

RIGHT OF CITIZENS TO VOTE

FIFTEENTH AMENDMENT

SECTIONS 1 AND 2. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

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

ABOLITION OF SUFFRAGE QUALIFICATIONS ON BASIS OF RACE

Adoption and Judicial Enforcement

Adoption.—The final decision of Congress not to include anything relating to the right to vote in the Fourteenth Amendment, aside from the provisions of § 2,¹ left the issue of Negro suffrage solely with the states, and Northern states were generally as loath as Southern to grant the ballot to African-Americans, both the newly freed and those who had never been slaves.² But, in the second session of the 39th Congress, the right to vote was extended to African-Americans by statute in the District of Columbia and the territories, and the seceded states as a condition of readmission had to guarantee Negro suffrage.³ Following the election of President Grant, the “lame duck” third session of the Fortieth Congress sent the proposed Fifteenth Amendment to the states for ratification. The struggle was intense because Congress was divided into roughly three factions: those who opposed any federal constitutional guarantee of Negro suffrage, those who wanted to go beyond a limited guarantee and enact universal male suffrage, including abolition of all educational and property-holding tests, and those who wanted or who were

¹ See discussion under “Apportionment of Representation,” *supra*. Of course, the Equal Protection Clause has been extensively used by the Court to protect the right to vote. See “Fundamental Interests: The Political Process,” *supra*.

² W. GILLETTE, *THE RIGHT TO VOTE: POLITICS AND THE PASSAGE OF THE FIFTEENTH AMENDMENT* 25–28 (1965).

³ *Id.* at 29–31; ch. 6, 14 Stat. 375 (1866) (District of Columbia); ch. 15, 14 Stat. 379 (1867) (territories); ch. 36, 14 Stat. 391 (1867) (admission of Nebraska to statehood upon condition of guaranteeing against racial qualifications in voting); ch. 153, 14 Stat. 428 (1867) (First Reconstruction Act).