Charles Sumner: History's Misunderstood Idealist

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I. INTRODUCTION

There are perhaps few figures in the history of the United States who have received such contrasting treatment by historians and scholars than Senator Charles Sumner. Sumner was described by his New England contemporary Ralph Waldo Emerson as being “the whitest soul I ever knew”\(^1\); on the other hand, William Kent, another New England contemporary, described Sumner as a “man of the loveliest temper and kindest and most generous heart,” yet Sumner was “Utopian as Horace Greeley, and obstinate as a mule.”\(^2\) Irrespective of how one views Sumner’s life, views, and motivations, Sumner stood as a powerful voice in the United States Senate for the rights of African-Americans throughout his senatorial career, from being beaten on the floor of the United States Senate in 1857 following his antislavery speech “The Crime Against Kansas”\(^3\) to vigorously advocating for the promulgation of an Emancipation

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\(^1\) J.D., Certificate in International and Comparative Law, Saint Louis University, 2008; B.A., Grinnell College, 2005. Attorney, Engles, Ketcham, Olson & Keith, P.C., Omaha, Nebraska. The author would like to thank Professor Professor Sarah Purcell and Professor Victoria Brown, both of Grinnell College, for helping to inspire a lifelong interest in the life and ideals of Charles Sumner, and also to Professor Isaak Dore of Saint Louis University School of Law for inspiring the author to examine the philosophical aspects of Sumner’s thought. He would also like to thank his parents, Dennis and Salud Marzen of Dougherty, Iowa, and his younger brother Christopher and Ryan for their kind, unending support, encouragement, and sacrifices to help make this essay possible. The author remains solely responsible for all in this essay and for any errors which occur. The author can be reached at marzen@alumni.grinnell.edu.


\(^3\) Id. at 152.

\(^4\) Id. at 278-311, which is Chapter XI: “The Crime Against Kansas.”
Proclamation during the Civil War.\textsuperscript{5} Following the Civil War, Sumner stood as one of the most prominent of the “Radical Republicans”\textsuperscript{6} in Congress who pushed for greater federal involvement in the southern States during Reconstruction.

One view of Sumner mainly follows David Herbert Donald’s biography of Sumner as a “Cardboard Yankee,” a figure who “predictably, and with the same arrogance, doggedness, and appeal to principle, confronts each historical experience.”\textsuperscript{7} This view is not only limited to historians, but is even held by legal academics. One relatively recent article portrays Sumner as someone who seldom tried to understand others,\textsuperscript{8} was lacking in humor,\textsuperscript{9} made himself a pedant,\textsuperscript{10} lacked the judgment and self-control to be effective in settling disputes,\textsuperscript{11} and was unable to compromise.\textsuperscript{12}

Despite the prevalence of this view, the Donald thesis or “Cardboard Yankee” interpretation of Sumner’s life does not go unchallenged. A “revised” interpretation of Sumner, introduced by the historian Anne-Marie Taylor in her study of Sumner’s life before entering the


\textsuperscript{6} ERIC FONER, RECONSTRUCTION: AMERICA’S UNFINISHED REVOLUTION, 1863-1877, 228-239 (1988). Describing the Radical Republicans, Foner noted on p. 229 that “Bringing to politics the moral sensibility of abolitionism, Radicals had long insisted that slavery and the rights of blacks must take precedence over political questions.” Foner also stated on p. 230 that “the driving force of Radical ideology was the utopian vision of a nation whose citizens enjoyed equality of civil and political rights, secured by a powerful and beneficent national state.”


\textsuperscript{8} Paul Carrington, A Tale of Two Lawyers, 91 NW. U. L. REV. 615, 625 (1997).

\textsuperscript{9} Id. at 626.

\textsuperscript{10} Id. at 626-627.

\textsuperscript{11} Id. at 627.

