

Maryland. I knew that in Virginia they had enlarged the vote, and had admitted the vote so enlarged.

Mr. STIRLING. The gentleman makes a qualification which helps my argument; but I did not so understand him.

Mr. DAVIS, of Charles. I merely wish to understand the gentleman's argument. Does he mean to say that when the question is submitted to the people with regard to the calling of a convention, instead of submitting the constitution which is formed to the people for their action, they can make it valid by their own act?

Mr. STIRLING. No, sir. The power must come from the people, and if there is an understanding that it is to be submitted to the people, of course it must be submitted to the people. What I deny is that it must be submitted to the same identical constituency which elected it. The gentleman has alluded to Virginia. I will read what the constitution of Virginia says on this subject:

"And such officers"—alluding to the officers who are to open the polls—"keeping said polls open for the space of three days, shall then and there receive, and record in said poll-book, the votes for and against this constitution and schedule, of all persons qualified, under the existing or amended constitution, to exercise the right of suffrage."

The convention of Virginia recognizing the fact that they were bound to submit that constitution to the people, allowed the vote at that election of men who, under the existing constitution of Virginia, were not allowed to vote, and to whom the provisions of the amended constitution were about to extend the right of suffrage.

Now turn to the constitution of Tennessee. That is still stronger. The ordinance provides, "that no person shall be deemed a qualified voter in said election except such as are included within the provisions of the first section of the fourth article of this amended constitution."

Where are we to get constitutional law, if we do not get it from the practice of the States? The provisions of the constitution of Texas are almost identical, so far as I can see, with these. And they are the only provisions mentioned in this book to which I am referring.

We all know that there is a process to be gone through. The legislature provides for holding the convention; but the convention derives its power from the people to amend the constitution. Every matter which is necessary to put the constitution into force prior to its adoption, everything which is necessary to regulate the election under which it is to be adopted, is immediately in the power of the convention. So far has the doctrine gone in this country, that it has been claimed time and again that when the people desired a constitutional convention,

they had a right to elect a constitutional convention, and that the convention could declare the constitution in force without submitting it to the people; and this was sustained by the authorities of the United States in regard to the State of Kansas.

I say that we are not bound under the laws of this State, under the doctrines of American constitutions, or under the peculiarity of this reforming process where a convention has at least *quasi* sovereignty, to submit the constitution to the same constituency of the country. I admit that this is a high moral power which ought to be exercised with great caution and a high sense of responsibility. But there is no sense in which this convention is absolutely bound, as a matter of law, to submit the constitution to the identical people who voted upon the convention.

Suppose that they were. What does this constitution undertake to do? It disqualifies nobody from voting except upon the ground that they have put themselves under such circumstances in point of fact as to disqualify them from the exercise of what the law gives them. And I say that even if we were bound to submit it to the same constituency, if we had no right to prescribe other qualifications, we have a right under the state of things now existing, to impose such a condition as to make those offering to vote prove that in fact they are entitled to cast their votes.

The gentleman from Calvert (Mr. Briscoe,) a little while ago, made some reference to the practice in this State, and said, I believe, that at the time a certain statute was adopted, there was no organic law in this State. That is not the fact. The people of this State in the year 1778 were acting under the constitution of 1776. That constitution goes on to declare that every freeman that possessed a certain amount of real estate or personal property should be entitled to vote for members of the house of delegates. Yet that constitution was passed during a state of civil war. It was passed at a time when a portion of the people described under that section, and holding the requisite amount of property, did not acknowledge the government that had been set up, but acknowledged their allegiance elsewhere and sympathized with the public enemy. What did the legislature do? Not at constitutional convention called to prepare a constitution in 1776, but the general assembly in 1778, acting under the constitution of 1776? They expressly say that every person up to a certain age shall take an oath of allegiance, and that any person who refuses or neglects to take that oath of allegiance shall never vote at any election thereafter to be held in this State. The constitution of 1776 provides:

"The house of delegates shall be chosen in the following manner. All freemen, residents of this State, above twenty-one years of age, having a freehold of fifty acres of land in the