

called upon the constituted authorities to disregard it. I quote an extract: "I avail myself of the occasion to call to the particular attention of the judges of election the fact that they are on the day of election clothed with all the authority of conservators of the peace, and may summon to their aid any of the executive officers of the county, and the whole power of the county itself, to preserve order at the polls, and *secure the constitutional rights of the voters.*" The true conservative, patriotic sentiment of the State sustained you, and would have rallied to your support in any mode you might have designated. You further stated, that "whatever power the State possesses shall be exerted to protect them (the judges of election) for anything done in the proper execution of its laws." That was nobly and patriotically said. But, my dear sir, what drew forth your laudable and fervent indignation? The order of General Schenck *professed* to be to assist loyal voting and prevent traitors, rebels and disloyal persons from interfering with the elections. You took the liberty of scanning the notices and purposes of this major general, and determined to protect the "constitutional rights of the voters." You took a correct view of the subject, and resolved as far as practicable to carry out and execute the constitution. You declared in that paper, pointedly and emphatically, in reference to the judges of election: "I need not, I am sure, remind them of the terms of the oath they are required to take before entering upon their duties, and according to which they swear to 'permit all persons to vote who shall offer to poll at the election,' &c., who, *in their judgment*, shall, according to the directions contained in the *constitution and laws*, be entitled to poll at the said election," &c.

I cordially approved your course and sentiments in the issuing and composing of that paper, and with fresh remembrance of it, was it unreasonable to suppose that you would again address the judges of election to prevent a greater and more flagitious wrong than was attempted by the military order of General Schenck? Then the election was but an ordinary one, except that certain officers were to be chosen. Now it is for a constitution—a fundamental law—that is designed to be continued for many years, and which may disfranchise many persons, as well as inflict the grossest injustice upon other large classes of the community. If the act of General Schenck was unconstitutional, so is that of the convention. If the order of Gen. Schenck was covertly designed to favor a certain political party, so is that of the convention. If General Schenck's order was to prevent legal voters from voting, so is that of the convention. If the rejected voters are now to be referred to the judiciary, should they not then have been thus referred? Was not the question as much of a judicial one then as now?

Could not a voter sue the judge if he rejected his vote in 1863, or any one who arrested or molested him when attempting to approach the polls? It was the unconstitutionality of the act that prompted your just and timely interference; an equally unconstitutional effort is now making to obstruct what you then called "the constitutional rights of the voters." The attempt to commit a grievous wrong upon the legal voters of the State, differs only in form. If General Schenck had said that the judges should administer an oath to every voter that he would at the next presidential election support the re-election of the present incumbent of the executive chair as a test of loyalty, it would have been no more unconstitutional than what he did, and it would have equally aroused your indignation. If the convention had inserted a similar clause, would you not deem it alike contrary to the constitution, and issue a proclamation to the judges of election to counteract it?

It is not the nature of the requirement only, but the usurpation of power, which characterizes the act and makes it unconstitutional. If there be usurpation, why not act upon it? In your message to the legislature in January, 1864, while referring to the outrages committed at the previous election, and the course you had taken, you used this language: "If, with these facts before me, and seeing the judges of election, sworn to conduct it according to the laws of the State, openly menaced with arrest unless they recognized the military authority and conducted it by the rules which that authority prescribed, I had stood silently by and failed to assure them of the protection of the State to the extent of its ability, I should have felt myself utterly unworthy of the place of its chief magistrate."

Now, governor, did not these precedents justify an expectation that you would interpose in a similar manner to prevent a greater wrong? a wrong not only to those whose votes may be rejected, but grievous injustice to others by reason of that rejection, who are and have been as loyal as any in the State?

Should not a constitution fraught with such momentous interests, having no parallel in our State, nor in any other State of the Union, be fairly and honestly submitted to all the constitutional and legal voters of the State? The occasion and the crisis are extraordinary, and of intense and vital interest to the people of the State—the *whole people*. If the vote be fairly, freely, fully taken, and the constitution be adopted, all good citizens will submit; but if the vote be partial, limited, unfair; if party spirit is to be subserved, and not the public interest; if wrong and injustice prevail; if an unconstitutional oath is forced upon the people, and votes taken without the territorial limits of the State, then what respect can be paid to a