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WILLIAM PINKNEY'S FIRST PUBLIC SERVICE[1]

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I. THE PINKNEYS OF ANNAPOLIS

In pre-war days Annapolis may have left relatively little impression on some of the casual June week visitors who were in the city to attend the social and academic functions of the Naval Academy. But in the latter part of the eighteenth century, Maryland's capital, located on the Severn river, compared favorably in size with Baltimore. It was the scene of stirring events which are outstanding in the history of Maryland and the United States.

Here in 1774 a convention adopted resolutions opposing the Intolerable Acts. Here the following year the Association of Freemen of Maryland came into existence. Here independence

[1] Since 1939 the writer has been intermittently engaged in collecting data related primarily to the public career of William Pinkney (1764-1822). In addition to the various sources cited for this article, it seems appropriate to mention certain persons who have been particularly helpful.

Foremost must be listed Mrs. L. Roberts Carton, of Towson, a great-great-granddaughter of Pinkney. She and her husband have many of Pinkney's personal belongings, practically all of the biographical material which has been printed, some letters, and a host of family traditions. Others who have given assistance which has been especially appreciated include the following: Dr. St. George L. Sioussat and Dr. Thomas P. Martin, of the Library of Congress; Dr. P. M. Hamer, of the National Archives; Dr. Morris L. Radoff, Archivist of Maryland; Mr. James W. Foster, Editor of the *Maryland Historical Magazine*; Miss Florence J. Kennedy, of the Maryland Historical Society; and Professor A. L. Kohlmeier, head of the Department of History, Indiana University.

was declared and a state constitution formed. Here after the Revolution General Washington resigned his commission to Congress. Here in 1786, as an aftermath of the meeting at Mt. Vernon the preceding year, assembled the delegates of Virginia, Pennsylvania, New Jersey, and New York, in a gathering which was the direct forerunner of the Philadelphia Convention. And here lived a family which was destined to furnish Maryland several of its outstanding citizens.

Jonathan Pinkney, born in England about the same year as George Washington, remains as obscure today as progenitors of famous sons often have a habit of doing. His relationship to the Carolina Pinckneys must have been remote, although they may have sprung from some common ancestor who came to England with William the Conqueror. Jonathan emigrated to America, taking residence at Annapolis, " where he lived in quiet seclusion and illustrated the virtues that adorned his character." [2]

His first wife was a Margaret Rind; at her death he married her sister Ann, " a lady of most vigorous understanding and tender sensibilities." By the second marriage Jonathan had four children: a daughter, Nancy, concerning whom little is known, and three sons—Jonathan, Jr., William, and Ninian. One of these sons may have been named for his mother's brother, William Rind, who was a protégé of the Greens in the printing business at Annapolis in the 1760's.[3]

During the years 1769 to 1774, the elder Pinkney paid an annual tax of ten shillings, ten pence on 385 acres of land in Anne Arundel county, 100 acres of which had been purchased from Samuel Chase.[4] Pinkney had just ordered the surveying of 1,125 additional acres when he became involved in the political turmoils which ruined most Tories.[5]

[2] Reverend William Pinkney, *Life of William Pinkney* (New York, 1853), p. 12. The material quoted here and in the following paragraph is typical of this highly eulogistic account written by a nephew who was about twelve years of age at the time of his uncle's death. All the evidence seems to indicate that the uncle was an Episcopalian; the nephew became an Episcopal bishop. Mrs. L. R. Carton to Max P. Allen, Nov. 27, 1943.

[3] Mrs. L. R. Carton to Max P. Allen, Dec. 10, 1943. See also the parish records of the St. Anne's Episcopal Church in Annapolis. For information regarding the Greens, consult Joseph T. Wheeler, *The Maryland Press, 1777-1790* (Baltimore, 1938), pp. 65-70.

[4] Debt Books of Anne Arundel County, 1769-1774, Land Office, Annapolis. Chase still had title to 938 acres upon which the annual tax was thirty-seven shillings, nine pence.

[5] Patent Records of Anne Arundel County, 1774, Land Office, Annapolis. The

In May, 1774, resolutions of sympathy for Boston were adopted at a public meeting in Annapolis, a committee of correspondence being constituted of John Hall, Charles Carroll, Barrister, Thomas Johnson, William Paca, Mathias Hammond, and Samuel Chase.[6] Early the next month a long notice appeared in the *Maryland Gazette* listing 135 people who took this means of expressing disapproval of the revolutionary tendencies in Annapolis. The name of Jonathan Pinkney stood eighth, the foremost being Lloyd Dulany and William Cooke.[7] There was probably not a more outstanding Tory family in America than the Dulanys, the most notable member of which was Daniel, the Younger.[8]

Courage of this type on the part of Jonathan was to characterize his second son, William, born in 1764, who apparently, however, did not share his father's loyalty to the King. The Revolution interrupted his studies at the King William's School, established in 1696 in a plain building located on the south side of the State House.[9] As a later writer has remarked, the records of this school are lost, "but one name remains—that proves its right to existence (it has had more than its share of ups and downs)—William Pinkney's."[10]

Legislative provision was made in 1785 to combine the assets of King William's School and St. John's College.[11] William's

writer was unable to find any mention of Jonathan Pinkney in the Journal of the Proceedings of the Commissioners of the Confiscated British Property. But it is reasonable to accept the verdict of the early biographers that he suffered confiscation along with the more prominent Tories.

