

Charles Sumner's (R – MA) speech on equal rights of all to Congress on February 5-6, 1866 was one of the precursors to the 14<sup>th</sup> Amendment. Though not a direct precursor much of the language he uses found its way into the Amendment. Through the exploration of this speech I will aim to show that the persuasiveness of this speech works one way for Congress and slightly differently for the members of the American public that read the speech (and for whom the speech was more directly persuasive and focused towards). I give historical context before analyzing the text based on exploring the ways Sumner discusses the ballot as a lens into his many types of persuasive strategies in this speech.

The historical context of this speech is wrapped up in the time when the Republican Party in Congress was debating what would become the 14<sup>th</sup> Amendment, which we see happening shortly after the Civil War ends and the 13<sup>th</sup> Amendment is ratified. Radical Republicans saw the 13<sup>th</sup> Amendment as a way to advance their cause of equality before the law<sup>1</sup>. The radicals saw that Blacks gaining the vote was an important step. They got their chance to promote their cause after President Lincoln was assassinated<sup>2</sup>, and Sumner's speech was part of this promotion. The speech was given the same year that President Johnson vetoed the Freedman's Bureau Bill and the Civil Rights Act. All Republicans joined forces to override these vetoes, and together they passed the 14<sup>th</sup> Amendment. In its final form the Amendment largely conformed to the agenda of the moderate Republicans. Radical Republicans conceded that they voted for the Amendment out of necessity, not complicity. However, Sumner (with this speech as a backing for his beliefs) conceded that he voted for the Amendment since he was unable to get an even

better version passed<sup>3</sup>. Here we must keep in mind that the original Amendment had language in it that stated, "That, whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation."<sup>4</sup> This makes it clear, being that Sumner quotes the then-under consideration Amendment in his speech, just how radical of a Republican Sumner was. He was a towering presence in Congress, yet was capable of getting along and working with his colleagues. The Amendment as it is in the books today is better than the original formulation, but is still not as far-reaching as Sumner would have liked.

Primarily John Bingham authored the 14th Amendment<sup>5</sup>, which reads more like the constitution than its fellow Amendments given how many provisions it has<sup>6</sup>, which shows some of its rhetorical heritage. We see that the context out of which grew the first section comes from Bingham's experience in his home state of Ohio. He had strong support for racial equality, only strengthened by the Civil War, coming out of the abolitionist community in Ohio.<sup>7</sup> The protection of the rights of former slaves for the entire joint committee was topmost. Many of the claims in the Amendment are ones Sumner agreed with, and in the following paragraphs I will distill part of how he laid out such claims in his speech. Sumner had no direct authorship of the Amendment, but his speech's reach both in Congress and the public led to him functionally influencing the Amendment's formulation.

The persuasiveness of Sumner's speech in part centers on the various roles he assigns to the ballot, and we see other strategies used within that section as well. The basic language of safeguarding the ballot box with registration and residence to

guard against nomads and bohemians, as well as to compel neighbors and friends to converse about politics, is language that would have helped persuade his fellow Congressmen of his ideas.<sup>8</sup> The roles that he assigns to the ballot each play into his rhetorical persuasiveness, but pieces of each role were persuasive to different audiences in different ways. I now turn to discussing the roles one by one.

To give the ballot the role of peacemaker<sup>9</sup> is to place it within the beatitudes. This is Sumner using a religious argument. Something such as this was less persuasive to Congressmen as it was to some of the public that read his speech. Inherently this role subjects the freedman to warfare should he or she not have the peace that the ballot elevates to them. Sumner makes a claim in here that furthers the abolitionist cause when he states that a slave given freedom but not the ballot is a sacrifice. For what purpose would a slave be let free yet not gain the equal rights of citizenship his former slaveholders have? Therefore this is part of Sumner's argument that is persuasive not just to any average citizen, but especially to those of the abolitionist movement and who were sympathetic to those of that movement.

