

*From the Federal Republican.*

Our opinion is requested upon the following points :

I. Whether Mr. Hanson and his friends, under the circumstances in which they found themselves in Baltimore on the 27th of July last, were justifiable in law in repelling by force the attack made upon them, and in killing the assailants upon the ground of self-defence.

II. Whether the presentment against Mr. Hanson for man-slaughter, and the indictment which will be found on it, can disqualify him in law for a seat in Congress.

On the first point we hold it to be clear law :

1. That Mr. Hanson had a complete legal right to exercise in Baltimore the business of

publishing a news-paper, or to distribute it there, when published elsewhere; being liable to indictment if he published any thing contrary to law.

II. That every man, in the prosecution of his lawful business, has a right to defend his house and person by force if necessary, against unlawful violence; and to provide himself before hand with the means of defence, if he should have good reason to apprehend such violence.

III. That consequently, as Mr. Hanson had good reason, from what had happened to his office, to apprehend such violence, he was justifiable in law in furnishing himself with the means of repelling this violence should it be attempted.

IV. That the attack on Mr. Hanson's house having been made with stones and other dangerous weapons, and with the avowed purpose of breaking and entering it, for an unlawful object; and the house having been actually broken, and in part entered before any resistance was made, or any provocation given from within, he and those with him had a legal right to kill the assailants in self-defence; that being the sole remaining mean of protecting their own persons from violence, and indeed of saving their own lives.

The second point is too clear to admit of the least doubt. The constitution is explicit. It prescribes the qualifications for a seat in congress, and consequently the disqualifications. To those found in the constitution none can be added; and to be under presentment or indictment for any crime whatever, is not one of the disqualifications to be found in the constitution. Even conviction for an infamous crime would not be a disqualification; though if the crime were committed, and perhaps if the conviction took place, after the election, it would be a good ground of expulsion.

But an indictment is only an accusation, the truth or falshood of which is to be established at the trial. To admit a mere accusation, which may on trial appear to be false, as a disqualification for a citizen to be elected as a member of congress, would be equally contrary to every principle of justice, law and common sense. It would be also of a most dangerous tendency. Very slight testimony will often induce a grand jury, and properly too, to put a man on his trial, by finding a bill against him. No defence can be made before them. The party accused cannot appear or produce his witnesses. Consequently, the grand jury, for the most part, can hear but one side. Even where they send for witnesses to explain the matter more fully, it will often remain doubtful; and if the facts or the law appear doubtful to them, they have a right, and perhaps it is their duty, to find a bill; to the end that a more complete investigation of both may take place, in the trial before the court and petty jury.

It is easy therefore, to perceive, how readily a candidate might be excluded by a profligate competitor, if an indictment were a disqualification. A single false witness, fabricating a plausible tale, might induce a grand jury very honestly to find a bill; and this bill would disqualify the candidate. Nothing of this sort has taken place, or can be suspected in the present case, but a principle so liable to abuse ought not to be admitted.

It is however, sufficient to state, which we do with confidence, that the constitution and the laws preclude every idea of such a disqualification.

*Robert G. Harper,*

*Philip B. Key,*

*Walter Dorsey,*

*Thomas Buchanan.*

Baltimore, Sept. 30, 1842.