\textsuperscript{12} Id.
Senate, focuses on Sumner’s background, education, and youthful idealism.\textsuperscript{13} Taylor contends that Sumner was inspired by natural law principles and the legacy of the Enlightenment, and was driven into reform movements and politics for two reasons: first, that Sumner believed the humanistic ideals of the Enlightenment represented the best foundation for the public good and second, that Sumner responded to the duty of the individual to work toward that public good.\textsuperscript{14}

Following the “revised” interpretation, I posit that Sumner’s legal philosophy was borne of his environment and his natural law leanings heavily influenced by his mentor, Supreme Court Justice Joseph Story.\textsuperscript{15} His legal philosophy was also marked by a profound confidence in the essential anti-slavery nature of both the Constitution and the Declaration of Independence. In summary, Sumner believed in the supreme authority of the sacred nature of the Constitution and Declaration of Independence – that the written words and text held a transformative authority.

In this article, I contend that the “revised” interpretation best interprets Sumner’s legal philosophy and political motivations throughout his illustrious Senatorial career by particularly focusing on a particularly painful\textsuperscript{16} moment for Sumner – his perplexing decision to leave the Republican Party and endorse the Liberal Republican movement in the presidential election of

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\textsuperscript{14} \textit{Id.} at 6-7.

\textsuperscript{15} \textit{Id.} at 56-57. Taylor writes, “But soon Judge Story, as his friends called him – never Justice, - and the younger Sumner developed their own close friendship based on their shared taste for literature and scholarship as well as the law, and warmed by each man’s natural affectionateness. They were both famous for their love of conversation as well – though even Sumner could not outtalk Joseph Story – and the two would sit by the fireside long into the night while Sumner, a natural-born student, “plied [Story] with an ever-flowing stream of questions” that the professor delighted to answer. Before long Sumner was a guest at the Storys’ house “two or three evenings in the week,” where Story “always received him with a beaming face, and treated him almost as if he were a son.”

\textsuperscript{16} Letter from Charles Sumner to Heman Lincoln Chase (July 20, 1872), \textit{in} 2 THE SELECTED LETTERS OF CHARLES SUMNER, at 602 (Beverly Wilson Palmer, ed., Northeastern University Press, 1990). Sumner wrote, “Believe me – not without a pain can I part from those with whom I have been so long associated. But are not the best Republicans now sustaining Greeley? I have never declared for him, & therefore, I ask, are not the more eminent statesmen of the party against Grant?”
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1872. In endorsing the Liberal Republicans, Sumner joined a diverse group of Republicans and Democrats who sought to assuage the sectional bitterness arising out of the result of the Civil War and to promote honest government by bringing together the “best men” of the nation to lead in a new era of unity. However, the election of Greeley would also have bought a complete end to Reconstruction.

Instead of being viewed as a departure from his idealism and philosophy, Sumner’s decision should be seen as a continuation of it. A revolutionary republican generation before Sumner which influenced his Enlightenment-inspired idealism was particularly inspired by the power and transformative authority of the written word. Irrespective of any consequences of such a belief, Sumner truly believed a transformation occurred among many Democrats since they set their “corporate seal to the sacred covenant” by endorsing a written platform which recognized equality of all before the law. Moreover, Sumner believed the transformative, written authority of the Constitution and Declaration of Independence would protect the rights of all in a new era of American politics based upon cooperation and honesty in government.

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17 DONALD, supra note 5, at 552.

18 JOHN G. SPROAT, THE BEST MEN: LIBERAL REFORMERS IN THE GILDED AGE 6-7 (1968). Sproat notes that the liberal reformers of the Gilded Age “looked to moderate, well-considered reforms as solutions to the problem. They had little sympathy for labor’s grievances, or the farmers’ predicament. Their special fears concerned corruption in politics and business, extravagant government, excessive taxation, and the general breakdown of order and morality in society. For the abuses that offended them they proposed the simple remedies of “good government,” economic orthodoxy, and moral rejuvenation. Put “good men” into positions of responsibility and power, they urged. Revive the Jeffersonian regard for limited government; respect and defend the tested Christian moral precepts and apply them to everyday affairs; as well as to government; trust in the “natural laws” of political economy to right the economic wrongs of the day. Only through dedication to a program of such liberal reforms, they insisted, could Americans preserve their nation’s reputation as a stronghold of opportunity and individual freedom, a bulwark against despotism.”

