

Miles

3

Wm Bradford
Gov^r

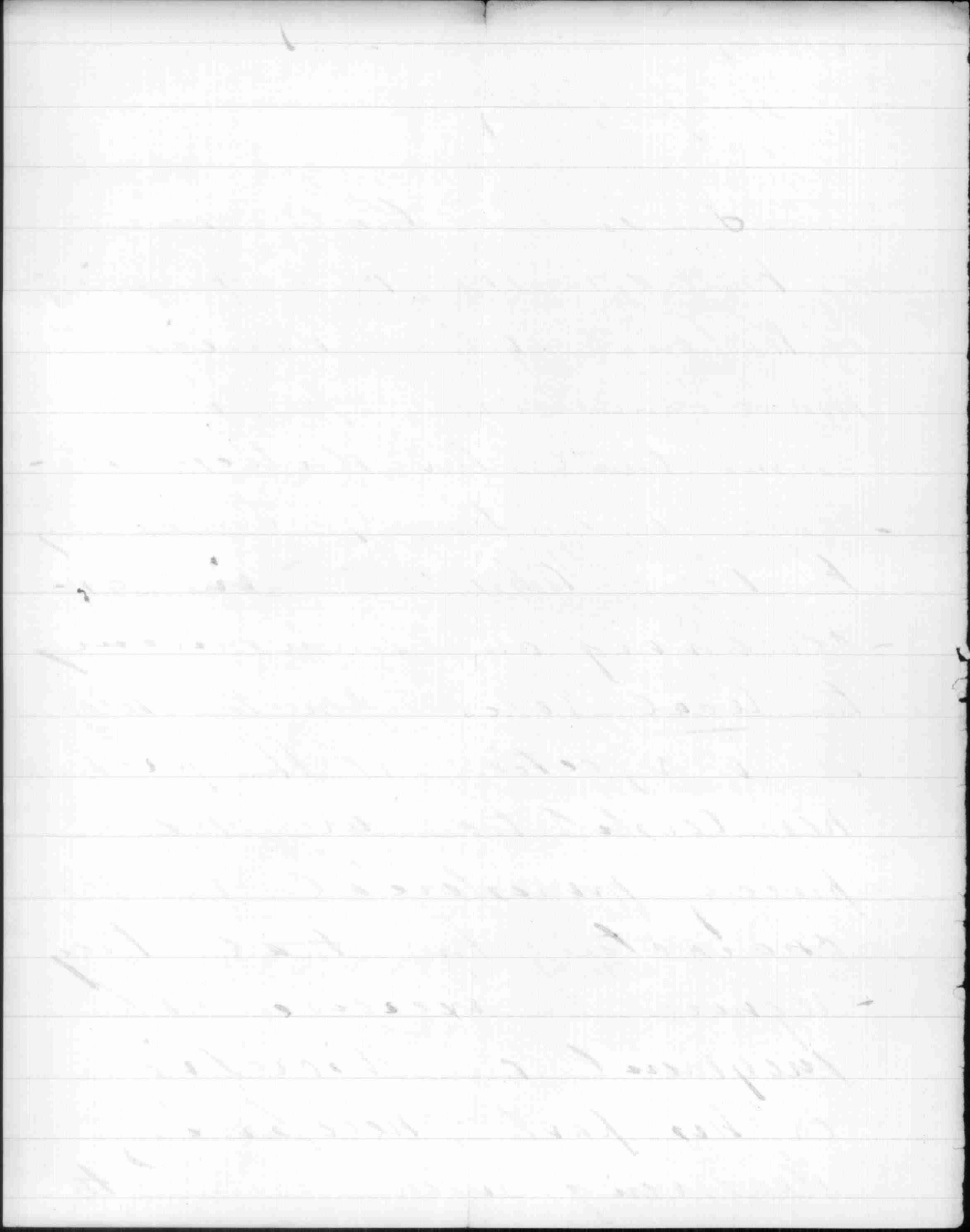
Separate opinion.

