

county, and having property in the State above the value of 30 $\frac{1}{2}$., having resided in the county one whole year preceding the election, shall have the right of suffrage in the election of delegates from the said county."

But then comes the act of 1778 of the legislature, "that every person chargeable with the triple tax as aforesaid," having refused or neglected to take the oath of allegiance, shall be disabled from doing certain things, among which is voting at any election of senators or delegates.

Now suppose this state of facts. Suppose that the constitution says that every man possessing certain qualifications is entitled to vote. Suppose there is an actual armed rebellion going on against the State government, and that there are in the several counties of the State men actually in arms against that government, endeavoring to tear down the constitution, and to usurp the executive power. Will any man pretend to tell me that because the constitution says that every man twenty-one years of age and possessing certain other qualifications shall be entitled to vote, that men in arms are entitled to lay down their muskets by the side of the ballot-box and put their votes in the ballot-box?

Mr. BRISCOE. What right has the judge to reject them?

Mr. STIRLING. The judge of elections may have no right to reject them; but the *people* can stop them from voting; and that is exactly what the people of 1778 did. They said that allegiance and protection are identical, and while the struggle goes on, and even after this war is concluded, if you do not acknowledge your obligations to this government, but sympathize with the public enemy, you are not in a condition to exercise the right of suffrage. Suffrage implies acquiescence in the result of the ballot; and if a man simply wishes to use the ballot-box as a machine to aid an armed revolution, he is not in a condition to vote, any more than the insane man in the hospital. If he does not hold himself amenable to the authority of the government, it does not concern him, and he is not in a condition to exercise the right of suffrage. All these provisions are simply to ascertain, in this civil tumult, the state of fact in which a man is.

Whom does it disfranchise? People talk about sympathy. The word "sympathy" is not in the law. It disfranchises men in arms against the government; men whose active agency is in fact in various ways an aid to these men. What sort of a position should we hold, if we did not exclude them? Is it not a matter of fact that there is an army seeking to invade this State, and that it is one of the hopes of that army to take this State out of that relation to the United States which its own constitution recognizes? Is it not a matter of fact, that a portion of the people of this State sympathize with that

army? Will any man tell me that if the army of Jeff. Davis succeed in this State, this government would not supersede the actual government of this State in twenty-four hours after they get here? I say that the man who only waits until the army of his friends comes here to tear down this constitution and form of government and erect it into a form of government subordinate to a foreign nationality, the man who stands ready to aid the public enemy, and does not do it simply because he is too lazy to do it, is waiting to tear down the very ballot-box that he asks to place his vote in; and is in such a position that he can only mean to use his ballot for the purpose of cowardly, treacherous assassination against that which he does not dare to raise his arm against.

It excludes no man who is willing to submit, no man who is not in the position of a public enemy. He must not have expressed a desire for the success of the public enemy. Does a man want to vote under a government when he desires the enemies of that government to succeed? Does a man want to elect a governor when his desire is that an army may come and turn that governor out of his seat? Does a man want to vote for a constitution when he wants an enemy to come and aid him to tear down the constitution?

If people do honestly desire the preservation of this constitution and this form of government, as a constitution and form of government of a State of the United States, if they do not want it torn down by force, if they do not desire the success of the public enemy, what disqualifies them? This is but a provision for the ascertainment of that fact. And it is no more dishonorable for a man to take the oath, than to be searched when a pocket book has been stolen and a suspected thief is to be found. We make no discrimination. We call upon everybody to take this oath. We purge the whole community. We take it ourselves. We ask everybody to take it. I say that it does not injure anybody's feelings. I do not know where it applies, nor do I care; but I say that the man who refuses to take that oath, either refuses to take it because he is at heart a traitor, or because from a misapprehension of his own rights he does not understand the position in which he is placed.

I want to say one word with regard to the soldiers' vote. I do not see how any proper objection can be urged against it, because it does not, as my colleague who has addressed the convention (Mr. Stockbridge) has shown, either admit any new class of persons to vote or exclude any old class of persons from voting. These people are qualified to vote. It is a mere question of fact whether there shall be authority of law to enable them to vote, to provide a place where they can cast their votes. This convention has authority to take the sense of the people of this State upon the