

and being at the time of the election a citizen of the United States, shall be entitled to vote in the ward or election district in which he resides, in all elections hereafter to be held," &c.

Hence it was argued that he had not the right, and that the legislature could not give him the right to vote anywhere, unless he actually deposited his ballot in the ward or election district in which he resided. That was the difficulty. I did not believe the objection a valid one, and do not now; but that was the grand bug-a-boo upon which certain gentlemen stuck, which defeated that action which would have given the soldier in the field his rights. But that legislature did give us the power to make provision for the soldiers, when they said as they did in the sixth section that the constitution should be "submitted to the legal and qualified voters of the State," the soldiers being included in that category, to vote "at such time, in such manner, and subject to such rules and regulations as said convention may prescribe." That has been ratified by the people who sent us here. I am surprised to hear certain gentlemen call in question the force of that decision of the people upon the question. Turning back in our debates to page 764, one gentleman (Mr. Chambers) uses this language:

"There could be no convention without the exercising of such a power on the part of the legislature. But they have not one atom of power beyond that. They can neither restrain the people in the choice of their representatives, nor can they restrain this body in the exercise of its legitimate power, the power to make the government what they please."

And thus he proceeds at great length; and again, on page 767, the same gentleman says:

"So I say here, when the constitution of the State directs the legislature to call a convention, if the people wish it, it confers upon them the necessary power, without which that could not be performed which is enjoined upon them. It conveys the necessary power to appoint time, manner, place of election, time and place of assemblage, &c. That being done, they may just as well undertake to control the winds that blow, as to control the action or power, either of the people in selecting, or of this convention in acting."

That is the law as it has been laid down here by one who acts with those whose opposition to the present section is so great. And that is all I propose to say, in the few moments I propose to occupy at this time, upon the powers of this convention. I say it is clearly the right of the soldiers to vote, and we have clearly the power to authorize them to do so.

Next comes the other question. Shall any person be excluded from the right? We are

at this time somewhat singularly situated. We are a border State between two great sections of our country at war. Our legal position is with the national government. Hundreds of our men, natives here, are in arms, warring against the government of the nation, making predatory incursions into our State, robbing, plundering, bringing fire and sword within our borders. Have such men a right to vote? The gentleman who has preceded me (Mr. Clarke) has said that under the decision of the United States supreme court they have not that right. Pray tell me, how is it to be ascertained? Here is a man born in Maryland. In 1861 he joined the enemies of his country and did his utmost to uphold them, and for twenty-four months so continued. He is now returned and has been here twelve months. Admitting, for the sake of argument, that when he went over there it was with no design to return; that he went designing to make that his home. But now he has returned, and designs to make this his home. I ask any man to tell me, if this logic be correct, how it is possible for that man to be deprived of his vote, construing the phraseology of the law as you may? He is a native here. For the last twelve months this has been his home. What matters it where he was before that? How can you go back to the fact where he was or what he was doing? How does it appear that he was not a peaceable citizen of Ohio, Wisconsin, Minnesota, or Oregon, or that he was not with our army before Mobile, Charleston, or Richmond? Has he not, strictly construing it, every requisite for a voter, as the law stands upon the statute book? Can he vote? I say that it is not equitable and right; that you cannot allow him a vote without inaugurating civil war at the ballot-box. As a measure of precaution, it is not right that he should be allowed to vote.

Look at it. Remember what has passed since this convention commenced its sessions. Men here within the sound of my voice have had their pockets picked of their watches and their purses, their stables robbed of their horses, their corn cribs despoiled, their crops laid waste; and who has done it? We have places called Hagerstown and Williamsport, which have been bombarded since we have been staying here. Gentlemen may know that in the western part of the State there is a town called Cumberland. One fine morning in 1864, the commander of the United States forces received a note in these words:

"AUGUST 2, 1864.

"To the commander of the forces in the block house:

"You will surrender the block house and your forces at once. If you do not, you will not receive any terms.

"BRADLEY T. JOHNSON,  
"Brig. Gen. Confederate forces."