

The Magistrates Judges of the Qualifications of the Candidates.

By the word Candidates I do not understand any thing Technical so as to apply to all persons offering as such or prescribing the time to which the enquiry is to relate but merely as a descriptio personarum inasmuch as no person can be the subject of such enquiry but one that was a Candidate either by his own offer or by the ballots of others. I think the letter of the Constitution sufficiently explicit in favour of my opinion and the spirit and intention of it is most strongly so.

The intention of the Constitution in requiring certain Qualifications will certainly be as fully and substantially complied with by their taking place on the 4<sup>th</sup> of October as on the 29 of September.

No argument can arise on either side respecting improper Characters because ballots may be put in without any previous nomination of Candidates.

Both the spirit and the letter of the Constitution are in favour of a Popular Election of Sheriffs. This Privilege ought not to be taken from them by any slight objection or by any thing short of absolute demonstration.

The present Question involves the Privileges of the people as well as the interest of the contending parties.

If the determination is in favour of Mr. Jones it has the effect of Commiserating a person not chosen by the people. I must repeat that the Constitution in declaring what persons shall be Eligible means to declare what persons may be Elected and that the words are synonymous. Therefore that no Qualification is required while a person is only a Candidate.

Being of opinion that the Judges have mistaken the Constitution and from that cause have omitted the person who had the majority of votes and inserted others in their return and finding this error apparent on the face of the return rendered by them I think those causes sufficient to set aside the return. The 5<sup>th</sup> Mode suggested, is to set the return aside on account of the omission of any material part of the declaration required and for want of a more complete Certificate of all the Judges.

I do not think it necessary to determine whether the form of the return or even a substantial part of it would be material in a case that was not disputed. But where a Complaint is made and those points are insisted on it is incumbent on the Executive to attend to them.