The public saw this speech as the one speech to instill excitement in the entire legislative session. An article in *The Farmer's Cabinet* newspaper explicitly mentions Sumner's use of human rights as an argument for how immoral and shameful what at the time was the 14<sup>th</sup> Amendment draft.<sup>10</sup> What this article shows is that Sumner had the public's support, which isn't surprising considering his views and the depth with which his writings were read, and the public was eager for the changes the 14<sup>th</sup> Amendment eventually brought. It is clear the speech would have been reprinted in that issue had it not been for its sheer length. While

acknowledging the personal attacks Sumner had received the article appreciates his steadfast support of blacks' rights.

As reconciler the ballot brings about harmony.<sup>11</sup> If all were to have the ballot then they could coexist in mutual kindness that brings about mutual advantage. The ballot does this by bringing everyone into natural relations of justice with one another. Sumner uses the national self-interest argument here by asking if "...you [Congress and public] wish to see harmony truly prevail, so that industry, society, government, civilization may all prosper, and the Republic wear a crown of true greatness?"<sup>12</sup> These can only come about if the ballot remains accessible to all, so Sumner is leaning on a patriotic identity in arguing that it is in our interest to distribute the ballot to all who are deserving (men) of it. In an ideal system this argument would have affected everyone, but the public being so split on the issue of slavery that we cannot be sure just how the public would have taken these claims.

Slaves were not taught a thing in the education system, so Sumner argues that they deserve both that and the ballot<sup>13</sup>. Certain things can be taught with the ballot that the schoolteacher simply cannot teach. As education is a human right it is not complete unless freedmen can use the ballot as a civic tool. Truly, said Sumner, the redemption [for slavery] is not complete if the freedman's access to the ballot is in doubt. As their light of day the freedman has as much claim to the ballot as their former slaveholder's injustice towards them was. These claims of Sumner's scrape the surface of the more explicit references to human rights he makes throughout this speech, only a few of which I even have the time to mention here.

It would be worth looking closer at some of the explicit rhetorical mentions of human rights in Sumner's speech. The first reference to human rights comes right at the start of the speech when Sumner states that the 14<sup>th</sup> Amendment as written as of that time was just another compromise of human rights<sup>14</sup>. The human rights (of former slaves) are a moral principal and cannot be indirectly compromised but need to be directly made equal. Some rhetorical context gets evoked here when Sumner further backs this claim by bringing up the Constitution and placing his speech within the same rhetorical tradition.<sup>15</sup>

Sumner's speech first hints at religious rhetoric when he notes that "...surrounded by the light of Christian truth and in the full blaze of Human Freedom..." Congress proposes to go against the principles of the Declaration of Independence.<sup>16</sup> This statement introduces an argument that lines up those in the public who may be less politically aware to get on Sumner's bandwagon.

Turning back to the final role Sumner claims the ballot has is that of protector. Emancipation was merely an end to slavery in name, but the slaveholder still held inhuman power over the slaves through serfdom and apprenticeship. Sumner made the argument that the ballot was the freedman's only sufficient guarantee of protection. Through such representation as the ballot enacts the freedman can secure him/her self the castle for a home that the law previously only handed the slaveholder. The ballot would enact policies of justice for the freedman as the freedman could try and push the slaveholder from power. Likewise the ballot would bring further [human] rights (of citizenship) to the freedman and is therefore the horn of abundance.

Another argument Sumner uses tied to human rights in his speech is the pervasive one of representation of the blacks. The ballot is tied to this in saying that those who are being represented should have the ability to choose their representation. He also ties this back to taxation in saying that anyone being taxed deserves equal representation.<sup>17</sup> Such arguments were conducive to the abolitionists, but blacks themselves probably weren't educated enough to quite recognize why they should be wanting rights such as equal representation and understandably Congress wasn't conducive to this argument.

While John Bingham was the core idea author of the first section of the 14<sup>th</sup> Amendment it was the ideas Charles Sumner discussed at great length in this speech that became the kernel of the second section. The various persuasive tactics/arguments I've discussed above help to situate why this speech could so directly mold the wording of the Amendment. This work, that on the Amendment and following afterwards, placed Sumner in the position of a hero of equal human rights for everyone. We can grasp that this was how he was viewed by looking at a poem written upon the occasion of his death, wherein the author notes the power that his words held as saving for a rescued race and referring to him as a knight whose memory and legacy will go on in the views of fellow statesmen.<sup>18</sup>

