

ecute an office with integrity, is none the less bound to do it, is none the less guaranteed to do it, by the circumstance that there is no attempt to circumscribe him by the mere terms of an oath. I therefore hold, in the first place, that the imposition of an oath is unnecessary.

On the other hand, it works mischief, in that it adds the penalties and guilt and demoralization of practical perjury to the violation of official duties. No oath restrains a man who is not intending properly to exercise the functions of a public office. No oath has any influence upon a man of so little integrity that he intends to abuse trusts which his fellow-citizens have confided to him.

I am well aware, as many of my fellow-members around me are, that these views are entertained by some thinkers, although they have not so made their way among practical legislators as to be practically applied in the formation of constitutions and forms of government. The day will come, however, when these views will have a more practical application than at the present period. But so long as the public mind of men and nations appears to continue in the channel of requiring these official oaths, I hold it to be the part of sound political wisdom to confine them to as narrow a compass as practicable. They ought to be directed solely to the point of guaranteeing the performance of the proper functions of the office, and ought to be in every sense and in every manner totally divested of extraneous considerations, as to whether the person taking it has done this, that or the other, or will do this, that or the other consideration relating to the period *ante* as well as to the period *post*. It should have nothing to do with what the man has done. When he walks up to take the oath, and the duties of the office are about to be devolved upon him, the oath he ought to take ought to be upon the mere point that he will discharge the duties he assumes, and will discharge the same with integrity, so help him God. There is one strong consideration having a direct practical bearing, as you will presently see, upon the terms of this proposed amendment, which lies at the very root of our system, and which forms a striking corroboration of this view. The first axiom of political philosophy in this country is that the people are sovereign, and that their power underlies all our forms of government; that it is from the power derived from the people that public functions are bestowed. When the people elect their officers, under their frame or constitution, making its details square with any system that you please, I suppose no one was ever heard of in Maryland who ever imagined that under any form of constitution nine-tenths of the officers would not be elected by the people, or all officers in the community might not be elected by the people. The people elect the officers, being sovereign, and as well at the founda-

tion of this assembly as at the foundation of all other functionaries of the State; and I hold that the law ought to be so framed, as well organic as statutory, as to approach as near as possible to the gratification of the will of the people whenever it is expressed in the election of public officers.

Thus an office devolves upon the people.— They elect a man to fill it. They being the sovereign power, the supreme authority, *quod hoc*, it is to be considered that in that election they have exhausted all the questions that ought to apply to the question of his politics. They are the best judges whether he is fit or not; they who are the very head and fountain of his power. So that in framing an oath here to be taken by the man whom the people are to choose, we ought to take care so to frame it as not to conflict unnecessarily with the will of the people. He ought to take an oath to execute the duties of his office, because that is the very performance for which the people in electing him signified their desire at his hands.

To be sure it ought to be provided that people convicted of crime should not be eligible to public office; and there are many other cases which might be named in which people ought to be excluded from office; but I hold that it is not necessary to exclude him for mere opinion's sake, on account of a mere expression of views. That ought not to be such a disqualification as to prevent the sovereign people themselves from having their will exercised after it shall have been expressed at the polls.

Hence the first and principal objection I have to this amendment is that the portion which has been so much commented upon to-day is in the past tense: "that I *have* never directly or indirectly, by word, act or deed, given any aid, comfort or encouragement to those in rebellion against the United States or the lawful authorities thereof, but that I *have been* truly and loyally on the side of the United States against those in armed rebellion against the United States."

When the people have chosen a man for an office for which they deem him fit in every particular, what boots it to the law, what boots it to the State, who is interested but the people themselves, as to what that man has done in the past? The people say this man is fit, and the one they want to serve them; and since we pursue the policy of oath-taking at all, what we desire is to impress upon him in the form of an oath, the obligation that he will discharge the duties of the office properly, faithfully and promptly in the future.

Another objection is that when we impose an oath which has a mere reference to a man's opinions, particularly when the display of certain opinions may be excessively unpopular for the time being, we violate one of the plainest and commonest maxims of law that no man should be forced to become his own