I. TWO VIEWS OF SUMNER

A. The “Cardboard Yankee” Thesis

David Herbert Donald wrote the first major biography of Sumner during the 1960s. In his biography, Donald mainly portrayed Sumner as a rigid moralist\(^{20}\), unwilling to set aside his self-importance\(^{21}\) and was indifferent or even insensitive to the feelings of others.\(^{22}\) As Gilbert Osofsky remarks, the Sumner that Donald recreates “is ponderous, pompous, patronizing, didactic, pontifical, Olympian” and “unable to distinguish between small and large matters.”\(^{23}\)

Donald portrayed Sumner as a politically ineffective legislator and remarked Sumner was a “political outsider,” announced principles “as from Mount Sinai,” and was averse to compromise.\(^{24}\) Donald also described Sumner as so wed to his principles that “he deliberately tried to insulate himself from situations where he might have to adapt his general principles of specific cases.”\(^{25}\) Overall, Osofsky described the Sumner Donald depicted as a “Cardboard Yankee” and he argued instead that Sumner was someone “more than a Yankee bull in the legislative china shop; a naysayer and principle-monger who lost all touch with legislative realities; a man who annoyed and interfered with the levelheads of Congress”\(^{26}\) (emphasis added).

\(^{20}\) Osofsky, supra note 7, at 598.

\(^{21}\) Id. at 597.

\(^{22}\) Id.

\(^{23}\) Id.

\(^{24}\) Id. at 601.

\(^{25}\) Id.

\(^{26}\) Id. at 604.
The “Cardboard Yankee” interpretation of Sumner is still widely prevalent, even in law schools. In 1997, Duke University Law Professor Paul Carrington wrote an article in the Northwestern University Law Review entitled *A Tale of Two Lawyers* where he praised the style of President Abraham Lincoln as a model lawyer for the legal profession to emulate and criticized the characteristics of Charles Sumner. Like Donald, Carrington described Sumner as having too much of a sentiment of self-importance and charged that “clients found him [Sumner] inattentive and often uncomprehending of their problems and concerns.”

Carrington also depicted Sumner as generally engaging not in argument, but that his art form was “invective” and also that his weapon was “not persuasion, but intimidation.”

Carrington, like Donald, also viewed Sumner as an ineffective legislator. Carrington stated Sumner “lacked the judgment and self-control to be effective in settling disputes” and that he “did not solve problems, he made them.” Carrington not only adopted the “Cardboard Yankee” thesis in his article, but he also even questioned Sumner’s motivations for his politics in writing that “so relentless was his moralizing that it seemed that his motives were not compassion for slaves or prisoners or war victims so much as an urge to vilify fellow beings as his moral inferiors.” In conclusion, Carrington contended that Sumner’s blindness to his own moral failings “grievously impaired his value as a public person.”

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27 Carrington, supra note 8, at 625.

28 *Id.* at 627.

29 *Id.*

30 *Id.* at 629.

31 *Id.* at 633.
II. The “Revised Interpretation” of Sumner

In his criticism of Donald’s biography, Osofsky remarked the biography did not explore the culture that produced Sumner.\(^{32}\) In a recent “revised interpretation” of Sumner’s first 40 years of life, Anne-Marie Taylor contended it was Sumner’s background, idealism, and recognition of his conscience and duties which led him to become involved in reform movements and eventually politics.\(^{33}\) Taylor asserts that Sumner held a very hopeful understanding of human nature\(^{34}\) which was reflected by his background in revolutionary republicanism and natural law. This hopeful understanding comes from the potential of humanity to “balance his own animal, intellectual, and ethical faculties, striving to place his whole being under the guidance of his reason and his conscience.”\(^{35}\) Sumner’s background in the ideals of the Enlightenment and belief in natural law was the foundation for his political involvement, and his belief in duty, according to Taylor, led him as an individual to work for the public good.\(^{36}\)

For example, Taylor describes Sumner’s disillusionment over the changes in the American legal profession during the 1840s. Sumner looked up to a Ciceronian ideal of the lawyer as a moral and intellectual leader, but emerging corporate capitalism caught the legal profession in its emerging wave.\(^{37}\) Sumner viewed the profession as one of scholarship, founded upon the ideals of devotion to duty, virtue, and the pursuit of the common good – but the

\(^{32}\) Osofsky, supra note 7, at 600.

