

cancy in the office of the judge of the circuit court of Anne Arundel county had occurred, and that Governor Bradford passes much of his time in the city of Baltimore, where he transacts much of his official business, &c., the petitioner prays that the governor may be ruled by some early day to show cause, if any he has, why a writ of *mandamus* ought not to be issued, commanding him in ascertaining the number of votes cast at the said late election held as aforesaid "for or in favor of" the said new constitution, and the number of votes cast at the said late election against the said new constitution, to count such votes as shall appear by the returns made to him as aforesaid to have been cast or given by persons duly qualified to vote at elections according to the form and effect of the first article of the existing constitution relating to the elective franchise, and at the election districts, precincts and places respectively where the said persons so casting or giving their votes as aforesaid are, or were authorized, severally and respectively, as aforesaid, to cast or give their said votes and also all other votes or ballots as shall appear by evidence satisfactory to his judgment, to have been tendered at the said election by persons duly qualified under the existing constitution, and at the several and respective precincts or districts or places where such persons were qualified to vote as aforesaid, and which ballots shall appear to him to have been rejected or excluded from the returns made him as aforesaid by reason or because of the refusal of the persons so tendering said ballots respectively to take the oath required to be taken by article 1st, section 4, of the said "new constitution," and to exclude from his said count any and every vote which from the returns made him as aforesaid, shall appear to have been cast at any place, other than the election district, precinct or place at which the person so casting said vote was qualified to vote, according to the form and effect of the aforesaid article one of the existing constitution, and to exclude all votes cast at any place outside of the State of Maryland. And if the said A. W. Bradford, Governor of Maryland, as aforesaid, shall shew for cause that the said ballots so as aforesaid supposed to have been rejected by reason or because of the refusal of the persons tendering the same to take the oath required by the 4th section of article 1st of the new constitution, were rightfully rejected as aforesaid; and that the votes cast by persons in the military service of the United States were not unlawfully cast because or by reason of the holding of the polls at which said votes were cast, at places different from and out of the election district, precinct or place, at which the persons so voting as aforesaid severally and respectively were qualified to vote by the existing constitution, and the laws passed in pursuance thereto, then and in such event that the said A. W. Bradford, Govern-

nor of Maryland, and as aforesaid, do further show cause as aforesaid, wherefore he should not be commanded to exclude from his said count as aforesaid, any and every ballot which shall appear to have been cast by a person in the military service of the United States, unless it shall appear affirmatively from the returns made of said vote that the person casting said ballot did before casting said vote take the oath prescribed to be taken by the said 4th section of the 1st article of the new constitution, and unless the said returns shall also show affirmatively a compliance with all the other requirements relating to taking and returning the votes of persons in the military service of the United States, which are contained in the said new constitution.

This petition was dismissed by the court in the following order:

"In the superior court of Baltimore city, this 24th day of October, 1864, on consideration of the foregoing petition, the court being of opinion that no sufficient ground is stated therein for the interposition of this court, in the matter thereof, it is ordered that the said petition be and the same is hereby dismissed."

From this order an appeal was at once taken to the court of appeals. Prior to its being taken up in that court, the same petition precisely, was presented in the circuit court of Anne Arundel county (Judge Wm. H. Tuck,) and by that court in like manner dismissed. From that order dismissing the petition, an appeal was also taken.

Pending these proceedings a petition was presented to the circuit court of Baltimore county (Judge John H. Price,) on behalf of E. F. Chambers and others, for an injunction to restrain the governor from counting the votes cast on the question of the adoption of the constitution outside of the State of Maryland, and from issuing his proclamation declaring the adoption of the constitution. This petition was dismissed by the court, and an appeal at once taken to the court of appeals. The same petition in behalf of the same complainants was then presented to the circuit court of Anne Arundel county, and dismissed, in like manner by Judge Tuck. From his decision and order dismissing the petition, there was also an appeal.

These four appeals standing for hearing in the court of appeals, the application for an injunction was taken up by that court on the 27th of October. After argument had commenced Judges Bowie and Goldsborough announced that being themselves slaveholders, they had the same interest in the decision of the cause before them which the parties complainant in the cause had, and were therefore, under the fifth section of the fourth article of the existing constitution, disqualified from sitting in the case; and the court ordered its clerk to certify the fact to the gov-