

# CONTESTED ELECTION.

TERMINUS OF THE  
GEO. R. MAXWELL vs. GEO. Q. CANNON.

Argument of Mr. Maxwell, by Geo. Q. Cannon.

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

(Continued.)

Mr. Justice Story, in his discussion of the subject of the qualifications of Representatives in Congress, says that it would seem but fair reasoning, upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office, it meant to exclude all others as prerequisites; that from the very nature of such a provision the affirmation of these qualifications would seem to imply a negative of all others; that the States can exercise no power to alter, but that they have the right to select, and that they have just as much right, and no more, to prescribe new qualifications for a Representative, as they have for a President; that each is an officer of the Union, deriving his powers and qualifications from the Constitution; and that neither, created by dependent upon, nor controlled by the States; that it is no original prerogative of State power to appoint a Representative, a Senator, or President for the Union; these officers owe their existence and functions to the united voice of the whole, not of a portion, of the people; and before a State can recognize it, it must show that the Constitution has delegated and recognized it; but no State can say that it has reserved what it never possessed. (Story on Const., sec. 625, 627.)

The subject was considered by the House in the contested election cases of Fouke v. Trumbull, and Tully v. Marshall, (1 Bartlett, 189.) The House, in the case of Tully v. Marshall, provided that the judges of the supreme and circuit courts should not be eligible to any other office or public trust of profit in that State, or in the United States, during the term for which they were elected; nor for one year thereafter; that all votes for either of them for any elective office (except that of judge of the supreme or circuit court) should be void; and that the General Assembly or the people should be void.

Each of the contestants in these cases claimed the right to vote, and the thirty-fourth Congress held upon the ground that the votes cast for Messrs. Marshall and Trumbull were void, and that the election was void; not because of any disqualification in the electors who thus voted, but because Mr. Marshall had been elected a circuit judge within the State of Illinois, for a term of years, which term had not expired at the time of the election.

This presented the question whether a State could superadd to the qualifications prescribed for Representatives in Congress by the Constitution of the United States. The committee of elections, in their report, which was submitted by Mr. Bingham, having shown that the qualifications of a Representative under the Constitution are, that he shall have attained the age of twenty-five years, shall have been seven years a citizen of the United States, and, when elected, an inhabitant of the State in which he shall be chosen; and that it is a fair presumption when the Constitution prescribes these qualifications as necessary to a Representative in Congress, it was meant to exclude all others. And they conclude that it is equally clear that a State of the Union has not the power to superadd qualifications to those prescribed by the Constitution for Representatives; to take away from "the people of the several States" the right given them by the Constitution to choose "every second year," as their representative in Congress, ANY PERSON who has the required age, citizenship, and residence; that to admit such a power in a State is to admit the power of a State to alter the choice of a representative by the people; that the assertion of such a power by a State is inconsistent with the supremacy of the Constitution of the United States, and makes void the provision that that Constitution "shall be the supreme law of the land," anything in the Constitution or laws of any State to the contrary notwithstanding. They submit that the position assumed by those who claim for the States this power, that its exercise in nowise conflicts with the Constitution or the right of the people under it, to choose any person having the qualifications therein prescribed, has no foundation in fact; that by the Constitution the people have a right to choose as representative any person having only the qualifications therein mentioned, without superadding thereto any additional qualifications whatever; that a power to add new qualifications is certainly equivalent to a power to vary or change them; and that an additional qualification imposed by State authority would necessarily disqualify any person who had only the qualifications prescribed by the Federal Constitution.

[TO BE CONTINUED.]

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It makes more and better Cement

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It is equal to the best of the

quarries of the Empire. Very cheap for

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And see. Try it for yourself.

I will deliver it to any part of the city, or

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1874

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U. S. LAND OFFICE.

Salt Lake City, U. S. T.

April 1874.

