

The undersigned admit that a person who has committed any of the acts specified by the fourth Section of Article first of the Constitution, is declared by that instrument disqualified to hold office. But the present inquiry turns upon the point whether there is proof sufficient before this House that the incumbent has done any of those acts to enable its members acting as judges upon their oaths to find such disqualification.

Notwithstanding it was incumbent upon the contestant to prove the affirmative of the proposition he made no attempt to introduce any evidence to sustain the assertion by calling any one of the thousands of citizens of the circuit to establish what could easily have been proved, if the fact was susceptible of proof, that Mr. Franklin had really transgressed his duty as a loyal citizen in any of the particulars enumerated in the Section. It is in evidence that the incumbent has sworn that he has not offended in these respects, and the oath of no man has been produced by the contestant to contradict him. The only evidence of witnesses upon this point is that of Messrs. Richardson, Upshur, and Covington, who were examined by Mr. Franklin.

Mr. Richardson was the gentleman whose name was found in the Registration book as having testified before the Registers against Mr. Franklin, and he was examined to ascertain what he had really said before them. He proved that he heard Mr. Franklin make a speech in 1861, as testified to by Mr. Lecompte, before the Registers, but there is no proof of the character or subject of the speech, and that he heard him in 1861, in a conversation with Mr. Wilson, argue that there was a constitutional right of secession. But he also testifies that Mr. Franklin did not claim to be a secessionist, and he has heard him claim since, that he never was a secessionist. Mr. Upshur proves that in frequent conversations with Mr. Franklin, he always heard him express himself as opposed to the doctrine and expediency of secession, and Mr. Covington testifies that in the only conversation he had with Mr. Franklin before the war, he denied the right of a State to secede.

On cross-examination, these witnesses prove that during the war they never heard Mr. Franklin rejoice at a Union victory, or lament a Confederate defeat. This is the amount of the *entire evidence* of witnesses on the point.

It leaves it doubtful whether Mr. Franklin was properly understood by Mr. Richardson as to the right of secession. But suppose the House consider the point proved, are they prepared to say that the mere avowal five years ago of the abstract right of secession is proof of present disloyalty? If s , where stand the host of men, recognized as firm loyalists