

late stage of the session, except for the fact that I regard the proposition now before this body as more vital, more important, striking a deeper and deadlier blow at the rights of the people, than any proposition which has yet been submitted to the action of this convention.

This is not a mere question of the power of this convention; because when I approach that branch of the subject I think the power of the convention can be easily determined; but it is a question which affects the powers and the rights of the people. The people in 1851, on the theory that they were to assemble in the first place through their representatives to frame a constitution, and that the people then acting upon the principles of the social compact were to adopt the constitution, ratified the constitution under which we now live. That constitution secures to them, until they adopt another, all their rights, rights of property, rights of person, rights of speech, and the political franchise, the right of voting. Until that is altered, that is the watchword and the landmark of their rights; and there is no power, save the people's power, which can alter, which can modify, which can in any way affect the elective franchise, and these other sacred rights.

Has this constitution been changed yet? Is it changed before the people, by their vote, determine to change it? Surely it is not. This constitution, then, being the law, it defines the rights of the people. I will not read the provision, but it provides that every free white male citizen, having resided twelve months in the State, and being a citizen of the United States, shall be entitled to vote. It is said and argued by gentlemen on one side of this house, that it is not the constitution of the State to which you are to look, but you must look at the provisions of the convention bill; and that if this convention has this power under the provisions of the convention bill, then they have the right to prescribe this oath. I will not follow the argument of the gentleman from Anne Arundel (Mr. Miller) last night, to show that the provisions of this convention bill do not authorize the convention to prescribe such an oath.

The view I take of the power of the convention is this: This convention was called together to frame a new constitution or form of government. Was any power given them to adopt the organic law? Was any power given them to put the organic law, or any portion or provision of it, in operation? Not at all. The people were to vote on the question of the call of the convention to frame a new constitution or form of government by express writing or printing on the same ballot with the names of delegates. That was the sole power given, to frame the constitution; and therefore there was no power to adopt it. Hence, even if the sixth

section requiring it to be submitted, had not been in the bill, this convention would have had no power to adopt it as the organic law of the State without submitting it to the vote of the people.

I contend therefore that the sole power of this convention is to frame, and after framing to submit it; and, further, I contend that the people in voting for or against the convention did not pass upon any provision in this convention bill; nor is the convention bill further the law of this body than of the people of the State. The convention has already decided that question. We have heard the gentleman from Baltimore city (Mr. Stirling) announce upon this floor, in regard to the first section of the bill, which says that "the legal voters of this State shall, by ballot, elect delegates to the said convention, whose qualifications shall be the same as those now required for a seat in the house of delegates," when State's attorneys and other officers are excluded from the house of delegates and occupy seats upon this floor, and have been decided by the convention to be entitled to these seats—the gentleman from Baltimore city announced as the political view of his party upon this floor that they did not regard the provisions of this bill as controlling the power of this convention.

Mr. STIRLING. No, sir; I did not say that. The gentleman must have misunderstood me.

Mr. CLARKE. I understood the gentleman to say that notwithstanding the provisions of the first section these gentlemen had a right to hold their seats here.

Mr. STIRLING. I said that even if the bill had made them ineligible, I would not then vote to turn any of them out; and I expressly waived that question there.

Mr. CLARKE. That is my argument, that by their action the gentlemen have practically assumed that position.

Mr. STIRLING. But I distinctly took the ground that those gentlemen were all perfectly qualified under the bill itself.

Mr. CLARKE. That being the sole power of this convention, to frame a constitution and to adopt nothing, I regard any provision which may be in the convention bill as entirely outside of the question; and we come now directly to the question, what are the rights of voters under the existing constitution of the State? That question is decided by the provision relating to the elective franchise. I hold therefore that this convention has no power to limit, qualify, alter, or in any shape to modify the provision which determines the right of the people of the State to vote upon the adoption of this constitution.

And I do it irrespective of the form of this oath. If the oath contained even the opposite of what is placed in it, and called upon the citizen to swear, "I have expressed my sympa-