Bartol^o

Filed October 29th 1864

Miles
at Bradford Gov } 1

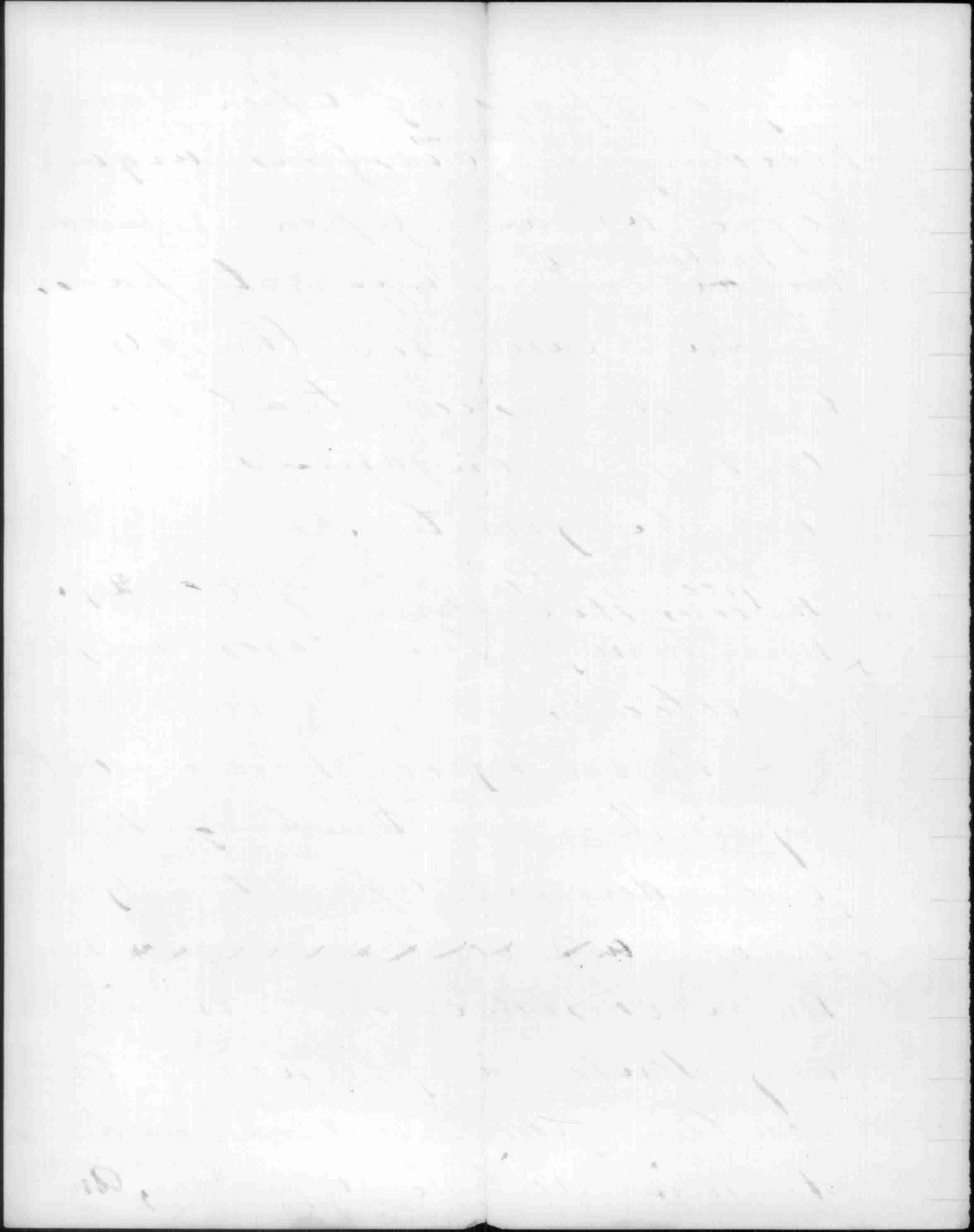
I dissent to that part
of the opinion of a majority
of the Court which denies the
mandamus asked for, on the
ground that the duties de-
-volved upon the Governor by
the act of 1864 ch 5. ~~in~~ as-
-certaining and announcing
the legal votes upon the adop-
-tion or rejection of the proposed
new constitution, are not
-purely ministerial in their
-character; but that they
-require the exercise of
-judgment and discretion
on his part; necessarily
devolving upon him the



duty of passing upon and deciding the ^{various} questions argued before us, and upon which we ^{have been} called upon to pass. In such case the law is well established, that a writ of mandamus will not be granted.

Green vs Purnell 12 Md 329, and the cases there referred to and many other cases might be cited.

I do not agree however with my brothers in thinking the power devolved upon the Governor, ~~and~~ called in question under consideration, is in any sense a political-executive power belonging to him ^{virtute officii}, and



not a proper subject for
judicial investigation. That
subject ^{however} having been sub-
mitted, by law to the deci-
sion of the governor, I
forebear the expression of
any opinion upon it. -