

Return is incomplete, and such as no Commission can issue upon.

In considering the foregoing objections we, the undersigned, are of opinion first that the Executive has no legal or constitutional Power to judge of the qualifications of the Candidates, as we conceive that this right, exclusively given to the Judges of the Election, in which opinion we are confirmed by solemn decisions of the Executive on former occasions, and from which we cannot, with propriety, depart.

With respect to the second objection, that Howard and Watkins ought to have been unanimously returned by the Judges, we are of opinion, that it is not requisite that all the Judges should concur in the Return. In this instance four of the Judges were of opinion that Mr. Tilly the Candidate, who had a plurality of Votes, had not the qualification, as to property, that the Constitution requires, and therefore have returned the two next on the Polls, only elected. The fifth Judge differed in this respect from the other four, and did not concur in the Return of Howard and Watkins, tho he signed the Return. The Constitution and act of November hundred and Ninety nine having constituted the Presiding Judges, in the several election Districts, a Tribunal to determine who are elected, and to make Return thereof to the Executive, give the Power, impliedly, in our Judgment, to a majority of them to decide. We therefore advise the Governor to issue a Commission to Henry Howard, who is returned, by a Majority of the Judges, only elected.

M. Buchanan
Arthur Shaaff
John Davidson
Jon. R. Wilkie

To which opinion the Honble James Thomas dissent, being of opinion that all the Judges should have returned Howard and Watkins only elected, before the Governor can issue a Commission to Henry Howard.

The Board received the Return of the Election of Sheriffs from Allegany County, declaring John C. Beatty and Thomas Cromwell only elected. Whereupon Commission issued to John C. Beatty as Sheriff of the said County.

To read the Proceedings

Ninae Pinkney