

counted. To suppose that the convention meant to establish a discrimination among the soldiers of the State so manifestly unjust, would require either the suggestion of some most obvious reason therefor, or a purpose to that effect so unequivocally expressed in the constitution as to make that construction of it unavoidable. No attempt has been made, I believe, to assign any reason for so arbitrary a distinction, and, indeed, looking at it from every possible point of view, any such discrimination would seem as unreasonable as it is unjust. Is there, in the next place, any such positive restriction of the right to vote to those who are a part of some regiment as to oblige us to exclude all others? That will depend on the terms, spirit and intent of the instrument. Let us examine it to that end.

The very first line of the first clause of the article relative to the soldiers' vote rebuts the idea that the convention meant to restrict the right of suffrage to any particular class or organization of Maryland soldiers. It declares that "Any qualified voter of this State who shall be absent from the county or city of his residence by reason of his being in the military service of the United States, so as not to be able to vote at home on the adoption or rejection of this constitution, or for all State officers, &c., &c., shall be entitled to vote," &c. Not only in the commencement of the article is the purpose manifest to secure the right to vote to any soldier, but in all other parts of it where it refers to the subject, a similar determination is manifested. In the succeeding section, for instance, where provision is made for a soldier who may be in some hospital or military post within the State, on the day of the election, "and not with his company," and who is authorized to vote at the nearest election polls, such authority is not limited to those who belong to a regiment; and again in the fifteenth section the same anxious purpose is displayed to secure—not the votes of soldiers attached to some regiment merely—but the soldiers' vote generally, and the governor is enjoined to "take all means proper to secure the soldiers' vote."

Whence, then, the idea that no company can vote unless incorporated with a regiment? The sentence relied upon for that construction is found at the end of the first clause in the article already quoted, whereby, after declaring in the words I have cited, that any one absent from the county or city where he resides, by reason of being in the military service, may vote, the clause proceeds to point out *how* he may vote, and in giving direction on that subject it is stated that a "poll shall be opened in each company of every *Maryland* regiment," &c., and because in thus directing how the votes are to be given the convention has used these terms, it is argued that none but those so attached to a regiment can vote at all. This inference, in the face of the injustice and unreasonableness of such a restric-

tion, and of the express purpose to the contrary so clearly exhibited throughout the article, is not warranted, I think, by any fair construction. Did the convention really mean thereby that none should vote except at the polls of a company belonging to a regiment, and where that was impossible by reason of there being no regiment, that the companies should not vote at all? or were the terms "of any Maryland regiment," used as they were by civilians unfamiliar with military technicalities, meant merely in the same sense as though they had said a poll shall be opened in each company of Maryland volunteers? A regard to the primary object of the constitution, and to the effectuation of its substantial purpose, force me to adopt the latter conclusion. The principal object of the convention doubtless was to secure the right of voting to every Maryland soldier who was a qualified voter at home. That essential purpose is, if possible, to be gratified, and if that object cannot be accomplished consistently with all the mere directory parts of the same provision, the latter should be sacrificed rather than the former. The convention had no right; and, as I have endeavored to show, they have made no attempt to discriminate between these soldiers; they were all alike voters at home; they had all alike left their home that they might the better protect it against invasion. If they voted at the company quarters of their commanding officer, they have, I think, sufficiently complied with the directions of the constitution.

The next general objection embraces the cases of several company commands acting at the time of election on detached duty. These detachments were sometimes composed of parts of several companies, and sometimes consisted of a part of one company only. They were stationed in some cases within, and in others without the State, and it is objected that they had no right to vote, because they were not *companies* in the sense of that term as used in this part of the constitution. By the terms of the constitution a poll is to be opened in every *company*, the commissioned officers of the *company*, or any one of them, may act as the judge of the election, and voters of this State belonging to such *company* may vote thereat, &c., and it is contended that by the word *company*, as thus used, is meant only the organized military command forming one of the ten subordinate divisions which compose a regiment. I can see nothing in the language or spirit of this article in the constitution that should restrict us to this limited and technical application of the term. It is in the first place opposed to the manifest object of the convention to which I have already called attention, which was to authorize every qualified voter in the military service of the United States to exercise the right of suffrage, which he could not