

now, who in 1861 did not hesitate to avow themselves through the press and elsewhere, as convinced of its constitutionality? Nay, many men at that day, who have since been impetuous in their zeal for the triumph of the Union cause, actually contended for the expediency of the secession of the South. Without mentioning instances at hand in our own State, this House cannot forget that Mr. Greeley advocated secession at that time in its broadest terms; but it would hardly be contended that he was too disloyal to hold office in this State. That Mr. Franklin did not lay bare his thoughts to three individuals in the circuit, as to defeats or victories, is certainly the scantiest description of proof of disloyalty; and even if he, like many other good citizens in this and all other civil wars, saw cause for mourning in every clash between armies in which brothers were arrayed against each other, and preferred to forbear expressions of exultation before all he met at the sad spectacle, he only demeaned himself, as many of the truest patriots did under the same circumstances. Would any jury anywhere, upon no other testimony than this, declare on their oaths, that the person, whose acts were thus submitted for their verdict, was proved to be disloyal so as to be incapacitated to hold any office in the State? That an *impartial* jury would so decide, the undersigned cannot for a moment believe.

The *only* other evidence relied on by the contestant to support his charge of disqualification, is the action of the Registers in excluding Mr. Franklin from voting on the ground of disloyalty. We have given Judge Spence's argument in his own language, and it amounts to this; that because the Registers excluded Mr. Franklin from voting, he is therefore disqualified to hold the office of Circuit Judge. And this brings the undersigned to inquire what effect has this exclusion upon the right of Mr. Franklin to hold the office?

In our opinion, the second section of Article first of the Constitution has expressly specified the extent to which the action of the Registration officers shall be received as evidence. In that section it is said, "*which registration shall be evidence of the qualification of said voters to vote at any election thereafter held,*" not of their qualification *to hold office.*

But the fourth section of Article first, was in no respect to be operative, even as to the right of a party *to vote* until the Legislature should pass a law to carry this provision of the Constitution into effect. Section second declares that "no person shall be excluded from voting until the Legislature shall have passed such a law and the same shall have been carried into effect." And by section fourth, of Article third, the General Assembly is directed to pass registration laws for the preservation of the purity of elections, &c., "and to *make*