COMPLAINT having been entered at this

Office, by William B. Cole against

Franklin Goodspeed, for obtaining his

Homestead Entry, No. 1118, dated May 4th,

1873, upon the north-west quarter, Section

28, Township 3 South, Range 1 East, in Salt

Lake County, Utah Territory, with a view

to the cancellation of said entry; the said

parties are hereby summoned to appear at

the Office of the United States Marshal, at

10 o'clock a. m., to respond and furnish testimony

concerning the same. Very truly yours,

WILLIAM B. COLE, Register.

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# TREES.

50,000 Trees

Of various kinds, for sale,

From 25c. to \$1.00 each.

Also Roses, Garden and Greenhouse

Plants, at my

NURSERY IN THE SIXTH WARD,

Two Blocks South and Two

West of the Court House.

All Trees Warranted true to name.

THOMAS FENTON.

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LOCKWOOD & HANNINGTON,

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Also, PIER, MARTEL, and other kinds of

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Our Goods are kept by Z. C. M. I. and

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BOOTS AND SHOES,

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# WILEY, WICKES & WING,

Importers and Dealers in

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# RUSSELL & MANUFACTURING CO.

Manufacturers of

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Sole Agents for National Sewing Co's

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1874

# LeRoy W. Fairchild & Co.,

GOLD PENS,

Pen and Pencil Cases,

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Medal for Best Gold Pens awarded

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The above goods are sold by James

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# JAMES WILDE, Jr., & Co.,

Manufacturers and Jobbers of

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Spool Cotton

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A WORK OF THE CHARACTER INDICATED BY THE ABOVE TITLE IS UR-

gently demanded by public necessity. A twelvemonth ago, when the undersigned

announced his intention of issuing such a work, another directory was presented to

the public; and they immediately withdrew their subscription. There being no propo-

sition to publish a Directory from any other quarter at present, and the importance of

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DIRECTORY OF SALT LAKE CITY AND UTAH TERRITORY,

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The DIRECTORY OF SALT LAKE CITY AND UTAH TERRITORY FOR 1874, will contain

A General Directory of Salt Lake. It will also contain a Chronological

History of the Territory; a description of the various Mining

Districts, with much interesting

and reliable information relative

to the leading sections and their de-

velopment and to the Agricultural

resources of the Territory.

Canvassers soliciting Subscriptions and Advertisements will call upon business

men and others in a few days.

It is respectfully requested that every facility be extended to the canvassers for the

general and business directory, by furnishing them correct information as to names and

residences.

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LIME!

In this vicinity gives such entire satisfaction.

Get the

BEST.

For laying your foundations, for rock work, for laying bricks, and for every other

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BY BUYING THEM A PAIR OF

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P. S.—We stamp every pair. None are genuine unless they have our name on them.

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Manufacturers of the celebrated

ST. LOUIS CUSTOM BOOTS:

EVERY PAIR WARRANTED.

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THESE WELL-KNOWN WAGONS NEED BUT LITTLE SAID IN THEIR FAVOR.

They are made of the best material, and they are the favorite

vehicles of the people. They are thoroughly warranted for one year.

SIZES KEPT IN LARGE STOCK.

Z. C. M. I., East Branch,

SELL THE BAIN WAGON AT PROVO.

At Salt Lake Prices.

We call their attention to the

WALTER A. WOOD MOWING AND REAPING MACHINES,

Which we sell and are warranted to give satisfaction. Also the BEST

SEWING MACHINES in the market.

We have the Largest Stock of Buggies, Carriages and Light Spring Wagons

in Utah and sold for the lowest money. Call and see the extensive stock of good work at

Lower Prices than any house in Utah, to which we call special attention.

We have just completed a Large Treeing Warehouse, for the accommo-

dation of the above goods.

Bain Wagon Depot—First Yard South of Theatre.

SEBREE & ROBERTSON.

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SUGAR REFINING CO.

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Manufacturers of

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SUGAR!

White and Yellow Coffee Sugar,

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Sacks.

Golden Syrup and Syrup Molasses,

In Barrels, Half Barrels and Kegs. All

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Orders promptly executed.

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