[6] *Maryland Gazette* (Annapolis), May 26, 1774. Almost as prominent at this time as Samuel Chase was Jeremiah T. Chase, both being the descendants of a Samuel Chase of London. The latter had two sons who became Anglican clergymen. The Reverend Thomas Chase was the father of Samuel Chase, while the Reverend Richard Chase was the grandfather of Jeremiah T. Chase. Samuel and Jeremiah married sisters, Anne and Hester Baldwin, respectively, of Annapolis. Samuel Chase's son, Thomas, married Jeremiah's daughter, Mathilde, according to the Cary MSS, Maryland Historical Society. Samuel and Jeremiah Chase cooperated most fully in their numerous political enterprises.

[7] *Maryland Gazette*, June 2, 1774.

[8] The latter won the admiration of Pitt and many Americans in 1765 by his *Considerations on the Propriety of Imposing Taxes in the British Colonies for the Purpose of Raising a Revenue by Act of Parliament.* He had lately lost his popularity as a result of a newspaper controversy carried on with Charles Carroll of Carrollton. Consult Richard H. Spencer, "Hon. Daniel Dulany, 1722-1797," in *Maryland Historical Magazine*, XIII (March, 1918), 143-160.

[9] Pinkney, *William Pinkney*, p. 14.

[10] Elihu S. Riley, *The Ancient City. A History of Annapolis, in Maryland* (Annapolis, 1887), p. 80.

[11] *Laws of Maryland*, Nov. Sess., 1785, Ch. XXXIX.

brother Ninian, four years his junior, attended St. John's as did the Reverend William Pinkney, Ninian's son, and many other members of the numerous Pinkney family.[12] William Pinkney "was initiated in classical studies by a private teacher of the name of Brathaud, who took great pains in instructing him, and of whom he always spoke with the warmest affection and gratitude." [13]

The end of the Revolution found Pinkney apprenticed to a doctor in Baltimore whose name is not agreed upon by the early biographers. The young man apparently displayed less interest, however, in medicine than in debating. It was his efforts in the latter field which caught the attention of Samuel Chase.[14] Soon Pinkney gave up the "uncongenial pursuit" of medicine to enter Chase's law office at Annapolis, where he proceeded to exhibit that passion for work which characterized his whole career and doubtless accounted for much of his success.

In the splendors of Dulany, her [Maryland's] setting luminary (one of the most remarkable men of his age), and in the meridian blaze of her Chase and Martin, who were just then culminating to their zenith, he felt as the sons of genius ever feel, whose steppings are in an illuminated pathway, that those, who would follow in their steps, must give their days and nights to study and emulate their greatness by emulating their love of labor.[15]

[12] Consult Rosamond R. Beirne and Edith R. Bevan, *The Hammond-Harwood House and Its Owners* (Baltimore, 1941) and Orlando Hutton, *Life of the Right Reverend William Pinkney* (Washington, 1890).

On the campus of St. John's College there is a Pinkney Hall, while across the street, next to the Baptist Church, is a Pinkney House. There is some difference of opinion as to the origin of the latter. According to Mrs. Carton, however, it belonged originally to the William Pinkney who is the subject of this article. She estimates that it was moved to the campus about thirty-five or forty years ago. She says that two old ladies, the Misses Pinkney, resided in it up to their deaths and that she often went to visit them with her father, Joseph Whyte. Mrs. L. R. Carton to Max P. Allen, Oct. 5, 1944.

[13] Henry Wheaton, *Some Account of the Life, Writings and Speeches of William Pinkney* (New York, 1826), p. 2. This biography has been the standard source regarding Pinkney ever since it was written. Wheaton spent about three years collecting material and doing the writing. It is quite interesting that Pinkney should have for his first biographer the versatile Wheaton, who became outstanding as a publicist, lawyer, diplomat, and historian.

[14] Robert T. Conrad, ed., *Sanderson's Biography of the Signers to the Declaration of Independence* (Philadelphia, 1848), p. 588. Justice Story agrees with other authorities that Pinkney "acquired his profession with Judge Chase." Consult his "Notes of Lecture on William Pinkney," in William A. Story, ed., *Life and Letters of Joseph Story* (Boston, 1851), p. 490.

[15] Pinkney, *William Pinkney*, p. 16.

Pinkney developed particular attainments in the law of real property and the science of special pleading.

