

ses, even tending to show any want of legality in the appointment of the judges of election, although this charge was made with quite as much solemnity and confidence as either of the others. We therefore declare, it as our opinion, that if there were no other evidence in the case, except that offered by Mr. Jarrett, Mr. Purnell's possession of his office ought not to be disturbed by this House.

But the evidence produced by the incumbent greatly strengthens the undersigned in this opinion. Mr. Jarrett having failed to attempt a scrutiny of the polls in the city of Baltimore, Mr. Purnell asked leave to do so, and to extend the examination to the counties of the State, alleging that he could prove numerous frauds and illegalities in those returns. This averment he demanded an opportunity of sustaining by proof; but this request was overruled by the majority of the committee upon the plea of want of time. That he was entitled to enter upon this investigation, it seems impossible to deny. Mr. Jarrett was allowed to offer evidence in reference to frauds in the city of Baltimore, because he alleged he could prove them. Mr. Purnell alleged with equal sincerity that he could prove bribery, violence and frauds in many of the counties of the State, and he should have been allowed the opportunity to do so. It was evidence clearly germane to the enquiry, and the House of Delegates cannot decide this case against Mr. Purnell in its absence without a shameful denial of justice.

Such an application is always granted by election committees, when demanded by the parties, and Purnell was entitled to it as necessary to a fair and impartial trial of his case, according to the laws of the land, as guaranteed to him by the Bill of Rights.

In the case of McFarland vs. Culpepper, Clark & Hall, 233, McFarland proved that the sitting member Culpepper, had received many illegal votes, and the committee say: "from the testimony it appears that Culpepper is not entitled to his seat, he not having a majority of the votes legally taken, but though McFarland appears to have a large majority of votes taken according to law, yet the committee are of opinion that the truth of this is doubtful; they are the more confirmed in this opinion from the sitting member having expressed his opinion, *that if he had time allowed him to make a scrutiny*, he would prove the election held in the other counties were also not conducted according to law."

Mr. Purnell then requested leave to enter upon a scrutiny as to Baltimore city alone, offering to produce the tickets voted, and the poll books, and to prove by respectable witnesses, that he received more than enough *legal* votes in Balti-