fears about the inherent safety of their democracy. Early republican ideology purported that the safety of a republican democracy depended on the virtue and intelligence of its citizens exercised through their ability to choose leaders wisely. Congressional Democrats drew on this ideology to reject black men’s suffrage rights by claiming that their ignorance disqualified them as safe voters. Like the Republicans, congressional Democrats suggested that any violation of republican principles would result in danger for both the ideological and physical safety of the nation. Unlike Republicans, however, Democrats claimed that danger resulted not from a denial of the ballot, but the extension of it. Representative Benjamin Boyer of Pennsylvania associated this danger directly with his perception of African Americans as morally and physically weak:

If the peculiarities I have mentioned are the outward badges of a race by nature inferior in mental caliber, and lacking that vim, pluck, and poise of character which give force and direction to human enterprise, and which are essential to the safety and progress of popular institutions, then the negroes are not the equals of white Americans and are not entitled by any right, natural or acquired, to participate in the Government of this country.\footnote{U.S. Congress, House of Representatives Report No. 2 (Dec. 19, 1865) on Suffrage in the District of Columbia, 39th Cong., 1st sess. cited in Avins, \textit{The Reconstruction Amendments’ Debates}, 93.}

\footnote{U.S. Congress, House of Representatives, \textit{Congressional Globe}, 39th Cong., 1st sess., January 10, 1866, 177.}
Boyer tapped into Republicans' coded language about the masculinity of black men by asserting that they did not have "vim" and "pluck," which suggested that black men lacked the masculine characteristics of bodily strength, boldness, and bravery. Defining African American men as lacking both masculine strength and republican virtue enabled Democrats like Boyer to assert that it was unsafe to enfranchise them. If African American men, or any "others" deemed racially inferior, were enfranchised these Democrats argued, the very physical safety of the government and the nation would be compromised. Indiana Representative Michael Kerr expressed this same concern: "we may thus, by the liberal exercise of this mighty power [congressional enfranchisement of the freedmen], become substantially Africanized, Mexicanized, or Coolyized and all our glorious institutions and national and personal individuality give place to anarchy and weakness." As Republicans argued that anarchy and weakness would result if the franchise was denied, Democrats also argued that both the physical and ideological safety of the nation was at stake in the extension of the franchise. Senator Davis of Kentucky asserted:

A healthy man may take into his stomach one or two, or three drops of arsenic without serious detriment to his health; but if he were to swallow one, two, or three hundred drops it would destroy his life. Negro suffrage is political arsenic ... The tranquility, prosperity, and freedom of a country depend much upon the homogeneity of its people; ... But in our country a race of people that is essentially inferior to the Caucasian race in its physical, mental, and moral structure, and that no cultivation can bring to an approximation of that high standard; that has by nature so low an organization as to be wholly incapable of self-civilization ... a race which could take no part in the great business of Government to improve or uphold it, but only to obstruct, thwart, confound, and break it up, should never have any political power conferred on it.

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The terrible danger that Davis foresaw to the American political republic resulted, he claimed, from the inclusion in the body politic of people who lacked common interests as well as the common abilities he believed necessary for the safety of the country. This inherent difference between people, Davis claimed, was measured and determined by race.

Just as Republicans used national safety to argue for enfranchisement drew upon the recent fearful experience of the Civil War, so too did Democrats like Davis attempt to capitalize on the fear of disunion and anarchy to oppose any expansion of the franchise. Representative Rodgers summarized this position by claiming: “if negro suffrage is adopted all over this land, it will lead to scenes in this country more bloody than the world has yet seen.”569 In a nation still recovering from the bloodiest war it had ever yet seen, Rodgers’s rhetoric must have resonated. The “bloody scenes” Democrats claimed would result from enfranchisement rested on Democratic political culture; the use of African Americans to create a white Democratic partisan identity was easily adapted to suggest that African Americans were also those “others” whose very presence as participants in the newly reforming American democracy was not just potentially unsafe, but definitively destructive.

If the presence of African American men in the body politic was destructive to the national safety, Democrats extended the argument to claim that it was also destructive to the personal safety of individual Americans. Based on the Republican claim that the physical safety of southern freedmen depended on their enfranchisement, Democrats again inverted Republican arguments by positioning white women in the role Republicans had envisioned for black men. To make this

argument, Democrats asserted that the safety of white women, and not that of black men, was at stake in the enfranchisement debates. Drawing on the newly potent myth of the black rapist, Democrats who simultaneously construed black men as lacking “vim” and “pluck,” argued that the enfranchisement of these men would inappropriately empower them and result in the perpetration of violence against southern white women. The first “fearful outrage” upon white womanhood Democrats predicted would result from the enfranchisement of African American men would be interracial marriages. Without legal distinctions between the political rights of men, Democrats asserted, race mixture would inevitably result. Representative Rodgers articulated this claim in April of 1866. He stated that if the federal government mandated equal political and civil rights,

A white citizen of any State may marry a white woman, but if a black citizen goes into the same State he is entitled to the same privileges and immunities that white citizens have, and therefore under this amendment, a negro might be allowed to marry a white woman. I will not go for an amendment of the Constitution to give a power so dangerous, so likely to degrade the white men and women of this country, which will ... allow the people of any State to mingle and mix themselves by marriage with negroes so as to run the pure white blood of the Anglo-Saxon people of the country into the black blood of the negro or the copper blood of the Indian.\(^{570}\)

Democrats like Rodgers who understood the races to be distinct, argued that such equality would result in “racial amalgamation,” as they attempted to tap in to some Americans’ fears about the potential results of emancipation.

However frighteningly the Democrats portrayed the prospect of interracial marriage, they posited the possibility of the rape of white women by black men as even more fearful, and used this fearful possibility to deny suffrage rights to African

American men. Democrats expressed particular indignation at the possibility of equal punishments for rapists regardless of their race resulting from civil rights legislation. For example, Senator Garrett Davis of Kentucky argued that enfranchising African American men and granting them equal citizenship rights would result in the equal punishment of rapists, which would then lead to greater numbers of assaults on white women.

A few weeks since, in Louisville, a negro man violated a girl of only eight years of age; and within a few days, in my county, a similar outrage was committed on a white girl ten years old, after which the black monster cut her throat and disemboweled her. This crime, in Kentucky, when perpetrated by a negro upon a white woman is punishable with death; but when by a white man, by confinement in the penitentiary.  

Davis here defined the black rapist as “a monster” who preyed on not merely the unprotected white woman, but an even more vulnerable white girl. If, as Davis alleged, such “monsters” were committing crimes currently while the death penalty for such punishments was on the law books, what possibilities could be imagined if those laws were removed? Democrats like Davis used the fear that equality would challenge “purity of white womanhood” to appeal to white Americans’ fears about their own racial locale. By arguing that white womanhood was endangered by black equality, either through voluntary miscegenation or rape and by capitalizing on the stereotypes of vulnerable white womanhood and sexually predatory black men that were becoming increasingly potent in the post-Civil War period, Democrats sought to integrate public political rights with an already existing rhetoric that combined sexual meaning, gendered positionality, and racial identity.  