. . . His style of speaking was marked by an easy flow of natural eloquence and a happy choice of language. His voice was very melodious and seemed a most winning accompaniment to his pure and effective diction. His elocution was calm and placid—the very contrast of that strenuous, vehement, and emphatic manner which he subsequently adopted.[16]

Chase's activities as agent for the State of Maryland in its controversy with the Bank of England (just one of the many phases of his life, incidentally, which historians have neglected) led to his making a trip to England in 1783. Presumably he gave his protégé the full benefit of his experiences abroad as well as in American courts, public assemblies, and political gatherings. Chase's predilection for being involved almost constantly in newspaper disputes or lawsuits must have influenced Pinkney to steer clear of such affairs.[17]

At the age of twenty-two, he gained admittance to the bar. He chose Harford County "as the arena of his first professional efforts. She received and rewarded the young adventurer. She saw his worth and appreciated it."[18] Little is known of his experiences during the first part of the six years he lived there. Probably it was at this time that he became acquainted with Ann Maria Rodgers, whom he married in 1789.

[16] Wheaton, *William Pinkney*, p. 6. Mr. William L. Rawls, a Baltimore attorney, has long been interested in the legal aspects of Pinkney's career. The writer is indebted to him for a copy of the address he delivered on Pinkney at Baltimore, April 9, 1938, before the Lawyers Round Table.

The writer is under similar obligations to Mr. L. R. Carton for "A Paper on William Pinkney," which was read at the Ninth Annual Meeting of the Maryland State Bar Association (1904) by the Hon. William Pinkney Whyte. The latter, a grandson of Pinkney and the paternal grandfather of Mrs. Carton, was one of Maryland's most eminent citizens. He served as Mayor of Baltimore, Governor, and United States Senator.

Cf. Monroe Johnson, "William Pinkney, Legal Pedant," in *American Bar Association Journal*, XXII (Sept., 1936), 639-642. For an excellent resumé of Pinkney's life, consult John J. Dolan, "William Pinkney," in *Dictionary of American Biography*, XIV (New York, 1934), 626-629.

[17] All during the first half of 1787, "Publicola" (Chase) exchanged heated letters with "Aristides" (Alexander C. Hanson) in the columns of the *Maryland Gazette*. They were especially at odds over the degree of independence which delegates should exercise in the legislature. Chase upheld the theory that delegates should be given instructions to which they must conform. Probably the bitterest newspaper feud of the period, however, was that carried on in the same year between Daniel of St. Thomas Jenifer and Gabriel Duvall.

[18] Pinkney, *William Pinkney*, p. 17.

Ann, the sister of a future commodore, was the daughter of John Rodgers, who lived on the north side of the Susquehanna river ferry at Perryville, Maryland. As was the custom of the day, the elder Rodgers had a tavern-keeper's license which enabled him to collect a charge from chance passersby who found it convenient to stop at his home on their way to and from Philadelphia. George Washington is reputed to have lodged there many times.[19]

As far as this study is concerned, however, Pinkney's principal accomplishment at this time was being elected to the Maryland ratifying convention to be held in April, 1788, at Annapolis. Other members of the Harford County delegation were Luther Martin, William Paca, and John Love.[20]

II. General Comments on Ratification in Maryland

Little contemporary material is available on Pinkney's role at the Annapolis Convention, nor have later writers been concerned appreciably with it. Under certain circumstances, therefore, it would be fruitless to linger long on this phase of his career. It is this writer's opinion, however, that the meeting involved matters so fundamental that a careful examination is in order.

For Maryland's action was important.[21] Her position as a middle state made ratification essential for geographical considerations alone. Equally important was the effect her action might have on wavering states like Virginia and New York. With Rhode Island and North Carolina definitely outside the fold, it is quite within the realms of probability that unfavorable action at Annapolis would have made ratification by the required nine states impossible. Washington expressed the gravity of the situation in these words: "The fiat of your convention will most assuredly raise the edifice." [22]

[19] William and Ann were married in the front parlor of the Rodgers home which, incidentally, still stands. However, the original doorway has been removed and the structure converted into a double house with two doorways. Mrs. L. R. Carton to Max P. Allen, Oct. 5, 1944. John Rodgers later moved to Havre-de-Grace.

[20] Bernard C. Steiner, "Maryland's Adoption of the Federal Constitution," in *American Historical Review*, V (Oct., 1899), 42. Steiner's monograph was completed in the December issue of the *Review*. It barely mentions Pinkney, but otherwise is the best secondary source which is available on the Maryland Convention of 1788.

[21] *Ibid.*, pp. 22-23.

[22] Washington to Daniel of St. Thomas Jenifer, Mt. Vernon, April 27, 1788. Quoted from George Bancroft, *History of the Formation of the Constitution*, II (New York, 1882), 283.

