

imagine it will not be said. that they could arrest the Return and bring it before them for Decision by certiorari. or that they could controul the Justices by Mandamus. Before they did so. they must leave their own province and trench upon that of others. But admitting that this power of interference exists in the General Court to its utmost Extent (altho we are satisfied they can in no shape interfere) what does it prove? Not, that we also could interfere surely; and, if it does not prove this, it proves nothing to the purpose. For still the power of the Justices under the Constitution would with a View to any interposition on our part remain superior and obligatory. -

In this View of the Subject we think the act of 1777 (even if it embraces the case) cannot be taken into Consideration - because, if it gives us a power to vacate or alter the Decision of the Magistrates, it is contrary to the Constitution and void. - What is the Nature of the power vested by the Constitution in the Justices? - a final and conclusive one. - (Does the act of 1777 leave the power as it stood before? - If it does it is a dead Letter. - If it does not the Constitution is altered by it. - An Authority to decide absolutely and definitively. is different from and greater than, a power to decide in the first Instance only. - A power to do an indefeasible Act is different from, and greater than, a power to do a defeasible one. - By the Constitution the power of the Justices was paramount, absolute, and definitive. - by the Act of 1777. it is sunk into an underling and subordinate Authority. - Is not this to change the Constitution? It is said indeed. that the Constitution is not impeached. because the Justices are not in so many words. made the exclusive Judges. - But they are made the only Judges. and so far as depends on the Constitution their Jurisdiction is exclusive. There are no positive words to make the House of Delegates &c the exclusive Judges of their Elections. and yet they certainly are so. and a Law giving an