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571 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., April 5, 1866, 182.
572 Diane Miller Sommerville, "The Rape Myth in the Old South Reconsidered," in A Question of Manhood: A Reader in U.S. Black Men's History and Masculinity, ed. Darlene Clark Hine and Earnestine Jenkins (Bloomington, IN: Indiana University Press, 1999), 438-472, see especially 439-.
While Democrats mobilized a particular gendered vision of both black men and white women to maintain the sanctity of white voting rights, some of them sacrificed their adherence to traditional white gender roles in order to further their case that voting rights and whiteness were necessarily tied. In order to reify the association between whiteness and voting rights, Democrats deemed African American men as inherently unworthy of the vote, but white women as more worthy. These few Democrats, in the interest of maintaining the “white man’s government,” expanded their conceptualization of the proper voting citizen to include white women. As Andrew Rodgers articulated in his January 11 speech opposing black male suffrage in D.C., the government of the United States was “intended especially for the benefit of white men and white women, and not for those who belong to the negro, Indian, or mulatto race.”

In all of his speeches thereafter, Rodgers was careful to include white women in his adaptation of the party’s rallying cry. Once again inverting Republican rhetoric by positioning white women as the subject of an argument rather than black men, Democratic Representative Benjamin Boyer of Pennsylvania suggested that by all justice, if the natural right of women to vote was denied by any state, it could not be considered republican.

If the negro has a natural right to vote because he is a human inhabitant of a community professing to be republican, then women should vote, for the same reason; and the New England States themselves are only pretend republics, because their women, who are in a considerable majority, are denied the right of suffrage. Some of the reformers do say that after the negro will come the women. But I protest against this inverse order of merit; and if both are to vote I claim precedence for the ladies.

574 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 10,
Other Democrats also deemed white women worthy voters by virtue of their whiteness. In December of 1866, Pennsylvania Senator Edgar Cowan introduced an amendment to the D.C. suffrage bill to remove the word “male” from the text of the enfranchising legislation. In his arguments, Cowan addressed the Democrats’ assertions that the enfranchisement of African American men would endanger the nation, and suggested that educated white women as voters could be a viable solution to this problem.

I say you have not demonstrated that it is safe to give the ballot to men ... who it is not pretended anywhere have that intelligence which is necessary to enable them to comprehend the questions which agitate the people of this nation ... [but Republicans] are determined to do it, and ... I want to put along with that ... doubtful element, that ignorant element, that debased element, that element just emerged from slavery, I want you to put along with it into the ballot-box, to neutralize its poison if poison there be, to correct its dangers if danger there be, the female element of the country.

If, as Democrats had argued, the safety of the country was at stake if freedmen were enfranchised, Cowan posited white women voters as an “antidote” – presumably their “whiteness” would be sufficiently strong to balance out the possible influence “dangerous blackness” would have at the polls. The whiteness of the female voters Cowan sought was certainly deemed strong enough to counteract the influence of their gender. As radical Republicans argued that the country was endangered by the refusal

1866, 177.


to grant the justice of the suffrage claims of black men, Cowan inverted both the
subject and the outcome of the argument, placing white women voters as a safe a
repository of national political rights as black male voters were dangerous. During
earlier debate on suffrage in D.C., New Jersey Representative Rodgers inverted a
different Republican argument supporting black suffrage, while expressing his
preference for white woman voters. Rodgers challenged the Republican claim that the
black men of Washington who had served as soldiers in the Union forces had earned
the right to vote because of their sacrifices and national service. He claimed that, “if
you have to have these men vote because they have fought in the Army, then I want all
the women who went down into the Army to administer to the suffering soldiers to be
equally entitled to vote.”577 In Rodgers’ statement, again, a Democrat situated white
women as the subject of an inverse Republican argument, this time suggesting that
white women had also earned the ballot by national service during wartime. By
transforming Republican arguments for black male suffrage into arguments for white
women’s suffrage, Democrats rejected that party’s claim that race was not a vital
determinant of voting rights, and instead suggested that race was such a crucial
component of voting citizenship that it even had the power to override the gender
identity of white women.

In a partisan context where the terms of suffrage debate were structured by the
majority Republican Party, Democrats adapted those terms to reject a race-free voting
citizenry. Republicans posited the enfranchisement of black men as a right of all
citizens, Democrats positioned women as the subject of this argument to suggest that it
was not. Democrats asserted that female citizens’ disfranchised state proved that
suffrage was not tied to citizenship. Inverting the Republican argument that the safety

577 U.S. Congress, House of Representatives, Congressional Globe, 39th Cong., 1st sess., January 11,
1866, 203.
of the nation depended on the enfranchisement of black men, Democrats argued instead that the safety of the nation was endangered by the presence of black voters in the polity. Adapting the Republican definition of the ballot as a weapon, Democrats argued that black men would use the power derived from that weapon to prey upon white women. Some even suggested that that weapon would be better used in the hands of those white women themselves, possibly as a balance for any introduction of black voters at the polls. Through these arguments Democrats created a racist political rhetorical culture that valued whiteness above all else in potential voters.578

"Cast Under the Heel of the Lowest Orders of Manhood:” The Suffragists’ Racist Turn

That Democrats considered the idea of woman suffrage only as a last resort “antidote” to the “political arsenic” of the black male voter did not disturb Stanton and Anthony’s enthusiasm for a new partisan alliance. Angry and frustrated with Republicans’ rejection in Congress, in New York, and in Kansas, the two suffragists stubbornly defended their alliance with Train and the Democrats to their old friends and allies, and Train had provided them with a public means in which to do so. In January of 1868 Stanton, Anthony, and Train began publication of their newspaper, The Revolution.579 Almost as soon as the first issue was sent out, Stanton publicly addressed the critiques of friends, suffragists and abolitionists who expressed both bewilderment and indignation that they had chosen in a “strange, insane move” to associate with Train and the Democratic party.580 In the second issue of the paper

578 The New York Independent reported in March of 1868, that it believed “the only test of Democratic soundness is hatred of the Negro.” New York Independent, March 12, 1868, cited in Grossman, The Democratic Party and the Negro: Northern and National Politics, 1868-92,
579 DuBois, Feminism and Suffrage, 103-4.
580 Caroline Severance to Elizabeth Peabody, December 8, 1867, cited in Gordon, ed., The Selected
Stanton's editorial entitled "Who Are Our Friends?" defended the suffragists' decision to accept Train's help and to affiliate with Democrats: "The party out of power is always in a position to carry principles to their logical conclusions, while the party in power, thinks only of what it can afford to do; hence, you can reason with minorities, while majorities are moved only by votes." To reason with the minority Democrats, Stanton and Anthony began to adopt Democratic partisan rhetorical culture and thus started to use racism strategically to advance the claims of white women to the ballot.