Critics like Libby[23] and Beard[24] have found relatively little evidence that ratification was "railroaded" in Maryland. By way of illustration, it is rather difficult to assign to a man like Dr. James McHenry the part of a conspirator seeking to effect a *coup d'état*[25] for realtors. He had signed the Constitution at Philadelphia with misgivings, leading him to record these reasons for his action: his respect for the abilities of those favoring it; the provisions for amendment; "the inconvenience and evils which we labor under and may experience from the present confederation. . . ."[26] During the period from November 26, 1787, when arrangements were made for the convention,[27] until the assembling of the delegates the following April, he played a relatively passive role, rather comparable to that of Washington.[28]

Contemporary Maryland newspapers gave liberally of their columns to a host of contributors.[29] The election of sixty-four Federalists (the word is used with its modern connotation) out of a total of seventy-six delegates can be interpreted only as an

[23] Orin Grant Libby, "The Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution, 1787-8," in *Bulletin of the University of Wisconsin*, I (June, 1894), 32-34, 85-86. Libby was a pioneer in suggesting that economic interests played an important part in Maryland's action. See *ibid.*, p. 33.

[24] Charles A. Beard, *An Economic Interpretation of the Constitution* (New York, 1925), p. 238.

[25] *Ibid.*, p. 218. Beard cites J. W. Burgess as the authority for the Napoleonic implications.

[26] Steiner, *The Life and Correspondence of James McHenry* (Cleveland, 1907), p. 107.

[27] *Votes and Proceedings of the Senate of Maryland*, Nov. Sess., 1787, p. 5 ff. Persons eligible to vote for members of the House of Delegates were permitted to vote for delegates to the ratifying convention. Incidentally, the proposal to delay action until April was carried in the Lower House by only one vote. See *Votes and Proceedings of the House of Delegates of Maryland*, Nov. Sess., 1787, p. 12.

[28] Washington to Jonathan Trumbull, Mt. Vernon, Feb. 5, 1788, in *Documentary History of the Constitution*, IV (Washington, 1905), 478-479; Steiner, *James McHenry*, p. 108.

[29] The most active in defence of the Constitution were A. C. Hanson and the Carrolls. Unfortunately the report of Daniel Carroll, Jenifer, and McHenry to the Legislature regarding the Philadelphia Convention has not been preserved. But Luther Martin's objections were published in full in the *Maryland Gazette; or, the Baltimore Advertiser*, beginning on Dec. 28, 1787, and extending for twelve issues. These were published with minor revisions at Cincinnati in 1838 under the title *The Genuine Information, Laid Before the Legislature of Maryland*. Mercer, the fifth delegate, who also refused to sign the Constitution, made no report to the Legislature (as all the delegates had been requested to do) but campaigned vigorously against ratification. However, Samuel Chase was the most prolific writer against accepting the work of the Philadelphia Convention. The best published sources here are *Essays on the Constitution* (Brooklyn, 1892), pp. 325-383 and *Pamphlets on the Constitution* (Brooklyn, 1888), pp. 217-257, both edited by P. L. Ford.

indication of a genuine majority in favor of adoption.[30] When Steiner and Beard submit figures showing how few people voted in Maryland or any other state,[31] it is largely evidence of the lack of democracy in the 1780's in particular, and the usual apathy of citizens on constitutional problems in general.[32]

Pinkney's exact views on the Constitution at this time are a matter of some dispute, as will be pointed out in section four of this article. To most observers, however, he could be regarded only as an opponent of ratification, possibly even a "malcontent." [33] Are we to assume that this inexperienced young attorney failed to keep his political ear close enough to the ground to properly interpret the rumblings of public opinion?

It is true that Madison had been a bit pessimistic in December.[34] But in February Daniel Carroll declared that the "Antifedls," would merely seek to prevent final action until after the Virginia Convention. Such a maneuver had rather worried Washington and Madison although Carroll thought it likely to fail.[35] Madison was not indulging in wishful thinking when he informed Jefferson two months before the Maryland convention of an expectation "that the opposition will be outnumbered by a great majority." [36] So many similar predictions were made by practical men of affairs that it is impossible for Pinkney not to have realized quite early that he was aligning himself with a forlorn hope.[37]

[30] Quoted by Libby, *op. cit.*, p. 65, from the *Pennsylvania Gazette*, April 30, 1788.

[31] Steiner, "Maryland's Adoption of the Federal Constitution," in *American Historical Review*, V, 41-44; Beard, *op. cit.*, pp. 238-252.

[32] Beard says that even in New York (where manhood suffrage was the basis of voting in this particular election) less than ten per cent of the electorate participated. See *ibid.*, p. 244.

[33] The historian George Bancroft could not recognize any kind of opposition to the Constitution as legitimate. See his *History of the Formation of the Constitution*, II (New York, 1882), 281-282.

[34] Madison to Thomas Jefferson, New York, Dec. 9, 1787, in *Documentary History of the Constitution*, IV, 396-397.

[35] Daniel Carroll to James Madison, Rock Creek near George Town, Feb. 10, 1788, in *ibid.*, p. 498; James McHenry to George Washington, Baltimore, April 20, 1788, *ibid.*, p. 481, also refers to the prospective effort to concentrate on delaying a final vote.

[36] Madison to Jefferson, New York, Feb. 19, 1788, in *ibid.*, p. 511 ff.

