

Monday 8th. November 1790

The Council met.

Pres't. the Hon'ble. John Kilty
 James Brice
 John Davidson
 William Hindman
 Randolph B. Latimer Esquires

Ordered that the western shore Treasurer pay to Christopher Richmond Sixty five pounds balance of his pay as Agent for attending the Settlement of the Accounts between the State of Maryland and the United States as allowed by the Board due the 1st. instant [p. 234]

Ordered that the western shore Treasurer pay to John Shaw twelve pounds, seventeen shillings and six pence per Account passed by the Auditor.

Agreeably to the notice given by the Hon'ble. John Kilty Esquire on the 2d. instant he delivers his dissent to the Determination of that Day as follows: [Quotation marks corrected for clarity]

"I dissent to the declaration of Representatives elect because it includes William Pinkney Esqr., and I ground my objection to him on the fact that being a resident of the 4th. district, and not having the greatest number of votes of all the Candidates residing in that district he is not elected a representative of this State.

"It may be perceived that laying aside any relation Mr. Pinkney may claim to the 3d. district in Virtue of his intention or declaration, I view him only as the co-resident and competitor of Mr. Sterett, who having the greatest number of votes, I consider Mr. Pinkney as an unsuccessful candidate. The Board in admitting him to be elected for the 3d. district although resident elsewhere, are governed confessedly by a supposition that the Regulations of our Act of Assembly on the Subject of elections are repugnant to the Constitution of the United States, and of course ought not to be regarded.

"It is not necessary for me to discuss the very problematical right the Board have assumed of disregarding the express directions of a law on account of its supposed opposition to the spirit of the federal Constitution; because on the fullest examination I have been able to give the Subject I am confidently of opinion that the act contains nothing but what is within the authority vested by the Convention in the State administrations.

"The matter then in dispute is whether the election law of the State contains regulations repugnant to the Constitution of the United States, or to be more particular, whether it exceeds the Authority given by the Article which empowers the State Legislatures to prescribe the times, places, and manner of holding elections.

"I am not acquainted with the precise grounds on which the Majority of the Board have taken the Affirmative side of this question, [p. 235] but as a paper apparently written by Mr. Pinkney has been submitted to the perusal of the members, and as it contains the substance of all the reasoning I have heard on that side, I shall content myself with an answer to such parts of his Argument as contradict the opinion I maintain.

"After stating the 2nd. Section of the 1st Article of the federal Constitution, which prescribes the qualification of representatives, and the 4th. section of the same Article which gives the regulation of elections to the States in the first instance, Mr. Pinkney observes as follows—
 'These are the only clauses of the Constitution material to the subject; and their construction