In adopting racism as a political tool Stanton and Anthony, while never completely abandoning arguments for woman suffrage based on Republican and abolitionist ideology and partisan culture, nevertheless assumed the racist partisan political rhetoric of the Democratic opposition. The overtly racist arguments that they articulated in the late 1860s echoed the Democrats' arguments favoring woman suffrage and rejecting black men's enfranchisement. Just as Democrats deemed black men as too ignorant to hold the ballot, Stanton and Anthony repeatedly wielded this same racist stereotype to protest the "elevation" of such men to a political status above educated white women. They asserted that white women, in contrast, were educated, intelligent, and thus more worthy of exercising political power. Stanton and Anthony, like the Democrats, argued that black men's ignorance rendered their enfranchisement dangerous to the ideological and physical safety of the nation, and like the Democrats, positioned white women as the solution to this potential hazard. Finally, to their discredit, Stanton and Anthony occasionally attempted to capitalize on the conceptualization of black men as violent rapists, and used this virulently racist construct to justify enfranchising women. In a strange reversal of Republican

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Papers of Elizabeth Cady Stanton and Susan B. Anthony, vol. 2, 120n.

rhetorical claims that the ballot was a weapon for self-protection, Stanton and Anthony argued that if black men were enfranchised, the potential danger to white womanhood could be alleviated by giving women the ballot to use for their own protection. In this period as Republicans moved further away from enfranchising women with the Fifteenth Amendment, Stanton and Anthony attempted to capitalize on the power of whiteness to camouflage the gender of white women and attract Democratic partisan allies.

Stanton and Anthony’s racist statements seemed most frequently concerned that the enfranchisement of African American men would rearrange the status hierarchy in America, placing white women beneath black men on a metaphorical ladder of political and social power. Like Democrats, to reject this potential re-ordering they deemed black men as ignorant and unworthy of the power that enfranchisement would convey. In a January editorial, Stanton declared:

What a depth of degradation must the women of this nation have fallen to be willing to stand aside, silent and indifferent spectators in the reconstruction of the nation, while all the lower stratas [sic] of manhood are to legislate in their interests, political, religious, educational, social and sanitary, molding to their untutored will the institutions of a mighty continent ...what an insult to the women who have labored thirty years for the emancipation of the slave, now when he is their political equal, to propose to lift him above their heads.582

Women were degraded by their own lack of interest in the vote, Stanton claimed, but also insulted by the fact that such “lower stratas of manhood” were being “lifted above their heads.” In this statement Stanton structured a social hierarchy that valued race above gender, and, like the Democrats, suggested that black men were incapable of either voting wisely or governing effectively. In May she restated this argument more explicitly and in a more immediately racist way. To defend her decision to defect

from the Republican party and seek Democratic assistance, Stanton stated that she had
done so because she saw “that the women of virtue, wealth, and character in this
country were to be made the subjects of every vicious, ignorant, degraded type of
manhood, [so] we unfurled a new banner to the breeze, ‘immediate and unconditional
enfranchisement for women of the republic.’”583 By suggesting that black men were
“vicious, ignorant, and degraded,” Stanton disputed both their fitness for the ballot and
the justice in privileging their rights over the rights of upper class, educated white
women. Furthermore, she claimed that their enfranchisement would invert proper
social hierarchy and enable unqualified freedmen to have power over the rights and
futures of wealthy white women. In April Stanton again rejected the precedence in
enfranchisement that was being given to black men by Republicans, protesting that
“suffering under the wrongs of Saxon men, you have added insult to injury by exalting
another race above her head: slaves, ignorant, degraded, depraved, but yesterday
crouching at your feet, outside the pale of political consideration, are to-day, by your
edicts, made her rulers, judges, jurors, and lawgivers!”584

Anthony also envisioned a race-based social hierarchy while directly appealing
to the Democrats for support. In June of 1868, Anthony wrote an open letter to the
Democratic Party requesting that it add woman suffrage to its national platform for the
1868 election. In the letter, Anthony expressed indignation, which she fully expected
Democrats to share, that black men had taken precedence with the Republican Party:
“while the dominant party have with one hand lifted up TWO MILLION BLACK
MEN and crowned them with the honor and dignity of citizenship, with the other they
have dethroned FIFTEEN MILLION WHITE WOMEN - their own mothers and
sisters, their own wives and daughters - and cast them under the heel of the lowest

584 Elizabeth Cady Stanton, “Mrs. Stanton before the District Committee,” The Revolution, February 4,
1868, vol. III, no. 5.
orders of manhood.” By positioning African American men as “the lowest order of manhood” and implying that white women held “royal” status that had been deprived by the Republicans, Anthony explicitly sought Democratic help to, presumably, return the national gendered and racialized social hierarchy to its pre-war form. By using the metaphor of hierarchy Anthony and Stanton both acknowledged the power of race and challenged the Republican Party’s strategy of emphasizing manhood to camouflage race’s meaning. They attempted to argue that this strategy would not only enfranchise a new group of people but restructure arrangements of power to be less reliant on race. Stanton and Anthony’s assertions were clearly designed to resonate with the deepest fears of Democrats who relied on the power of whiteness to construct their constituency, political culture, and partisan language.

Further playing on the fears of Democrats, Stanton and Anthony created a woman suffrage argument that suggested that because the majority of black men were so recently emerged from the “ignorance and degradation” of slavery, enfranchising them would endanger the physical and ideological safety of the already embattled nation. To yet again defend her decision to ally with Democrats in January of 1868 Stanton argued that the only safety for a democratic nation lay in the abilities of its voters: “It is a danger one need but state to be perceived, that to trust the lowest stratum of manhood to legislate on the political, moral and social interests of the nation, is suicidal to our free institutions.” Those free institutions, Stanton argued later in April of 1868, were already threatened by the recent war and the challenges of Reconstruction. Wealthy white women, she suggested, would be the stabilizing force that could protect those institutions:

To-day the ship of state is tempest tossed on an uncertain sea. The men at the helm, lacking the spiritual intuitions of women by their side, are steering without chart or compass ... Seeing the nation's danger and the men's need, shall women, with the charts spread out before her, knowing all the dangerous coasts and isles, meekly remain in the vessel's hold, while ignorant hands lay hold the ropes and sails, capable of giving no new light or inspiration to those already bewildered there? To us it would be the height of wisdom for such women to rush on deck and say, let not another man touch the ropes until those more skilled have tried what they can do ... So we say to-day, educated women first, ignorant men afterward.\textsuperscript{587}

Stanton used this metaphor to depict white women as not merely more educated than black men, but as more skilled in the maneuverings of government. Because of this skill, Stanton asserted that woman suffrage would protect the nation from the danger of black men's votes. "Universal suffrage is safe because you have the wealth, the virtue, the education of woman, to outweigh ignorance, poverty, and vice. You have too, that peculiar elevating and civilizing power found in the difference of sex. But to extend suffrage to ignorant manhood, is to invert the natural order of things; it is to dethrone the Queen of the moral universe, and subjugate royalty to brute force."\textsuperscript{588}

Manipulating the nineteenth-century middle class stereotypes of women as naturally spiritual and moral enabled Stanton to situate white women and black men in opposition. If white women and black men had such radically differing natures, as Stanton charged, then profoundly different consequences must result from their enfranchisement. Moreover, here Stanton sought to claim that while racial differences were dangerous, gender differences were beneficial. Women were useful to the state because they offered different points of view on vital national issues. Thus, she defined differences between men and women as not harmful but rather necessary for

the nation's safety. Thus, Stanton, like Democrats, argued that enfranchising black men overthrew political systems of racial power and threatened the safety of the nation, while women's enfranchisement would both protect the nation and existing social and political hierarchies.