[37] Francis Hopkinson to Jefferson, Philadelphia, April 6, 1788, in *ibid.*, p. 563; Daniel Carroll to Madison, n. p., April 28, 1788, *ibid.*, p. 597. The longest letter extant in Maryland on the question is Daniel Carroll to Madison, n. p., May 28, 1788, in *ibid.*, pp. 636-642. Carroll was one of the unexpected losers in Anne Arundel county as a result of the activities of John F. Mercer and the Chases. He attributed his defeat to the use of circulars emphasizing the need of a bill of rights and to a rumor that he had favored kingship at Philadelphia. Cf. *ibid.*, pp. 638-639, and Steiner, *James McHenry*, pp. 101-102.

Pinkney's action apparently did not harm his future prospects.[38] It is an error to believe that the proponents of the Constitution henceforth were the bitter political enemies of the Anti-Federalists of 1788. Luther Martin and Samuel Chase are recorded as Federalists in the late 1790's without any insinuation of their being mere "trimmers." Moreover, such a bold course for a young man may have been the most effective means of bringing him to the attention of the leading men of the day. Certainly it was fine experience for a prospective diplomat and constitutional lawyer.

III. High Lights of the Convention

Even in its infancy the Constitution served as a source of bitter controversy, not only at Philadelphia but during the process of ratification in the several states. In Maryland, the Federalists generally (Hanson excepted) dodged the philosophical arguments advanced by their opponents and concentrated their fire on the financial activities of the leaders during the preceding decade. It so happened that many of the Anti-Federalists had paid depreciated paper money into the State treasury in satisfaction of debts owed British creditors. Hence they were sometimes called the "blacklist junto." [39] Moreover, Martin had obligated himself to the extent of approximately £4,000 for confiscated British estates, while Chase and his partners, the Dorseys, were involved for more than three times that amount.[40] "Steady" was only one of many who declared that Chase opposed ratification of the Constitution "because its establishment would leave him and his desperate adherents in a state of irrecoverable ruin." [41] On the other hand, several of the Federalists had also bought confiscated lands, *e. g.*, James McHenry and Daniel Carroll.[42]

[38] The immediate political effect, however, was rather disastrous to the opponents of ratification. Thus, Jeremiah Chase and Charles Ridgely of William sought unsuccessfully to become Presidential electors, while John F. Mercer and Samuel Chase failed in their Congressional races. See John T. Scharf, *History of Maryland from the Earliest Period to the Present Day*, II (Baltimore, 1879), 549-550.

[39] Benjamin R. Baldwin, "The Debts Owed by Americans to British Creditors, 1763-1802," Ph. D. dissertation in manuscript form, submitted to Indiana University in 1932, p. 224. Baldwin states that the paper money issue was the leading one in the election of delegates to the Annapolis Convention. See *ibid.*, pp. 217-218.

[40] Journal of the Proceedings of the Commissioners. Confiscated British Property, Hall of Records, Annapolis.

[41] *Maryland Gazette; or, the Baltimore Advertiser* (Baltimore), Sept. 28, 1787.

[42] Chase, however, was the only one of these mentioned who had to petition the

The Anti-Federalists, in turn, questioned the integrity of prominent proponents of ratification, a classic example being preserved from the neighboring state of Pennsylvania:

> . . . You will be surprized when I tell you that our public News Papers have announced General Washington to be a Fool influenced & lead [*sic*] by the Knave Dr. Franklin, who is a public Defaulter for Millions of dollars, that Mr. Morris has defrauded the Public out of as many Millions as you please & that they are to cover their frauds by this new Government. . . .[43]

So to some extent many of the arguments advanced concerning the financial status of the principals in this affair may be regarded as being merely specious. Certainly it over-simplifies the Annapolis Convention to divide the delegates into two well-defined groups, regardless of the explanation advanced for such a classification, *e. g.*, personal leadership, the paper money issue, conflicting economic interests, etc. This writer ventures the theory that as a matter of fact there were three fairly distinct groups, party solidarity in the modern sense of course being impossible.

The doughty Judge Alexander C. Hanson, who had written so valiantly and capably as "Aristides" in reply to Martin and Chase, led the rightists.[44] James McHenry of Baltimore Town, George Gale of Somerset County, and Richard Potts of Frederick County served as his chief lieutenants. Two delegates being absent throughout the convention,[45] thirty-eight votes constituted a simple majority. Although the Judge could always muster a handsome majority by bringing pressure to bear between sessions, his followers occasionally fell out of line, as will be noted below.[46]

Legislature for relief. He was freed from his partnership obligations by agreeing to convey to Thomas Dorsey all of his real and personal property. See *Laws of Maryland*, Nov. Sess., 1789, Chapter X.

[43] Francis Hopkinson to Thomas Jefferson, Philadelphia, April 6, 1788, in *Documentary History of the Constitution*, IV, 562 ff. Hopkinson declared that Maryland was "infested with a Mr. Martin."