\(^{33}\) TAYLOR, supra note 13.

\(^{34}\) Id. at 6.

\(^{35}\) Id.

\(^{36}\) Id.

\(^{37}\) Id. at 62.
emergence of laissez-faire economics brought a new unbridled individualism to law.\(^{38}\) Instead of Sumner being aloof to the concerns of others in his law practice, the portrait Taylor conveys is a Sumner which “upheld the highest possible standards and devotion to scholarship and ethics, to the intellect and conscience.”\(^{39}\) This is the Sumner that best represents his legal philosophy and political career dedicated to equality under the law.

III. MAJOR ELEMENTS OF SUMNER’S LEGAL THOUGHT

A. Introduction

Sumner’s legal thought was not only influenced by the culture around him and its embrace of the ideals of the American Revolution and the Enlightenment, but by his mentor, Justice Joseph Story of the United States Supreme Court. Story’s emphasis on natural law and respect for the spirit of laws greatly appealed to Sumner and served as a foundation of Sumner’s thought. If there was one issue which was closest to Sumner’s heart,\(^{40}\) it was his zealous advocacy for the rights of African-Americans, both in the antislavery movement and throughout Reconstruction. Sumner strongly thought the antislavery movement was a continuation of the

\(^{38}\) \textit{Id.} at 63. Taylor wrote, “As Sumner looked out in imagination over the future, he realized that he had prepared himself, by training and taste, for a world that was vanishing before his eyes. He had been inspired by the visions of the Enlightenment, by the ideals of the century that was dying, and he was irked by the values now replacing them. He had envisioned taking his place in a society founded on reason and the order that comes from devotion to duty and virtue. But the new century coming into its own was striving to escape from all restraints and upheld not order but laissez-faire, not mutual obligation but unbridled individualism. Sumner had dreamt of rising up by scholarship to achieve eminence and fame and take his place in an aristocracy of merit, but the new century distrusted intellectuals and rejected any kind of traditional aristocracy, including one of merit, replacing them with new heroes, the self-made businessman and the common man whose integrity had not been corrupted by too much education.”

\(^{39}\) \textit{Id.} at 65.

\(^{40}\) DONALD, CHARLES SUMNER AND THE RIGHTS OF MAN, supra note 5, at 586-587. Evidence of Sumner’s earnest concern for the rights of African-Americans were his words on March 11, 1874, the day he died. He told a friend, “You must take care of the civil-rights bill, - my bill, the civil-rights bill, don’t let it fail.” After an hour passed, he told Frederick Douglass, “Don’t let the bill fail.” Just a few hours later, he died.
revolutionary principles of America’s war for independence and believed in the essential antislavery nature of both the Constitution and the Declaration of Independence, a position which would put him at odds with abolitionists in the years before the Civil War.\textsuperscript{41} Sumner also had the unique belief that the Declaration of Independence held an even higher status than the Constitution,\textsuperscript{42} believing both to be of the same spirit in their embrace of natural rights.

\textbf{B. Justice Joseph Story’s Influence on Sumner}

While he studied law at Harvard Law School, Charles Sumner struck a strong friendship with one of his teachers, U.S. Supreme Court Justice Joseph Story.\textsuperscript{43} Sumner worked diligently during law school,\textsuperscript{44} even to the point that he worried his family and friends about his health.\textsuperscript{45} Sumner’s professors “delighted in his enthusiasm and ability”\textsuperscript{46} and soon Justice Story singled him out as a potential successor as Professor at the law school.\textsuperscript{47} Story eventually offered him a position of Professor at Harvard, but he declined to do so and entered into active private practice.\textsuperscript{48} Torn between his ideals and the emergence of the legal profession as a commercial trade,\textsuperscript{49} he soon became Story’s substitute at the law school when Story was away.