In claiming that women's votes would protect the nation, Stanton's language hinted at a more insidious argument—that enfranchising black men would result in the sexual endangerment of white women. As Stanton claimed that enfranchising African American men instead of white women would be an inversion of proper social hierarchy, she argued that such an inversion would result in the "subjugation of royalty to brute force."589 A week after she made this argument in The Revolution, Stanton continued her coded attack on black men, disparaging the passage of black male suffrage rights in Washington D.C. by stating that, "in removing all political disabilities from the male citizens of the District, you have established ... a government based on the aristocracy of sex ... invading as it does our homes; desecrating our family alters; dividing those whom God has joined together ... and subjugating, everywhere, moral power to brute force."590 The racially coded language Stanton used in these statements suggested that enfranchisement would result in black male sexual predation, "brute force," on undeserving, "moral" and vulnerable white women, "royalty." The verbs she chose to use in these statements are particularly telling. While "desecrate," and "invade" are sufficiently suggestive, "subjugate" explicitly means to conquer, bring under the power of another, to make submissive, and to subdue.591 In how many contexts could a black man subdue a white woman,

making her submissive? In case this coded language was lost on some of her readers, in the same issue of The Revolution, Stanton articulated her meaning is less ambiguous terms: “Just as the democratic cry of a ‘white man’s government,’ created the antagonism between the Irishman and the negro, which culminated in the New York riots of ‘63, so the republican cry of ‘manhood suffrage’ creates an antagonism between black men and all women, that will culminate in fearful outrages on womanhood, especially in the Southern States.”

As Democrats had utilized the myth of the black male rapist to define black men as unworthy voters, Stanton also drew on this racist bugaboo to create a reason for women’s voting that carried sufficient emotional power. Stanton and Anthony had long understood that women’s claim to the ballot lacked the urgency that could be claimed by black southern men, but demanded that woman suffrage receive equal attention, if not priority over the enfranchisement of those men. Without the immediate and palpable violence against white women to push their suffrage claims, as black men were experiencing in the South, Stanton fused the Republicans’ assertion that black men needed the right to vote as protection against the racist violence in the South, with the Democrats’ claim that enfranchisement would result in sexual danger for white women. This danger, she suggested, could be best averted if white women were also given the ballot to protect themselves.

By arguing for women’s enfranchisement because of white women’s racial and social position, Stanton and Anthony turned away from the egalitarian ideological heritage of the suffrage movement. They asserted that white women’s place within a racialized social hierarchy rendered them safer candidates for enfranchisement than African American men. If those men were enfranchised without white women also

receiving the ballot, they argued that social hierarchy would be disrupted. Stanton and Anthony, like congressional Democrats, suggested that such an inversion of status would result in violence. Black men, they claimed, would use such political power against the others newly “placed below” them. White women would be endangered as a result, and woman suffrage was the only remedy. By adopting Democratic Party rhetoric and inverting Republican suffrage arguments, Stanton and Anthony sought to appeal to a Democratic partisan public. They hoped that that public would value whiteness to such a degree that it would be willing to overlook the gender of white women that disqualified them for voting rights in Republican conceptualizations of voting citizenship.

“Every Argument for the Negro”

On January 14, 1869 in *The Revolution*, Elizabeth Cady Stanton published a letter from her radical abolitionist cousin Gerrit Smith to Susan B. Anthony responding to Anthony’s request that he sign a new universal suffrage petition to Congress. Smith felt that he could not “sign a paper against the enfranchisement of the negro man … The removal of the political disabilities of race is my first desire, – of sex, my second. If put on the same level and urged in the same connection neither will be soon accomplished.” Smith, like most other abolitionists and Republicans in 1869, was afraid that associating woman suffrage with the enfranchisement of African American men would cause both to fail. In particular, Smith and his fellow Republicans were actively engaged in the campaign for the Fifteenth Amendment and refused to burden the amendment with such an unpopular issue as enfranchising

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women. Despite Smith’s reservations, after three frustrating years of outright rejection by Republicans in positions of national power and polite rebukes by abolitionists like Smith, Stanton, clearly had had enough. Angrily, she declared in an editorial responding to Smith that, “every argument for the negro is an argument for woman and no logician can escape it.”  

By January of 1869 Stanton had also learned that in Reconstruction party politics every argument against “the Negro” could also be used as an argument for the “woman.”

Most of the historical debate in the past twenty years about Stanton and Anthony’s activities in the late 1860s has focused on the question of whether or not they were actually racist, or if they were merely using Democratic arguments “against the Negro” in a cavalier and unreflective way. This debate was appropriate and useful in that it scrutinized this chapter of the suffrage movement and began to remedy early histories that sanitized the suffragists’ racist turn. At this point, however, it is time to move beyond this particular question. Were Stanton and Anthony racist? Did they use their race and class positions of “privilege [to] disparage and [hinder] the opportunities of others who were in a subordinate position, identifiable by skin color”? Undoubtedly. There can be no question that in the late 1860s they did this deliberately and consciously, even to the point of reifying racist social hierarchy and contributing to the creation of an insidious mythology about black male sexual power.

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596 The History of Woman Suffrage, written by Stanton and Anthony themselves in the 1880s, is particularly problematic in its continued defense of the “racist turn.” Stanton, Anthony, and Gage, eds. History of Woman Suffrage. See also Alma Lutz, Created Equal: Elizabeth Cady Stanton, 1815-1902, (New York: John Day, 1940) and Nettie Rogers Shuler and Carrie Chapman Catt, Woman Suffrage and Politics, (New York: Scribner's, 1926).
597 Terborg-Penn, African American Women in the Struggle for the Vote, 1850-1920, 6.
To merely make these assertions, however, ahistorically extracts the suffragists from their social and political context. It also belies the power of partisan political culture to structure terms of debate within the nineteenth-century public sphere. Contextualizing Stanton and Anthony’s racist arguments within the rhetorical political culture of Reconstruction does not in any way excuse or condone their choices. In fact, this analysis demonstrates that there was a wide range of discourses available to the suffragists that did not rely on constructions of whiteness for their power, and that Stanton and Anthony used these discourses at various times. This analysis also suggests, however, that in debates where race and gender were appropriated to reconstruct political belonging, the suffragists’ choices, actions, and rhetoric were constrained by partisan political culture. Within a suffrage rhetoric dominated by Republicans and Democrats who used masculinity and whiteness to define the ideal voter, there was little room for the goal of a gender- and race-neutral citizenship. That Stanton and Anthony abandoned this worthy goal for the expediency of partisan affiliation and political legitimacy testifies to their mercenary willingness to adopt multiple voices to appeal to multiple publics, regardless of the long-term consequences for themselves, their allies, their movement, and all Americans seeking equality who would follow in their footsteps.
CHAPTER 7

