

appeal from their Decision would doubtless be against the Constitution. To give a power to one Man or Body of Men is to give it exclusively if nothing is expressed to the contrary. - When the form of Government ordained that the Executive should have the appointment of certain officers. was it necessary, in order to make the authority exclusive, to add that no other Body should exercise or controul it? - When it authorized the General and County Courts to appoint their Clerks, did not the power thus affirmatively communicated exclude all the rest of the world? -

In the present case. the Constitution by affirmative words devolved on the Justices an authority of a certain Nature and Extent. - Can you change the Qualities of that authority. can you diminish from it in the smallest particular. can you impair its Efficacy or weaken its operation without infringing the Constitution? - The Constitution annexed a certain Consequence to the Exercise of this Power i.e. that a Commission should issue according to the Return. -

The Act of 1777 destroys that Consequence. if the Executive should differ in opinion from the Justices. - for without the Act of 1777 it will be admitted that a Commission must go upon this occasion to Jones. -

To compare the power of the Justices to that of the Sheriff in the Election of Delegates. and to argue from this Comparison that the power of the Justices is not final. - is to make Resemblances where none exist for the purpose of justifying Error. -

A Sheriff is not made the Judge of Qualifications. and altho he is made the Judge of a Delegates Election. yet an express Authority to decide on the whole Subject is afterwards given to the House of Delegates. - There is a Negative put upon the Sheriff's power. by a Communication of it to a different Tribunal. - Between that Tribunal indeed and the Judges of a Sheriff's Election, the Analogy is striking. - Their Authority is created by almost the same Words. - and if one is complete and exclusive so is the other. -

What is meant by an exclusive Power? - we presume it must be that, in which none others participate. - which resides solely in a particular Man or Body of Men. - Is not the power of the Justices by the Con-