

January following, this Committee heard contestants' counsel on this point, and decided adversely to them, on the ground that the House had already settled by its refusal to adopt the order of the 18th of January, that the Committee should not go to Baltimore.

The great advantage accruing to the respondents from this mode of argument is manifest, but whether the House and its constituents will be satisfied with its fairness, or the justice of the course adopted thereunder remains to be seen.

That the Constitution both confers the power, and imposes the duty upon the House to examine into, and decide upon the qualifications and election of its members; and that this power and duty is entirely exclusive and independent of, and superior to any Act of Assembly, and can be properly exercised whether or not any proceedings have been taken under Article 35, of the Code of Public General Laws, scarcely admits of argument.

Inasmuch, however, as the majority of the Committee decided that the Article 35, just quoted, was the exclusive law of this case, and thereby shut out the most important evidence, it may be well to embody here as a part of this report an extract the brief of the memorialists filed on the occasion above referred to, viz: the 26th day of January last, and which it is submitted, is conclusive of the question both on principle and authority. Whatever objections may be urged to the possession by the Committee of such powers must be founded on Art. 35, Secs. 55 to 65, inclusive, of the Code of Public General Laws. As to these Sections it is submitted:

1st. That the construction most unfavorable to the memorialists would prohibit only the taking by the Committee of the testimony of witnesses; for Secs. 63, 64 and 65, which admit in evidence properly certified copies of public documents, and provide for sending the ballots to the Speaker, are *premissive* only, and cannot possibly be held to forbid the House or its Committee from inspecting the original documents, or the ballots in their place of legal deposit. These sources of information are as open to the Committee as they were before the Act of 1844, ch. 284, became law; and Art. 20 of the Bill of Rights is as applicable to a case of contested elections as to any other.

2nd. That consideration of the language of Sec. 62, and comparison with that of Secs. 57, 60 and 61, shows that examinations is used therein as the equivalent of depositions, and that the true effect of Sec. 62, is, therefore, not to exclude from the Committee the testimony of witnesses taken *viva voce* before that Committee, but to admit their depositions taken in the manner prescribed by law, in analogy to