CONCLUSION

It was a clear and mild Wednesday morning May 12, 1869, when a middle-aged Elizabeth Cady Stanton joined a crowd of over one thousand people, the majority of whom were women, who had come from across the nation to Steinway Hall in New York City for what would be the last meeting of the American Equal Rights Association (AERA). As one of the Association's executive officers, and the presiding officer of this meeting, Stanton had to have been aware of the tension among those assembling that her racist rhetoric had generated over the past two years. She knew that after the Kansas campaign, the AERA had almost disbanded, and had been relatively inactive since then. She had to have also been keenly aware that only four months before many of the same people gathering today in New York had met at the Illinois Woman Suffrage Association in Chicago. In this meeting the delegates had rejected a series of resolutions echoing Stanton's arguments that manhood suffrage would result in "fearful outrages on womanhood, especially in the Southern States." Its members declared that the group of resolutions had "a little of the Democratic smack about it" and that they were "an insult to the negro." Aware of this recent history, when Stanton stepped into Steinway Hall the knowledge that there were many people in the surrounding crowd who found her ideas and language

insulting to “the negro” had to have been foremost in her mind. But after twenty years of experience with women’s rights agitation, the last four years of which were conducted within a political system focused on manhood suffrage, Stanton was undaunted. When her turn came to speak early on the meeting’s first day, Stanton once again advocated the equality of all women and men. Her speech echoed the arguments she had been making throughout the postwar period about the political, social, and legal equality of women. She referenced the nation’s fundamental principles and republican ideals, and contended that any nation based on inequality would not survive. Then Stanton argued that the AERA should devote itself to achieving the passage of the newly proposed Sixteenth Amendment enfranchising women because it was the only remedy for America’s growing inequality.

This inequality, Stanton contended, had only been exacerbated by black men’s enfranchisement in the Fifteenth Amendment. Indeed, she argued again that this expansion of rights had created an “aristocracy of sex,” a political elite whose membership was solely determined by gender. This aristocracy was a violation of the nation’s most fundamental republican principles, ideals that Stanton contended had never been fully realized and now were even more threatened by this new gendered social and political hierarchy. The danger in this impartial realization, Stanton argued, was that “governments based on every form of aristocracy, on every degree and variety of inequality, had been tried in despotisms, monarchies and republics, and all alike have perished.” Furthermore, this gendered hierarchy disrupted women’s “natural” social status. By enfranchising black men, and thereby elevating their political status in the social order, Stanton argued that the nation had made women’s disfranchised state even more humiliating and dangerous. “When manhood suffrage is established from Maine to California, woman will have reached the lowest depths of
political degradation. Manhood suffrage is national suicide and woman’s destruction.”

As she continued, however, Stanton’s speech began to sound like an oblique explanation for her controversial behavior and language over the past year, and perhaps an effort to reconcile the divided AERA. “Manhood suffrage,” she claimed, creates an antagonism everywhere between educated, refined women and the lower orders of men, especially at the South, where the slaves of yesterday are the lawmakers of to-day. It not only rouses woman’s prejudices against the negro, but his hostility and contempt for her. Just as the Democratic Party cry of a white man’s Government created the antagonism between the Irishman and the negro, culminating in the New York riots of 1863, so the Republican cry of “manhood suffrage” creates an antagonism between black men and all women, and must culminate in fearful outrages on womanhood, especially in the Southern States. 601

It was the Republicans, Stanton claimed, who by granting suffrage rights to one disfranchised group in the nation, created “antagonism” between black men and white women in the nation. It was the Republicans’ fault, her speech hinted, that she herself had her prejudices “roused against the negro,” prejudices that Stanton revealed were still present. Despite her more circumspect language in this speech to this point, by claiming that southern women were endangered by black men’s voting power Stanton yet again sought to tap into white American’s racist fears. Even if in front of this particular audience Stanton did not wield race as a political weapon as overtly as she had in The Revolution in the past few months, her speech reveals that race was still foremost in her mind as a both a political problem and a political strategy.

Although she had toned down her racist rhetoric in this speech, Stanton’s prejudicial arguments did not go unnoticed by the delegates at the meeting. After Stanton’s speech, and a few remarks by Antoinette Brown Blackwell about impartial

suffrage rights, the leadership positions of the organization came up for discussion. When Stanton was proposed as one of the association's vice-presidents, Stephen Foster rose to object. Foster, a long-time abolition advocate and radical speaker, rejected Stanton as a leader of the organization because he believed that “she had repudiated the principles of the society.”

Clearly surprised, Stanton asked Foster to elaborate: “I would like Mr. Foster to state in what Way” had she violated the AERA’s principles? Foster replied by claiming that she had rejected the central ideal of the AERA, which he defined as: “the equality of men – universal suffrage.” Even in that moment, Foster must have seen that by saying simply “equality of men” that he was leaving Stanton and all other women present out of the AERA's mission, and so he quickly added a more gender-neutral description of “universal suffrage.” Foster elaborated: Stanton’s advocacy of “educated suffrage” in the Revolution, her association with George Francis Train, and her opposition to the Fifteenth Amendment all clearly indicated to him that she had strayed from the abolitionist/equal rights orthodoxy. And Foster was not alone in his discomfort with Stanton and Anthony’s recent actions. The members of the Massachusetts society, Foster claimed,

want [Stanton and Anthony] to retire and leave us to nominate officers who can receive the respect of both parties. {We} cannot co-operate with this society as it is now organized. If you choose to put officers here that ridicule the negro, and pronounce the Amendment infamous, why I must retire; I can not work with you. You cannot have my support, and you must not use my name.

Stanton’s racism, as well as her association with Train was at the heart of Foster’s objections. The Equal Rights Association, he contended, must consider the equal

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602 Foster also challenged Susan B. Anthony’s leadership role, claiming that she had mishandled funds during the Kansas campaign. Anthony supplied a report accounting for the funds. “Equal Rights,” New York Times, May 12, 1869.
rights of all people, and not advocate any kind of divisions or hierarchy. Stanton’s actions indicated to him that she did not fully respect the principle of equality. Her morning’s speech, with its references to potential black men’s violence against white women, must have confirmed Foster in this assessment. At this point, The Times reported, “some excitement arose” among the crowd as Stanton, wielding the power of the gavel as presiding officer, declared Foster to be out of order.

As the convention delegates expressed to each other their opinions about this turn of events, Frederick Douglass rose to speak. Just as he had come to Stanton’s defense at the Seneca Falls Women’s Rights meeting twenty-one years earlier, on this day in 1869 Fredrick Douglass once again faced a meeting room full of people concerned about Stanton’s behavior and its impact on their movement. He had not come here to speak, Douglass said, but felt obliged to defend his old friend. There was no greater advocate of women’s equality than Stanton, Douglass said, and he was happy to hear her reaffirm her commitment to equal suffrage for all in her morning’s speech. But despite his respect for Stanton, Douglass declared that he could not support the language used by The Revolution. In particular, he was uncomfortable with “the employment of certain names, such as ‘Sambo,’ and the gardener, and the bootblack, and the daughters of Jefferson and Washington, and all the rest ... I have asked what difference there is between the daughters of Jefferson and Washington and other daughters.” At this point, Douglass’s comments elicited laughter from the audience. But then, he shifted his tone and focus. While woman suffrage was critical in principle, he said, that it was simply not as important as was the enfranchisement of black men.