[44] In the *Maryland Gazette* of Jan. 31, 1788, appeared a notice that his "Remarks on the Proposed Plan of a Federal Government" was on sale for two shillings, nine pence, just sufficient to defray the printing costs. Eventually the prices was reduced to twenty-five cents.

[45] Steiner, "Maryland's Adoption of the Federal Constitution," *American Historical Review*, V, 42-44, contains a convenient roster of the delegates. According to Daniel Carroll the two absentees were Federalists. See Carroll to Madison, n. p., April 28, 1788, *Documentary History of the Constitution*, IV, 597.

[46] The most complete record of the various votes taken may be found in *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, edited by Jonathan Elliot, II (Philadelphia, 1876), 547-556.

Regardless of the motives of this group they sought speedy action as the course most likely to insure ratification in other states.

William Paca, one of Pinkney's colleagues from Harford County and another heavy purchaser of confiscated British estates, became the mouthpiece of a little group of moderates, being assisted openly by Thomas Johnson of Frederick County and tacitly by George Plater of St. Mary's County. The latter's conduct as presiding officer has been attributed in the past to the influence of generosity rather than any degree of collaboration with the minority group. The moderates disapproved of the Constitution as submitted but were unwilling to make amendments a *sine qua non* of ratification.[47]

Then there were eleven extremists, consisting of the delegates from only three counties, Paca being excepted. The chief leaders were Samuel Chase[48] and Luther Martin, close associates of Pinkney (although he probably had not enjoyed many contacts with Martin prior to taking up his law practice in Harford County), ably assisted by John Francis Mercer and Jeremiah T. Chase, both of Anne Arundel County. The whole delegation from Baltimore County supported this group.[49] The long patriotic services of the leaders just mentioned preclude an explanation of their opposition on the basis of "rule or ruin" tactics or mere selfish interests. Certainly William Pinkney was not in bad company, even though the combined activities of Paca and Chase failed to circumvent Hanson's grim determination to force ratification without amendments.

The first step in their strategy apparently was procrastination, only forty-seven delegates being present at the first session on Monday, April 21. Plater, the unanimous choice for president,

[47] Hence they finally voted with the rightists, making the count 63 to 11. Consult *Documentary History of the Constitution*, II (Washington, 1894), 104-105; *Maryland Gazette*, May 1, 1788.

[48] Chase, although a resident of Baltimore since 1786 and a representative of that town in the last session of the Legislature, was a member of the Anne Arundel delegation. According to Steiner, *American Historical Review*, V, 42, there were only two other cases like this. However, Americans had not yet adopted the practice of insisting that representatives reside in the district they represented in public assemblies.

[49] Consult the *Pennsylvania Gazette*, April 30, 1788, quoted in Libby, *op. cit.*, pp. 65-66, for a view that only Baltimore and Harford counties really contained a majority of Anti-Federalists. Hanson, whose testimony is leaned on heavily by secondary writers despite his prejudiced point of view, doubted if a single voting district had a majority against ratification. See Hanson to Madison, Annapolis, June 2, 1788, in *Documentary History of the United States*, IV, 646.

appointed a committee of five to inspect election returns. Two of its members were Johnson and J. T. Chase, the former being chairman. Not until Thursday did Samuel Chase, Luther Martin, and William Paca put in appearance.[50] On Tuesday, various rules of procedure were adopted, one being that all sessions were to be open to the public. Johnson's committee certified the election of seventy-two delegates from the counties and two each from Annapolis and Baltimore.[51]

The following day (Wednesday, April 23) saw the Constitution read for the first time. The momentous decision was reached that after a second reading a full debate was to ensue. But no resolution was to be considered upon any part of the Constitution. There was to be merely the " grand question " of accepting or rejecting it *in toto*.[52] Apparently the rightists had decided in caucus that it was improbable " any new light could be thrown on the subject; that . . . the main question had already, in effect, been decided by the people, in their respective counties." [53] It was their policy to do little talking, scarcely deigning to notice the questions raised by the extremists.[54] In fact, they claimed that most of the week was spent " either in waiting for absent members of the minority, or in the most patient attention to objections, which were familiar to almost every auditor." [55]

Probably the most remarkable feature of the Convention had to do with the consideration of amendments to the Constitution. The primary sources throw comparatively little light on this problem.[56] All that can be said definitely is that with Paca's arrival on Thursday the cause of amendments always had a vigorous proponent. His first act was to ask permission to submit amendments, not as " conditions of ratifications," but as " standing instructions to our

[50] *Documentary History of the Constitution*, II, 103. Paca's arrival on Thursday afternoon brought the total attendance to 74. Pinkney had arrived the day previously. See *ibid.*, p. 102.

[51] *Ibid.*, pp. 100-102.

[52] *Ibid.*, p. 103; Elliot, *op. cit.*, p. 547; *Maryland Gazette*, April 24, 1788.

