

not to lose this vote in the ratification of the Constitution and in the regular national and state elections of November, 1864, special provisions were inserted²⁰⁸ prescribing rules and regulations for the soldiers' vote, which were to remain in force till the Legislature should provide by law, as required above, some other mode of taking the same. All returns of the vote were to be made to the Governor, who was made sole judge of their correctness, and whether or not they were cast according to the provisions of the new Constitution.

Naturally the minority hotly objected to these provisions, being opposed to this method of virtually putting the Constitution into operation before it was adopted by thus prescribing the mode of voting upon itself. The majority answered that the people in their sovereign capacity had by the election of the previous April made the Convention Bill the supreme law of the land, and that in this matter the Convention would be acting according to the provision of that instrument that the new Constitution "should be submitted to the legal and qualified voters of the State, for their adoption or rejection, at such time, in such manner, and *subject to such rules and regulations*" as the Convention might prescribe. The majority further claimed that the test oath only required the same qualifications as those prescribed by the Convention Bill in the clause following the above, which provided that the "provisions hereinbefore contained for the qualification of voters," etc., should be "applicable to the election to be held under this section." The minority answered that the "rules and regulations" the Convention might prescribe could only be those under which the *previously* legal and qualified voters were to vote. They also asked, why there was any need of submitting the Constitution to the people at all, if the Convention had such absolute power under the Convention Bill. They held, further, that the objectionable provisions deprived certain citizens of their right to

²⁰⁸ Art. xii, secs. 11-16.