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I must say that I do not see how any one can pretend that there is the same urgency in giving the ballot to woman as to the negro. With us, the matter is a question of life and death, at least, in fifteen States of the Union. When women, because they are women, are hunted down through the cities of New York and New Orleans; when they are dragged from their houses and hung upon lamp-posts; when their children are torn from their arms, and their brains dashed out upon the pavement; when they are objects of insult and outrage at every turn; when they are in danger of having their homes burnt down over their heads; when their children are not allowed to enter schools; then they will have an urgency to obtain the ballot equal to our own.

After “great applause” subsided, a voice from the audience asked Douglass whether his description of the dangers African Americans faced in the South were not true for black women as well as for me. Douglass replied, “Yes, yes, yes; it is true of the black woman, but not because she is a woman, but because she is black.”

In 1869, Douglass argued, race was a more profound political and social disability than was gender. It was race, not gender, that roused the hatred and violence of southerners, hatred so powerful that if left unchecked, it rendered black men (and women) defenseless. The ballot was their only effective weapon against this violence. White women, he claimed, had many means of attacking the injustices they faced; Douglass argued that he had no doubt that in time they would overcome those injustices and become enfranchised. Then, interestingly, Douglass concluded his remarks by reiterating his support for Stanton by essentially declaring that he believed her to be personally free of racial prejudice: “Let me tell you that when there were few houses in which the black man could have put his head, this woolly head of mine found a refuge in the house of Mrs. Elizabeth Cady Stanton, and if I had been blacker than sixteen midnights, without a single star, it would have been the same.”

605 Debates at the American Equal Rights Association Meeting, New York City, May 12-14, 1869, in Buhle and Buhle, eds, 358-59.
this personal affirmation to accompany his critique of Stanton’s racist language and position on woman suffrage, Douglass sat down.

Twenty years earlier at the Seneca Falls Convention, Douglass’s support for Stanton was unequivocal and sufficiently persuasive that together they forged a movement for social equality. Together for the next twenty years these two activists had fought for equal rights for all men and all women. But after the past three years of watching manhood suffrage take political precedence among national politicians and among abolitionist activists like Douglass, Stanton was tired of being told to wait. Waiting, from her perspective, had gained nothing for women except the elevation of another “lower” status group of men “above” wealthy white upper-class women. Thus the sharpening of her language, transforming the “drunkards, idiots, horse-racing, rumselling, rowdies, ignorant foreigners and silly boys” of her earlier speeches like the one she made at the Seneca Falls Convention, into “Sambo, Hans, Patrick, and Yung Tung.”606 But the message was the same: Stanton was indignant that wealthy white women of high social status lacked political identity and thus political power while men of “inferior” races were granted political recognition and the franchise simply because they were men. None of Douglass’s eloquent arguments could convince Stanton that a gendered hierarchy was not at the heart of the way that the AERA, as well as Republicans, abolitionists, and the rest of the nation, were defining suffrage rights.

But after Douglass’s speech, it was Susan B. Anthony’s turn to address the question, and defend herself and Stanton against Foster’s charges. While Stanton had blamed Republicans for the racist turn in her language and ideology, Anthony blamed abolitionists. The question of whether black men or white women should be

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enfranchised first had not entered the movement as an issue, she contended, until the abolitionists had raised it. By insisting that black men’s enfranchisement took precedence, Anthony argued that abolitionists had sufficiently angered women like herself and Stanton to push them to a more radical and strident position. In particular, Anthony said that an incident before the New York Constitutional Convention had been a turning point for her faith in the movement’s interest in gender equality. Anthony said that in a conversation with “[Theodore] Tilton, {Aaron} Powell, & [Wendell] Phillips … when we were about to carry up our petitions to the Constitutional Convention,” these abolitionists had suggested that the AERA focus exclusively on the

amendment to our Constitution to strike out the word ‘white’ as the thing to be accomplished by that Convention & he added, “The question of striking out the word ‘male’ we shall of course, as an Equal Rights association, urge as an intellectual theory, but we cannot demand it as a practical thing to be accomplished at this Convention.” Mr. Phillips acceded to that, & I think all the men acceded to that, all over the State.

As the conversation with these prominent abolitionists progressed, Anthony recalled, Stanton remained calm and “good natured,” but she herself “was boiling over with wrath.” Anthony was so angry that Tilton remarked upon it asking, “What ails Susan? I never saw her behave so badly before.” “I’ll tell you what ailed Susan,” Anthony declared in her speech to the AERA,

it was the downright insolence of those two men, when I had canvassed the entire State from one end to the other, county by county, with petitions in my hand asking for woman suffrage, – if those two men, among the most advanced & glorious men of the nation, that they should dare to look me in the face & speak of this great earnest purpose of mine as an “intellectual theory” but not to be practiced, or for us to hope to attain.⁶⁰⁷

⁶⁰⁷ Remarks by Susan B. Anthony to the American Equal Rights Association in New York, May 12,
These men had shattered her hopes, rejected her cause, and denied the value of her work. The parallel was clear. Douglass, by claiming yet again that woman suffrage was untimely at this moment, joined the abolitionists. This indicated to Anthony that he profoundly misunderstood women and how urgent they felt their claim was, denying their value and abilities. "The fact is that men cannot understand us women," Anthony argued, "they think of us as some of the slaveholders used to think of their slaves, all love & compassion, with no malice in their hearts ... men feel the same today." More critically, perhaps, Anthony contended that it was attitudes like the abolitionists and Douglass's that were driving a wedge between white women seeking the franchise and those who sought priority for black men: "If Mr. Douglass had noticed who clapped him when he said 'black men first, & white women afterwards,' he would have seen that they were all men. The women did not clap him." These women, Anthony claimed, if pushed to designate a group to take precedence in any enfranchisement decision clearly preferred themselves. "The old anti-slavery school say women must stand back and wait until the negroes shall be recognized. But we say if you will not give the whole loaf of suffrage to the entire people, give it to the most intelligent first. (Applause.) If intelligence, justice, and morality are to have precedence in the Government, let the question of woman be brought up first and that of the negro last."\(^{608}\) While not as overtly racist as some of Stanton's statements, Anthony's description of the problem was nevertheless elitist, presupposing that white women had greater "intelligence, justice, and morality" than did black men. But for all of this moral and intellectual superiority, Anthony argued that the restrictions to

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\(^{608}\) Debates at the American Equal Rights Association Meeting, May 12, 1869, in Buhle and Buhle, 259.
women's rights in American life rendered their conditions more problematic and in greater need of remedy than black men's: "Mr. Douglass talks about the wrongs of the negro; but with all the outrages that he to-day suffers, he would not exchange his sex and take the place of Elizabeth Cady Stanton." For Anthony it seemed preposterous that any man would ever willingly give up the privileges of manhood, privileges that she knew were being extended and at the same time imbued with greater meaning and value in the postwar period.

