

Mr. CUSHING. Other gentlemen will desire to go into the same discussion.

Mr. STIRLING. I move that the gentleman be allowed to proceed.

The motion was agreed to.

Mr. MARBURY resumed: I was about to say that at one time the gentleman who now seems to be the standard bearer of the democratic State's rights party of this country might seem to have been somewhat identified with this doctrine of arbitrary power, arbitrary arrests, &c. But if that was the case, he was then a subordinate officer. He was not exercising his own sense of justice. He was doing as the soldier of Massachusetts told me he was doing, obeying orders; and I do not blame men for obeying orders. But that gentleman now standing on the broad basis of his own rights, taking a wide survey of the whole field, seeing how the State's rights doctrines loom up as the true constitutional life-giving principles of the country to-day, is not a man shackled by foreign power, but he stands by the principles of constitutional liberty, and it is our duty, in my humble opinion, to give him our hearty and cheerful support.

Mr. ABBOTT. Is not he an officer in the army yet?

Mr. DAVIS, of Charles. I call the gentleman from Baltimore to order.

Mr. MARBURY. Whether an officer of the army or not, that we can make him President of the United States is a fixed fact, if we give him our hearty support, just as certain as anything under heaven. I will give an illustration of it. I heard of a vote taken down in the navy yard—I do not know how many gentlemen were there, sick and wounded—and only about seventy of all that were there were not McClellan men, and those seventy said they were for McClellan but were afraid to say so. Now that is my experience of the army. I have seen a great many soldiers about Washington, and almost all of them are for McClellan. With his Napoleon spirit, his love of liberty, when he obtains the power to act freely, to act for himself, the first thing that he will strive to remedy will be the enormity of the acts of the present administration, in its unconstitutional interference with the rights of the citizens of this country.

Mr. BRISCOE. I desire to say a few words upon the subject before the convention. And first I desire to say incidentally in reply to the gentlemen from the city of Baltimore (Mr. Stockbridge,) who seemed to have a holy horror of the effects of one of the Chicago resolutions, that the men who passed that resolution are constitution-loving men, and law-abiding citizens; and some of them from the State of which the gentleman himself is a native (Massachusetts.) When they said they would avail themselves of all their powers and means to protect the ballot-box, they meant they would avail themselves of all

constitutional modes of protecting the ballot-box.

Mr. STOCKBRIDGE. They did not say so.

Mr. BRISCOE. I wish to God I could say as much for the gentleman from the city of Baltimore. I wish to God that I could to-day say as much for the members of this convention, that they were prepared to stand by the constitution of their State, and willing to allow every man within its limits to vote, as that constitution says he has a right to vote, without any restriction. The democratic party sanction no such test oaths as are intimated in this section. They regard them, and have regarded them in all time past, in the language of a distinguished man, as "the first weapons that young oppression learns to handle; weapons the more odious that they are barbed and poisoned, requiring neither strength nor courage to wield them." I tell the gentleman from Baltimore, and I tell the majority of this house, that I would have more respect, and I believe the majority of the people of Maryland would have more respect for a constitution written by the pen of a military commander at Washington, or ordered by Secretary Stanton at the head of the war department, to be the organic law of Maryland, than for a constitution which shall demand of them this odious unconstitutional oath, this odious test that you here apply to the citizens of the State.

I say that it is grossly unconstitutional. I took that position in the Senate of Maryland when I opposed the incorporation of the oath in the bill which called you together. The constitution of the State unquestionably tells you in the plainest language, who is to be a voter at all elections to be held under it. One of the highest legal authorities of your land, Chief Justice Story, from whose commentaries I read, section 624, said:

"It would seem, but fair, reasoning upon the plainest principles of interpretation, that when the constitution established certain qualifications as necessary for office, it meant to exclude all others as prerequisites. From the very nature of such a provision, the affirmation of these qualifications would seem to imply a negative of all others."

"A power to add new qualifications is certainly equivalent to a power to vary them. It adds to the aggregate what changes the nature of the former requires."

You have as much a right to say that any man who has been a drunkard for the last six months, shall not be entitled to the right of suffrage at the coming election, as to say that he shall not vote without taking this test oath.

Again, in section 627, Judge Story says: "The people of the State by adopting the constitution have declared what their will is as to the qualifications for office. And here the maxim if ever must apply, "*Expressio unius est exclusio alterius.*"