

accounted for. - Therefore our opinion and advice is that the Election is not void and ought not to be  
set aside on the last ground. - We do therefore advise that the Petition of Joseph Boone be  
dismissed and that the Return which is petitioned against be void. William Kelly  
James Thomas

In pursuance of the Constitution, a Certificate was returned, by Samuel Hebburn and John Smith the Proctors, Esquires, two of  
the Justices of the Peace for Prince Georges County, that an Election had been held by them for Sheriffs for the said County,  
and that Hotty Maddox and Zaddock Duvall were duly elected. Mr Joseph Boone, a candidate for the office, petitioned  
the Executive not to issue a Commission, but to order and direct a new Election, for the following reasons.

First, that force and violence had been made use of

Second, That the first day of the Election before which was appointed the Judges took Ballots.

Third, That on the evening of the first day one Judge opened the Polls and took Ballots.

The Governor having requested the opinions and advice, of the Council on the several objections in writing, my  
advice is that a Commission issue to the person first mentioned in the Return; my opinion is, that the Executive  
have no power to determine the constitutionality of the Election, but the sole and exclusive right is vested in the Magistrates.

This might render it unnecessary for me, to adjudge whether either of the objections stated in the Petition have been  
supported, but as there is a difference of opinion in the Executive as to their power, and as the same objections may  
again be made, I think it my duty to form an opinion on the individual objections.

The first depends alone on the Evidence adduced to the Council, against and in favour of the Election. The testimony  
has been different, but from the whole taken collectively, I cannot but think, it originated with the friends of the  
Petitioner, and not with his Adversary. - But it is said that it is immaterial from whence it flowed if Voters  
were afraid to come to the Election, it is sufficient to render it void.

This position is an invitation to disappointed candidates to act improperly, when he knows a Riot, will  
defeat an Election, altho it commences with him who wishes it, when he discovers, that he may avail himself  
of his own misconduct, in some instances out of mere revenge to his Opponent, in others, under the expectation of  
succeeding at a New Election. he or his adherents may undo the Scams that were exhibited on this occasion,  
if on the contrary his friends are told, the person they wish elected may in a degree be responsible for their  
conduct, it will be an incentive to order and regularity, they will conduct themselves with peace and quietness.

But on this occasion, in my judgment the Riot was not so extensive, as to justify a New Election if the  
Executive possessed the power, for although it was violent during its continuance, and fatal in  
its consequences still it was not sufficiently so as to prevent or intimidate the Voters from attending the  
Election: the best Evidence of this is the number of Voters that were present: in my Judgment a Riot to defeat  
an Election, ought to be such as to deter Men of ordinary firmness from attending. - In this instance  
it was not the case, or the number of Ballots would not have been taken. - a principle more  
than this would destroy every popular Election.

Admitting the fact stated in the second objection, and the power of the Board to determine  
operation, I cannot think that it is a ground sufficient to destroy the Election. - The appointment