

as "blue-laid" letter paper, quite as commonly used as the "white-laid," and I can scarcely think it comes within the proscription of the act of assembly. The object of that prohibition was to prevent the judge or any one else from knowing, by the different color of the ballots, for what party or on which side of a question a voter voted—an object that was wholly unnecessary in the case in question, as all the ballots of the company, of every hue, were on the same side. But even if these ballots were on a prohibited kind of paper, the law puts upon the judge the duty of rejecting them, declaring that ballots so printed "shall not be received by said judges," and I have no greater power to reject them than I would have to reject any other illegal ballot which they had received. The vote of a company of recruits at Camp Bradford is objected to on the ground, as I understand it, that they are not yet assigned to any regiment. I have already noticed the objection taken to the votes of companies unconnected with a regiment, and I perceive nothing in the condition of this company that particularly distinguishes it from other unattached companies. If it is a company—so far organized as to be under a company commander, it would seem to have the same right to vote at his quarters as any other company not connected with a regiment. The return sets forth that it is "a company of recruits"—that they are "in the military service of the United States," and a company officer of one of the Maryland regiments appears as its commanding officer, makes the return, and certifies that the election was held at his quarters. This, I think, embraces every necessary averment to entitle the company to vote.

Companies D and K, of the 1st regiment of cavalry, it is objected, voted together. It appears that there were only four votes in the two companies, and the commissioned officer who took them describes himself in the return as the commanding officer of the said two companies, and the strong presumption is that the two had been consolidated. I think it but reasonable so to consider them, and accept their four votes.

I proceed now to notice briefly some objections to the sufficiency of other returns that I think better founded. The vote of the whole 1st regiment of infantry is objected to on the ground that the entire regiment, instead of voting by companies at the headquarters of each company commander, voted together at one regimental poll.

The learned counsel appearing in support of these returns have endeavored to sustain this one upon the ground that a separate list of the voters of each company accompanies the certificate of the judges, from the caption of which lists it would seem that the voters therein named had deposited their ballots "at the quarters of the commanding officer" of said companies. However, these captions

might help a return otherwise insufficient, they cannot control or contradict the express certificates of the judges, which not only declares that they were the judges of the 1st regiment, but that they opened the polls for said regiment at the quarters of the commanding officer of said regiment, and in two places erase the printed word *company* and insert *regiment*.

Under such circumstances it is difficult to presume that each company voted at its company quarters as required, and I feel compelled to reject their vote.

Another well founded objection is made to the votes taken at a second election in two companies (F and I,) of first Eastern Shore regiment. These companies having opened a poll at a proper time and place, and taken the votes of a portion of each company, several days afterwards re-opened the polls and received in one company twenty-one and in the other fifteen votes of men who were either absent or declined to vote at the first election. This fact appears by a note annexed by the judge to the foot of the return, and as there was no authority for a second day's voting, these votes must be rejected.

Objection is also well taken to the votes of fourteen persons who voted at the quarters of company I, 1st Eastern Shore regiment. This appears by a memorandum indorsed upon the list of voters and certified by the captain, who stated that these fourteen soldiers, "absent from their proper command," voted at the polls of this company, and, as the whole number of votes polled by the company, 133, were given "for the constitution," there is no difficulty in making the deduction.

The vote of thirteen field and staff officers, voting in the 5th and 8th regiments, at special polls opened for such officers, must also be rejected. It is unnecessary to determine whether their vote could have been taken at either of the company polls of their respective regiments, or whether the convention has neglected altogether to provide for their vote; but it is certain, I think, that they could not vote as they have done at a special poll, and their votes will be deducted. In three other cases, embracing in all, I think, eight votes of persons voting at company quarters with which they had no connection, and where the facts are so noticed and reported by the returning judges, the objection is sustained. The sum of the votes so deducted, for reasons apparent on the face of the return, amounts to 285 votes for and 5 against the constitution; and leaves the number counted on the soldiers' vote 2,638 for and 263 against the constitution. The aggregate of the home and soldiers' vote then being 30,174 for and 29,799 against the adoption of the constitution.

I regret that the multiplicity of the objections suggested, and the short time allowed since the conclusion of the discussion to-day,