thy for the south, I have rendered aid and comfort," it would be equally obnoxious to me, because it would be a violation of the fundamental law and the rights of the people of the State. I attack it, independent of its provisions, because it is a violation of the rights of the people.

One word more in regard to what fell from the gentleman from Howard (Mr. Sands) last night, who contended that this was a case of civil war, and unless you put some such provision as this into this report, those who had left the State and gone into the southern army, in the event of an invasion of the State and the return of citizens of the State in the invading army, they would have the right to vote. I humbly conceive that that is not the case. Those who were formerly citizens of the State of Maryland, and who have left the State of Maryland and gone into the southern army, have abandoned their residence. Under the decision of the courts they have been declared to be alien enemies; and no one can pretend that an alien enemy can come here and vote. They have lost their right to vote under the decision of the supreme court of the United States; and no gentleman can contend for a moment that one who has gone into the territory declared to be in a state of warfare, and who has lived there, can come back and claim this right.

Mr. DANIEL. Is that your construction of the decision?

Mr. CLARKE. It is. It declares that every man in that territory is in a state of warfare with this government, and all that are there are alien enemies. The man residing there, whether loyal or not, is just as liable to be treated as an enemy, and his property treated as the property of an enemy, as if he were taken in arms against the government. It is a territorial war; and all within that territory are alien enemies. The decision is clear and plain. They have sworn allegiance to another government; and it is plain that they cannot claim to be citizens of Maryland. Hence there is no such necessity for this provision; and gentlemen really do not fear anything of the kind. The provision is directed, not against the armies fighting against the government, but against a class of men in Maryland, who have stood here and performed their duties under the constitution of the State of Maryland and the constitution of the United States; who have paid their taxes, borne the burden of the draft, and done everything which, as loyal citizens, they were required to do, save to bend the knee to every violation of the constitution of the United States, and to every dogma which is announced as a party dogma to be enforced in this State. It is done for the purpose of reaching that class of men who about the nineteenth of April were true, and desired to perpetuate the Union, who at that time, and I know many such, had southern sympathies, and were desirous of healing these difficulties, and thought there was only one way to settle them, by standing up and maintaining under the constitution their rights, who only saw that it could be done in that mode and manner. They did express their sympathies; but because they were true to their State, and the rights of property of the citizens, violating no law, is that any reason why they should now be disfranchised, because they have not supported this administration when they have seen such scenes going on, because they have not shouted hozannahs to those in power? Men who desired the preservation and perpetuation of the Union may have seen at certain stages of this controversy that if the other party had succeeded there would have been a death blow to the republican party; and felt that in that result there was more hope for the perpetuation of the freedom of the white citizens of this country. They may have expressed such views, and acted in good faith, desirous under the workings of Providence to accomplish a proper solution of our difficulties. Are they for a difference of opinion to be excluded?

Gentlemen may adopt this provision, but in my humble judgment if adopted, the action of the convention will not be authorized by any powers conferred upon them; and if they undertake to administer that oath, they will have no more legal power or authority, now that the present constitution is the rule of government, than if I were to administer an oath without any authority whatever. It is an illegal act; an act without authority. I do not know whether any such case will be tested or not, but if any one took the oath, there is no court of law, I believe, in the State, which would hold that he could be convicted under that oath for perjury; because judges have to swear to support the constitution; and this would be contrary to the constitution; not the constitution upon which the people are to vote, and which is not yet the law of the land, but the existing constitution. And unless the judges of election have power under the existing constitution to administer that oath, they are acting outside of their authority, and their act is null and void. Some may refuse to take the oath, if they think proper. Others may take it in good faith.—There are others probably who might not take it in good faith. But I say this, if they do take it, the result is that they are simply standing up and going through an idle form, which no court of law can recognize any authority for. I do hope that the people of the State will not be deluded by this action of the convention, undertaking without authority to impose such an oath.

The legislature admitted last winter that they had no right to impose an oath as a qualification for voting upon the question of the convention. And when the convention met here it was denounced on the other side of the house as unconstitutional, and it was said