The split between Stanton and Anthony's perspective on women's need for the ballot and Frederick Douglass's claim of precedence for black men played out in the rest of the two day convention. Speakers like Lucy Stone, Henry Blackwell, Mary F. Davis, and Frances Watkins Harper agreed with Douglass's contention that the AERA should continue to primarily advocate enfranchisement for black men, making women's enfranchisement a subsidiary goal. Others, like Phoebe Couzins, Paulina Wright Davis, and Mary Livermore followed Stanton and Anthony and expressed frustration at the attention and energy devoted to the Fifteenth Amendment and black men's suffrage rights. Throughout the next three days of meetings, the tensions between the two sides continued to grow. By the end of the third day's session on May 16, the American Equal Rights Association had unraveled, dividing over whether women or black men should be the focus of the organization's efforts.

Before the end of the second day of meetings, however, as it was becoming clear that the organization was splintering, longtime woman's rights advocate and Polish immigrant Ernestine L. Rose proposed a major organizational shift to transform the AERA into a woman suffrage advocacy group. A supporter of Stanton and Anthony, Rose's reasons for suggesting this change paralleled the suffragists'
positions on woman’s rights. Unlike Stanton and Anthony, however, Rose argued that Congress, and not the Republicans and abolitionists, had caused the problems that the association faced. “Why is it, my friends,” she asked, “that Congress has enacted laws to give the negro of the South the right to vote? Why do they not at the same time protect the negro woman? If Congress really means to protect the negro race, they should have acknowledged woman just as much as man; not only in the South, but here in the North, the only way to protect her is by the ballot.” Worse, Rose argued, congressional interpretations of the idea of equal rights had led to the split in the movement: “This Society calls itself the Equal Rights Association. That I understand to be an association which has no distinction of sex, class, or color. Congress does not seem to understand the meaning of the term universal. I understand the word universal to include ALL. Congress understood that Universal Suffrage meant the white man only.” In the face of this misinterpretation, Rose argued, equal rights advocates changed the language they used, and instead sought “Impartial Suffrage.” This too was misinterpreted, primarily in the press. “When some of our editors, such as Mr. Greeley and others, were asked what they meant by impartial suffrage, they said ‘why, man, of course; the man and the brother.’ Congress has enacted resolutions for the suffrage of men and bothers. They don’t speak of the women and sisters. (Applause).” But, she acknowledged, at least Congress was becoming more honest: “They have begun to change their tactics, and call it manhood suffrage.” But even that held its dangers, as Rose identified the way that gender had been wielded by Congress to redefine the political community. “We might commence by calling the Chinaman a man and a brother, or the Hottentot, or the Cal-muck, or the Indian, the idiot or the criminal, but where shall we stop? They will bring all these in

\[610\] Debates at the American Equal Rights Association Meeting, May 12, 1869, in Buhle and Buhle, 272.
before us, and then they will bring in the babies – the male babies. (Laughter.)\textsuperscript{611} It was gender, Rose contended, that was valued and recognized in the political world, even to the point that those she believed to be patently unqualified by racial distinctions would be empowered to participate in the nation’s political life before women. And so, she argued, the Equal Rights Association needed to change its name to the Woman Suffrage association so that there could be no confusion about the organization’s aims. "I am a foreigner. I had great difficulty in acquiring the English language, and I never shall acquire it. But I am afraid that in the meaning of language Congress is a great deal worse off than I have ever been. I go for the change of name; I will not be construed into a man and a brother."

In her speech, Rose identified the core of the problem for woman suffrage advocates during Reconstruction. While Stanton and Anthony surely correctly pointed to the individual political actors who rejected women as voters in the 1860s, it was Rose who indicated why Republicans and abolitionists rejected woman suffrage and why Congress refused to enfranchise women. Even though Stanton’s concern about the "aristocracy of sex" and Anthony’s anger at with the way that abolitionists ignored women’s activist work were both valid, it was Rose who saw that her gender identity was the fundamental problem for those expanding the franchise. Republicans, abolitionists, and Congress were not considering women as voters because they had so heavily relied on gender to justify enfranchising black men, defining them as "men and brothers." Rose knew that knew that no matter how she argued for her own equal right to the franchise, in the end she could never be "construed as a man and a brother."

\textsuperscript{611} Debates at the American Equal Rights Association Meeting, May 12, 1869, in Buhle and Buhle, 272-3.
Rose was right in more ways than she probably knew in 1869. Not only had Congress construed black men as “men and brothers” in the past three years, but its members had also used gendered metaphors to understand their own actions and their own world – to define *themselves* as men and brothers, and so as legitimate political actors. In the earliest days of Reconstruction, as members of the Thirty-Ninth Congress sought to rethink the Constitution of the founders, to grapple with the problems generated by the overturning of the 3/5ths compromise, and to justify their own right to change a provision in the nation’s fundamental founding text, gender offered a way for congressmen to solve some of their political problems. By defining their own situation in terms of male familial relationships, congressmen created themselves as legitimate political actors vis-à-vis the founders. Identifying the founders as “fathers,” themselves as sons, and black men as “men and brothers,” Republicans crafted a vision of a harmonious political community based on common bonds among men. Positing themselves as political “sons” in the American political family enabled Republican members of Congress to both argue for their own legitimate right to alter the founders’ Constitution, but also to rescue the founders from their own history. Interpreting the founder’s fundamental documents in light of their own policy preferences, Republicans used this family metaphor to argue that because the founders were the fathers of the current political nation, therefore their true ideals could be rescued from the taint of slavery. Finally, these Republicans contended, the founders’ “real” goal in forging the nation, equality among all men regardless of race, would be realized. Democrats likewise appropriated the founders as their own fathers and identified themselves as worthy sons in order to argue for their contrasting vision of an American political community of all white men. In this community, Democrats claimed that southern white men were the “real” brothers in the newly reconstituted political family. For members of both Parties, male familial
relationships offered a way for politicians to explain their own experiences, to create a legitimate history for their policy preferences, and to create a place for other men as actors within the nation's political life.

