be equally a revolution, whether accomplished by force of arms, or by intimidating the constituted authorities into submission. But such is not the condition of things surrounding this Convention. We are here by an act of legislation, which is legal, except so far as it may be repugnant to the organic law.

The undersigned, therefore, cannot regard this convention as a body outside of the constitution, but he recognizes it as the creature of existing government, sustained by all the sanctions and subject to all the prohibitions of that existing government.

The remaining question is, whether any gentlemen claiming seats in this convention are disqualified by the terms of the 6th, 30th and 32nd articles of the Bill of Rights? The 6th article was clearly designed to prevent the concentration of legislative, executive and judicial powers, or any two of them in the same hands. Such an union, however partial or slight it may be, is yet an approach to despotism.

And the undersigned submits that the spirit, if not the letter of this article is violated, by allowing any judicial functionary to act as a delegate in this convention, because its powers are of the very highest order of legislation, or at least in the nature of legislation. But the 30th article is most emphatic and distinct, declaring that "no chancellor or judge ought to hold any other office, civil or military, or receive fees or perquisites of any kind."

The undersigned, upon every legal definition of the term, regards the office of delegate to this convention, as a civil office, however temporary or limited in character. Chief Justice Marshall has accurately defined an office to be "a public charge or employ ment." See United States vs. Maurice, 2 Brockenborough, 162.

An opinion of the distinguished Luther Martin, may be seen among the public archives, in which he advances the position that no office created by the Legislature is to be regarded within the prohibitions and restrictions of the constitution, but that all such restrictions and prohibitions point exclusively to offices created by the constitution itself. However distinguished the author of that opinion may be, it seems entirely exploded by the later decision of chief justice Marshall, who decided in the case of the United States vs. Maurice, that an agent of fortifications, though created by an act of Congress, held an office in the meaning of that term as used in the constitution of the United States. Nor can any substantial reason be found why those restraints and prohibitions should not equally apply to offices created by the Legislature in the exercise of its constitutional power. A still higher authority against the views of the undersigned will be quoted in the opinion of the world-renowned William Pinkney,—also to be found in the Executive archives.

This great constitutional lawyer was of opinion, that the office of insolvent commissioners for Baltimore county, did not disqualify Mr. Kell from being also, at the same time, a member of the Legislature, because, as Mr. Pinkney states, the first was but a