

shall be chosen; hence a question arises whether Congress, and until they interpose the States are precluded from making such regulations as to require that a representative should be a resident of a particular district within the State. In order to decide this question in the affirmative we must admit that the Constitution by specifying particular qualifications prohibits the imposing any others, and that this is such a qualification as the Legislature could not impose.

The times, places, and manner of holding elections for Senators and representatives shall be prescribed in each State by the Legislature thereof and the Legislatures of several of the other States have given the same construction to the Constitution as is given to it by our Act of Assembly viz. that they had a right to require that the representative should be a resident of the district for which he is chosen - It appears to me to be only modifying the qualification, and in a manner not inconsistent with the spirit of the Constitution as the door is left open for every person to be elected who has the qualifications prescribed in the Constitution and Mr. Pinkney might have been elected for the fourth district where he resided.

As it is essential to liberty that the Government in general should have a common interest with the people, so it is particularly essential that the representative should have an immediate dependence on, and an intimate sympathy with the people: "dividing the State into as many districts as it is entitled to representatives and electing a person residing in each, seems calculated to secure this dependence and sympathy, and a representation best acquainted with the interests & circumstances of the electors.

The Legislature conceived they had the right, and it does not appear to me to be repugnant to the Constitution, I therefore cannot hesitate in giving my opinion that it is our duty to pursue the directions of the Act and not return Mr. Pinkney as a representative duly elected for a district in which it is admitted he was not a resident at the time of the election -

J. Howard

The Council adjourned till tomorrow morning -