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Lamar vs. Wilkins et al.

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LAMAR vs. WILKINS et al.

MANDAMUS: *When ineffectual, will not be granted.*

*Mandamus* will not be granted where it would be fruitless and ineffectual to afford the relief sought.

PETITION for *Mandamus*.

*Garland & Nash*, for petitioner.

*Montgomery*, Attorney General, for respondents.

SEARLE, J. This is a petition for a *mandamus* against Wilkins and others, as registrars of Union county, filed on the 26th of January, 1870.

The plaintiff, after alleging in his petition such facts as to show that he is a qualified elector or voter under the law, states, that being found qualified as an elector, his name was

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placed in the registration books for his voting precinct in Union county by the president of the board of registration; that afterwards without his knowledge, until after the adjournment of the board of review, his name was erased from said books by the defendants while sitting as such board, etc.; and he prays that a writ of *mandamus* issue against said defendants as registrars, etc., requiring and commanding them to place his name upon said registration books as a qualified voter, etc.

It has been well settled that a *mandamus* will not be granted where it would be fruitless and ineffectual to relieve the petitioner. Here we are asked to grant a *mandamus* against registering officers whose terms of office have expired (they were commissioned in 1870, and held two years under the provisions of the law); whose books are now forever closed, and whose lists of voters, made by them in 1870, cannot now be used by officers of elections in ascertaining the persons legally qualified to vote. It is unnecessary to consider the sufficiency of the grounds as set forth in the petition upon which the *mandamus* is asked; for the granting of it now would be clearly unavailing in affording the petitioner the relief sought, even if it were a proper case in other respects for the issuance of the writ. For this reason *mandamus* is refused and the petition dismissed.

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