For Republicans, defining black men as "men and brothers" enabled them to justify granting these freedmen the right to vote, a fairly radical change given existing limits placed on the franchise. Throughout the antebellum and Civil War period, suffrage was generally restricted to white men. Therefore, Republicans at this moment had two clear options for justifying their political need for black voters in the reconstructing southern states: they could undertake a wholesale redefinition of suffrage rights or they could redefine black men to fit within existing limits placed on the franchise. For them, the simpler, and perhaps safer and more effective, option was to redefine black men as men. Republican congressmen did this in a number of ways. They argued that black men had been transformed from dependent slaves reliant on other men to independent property owners and heads of household. Postwar black men, they argued, had the rights of men to protect their family, to contract their labor, and, most importantly, to have an acknowledged relationship with the state. In this relationship, black men had already served the state. As soldiers during the late war, Republicans argued, black men had earned both their manhood and their right as men to participate in governance. In this way, Republicans emphasized the political and economic rights of men and redefined black men as legitimate possessors of those rights. Democrats, on the other hand, likewise wielded manhood to support their own policies, but they emphasized the social and legal rights of men. They claimed that granting black men political and economic rights would mean there was no way to prevent them from the social privileges of manhood, particularly sexual access to white women. While making these arguments about black men's rights, members of Congress enacted their own visions of manhood in their interactions with others.
Defining their own actions and own policies as the most manly, each Party used
gender not only to define suffrage rights, but to shape politics more broadly. For these
politicians, gender was central, not incidental, to the way that they understood both
political rights and political action.

When woman suffragists sent the first requests for congressional action on
women’s voting rights, they did not know that their petitions were being received by a
group of partisans who were using gender to interpret their own political
responsibilities, to justify their suffrage and representation policies, and to define
themselves as political actors. The suffrage activists envisioned that Congress in
general, and Republicans in particular were undertaking a redefinition of voting rights.
Consequently, they addressed their suffrage arguments to this assumption, claiming
that any Republican argument being made to support black men’s enfranchisement
would, by all reasonable standards of logic, also apply to women. But the Republican
arguments being made for black men’s enfranchisement relied on their manhood, a
claim to rights that women simply could not make. Even more problematic for the
suffragists, the woman suffrage petitions sent to Congress between 1865-1866
indicated to its members that if they were not careful about how they articulated the
changes in suffrage ideology and policy that they were making, women could be
included in any franchise expansion. These petitions prompted congressmen to be
careful, and to specifically identify voters as “male” in their first attempt to outline a
new national suffrage policy. Thus the second section of the Fourteenth Amendment
reflected both the way that Congress was using gender to conceptualize politics and
their fear of enfranchising women.

By the end of 1866, as their petitions went unheeded and the language of the
Fourteenth Amendment was solidified, woman suffrage activists had come to realize
that manhood was the lynchpin of Republican suffrage arguments. They selected the
New York State Constitutional Convention as the most opportune forum in which to challenge those Republican arguments linking manhood and suffrage rights. But just as Republicans in Congress were not only using manhood to justify black men's enfranchisement but also to define their own political actions, so too did New York Republicans associate their own political actions with manhood. Consequently when Stanton and Anthony challenged the way Republicans wielded manhood as a political weapon, they also challenged the gender identity of individual Republican political actors at the convention. These Republicans' responses revealed yet again how central gender was to their conceptualization of political life. By arguing that woman suffrage was fundamentally disruptive of gendered social order, New York Republicans demonstrated that not only was gender critical for defining politics but politics were critical for defining gender.

After two years of arguing for suffrage in a Republican-controlled political world that privileged manhood, Stanton and Anthony began to look for both an alternative partisan alliance and an effective alternative argument for women's enfranchisement. They found both in the Democratic Party. While most Democrats were no more interested in enfranchising women than were Republicans, throughout congressional debates some Democrats had used white women as a rhetorical foil. These few congressmen argued that of the antebellum qualifications for voting rights, whiteness was more critical than was gender, and so indicated that they preferred white female voters to black male ones. Taking this rhetoric seriously, at the same time they found an alliance with one particular wealthy Democrat, Stanton and Anthony began to make race-based arguments for women's enfranchisement. Echoing the Democrats, Stanton and Anthony contended that race was a better means of distinguishing between legitimate and illegitimate voters than was gender. White women, in this argument, were a safer repository of political power than were black
men. The suffragists’ race-based arguments were no more effective than had been their challenges to manhood. These arguments divided the postwar equal rights movement and alienated many long-time supporters of women’s right to the franchise. Worse, they created a legacy of racism and inequality that would persist in both the suffrage movement and its more modern offshoot, feminism.

On March 7, 1866, radical Republican Senator Charles Sumner gave an extensive and articulate speech opposing H. Res. 51. Sumner objected to the resolution on a number of theoretical grounds and was concerned that any measure adopted by Congress should adhere to strict ideological standards, rather than a lower partisan standard of what could pass. He was especially uneasy about thoughtlessly altering the fundamental law of the nation without sufficient care given to the way the law was worded. Of the proposed representation amendment, Sumner said that, “of course you cannot fail to be struck by its language. Here words become things.”

This project began with two questions: why was the word male used in the second section of the Fourteenth Amendment and why did Elizabeth Cady Stanton and Susan B. Anthony make a racist turn in their suffrage arguments in the late 1860s? Or in other words, how did the words of congressmen and the words of suffrage activists become “things”? The answer that I found to these questions was the same: gender had become central to the way that people in positions of political and social power defined the newly reforming political community in the postwar period. In the face of a politics that so privileged manhood, Stanton and Anthony turned to race as an equally powerful and equally malleable social category to define white women as voters. Both the centrality of manhood to politics and the suffragists’ racist turn suggest that identity, rather than broadening understandings of equality drove the Reconstruction Era expansion of suffrage rights. Republicans were not fundamentally

612 U.S. Congress, Senate, Congressional Globe, 39th Cong., 1st sess., March 7, 1866, 1225.
redefining voting rights based on a new interpretation of democratic ideals. Instead, they were wielding flexible, constructed categories of identity to justify their partisan policies and own partisan interests. This raised a number of problems. Primarily, by grounding black men’s right to vote in such a shifting and socially determined category as gender identity in order to grant them the franchise, Republicans during Reconstruction made it all the easier to revoke that franchise when Reconstruction came to an end. If black men’s right to the franchise was not based in the right of all adult Americans to participate in the making of the laws which govern them, but rather grounded in their contingent identity as men, then redefining black men’s gender identity could call into question their right to vote, as whites in the Jim Crow South so often contended.\(^\text{613}\)

Of equal consequence, Republican Reconstruction politics codified a gendered vision of the voting polity in America’s fundamental law by using the word “male” in the text of the Fourteenth Amendment. It embedded for all time in the nation’s primary text a vision of an ideal American political community as gendered, as restricted by the meanings attributed to sexual difference in the mid-nineteenth century. But for American women, the word “male” in the text of the Fourteenth Amendment became a vital “thing,” contributing to their ongoing exclusion from American politics and the elective franchise. While the representation provision of the Fourteenth Amendment was never actively enforced, its definition of voters as “adult male citizens” persisted as the national standard until 1920. Although Stanton’s estimate in 1866 that it would take “full century, at least” to remove “that word ‘male’” from the Constitution if it was used in the Fourteenth Amendment was

\(^{613}\) Historian Glenda Gilmore argues that this is exactly what happened in North Carolina, as white men sought to redefine black men as rapists, and therefore dangerous to white women if empowered with the franchise. Glenda Elizabeth Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896-1920*, (Chapel Hill, NC: University of North Carolina Press, 1996).
overlong, it did take almost a half a century for women to gain equal access to the
American political system and to remove the association between manhood and voting
rights from the American political consciousness.
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