THE EVENING NEWS.

Tuesday, July 21, 1874.

CONTESTED ELECTION.

TERRITORY OF UTAH.

Geo. R. Maxwell vs. Geo. Q. Cannon.

Argument of Halbert E. Paine, Counsel for Sitting Member.

(Before the Committee on Elections of the House of Representatives of the United States, Washington, D. C., 1874.)

(CONTINUED.)

But this is not the whole of the counsel's extraordinary demand. There being no evidence in this case as to the number of votes returned for either of the parties from any particular precincts, no evidence at all as to the number of votes except the Governor's certificate, which constitutes the credentials of the sitting member, and shows that he received 20,969 and the contestant only 1,942 votes, the counsel demands that you shall cast this certificate aside, as based on fraud and wholly void. But that leaves the contestant himself hanging by the eyelids. For that destroys the only proof in the case that the contestant received a single vote. So the learned counsel reverses his guns, and demands that you shall pick up this cast-off void certificate, and read from it the contestant's votes, and his votes only. Like the Texas hunter, he brings his long-range rifle to bear, with aim so exquisite as to kill the buck, if when the bullet reaches him, he proves to be a buck, but miss him if he proves to be a mule.

The council for the contestant makes another and a very violent demonstration against the legality and validity of the contestee's vote. He has unearthed what he calls "*stupendous fraud*" in certain Indian reservations in Utah. He declares this fraud to be "*notorious*" throughout the entire Territory. He says that the Uinta Valley, Sanpete, Corn Creek, Spanish Fork, and Deep Creek Indian reservations were located and surveyed by the Indian agent in Utah Territory; that this was done under the direction of the Department of the Interior, and under authority of the first section of the act of March 3, 1853, to be found on page 238 of the 10th volume of the Statutes at large. He asserts, further, that nothing has been done under the statute of May 5th, 1864, to vacate these reservations; but that all of these five reservations remain Indian reservations, closed by law against the occupation of the whites. He says that, under the decisions of the courts, these reservations can neither be used as places of residence nor of voting. And he lays it down as a legal proposition that persons residing within these reservations have no political rights, and cannot exercise the elective franchise. He asserts that two of these reservations, the Corn Creek and Sanpete, are occupied by white inhabitants in violation of law; that inhabitants of Corn Creek reservation voted for the sitting member at the last election, and have voted at former elections; and that the inhabitants of the Sanpete reservation have heretofore voted like other residents of the Territory. And he earnestly and solemnly declares, to use his own words, that every "vote cast for George Q. Cannon, the contestee, by persons, male and female, residing on and within either of the said five reservations, is a fraud so pervading that it taints the whole vote cast for him throughout the whole Territory. For it is a fraud that the judges of the election and the county canvassers participated in, and which the Governor, by his certificate, permitted and sanctioned, thereby making his election void."

Certainly this charge against Governor Wood, a federal officer, ought not to have been lightly made, however innocent and proper it may be to malign and slander a mere Mormon. But, gentlemen, on this subject the mistakes of the counsel well nigh outnumber his propositions. To begin with, I demand proof that specific returns from voting places on these reservations were received and canvassed by the Governor, as a part of the vote on which he predicated the returns of the sitting member. Until he brings that, he can exclude no returns. But there is no such proof in the record. I demand again that he shall point out in the notice of contest the words which embrace this charge. That he cannot do. On this point the pleadings and proofs are absolutely silent. I might, then, justly and properly refuse to be put on my defense against a charge which makes its first and only appearance in the unsworn and uncorroborated assertions of the counsel. But the errors are so palpable, and the corrections so easy, that I will go out of my way to answer these attacks of the counsel upon the validity of the contestee's title to his seat. In the first place, I ask the attention of the committee to that which the counsel omitted, as well as that which he stated, respecting the act of May 5, 1864, vacating all of these reservations excepting that of Uinta Valley. He gives what purports to be the text of the first part of that act, but he omits two most important words. The language of the act, as he gives it, is—

"SEC. 1. *Be it enacted, &c.,* That the Secretary of the Interior be, and he is hereby, authorized to cause the several Indian reservations heretofore made, *or occupied as such*, in the Territory of Utah, excepting Uinta Valley, to be surveyed into tracts or lots, not exceeding eighty acres each, under the direction of the Commissioner of the General Land Office, and upon the completion of such surveys shall cause said tracts or lots to be sold," &c. (See 13 U. S. Stats. at Large, p. 63.)

(TO BE CONTINUED.)

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60 M Valley, 7¼, 7
160 R & B, 16
110 Eureka Con, 13; 13½; 13¼; 13½, b 30; 13⅝, s 30; 13
200 W & C, 1⅝; 1½
100 Am Flag, 3
320 Belmont, 4½; 4⅞
100 Rye Patch, 1⅜
600 Cherry Creek, 2
400 Mon Belmont, 2; 1¾, b 30
220 Eldo South, 3
100 Eldo North, 2⅛
50 Eureka G V, 5
200 Bellevue, 1⅝
15 Cederberg, 2¼
50 Chariot Mill, 3
165 G Chariot, 8; 8, b 3; 8
150 War Eagle, 2⅝
425 Emp Idaho, 2¾; 2⅞; 2¼; 2½
460 Ophir, 17½; 17
2495 Belcher, 65½; 65; 66; 65¼, b 30; 65, b 30; 64⅞; 64½; 65¼, b 30; 65, b 5; 64⅞
510 Cala, 39½; 39⅝; 40⅛, b 30; 40⅞, b 30; 39½; 39
385 Overman, 27; 26½, b 30; 26¼; 26½; 27, b 30; 26¼
670 Chollar, 55; 54, s 30; 55, b 10; 54½
70 Con Va, 225; 224; 225½ b 5
60 H & N, 43; 43½
240 Savage, 76½; 77; 76⅛, s 30; 76⅞; 77, b 5; 77, b 10
45 Jacket, 74
285 Point, 72½; 72; 72½ b 10
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220 Imperial, 7⅛

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