\textsuperscript{41} \textit{TAYLOR}, \textit{supra} note 13, at 195.


\textsuperscript{43} \textit{TAYLOR}, \textit{supra} note 13, at 56-57.

\textsuperscript{44} \textit{Id.} at 54-55.

\textsuperscript{45} \textit{Id.} at 55.

\textsuperscript{46} \textit{Id.} at 56.

\textsuperscript{47} \textit{Id.} at 58-59.

\textsuperscript{48} \textit{Id.} at 59-60.
Sumner’s legal thought was greatly guided by his friendship with Story, his mentor. While Story accepted the natural rights of “life, liberty, and property,” he also viewed the main purpose of government was to establish liberty, order, justice, and to promote republican virtues of citizenry. As James McClellan notes, Story held “a faith in the wisdom of the past and stressed the importance of keeping change within the framework of law and custom.” Story also believed in an organic theory of the Union and that “natural law was the nucleus of his legal philosophy, the creative source of his jurisprudence.”

Sumner and Story both shared admiration of natural law, Ciceronian, and republican principles. In interpreting legal texts, particularly the Constitution, Sumner followed several principles of interpretation that Story utilized – an examination of the original intent of the framers of the law, understanding of words through their ordinary and natural meaning, and a respect for the object and purpose of the text. Through these principles, Sumner would conclude that the Constitution was in its essence and spirit an anti-slavery document.

49 Id. at 65.

50 JAMES MCCLELLAN, JOSEOPH STORY AND THE AMERICAN CONSTITUTION: A STUDY IN POLITICAL AND LEGAL THOUGHT 77 (1971).

51 Id. at 78.

52 Id. at 82. McClellan stated, “It was Story’s belief that the Jeffersonian doctrine of states’ rights, that is the compact theory of the Union, was an outgrowth of the social contract theory. Against the Jeffersonian theory Story placed his own, noncontractual or organic theory of the Union.”

53 Id. at 80-81.

54 TAYLOR, supra note 13, at 67.

55 Id. at 196.

56 Id. at 195.
C. Sumner’s Anti-Slavery Advocacy, the Constitution, and Declaration of Independence

Arguably the most salient characteristic of Sumner’s legal thought was his earnest belief that the Declaration of Independence and Constitution were both documents which rendered slavery absolutely impermissible. Sumner followed the principle that the Declaration and Independence and Constitution should be interpreted in favorem libertatis (“in favor of liberty”) and were written “not to establish injustice” but rather to promote the “general welfare” and to “secure the blessings of liberty.”\(^\text{57}\) Sumner also viewed the Constitution as the “crowning labor” of the work the Declaration of Independence established and that the Constitution ratified the “rights which the Declaration had promulgated, and which the sword of Washington had secured.”\(^\text{58}\)

In opposition to Sumner’s views on the Constitution was a fellow classmate at Harvard Law School and noted abolitionist, Wendell Phillips. Phillips was a legal positivist and “insisted upon a literal interpretation of the Constitution.”\(^\text{59}\) Phillips contended the Constitution was a result of political compromise,\(^\text{60}\) that protections for slavery were consciously written into the text,\(^\text{61}\) and that the document should be interpreted “according to the present realities of the present, whatever the ethics.”\(^\text{62}\) His views drew him closer to the Garrisonian movement of abolitionism which rejected involvement in politics and instead favored civil disobedience and

\(^{57}\) Id.  
\(^{58}\) Id. at 194.  
\(^{59}\) Id. at 196.  
\(^{60}\) Id. at 194.  
\(^{61}\) Id.  
\(^{62}\) Id. at 195.
possibly revolution. However, Sumner took a much different course in the antislavery movement. Instead, Sumner contended the antislavery movement was a continuation of the ideals of the American Revolution, a revolution which produced both the Declaration of Independence and the Constitution. In fact, Sumner contended the two documents must be read in tandem with one another, that “The Constitution is an earthly body, if you please; the Declaration is the soul … Every word in the Constitution is subordinate to the Declaration.” Thus, the Declaration held an even higher importance as a source of law than the Constitution itself in Sumner’s philosophy. In addition, the antislavery movement to Sumner was a movement to “bring back the Constitution to the principles and practice of its early founders” and to restore and maintain the public good.

