

not possessed of every property contained in the description of qualified persons is as completely incapable of being elected as he who agrees with the description in no one point there being a legal impossibility in both cases; [p. 237] and from this it follows that with regard to the matter in question the whole community consists but of two classes—the one absolutely eligible—the other absolutely ineligible.

"To try then the operation of our State regulations upon the eligibility of an individual, let it be asked was Mr. Pinkney eligible before this law was made? The answer is, that being possessed of the three points of description laid down by the Constitution, he was eligible. Again, suppose our State law to be in force. Is Mr. Pinkney still eligible or not [?] I answer without fear of contradiction that he is. But let us examine Mr. Pinkneys language—"That District residence is a *qualification* is too evident (says Mr. P.) to be contradicted, because it certainly affects eligibility."

"I have already shown that there are with respect to eligibility, but two Classes of Men—the one possessed of it—The other without it. I believe I can as safely advance that there *must be* those two classes: or if the moral necessity of such a division may be disputed, They exist at least in *fact* in every Country where representation obtains. Indeed the idea of *qualification* must be attended by that of its opposite, *Disqualification*. The one would (in this sense) be an useless term without the other. What then does Mr. Pinkney mean when he gives the name of a qualification to what every man in the State is possessed of To wit—"District Residence"? Qualification has hitherto been a *distinction* but here is a qualification of a new kind. No age Condition or even sex is excluded from it; for every being in the State resides in some district of it, and has therefore District Residence.

"But supplying these terms to form some intelligible quality; it is already proved that Eligibility is not destroyed or impaired by it. I will go further and deny that it is in the smallest degree affected by it. It is not the *Right*, but the means or chance of converting the right into *Possession* that is affected by the Partition of the State into Districts.

"Although my opinion depends entirely on the truth of this distinction, I shall be at no trouble to illustrate it. If it should be thought injurious that even this chance of election should be changed by the State Modifications I answer that if the manner of election is unfavorable to the views of one Candidate, another is in an equal degree benefited by it; the common advantage [p. 238] remaining still the same; and even if the interest of the State should suffer by injudicious regulations, yet nothing like disqualification is wrought by them, for that can only be effected by taking a man from the qualified and placing him in the unqualified class of Citizens.

"Has Mr. Pinkney suffered any change of this kind by our Law? does it require him to be possessed of a certain rate of property? or does it in short require any personal or accidental mark or Circumstance by which he may be known to be qualified or not? It does not; nor is it by any means a consequence of the doctrine I advance, that qualifications of property, a more advanced age, or anything descriptive of the person may hereafter be required by the State, or by Congress, when they shall take the subject in hand. On the Contrary I join Mr. Pinkney in denying that anything less than an alteration in the Constitution itself can have Authority to alter the qualification of Representatives or Senators.

"Having shewn that our Legislature has steerd clear of the question to which the Constitution itself has given an Answer—to wit "*Who* may be elected"; it remains to prove that the Law operates only on the matter expressly committed to State direction, that is to say the times places, and manner of holding elections. This fact may seem to be a consequence of