[53] Hanson, " Address of the Majority at the Maryland Ratifying Convention," *Documentary History of the Constitution*, IV, 650. Steiner, *American Historical Review*, V, 207, used this in manuscript form as a part of the Madison Papers. Daniel Carroll is credited with its being preserved in this fashion. Steiner erred in believing that it had never been published. See *ibid.*, p. 220.

[54] Elliot, *op. cit.*, pp. 548-549.

[55] Hanson, *op. cit.*, p. 651.

[56] The best secondary accounts are based on Hanson's " Address of the Majority," Elliot's *Debates*, newspapers, and letters. See Scharf, *op. cit.*, II, 542-545, and Bancroft, *op. cit.*, II, 282-284.

representatives in Congress." [57] Johnson, declaring "The request reasonable and that the gentleman ought to be indulged," made a motion to adjourn until the following morning.[58] Possibly having no instructions for such a situation, the rightists permitted the motion to be adopted.

However, when Paca arose to submit his proposals on Friday, George Gale succeeded in having him ruled out of order. The former, naturally, deemed that he had been ill used. It was the contention of the rightists that the adjournment on the preceding afternoon had not signified compliance with Paca's request but merely to give time for reflection on whether he should be permitted to carry out his proposal.[59] Pinkney must have thought of this rationalization in his later dealings with Canning and Circello.

So Paca and Chase finally had to yield to Hanson. The Constitution was ratified in its original form without reservations on Saturday, April 26, by a vote of 63 to 11.[60] The jubilant Federalists henceforth pointed to this vote as evidence of there being little objection to ratification in Maryland, not bothering to mention the reluctance with which the moderates voted affirmatively.

The persistent Paca now once again sought permission to submit his amendments. Many who had previously objected on the grounds that they had been delegated for the express purpose of voting only on accepting or rejecting the Constitution now were disposed to humor him. The vote was 66 to 7 for appointing a committee to consider the matter.[61] To Hanson's disgust they apparently proceeded under the specious reasoning that they were acting as private citizens rather than as an official body.[62] Thus did Pinkney first meet a practice that is a favorite device of diplomacy—the unofficial conversation or letter.

[57] Hanson, *op. cit.*, pp. 651-652.

[58] *Ibid.*, p. 652. McHenry, in a letter to Washington the following month, blamed Johnson for innocently lending himself to a cause injurious to the Federalists. See Steiner, *McHenry*, p. 112. Johnson, writing to Washington on Oct. 10, 1788, accounted thus for his actions: "I was not well pleased at the manner of our breaking up. I thought it to our discredit and should be better pleased with the constitution with some alterations, but I am far from wishing all that were proposed to take place." See *ibid.*, p. 113 (footnote).

[59] Hanson, *op. cit.*, pp. 652-653.

[60] *Documentary History*, II, 104-105; Elliot, *op. cit.*, p. 549; *Maryland Gazette; or, the Baltimore Advertiser*, May 6, 1788.

[61] Elliot, *op. cit.*, II, 549.

[62] Hanson, *op. cit.*, pp. 654-655. As a matter of fact, Madison had expressed the view that the legislature had left the door open for the consideration of amendments. See his letter to Jefferson, New York, Dec. 9, 1787, *Letters and Other Writings of James Madison*, I (New York, 1884), 364.

It is outside the scope of this article to give a detailed account of the activities of the committee of thirteen which President Plater appointed. Paca as chairman could rely on the votes of the Chases, Johnson, and Mercer, but Hanson dominated the other seven members. For a time it seemed that thirteen of Paca's twenty-eight suggestions (they constituted a Bill of Rights) might possibly be accepted.[63] After a series of subtle efforts on the part of the opposing leaders to out-maneuver each other, Paca finally submitted no recommendations to the impatient delegates on Monday, although he read the measures which had elicited most approval during the sittings of the committee.[64] Despite the union of the extremists and the moderates, the rightists now forced final adjournment by a vote of 47 to 27.[65] Apparently they had decided that to submit amendments after ratification might look like blind voting to the people of Maryland and might hurt the proponents of ratification in other states.[66]

The sixty-three who had voted for ratification two days previously now signed the Constitution.[67] The eleven who had voted in the negative, along with Paca, signed a kind of minority report, in which they sought to lay before the people the thirteen amendments which had been tentatively approved by the committee of thirteen.[68] It was this latter action which provoked Hanson's "Report of the Majority," written June 2, 1788, but apparently not made use of at the time.[69] He reached the conclusion that the only ground upon which the convention could be condemned was "That it manifested a transient inclination to adopt improper means for attaining a valuable end."[70] Curiously

[63] Hanson, *op. cit.*, p. 664; Steiner, *American Historical Review*, V, 220.

[64] Hanson, *op. cit.*, p. 663; Elliot *op. cit.*, p. 555.

[65] *Ibid.*

[66] At least this is Steiner's conclusion. See *American Historical Review*, V, 217. Cf. Scharf, *op. cit.*, II, 545.

[67] *Documentary History*, II, 121-122.