Sumner not only outlined support for the antislavery character of the Declaration of Independence and Constitution from the revolutionary and natural law principles he advocated, but from the very text of the Constitution itself. In an 1864 speech he gave in favor of a proposed Thirteenth Amendment to the Constitution which would prohibit slavery, Sumner noted four specific clauses in the Constitution render it impermissible. First, Sumner noted two sources of congressional power apply – Article, Section 8, Clause 1, which provides Congress with the power to provide for the common defense and general welfare and then the power of Congress in

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63 Id. at 198.
64 Id. at 198-199.
65 Jager, supra note 42.
66 Taylor, supra note 13, at 198-199.
Article 1, Section 8, Clause 2 to raise armies and maintain navies.  
Third, Article IV, Section 4 confers the power to guarantee a republican form of government.  
Finally, Sumner cited the Fifth Amendment’s power to secure liberty against all restraint without due process of law.  

The anti-slavery movement was close to Sumner’s heart and it is not surprising he felt so strongly the Declaration of Independence and Constitution rendered slavery impermissible. The culture he grew up in which encouraged the duty of the individual to work for the public good, his mentor Joseph Story, his strong belief in natural law, natural justice, and republican principles - all influenced his political and legal thought. As Sumner faced arguably the most difficult decision of his career in 1872, his optimistic idealism and faith in the Declaration of Independence and Constitution would heavily influence him in his endorsement of the Liberal Republican movement.

IV. SUMNER AND THE LIBERAL REPUBLICAN MOVEMENT OF 1872

A. Introduction

In 1872, Charles Sumner faced the most difficult choice of his illustrious Senate career: whether to keep the attachment he held for years with the Republican Party, or to endorse the Liberal Republican movement of 1872, a movement which included Democrats who had fought against his anti-slavery initiatives for years. Sumner’s emphasis on the Declaration of Independence and Constitution and belief in their transformative quality and the power of the

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68 Id.

69 Id.
written word, a transformative power understood by leaders well-before the American Revolution, led him to hold strong faith in a Liberal Republican platform which purportedly recognized “the equality of all men before the law.” By looking at Sumner’s decision to join the Liberal Republicans of 1872, the “revised interpretation” is affirmed of Sumner being a leader who believed in and earnestly sought the public good and motivated by his duty toward that goal.

B. The Liberal Republican Movement of 1872

Following the Civil War, the Republican Party became increasingly dominated by the “spokesmen for industrial capitalism” at the expense of agrarian-labor elements. A new group of liberal reformers, led by diverse leaders such as the newspaper editor E.L. Godkin and Senator Carl Schurz, organized a third-party movement of liberals to oppose the re-election of Republican President Ulysses S. Grant. The liberal reformers “sought above all a sense of civilized social order in America,” wanted a new era of national unity led by the “best men,” advocated civil service reform, sought an end to corruption and embraced laissez-faire economic policies. They were critical of the corruption scandals in the Grant administration and the shift

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71 SPROAT, supra note 18, at xi.


73 SPROAT, supra note 18, at 6-7.
from a more ideologically-based party dedicated to the principles of “free soil, free labor, and free men” to one comprised more of “nonideological power brokers.”

In April 1872, the Liberal Republicans met in Cincinnati, adopted a platform, and selected Horace Greeley as its presidential candidate on the sixth ballot. The group that met in Cincinnati was very diverse – it included professional politicians, free trade activists, Free Soil activists who walked out of the Whig or Democratic parties between 1848 and 1852, prominent Lincoln activists in 1860, and carpetbaggers and scalawags from the southern states who broke with the Grant administration. Although reformers like Carl Schurz (who endorsed Greeley) expressed disappointment regarding the outcome of the Convention and that it was “dragged down to the level of an ordinary political operation,” the Liberal Republicans were bolstered by the support of the Democratic Party in the election.

