

offering to vote at the election at which that Constitution is submitted for the adoption or rejection of the voters of the State. You refer also to another part of it wherein provision is made for taking the vote of the soldiers of Maryland regiments, who are absent from the State at the time of said election, and designating these clauses of the Constitution as palpably in conflict with the Constitution of 1851, which must subsist until the new one is adopted by a vote of the people, you appeal to me to interpose and prevent the execution of these provisions, and to instruct the Judges of Election to disregard the clause requiring the oath aforesaid.

It is not <sup>my</sup> purpose, nor is it necessary, in the view which I take of my duty in the premises, to undertake to show that the Convention possessed the power to make the provisions in question; still there are some considerations which it may not be amiss to notice, calculated to show that in so doing, they have not so manifestly exceeded their authority as your argument assumes.

You, for instance, say that the oath prescribed by the Convention is not only an innovation upon the existing Constitution, but is in express violation of the Act of 1864 from which the Convention derived its existence. That Act however, in providing for the submission of the Constitution to the vote of the people, declares that it shall be submitted "at such time, in such manner, and subject to such rules and regulations as said Convention may prescribe."

I am aware that to this may be replied that the Legislature which passed this Act could have presented no such additional qualification for those who should vote upon the adoption of this Constitution, and that possessing itself no such power, it could therefore confer none such upon the Convention. But was it in fact necessary for the Legislature to have required the submission of the Constitution for the ratification of the people at all? It was, doubtless, a very just requirement, but our first Constitution was, I think, never ratified by a vote of the people, and if I mistake not other State Constitutions, since adopted, have been made to operate immediately and without such ratification. From this it would seem to follow that if it was not essentially necessary to submit the Constitution to the ultimate vote of the people in order to give it vitality, the Legislature in so directing it to be submitted, was not so manifestly exceeding its authority in qualifying the manner of voting upon it or empowering the Convention to do so.

But apart from any authority which the General Assembly has or might have delegated to the Convention on the subject, we can all remember that the powers claimed for the people in the institution of their organic law, and for a Convention duly elected by them for such a purpose, have been of such a character as to permit, in previous instances, of the apparent disregard of existing Constitutional requirements. The Constitution of 1776 for instance, declared