[68] Elliot, *op. cit.*, pp. 555-556; they were published in the *Maryland Journal and Baltimore Advertiser* (Baltimore), April 29, 1788; in the *Maryland Gazette*, May 1, 1788; and in the *Maryland Gazette; or, the Baltimore Advertiser*, May 6, 1788.

[69] Hanson, *op. cit.*, p. 664; Steiner, *American Historical Review*, V, 220. A short notice addressed "To the People of Maryland" appeared in the *Maryland Gazette; or, the Baltimore Advertiser* on May 9, signed "One of the Committee." It declared that a report of the majority would soon be printed. A similar statement appeared in the *Maryland Gazette* on May 8, 1788. This provoked a capable letter on the Convention in the latter paper on May 15, signed "A Member of the Convention."

[70] Hanson, *op. cit.*, p. 647.

enough there came a time when most of the minority probably would have been rather inclined to concur. But that was after the adoption of the first ten amendments and a successful demonstration of the superiority of the Constitution over the Articles of Confederation.

IV. Speculation Regarding the Role Played by Pinkney

In his later life, when Pinkney had established himself as one of the best constitutional lawyers in the United States, he usually took the position of a good Hamiltonian. He apparently never referred to his being opposed to ratification in 1788. In time it was almost forgotten. Wheaton, his first biographer, was unable "to find any traces of the part he took in the [Annapolis] deliberations."[71] His second biographer, the Reverend William Pinkney, believed that his uncle cast an "affirmative vote" at the ratifying convention.[72] Although most of the minority later became staunch Federalists, it may be of some value to attempt to account for the actions of the young attorney.

It might be suggested that as the son of a Loyalist he naturally would have sought to prevent the establishment of a strong central government in the United States. Aside from the fact that Pinkney did not share his father's political views, as was earlier pointed out, is the rather astonishing circumstance that opponents of ratification were more likely to have been Sons of Liberty during the Revolution than Loyalists.[73] An interesting sidelight is the view that the mere fact that Attorney General Martin opposed ratification would have impelled many Tories to favor it.[74]

A better thesis would be that gratitude alone would have prevented Pinkney from supporting Hanson, Chase's political enemy (not to mention the fact that it would have been rather awkward for a young man to have opposed an outstanding member of his own delegation like Martin). As a matter of fact, Pinkney probably was of only nominal assistance to Chase at Annapolis. The chances of the minority actually would have been enhanced if

[71] Wheaton, *William Pinkney*, p. 7.
[72] Pinkney, *William Pinkney*, p. 17.
[73] This was particularly true in Virginia. See Hugh B. Grigsby, *The History of the Virginia Federal Convention of 1788* (Richmond, 1890), in volume 9 of the *Collections of the Virginia Historical Society*, p. 49.
[74] Libby, *op. cit.*, p. 33.

Martin's colleague from Harford County had been an older Anti-Federalist who could have added prestige to the little group opposing Hanson. Nevertheless, after Pinkney once chose to offer himself as a delegate, it would have ill befitted him to have acted otherwise at the convention. Many years later he was highly censured for failing to serve with Martin as one of Chase's defenders in the famous impeachment proceedings of 1805.[75] Pinkney finally found it necessary to make the following statement to a friend regarding his relations with Chase:

> . . . I will only say that I am not Mr. Chase's enemy, although in return for unwearied services and a zealous attachment of more than twenty years, during which no discouragements could drive me from him, he has lately been induced to act as if he were mine. Ingratitude is a harsh word, and they who have ventured to apply it to me, should first have been sure of their facts. They will, I presume, take care not to force such observations too much upon my notice.[76]

But the best explanation may well be the simplest one. Throughout his life, whether he was in Annapolis, London, or Washington, Pinkney ever displayed independence of action based upon his convictions. So, in 1788, it probably made no particular difference to him that Alexander Hamilton, James Madison, and Alexander C. Hanson were spokesmen for a majority group. He seems to have honestly believed that better arguments were advanced by George Mason, Patrick Henry, Thomas Jefferson, and many of his friends in Maryland. Certainly he would have been little affected by comments like Rufus King's on Martin's speech of June 27 and 28 at Philadelphia, that the " principles . . . [were] right, but . . . [could] not be carried into effect." [77]

[75] John Trumbull, *Autobiography, Reminiscences and Letters* (New York, 1841), pp. 240-241.

[76] Pinkney to Cooke, London, Oct. 5, 1806, in Wheaton, *William Pinkney*, pp. 53-54. Two years later, Pinkney told his brother that Chase had given him up entirely. See William Pinkney to Ninian Pinkney, London, April 28, 1808, in Pinkney, *William Pinkney*, p. 50.

[77] Everett D. Obrecht, " The Influence of Luther Martin in the Making of the Constitution of the United States," in the *Maryland Historical Magazine*, XXVII (Sept., 1932), 188. With the notable exception of the writings of Judge Edward S. Delaplaine, of Frederick, far too many of the distinguished Marylanders of this period have been neglected by biographers.