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74 FONER, supra note 6, at 484.


76 Id. at 730.

77 Id.

78 Id.

79 Id. at 731.

80 Id.


C. Charles Sumner’s Endorsement of the Liberal Republicans

In the election of 1872, Charles Sumner faced a difficult decision whether or not to endorse the Liberal Republican movement against incumbent President Grant. The first major breach in the relationship between Sumner and Grant occurred in early 1870 over President Grant’s earnest promotion of an annexation treaty for Santo Domingo (the present-day Dominican Republic). According to William Javier Nelson, Grant was “obsessed with the idea” of annexation.\(^{83}\) However, Sumner viewed the scheme with a wary eye. Sumner learned that two American speculators, General William L. Cazneau and Colonel Joseph W. Fabens, stood to gain lucrative financial rewards from the treaty’s passage,\(^{84}\) learned the Grant administration had delegated the authority to negotiate the treaty to General Orville Babcock, who lacked diplomatic credentials to negotiate,\(^{85}\) and became concerned the Grant administration had imperialist designs in the region that could threaten the independence of Haiti.\(^{86}\) Sumner, the Chairman of the U.S. Senate Committee on Foreign Relations, arduously and successfully worked to defeat the treaty,\(^{87}\) but he soon found himself stripped of his chairmanship in the following congressional session.\(^{88}\) In 1872, Republican leaders in the Senate effectively set aside Sumner’s civil rights proposal during the early morning hours of May 31 in favor of a greatly weakened


\(^{84}\) Donald, supra note 5, at 440.

\(^{85}\) Id.

\(^{86}\) Id. at 441.

\(^{87}\) Id. at 444.

\(^{88}\) Id. at 498.
measure.\textsuperscript{89} Sumner soon found himself being courted by the leaders of the Liberal Republican movement.

A number of reasons made the Liberal Republicans attractive to Sumner. Several of his close political friends, including Senator Carl Schurz, Edward L. Pierce, and Francis L. Bird, were active in the movement.\textsuperscript{90} In addition, the Liberals’ presidential candidate, Horace Greeley, was active in the abolition movement and had the support of some abolitionists and Republicans at the Liberal Republican Convention.\textsuperscript{91} However, more than ¾ of abolitionists supported the re-election of President Grant\textsuperscript{92} and were critical of Greeley’s advocacy of placing the guardianship of ensuring civil rights protections completely to the southern States.\textsuperscript{93} Right before the election, Frederick Douglass stated, “The Republican party is the ship and all else is the sea.”\textsuperscript{94} Thus, Sumner faced a very difficult decision with abolitionist support split with a majority going to Grant and a minority to Greeley.

Throughout the summer of 1872, Sumner took an uncommitted stance and seriously considered staying neutral in the campaign.\textsuperscript{95} In a July 20 letter to Heman Lincoln Chase, Sumner wrote, “Believe me – not without a pain can I part from those with whom I have been so long associated. But are not the best Republicans now sustaining Greeley? I have never declared

\begin{itemize}
\item \textsuperscript{89} Id. at 546-547.
\item \textsuperscript{90} Id. at 542-543.
\item \textsuperscript{91} James M. McPherson, \textit{Grant or Greeley? The Abolitionist Dilemma in the Election of 1872}, 71 The Am. Hist. Rev. 43 (1965).
\item \textsuperscript{92} Id.
\item \textsuperscript{93} Id. at 45.
\item \textsuperscript{94} Id. at 50.
\item \textsuperscript{95} DONALD, \textit{supra} note 5, at 544.
\end{itemize}
for him, & therefore, I ask, are not the more eminent statesmen of the party against Grant?"

