

the effect of Art. 37, in respect of Courts of law. The history of the Act of 1844, and the evils it was intended to remedy strongly support this view.

3rd. That if Sec. 62 be construed as forbidding the House from according to these memorialists the relief they have prayed, it is in direct contravention to Art. 3, Sec. 19, of the Constitution of this State, which makes each House judge of the qualifications and elections of its members, with power to determine the rules of its own proceedings, and to Sec. 24, of the same Art., which enables the House of Delegates to inquire on the oath of witnesses into all complaints, and to send for persons whom they may judge necessary in the course of their inquiries, and if valid when originally enacted in 1844, it has been since thrice repealed by the successive adoption of Article 3, Sections 12 and 28, of the Constitution of 1851, Sections 18 and 23 of the same Article in the Constitution of 1864, and the Sections above quoted of our present Constitution.

That the Constitution has conferred upon the House of Delegates the power to inquire into these cases in the manner suggested by the memorials, cannot be doubted. Can this power be taken away by the Legislature? The House of Delegates is not the Legislature, but only a part of the Legislature. The Legislature can no more deprive the House of Delegates of one of its Constitutional powers than it can deprive the Governor of one of his Constitutional powers, or fix a prescribed form for the exercise of such power, when the Constitution has left him free. Nor does the fact that the House of Delegates has participated in the enactment of a law which infringes upon one of its Constitutional powers render such law valid, any more than would the participation of the Governor, by affixing his signature render valid as against him, (and still less as against his successor) an Act of Assembly which infringes upon the Constitutional power of the Executive. Suppose the Legislature should undertake to provide, that no pardon should be granted, except upon evidence taken before a Justice of the Peace, would such a law be valid?

But this precise question, as to the powers and duties of this House, independent of any Act of Assembly, to examine into, and decide upon the election, and qualifications of its members, has been considered and settled at the Session of 1864.

See Document "N" House of Delegates, 1864.

Now, it must be remembered as appears from the record, that this brief of the memorialists was filed at the committee's request, communicated to the contestants on January