

ballot-box provided by the said judges for the deposit of ballots tendered by persons qualified to vote at the said election: that the said judges, although they well knew that your petitioner was duly qualified, as aforesaid, to vote at all elections held in said ward, and especially at the election then holding as aforesaid, did then and there refuse to receive said ballot, so as aforesaid tendered by your petitioner, and did then and there require your petitioner to answer whether he would take oath so as aforesaid prescribed to be taken by the said new constitution, and *because and only because*, of the refusal of your petitioner to take said oath, the said judges refused to deposit the said ballot in the ballot-box aforesaid; but, on the contrary, took the said ballot from him and deposited it in one other box, which they, the said judges, had then and there provided for the deposit and safe-keeping of ballots received by them but rejected as having been tendered by persons not qualified to vote.

The petitioner, after stating that the governor has declared and insisted that he will count the votes of persons in the military service, returned to him, and will not exclude them from the count in ascertaining the aggregate vote cast at said election, avers that even if the provisions of the constitution allowing the taking of soldiers' votes, away from their residences, are in themselves liable to no constitutional objections, yet the governor is bound to exclude all the soldiers' votes which have been returned to him, from count in estimating the votes "for" or "against" the said new constitution, because, as your petitioner avers, the new constitution itself requires that the soldiers who shall vote on its adoption shall, as well as those who are not soldiers, take the aforesaid oath as a necessary preliminary to the exercise of the right to vote on said constitution, whereas, as your petitioner avers, the returns as made to the governor of said soldiers' votes, do not show that said soldiers took, or were asked to take, the said oaths; and your petitioner avers that the fact is, that none of those whose votes are returned to the governor did take, nor were they required to take, the said oath, and he also avers that if said soldiers' votes should be excluded from count by the governor, the said new constitution has failed to receive, by at least eighteen hundred votes, a majority of the votes cast on the twelfth and thirteenth of the present month of October, at the said election on the adoption or rejection of the said instrument, and that, too, even if the ballots tendered by persons qualified to vote, and were not received by said judges as the votes of persons qualified to vote, are excluded from the count.

The petitioner avers that an inspection will show that many of said returns of soldiers' votes, as made to said governor, are invalid,

because of the neglect on the part of those making them to observe the requirements of the said instrument called the new constitution; and that, on each and all of the aforesaid grounds, the said governor is bound to exclude the said soldiers' votes, so as aforesaid returned to him, in casting up the votes for and against the said new constitution; but to exclude which, as above averred, the said governor refuses; and the said governor also refuses to ascertain and count the votes of those persons qualified to vote under the existing constitution of the State whose votes were rejected because of their refusal to take the oath as heretofore recited; and refuses also to count the votes so aforesaid placed in the ballots, described "rejected ballot" boxes, which, your petitioner avers, are by law required to be safely kept sealed up by the police commissioners until called for, and which are therefore readily accessible to the said governor.

The petitioner further states that he is advised that the course which the governor intends to pursue and is now pursuing, by which he proposes to execute and carry into effect all the provisions of the said proposed "new constitution," in reference to said election or voting, although on the day on which said vote was taken the said instrument had not been adopted, but was then for the first time submitted for adoption or rejection by the people, and although some of said provisions conflict with the existing and only constitution of the State of Maryland, is in violation of the rights of your petitioner and others of his fellow-citizens of the State of Maryland. The petitioner further states that he is the owner of slaves of large value, held and owned by him in this State under the constitution and laws thereof, and that by the 24th article of the declaration of rights prefixed to the said new constitution, slavery is abolished in this State, and all slaves are declared to be free, so that your petitioner will be deprived of his said slave property without any compensation therefor, if the said "new constitution" should go into effect, because the 36th section of the 3d article of the said proposed new constitution declares that the general assembly shall make no law, nor make any appropriation to compensate the masters or claimants of slaves emancipated from servitude by the adoption of this constitution.

And your petitioner is advised that, as a qualified voter of this State, as hereinbefore stated, and as the owner of slaves in this State, he is entitled to demand of your honor a *mandamus* directed to the governor of the State, commanding him to do certain acts required by the constitution of the State and the laws passed in pursuance thereof, and without the doing of which your petitioner will be remediless in the premises.

After reciting that since said election a va-