Just nine days later, on July 29, 1872, Sumner formally endorsed the Liberal Republicans in a public letter. In his endorsement of Greeley, Sumner noted that Greeley “stood forth as a Reformer and Abolitionist.” Sumner also lauded Greeley’s qualities by stating he had an “untiring industry which leaves no moment without its fruit, abundant political knowledge, acquaintance with history, the instinct and grasp of statesmanship, an amiable nature, a magnanimous soul, and above all an honesty which no suspicion has touched.” In summary, by adopting a “Republican platform which places the Equal Rights of All under the safeguard of irreversible guaranties” the Liberal Republicans and Democrats “set their corporate seal to the sacred covenant” and thus with the election of the Liberal Republicans “a new order of things” would be initiated where the “harsh instrumentalities of power” would yield “to a sentiment of good will.” To Sumner, the election of the Liberal Republicans would usher in a new era where “the freedman, assured in rights, must enter upon a new career of happiness and prosperity.”

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96 Supra note 16.
97 DONALD, supra note 5, at 544.
98 Supra note 19, at 177.
99 Id. at 178.
100 Id. at 184-185.
101 Charles Sumner, Greeley or Grant? Speech Intended to be Delivered at Faneuil Hall, Boston (September 3, 1872), in 15 THE WORKS OF CHARLES SUMNER, at 241 (Edward L. Pierce, ed., Lee and Shepard, 1883).
102 Id.
D. Sumner’s Endorsement of the Liberal Republicans: A Continuation of his Idealism and his Revolutionary Republican Background

Instead of being viewed as a departure from his idealism and emphasis on the primacy of the Declaration of Independence and Constitution, Sumner’s decision to endorse the Liberal Republicans of 1872 should be viewed as a reaffirmation of his legal thought. Notably, an era in which the “best men” of the Liberal Republicans held power appealed greatly to Sumner’s lifelong belief “in the duty of the best men to exert their authority in civic affairs”103 and was a continuation of Sumner’s Enlightenment-inspired ideals in which an intellectual, morally-sound generation would be inspired by the duty to work for the universal public good.

Furthermore, Sumner strongly looked to the written platform of the Liberal Republican movement and to the Constitution as a document with transformative authority in his decision. As Professor Robert N. Clinton has observed, “The ultimate faith of the framers of the Constitution in the power of the written word is not surprising. Eighteenth-century American society emerged from western European traditions in which written documents played powerful roles in controlling human behavior and shaping the structure of, and limits on, governmental power.”104 Thus, the power of the written word could cure all deficiencies – even the hostility of many Democrats to civil rights legislation and to the Radical Republican ideals of Reconstruction.

In his decision to endorse the Liberal Republicans, Sumner cited specifically to the ideals expressed in written documents in supporting his endorsement. First, Sumner approved of the

103 TAYLOR, supra note 13, at 68.
“more republican” platform adopted by the Liberal Republican Convention, especially its first plank which affirmed support for equality for all under the law. In response to criticism that the rights of African-Americans would be endangered by a Greeley administration, Sumner cited to the “promises of the platform” in response. Most importantly, Sumner recognized the transformative authority of the Constitution, stating that curtailing of the rights of African-Americans would not occur since “nothing of the kind can be done without violation of the Constitution as amendment.” In the end, it was Sumner’s strong belief in the transformative nature of the words of the Declaration of Independence and Constitution moved him from neutral to an endorsement of the Liberal Republican movement in 1872.

V. CONCLUSION

After the Liberal Republican defeat in the 1872 presidential election, Sumner quietly returned to his seat to the Senate and served there until he died in 1874. After his death, his friend Carl Schurz stated in response to Sumner’s critics, “Let the dead man have a hearing.” Through looking at Sumner’s background and culture, his legal philosophy, his idealism, belief in the transformative authority of our nation’s founding documents, motivations, values, and political decisions, particularly his decision to endorse the Liberal Republican movement in 1872, are better understood. In conclusion, the “revised interpretation,” emphasizing Sumner’s dedication to natural law principles, natural rights, equality of all under the law, and belief in the

105 Supra note 19, at 183.
106 Id. at 186.
107 Supra note 101, at 249.
108 DONALD, supra note 5, at 561.
109 Osofsky, supra note 7, at 602.
intellectual and moral potential of the human person, best explains the life and career of one of the most idealistic, but yet misunderstood, leaders who deserves a new hearing in American legal, intellectual, and political history.