

with regard to Qualifications thus exclusive? Who but themselves could have assisted in executing it. or, after it was executed, who could have defeated its Effects? That the Constitution does not say "there shall be no appeal &c" is granted. nor does it say that there shall be no appeal from the Judgment of the House of Delegates &c and yet their Jurisdiction is final and will continue to be so till the Constitution is altered. Where is the Difference between the Cases? - If negatives were necessary to protect the Constitution from change there is hardly a part of it that may not be altered under the pretext of explanatory or supplementary acts.

We do not meddle with any conjectured Intention of the Framers of our Government. which they have omitted to insert in the Instrument itself. Arguments drawn from this fanciful and arbitrary source are seldom satisfactory, and never admissible except in Cases of absolute Necessity. - But if we are to guess at Intentions we think it may fairly be inferred from the Constitution itself and the proceedings of Convention that they never did mean to give the Executive any possible agency in Sheriff's Elections. - They meant that these Elections should be purely popular. and of course did not design to place them under the Controul of the Governor and Council. - That they have not in fact done so. is undeniable. -

In short. It is plain to us that we have no power to controul this return. even if the Act of 1777 applies to the Case. - If we do set it aside we must undertake to determine either upon the Qualifications of Voters. or those of Candidates. and in our Judgment neither of these particulars are within our Province. The Board have heretofore decided against this Power upon full Deliberations. and we are not prepared to say that their Decision was erroneous. But it appears to us that the Act of 1777 does not relate to the Case. -

The passage of this Act was occasioned by the violence which had been used in the Election of Sheriffs for Somerset.

The first enacting Clause vacates that Election (or rather affirms it as undeniable that it was void in itself) and provides for a new Election.

So far it does not approach the Case before the Board. -