

That he should not add anything to what had been already said as to the proper time for hearing the appeal.

Mr. Rogers reargued the point at length. The Chief Justice then said he should like to know whether the point was insisted on by both of the counsel for the respondents.

Mr. Brown stated that all he meant to say was that it would be personally gratifying to him if the highest court of the State could dispose of the main question now; which is, whether or not, on such a case as is here presented, it would be competent for the Superior Court of Baltimore City to prevent by injunction the citizens of Baltimore from voting at the very important election to be held on Wednesday next, but he did not mean to waive any of the rights of the respondents or to differ from his colleague.

The Chief Justice, after consultation with his associates, said a majority of the court are of the opinion that this appeal cannot be heard at the present term. It is clear that answers in the case were filed before the order refusing the injunction was passed. Whatever might have been his opinion if the question had been presented for the first time, the question had already been passed upon in the case of Steigerwald and Winans. The answer having been filed, it is to be presumed that the judge below considered it. It was his duty to have done so, and we cannot impute to him any neglect of duty. Under these circumstances, he thought the appeal should be placed on the docket of the next term.

Judge Bartol said that he dissented from the opinion of the court; that it was true that the case at bar came within the opinion in the case of Steigerwald and Winans, but that he had always considered the court in error in their ruling in that case, and he was in favor of reversing a decision when he believed it erroneous. He gave his reasons at length for not concurring in the opinion of the court in the case of Steigerwald and Winans.

Judge Crain said he could not concur in opinion with the Chief Justice. Injunctions are generally granted *ex parte*, and the provisions of the code were intended to apply to a refusal to grant such injunction—it was to remedy an evil, equally great, whether the answer was filed or not. If he had sat in the case of Steigerwald and Winans he