At the time, though, there were many who were against the ideas Sumner had and others wrote into the 14<sup>th</sup> Amendment. This included President Johnson, who tried to veto the Amendment.<sup>19</sup> This shows us that, like any piece of rhetoric, Sumner's speech didn't persuade everyone. The Amendment was a way to provide peace to the country<sup>20</sup>, so Sumner's speech was a call to such action for at least the

public. That some people opposed the Amendment is interesting because its authors were writing off of the shared experiences of abolition, litigation, struggles for free speech and freedom, and so on.<sup>21</sup> Exploring this rhetorical aspect shows us that, therefore, there were many people who may have recognized the importance of equality to building a sustainable peace for the country but who instead lined themselves up on ideological political lines as some form of pretend safety. These people turned away from instinct to abide by what had been done historically, but that now we see was wrong these many decades later with the Amendment implemented. We can only be glad that there were more Sumners than there were Johnsons.

This paper has stepped through a sliver of Charles Sumner's Equal Rights for All speech and shown some of where human rights rhetoric is woven in and how the speech affected what became the 14th Amendment through its affects on Congress and more so the U.S. public. All this paper focused closely on to guide it was Sumner's various roles of the ballot; if I had more space I would expand the sections of speech covered. Our discussion exposed what elements of the rhetoric and ballot roles were more persuasive to Congress and which ones were more persuasive to the American public, but again it would take a more exhaustive analysis of Sumner's speech to do full justice to what the discussion of human rights in the rhetorical and historical context shows us regarding the 14th Amendment and where the human rights rhetoric was taken by Sumner's Equal Rights of All speech.

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<sup>1</sup> Louisa M. A. Heiny, "Radical Abolitionist Influence on Federalism and the Fourteenth Amendment" *The American Journal of Legal History* 49 (2007): 191

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- <sup>2</sup> Heiny, "Radical Abolitionist Influence on Federalism and the Fourteenth Amendment", 192
- <sup>3</sup> Heiny, "Radical Abolitionist Influence on Federalism and the Fourteenth Amendment", 193
- <sup>4</sup> Charles Sumner, *The Works of Charles Sumner Volume 10* (Boston, MA: Lee and Shepard, 1874), 120
- <sup>5</sup> Paul Finkelman, "John Bingham and the background to the fourteenth amendment" *Akron Law Review* 36 (2003): 671
- <sup>6</sup> Richard L. Aynes, "The 39th Congress (1865-1867) and the 14th Amendment: Some Preliminary Perspectives" *Akron Law Review* 42 (2009): 1040
- <sup>7</sup> Finkelman, "John Bingham and the background to the fourteenth amendment", 691
- <sup>8</sup> Sumner, *The Works of Charles Sumner Volume 10*, 220
- <sup>9</sup> Sumner, *The Works of Charles Sumner Volume 10*, 221
- <sup>10</sup> "Charles; Sumner; Senate; Blaine; Mr. Sumner; Human; Rights" *The Farmer's Cabinet* March 15, 1866, 2
- <sup>11</sup> Sumner, *The Works of Charles Sumner Volume 10*, 221
- <sup>12</sup> Sumner, *The Works of Charles Sumner Volume 10*, 222
- <sup>13</sup> Sumner, *The Works of Charles Sumner Volume 10*, 222
- <sup>14</sup> Sumner, *The Works of Charles Sumner Volume 10*, 119
- <sup>15</sup> Sumner, *The Works of Charles Sumner Volume 10*, 120
- <sup>16</sup> Sumner, *The Works of Charles Sumner Volume 10*, 121
- <sup>17</sup> Sumner, *The Works of Charles Sumner Volume 10*, 121
- <sup>18</sup> Theron Brown, "Poetry: Charles Sumner" *The Farmer's Cabinet* April 22, 1874, 2
- <sup>19</sup> Aynes, "The 39th Congress (1865-1867) and the 14th Amendment: Some Preliminary Perspectives", 1037
- <sup>20</sup> Aynes, "The 39th Congress (1865-1867) and the 14th Amendment: Some Preliminary Perspectives", 1038
- <sup>21</sup> Aynes, "The 39th Congress (1865-1867) and the 14th Amendment: Some Preliminary Perspectives", 1040