

be admissible, and the marriage may be established like any question of fact."

MR. FRELINGHUYSEN. I intended to modify that part of the bill by making it apply only to the future; but under the view which is taken by those who are opposed to the bill, I submit to the judgment of the Senate without making any opposition.

The amendment was agreed to.

MR. SARGENT. On page 5, line 38, after the words "district court," I propose the following amendment:

"Nothing in this act shall be construed to impair the authority of probate courts to enter land in trust for the use and benefit of the occupants of towns in the various counties of the Territory of Utah according to the provisions of an act for the relief of inhabitants of cities and towns upon public lands, approved March 2, 1867, and an act to amend an act entitled 'An act for the relief of inhabitants of cities and towns upon public lands,' approved June 8, 1868, or to discharge the duties assigned to the probate judges by an act of the Legislative Assembly of the Territory of Utah entitled 'An act prescribing rules and regulations for the execution of the trust arising under the act of Congress entitled 'An act for the relief of the inhabitants of cities and towns upon the public lands.'"

There is no county court in Utah. The act of Congress provides that the county court shall execute this trust for the benefit of the towns. By an act of the Territory of Utah, however, for the purposes of that act of Congress the probate courts are made county courts. Of course if we repeal all jurisdiction of probate courts, this must be reserved. I believe this is accepted by the gentleman who reports the bill, and there is no objection to it.

MR. FRELINGHUYSEN. I have made such inquiry as I could in reference to the propriety of that amendment, and as far as I can learn it is not objectionable.

The amendment was agreed to.

MR. SARGENT. On page 8 after the word "challenges," in line 53, of section 4, I move to strike out all down to and including the word "same" in line 57. The words to be stricken out are:

"And in the trial of any prosecution for adultery, bigamy, or polygamy, it shall be a good cause of principal challenge to any juror that he practices polygamy, or that he believes in the rightfulness of the same."

This amendment being adopted makes this bill as it was intended by the Senator from New Jersey this morning under all the circumstances of the case, so that it shall give efficiency to the courts there, untangle them in their civil and criminal proceedings, and leave the question of polygamy untouched for future consideration.

MR. FRELINGHUYSEN. It had been my purpose to restrict that provision to future crimes. It is insisted, however, by those who are opposed to the bill that it must be taken out of the bill entirely, and rather than that the bill should fail and that there should be no law in Utah, I do not oppose the amendment.

The amendment was agreed to.

MR. SARGENT. I have one other amendment and it is the last. I am obliged to the Senator for his courtesy. On page 8, after the word "challenges," in line 53, I wish to insert "except in capital cases, where the prosecution shall be allowed five and the defense fifteen challenges."

When a man is being tried for his life three challenges is rather limited. I think there is no State in the Union that does not give at least fifteen, and some are even more liberal than that. I propose that the prosecution shall have five and the defense fifteen.

MR. FRELINGHUYSEN. I move to amend that amendment so that the prosecution and defense each shall have fifteen, if that is the number. They ought to have the same.

MR. SARGENT. That never is so under any law I ever heard of.

MR. FRELINGHUYSEN. O, yes.

MR. SARGENT. I do not know that there is any special objection to the prosecution having fifteen. The main point is that the defense shall have fifteen. I will assent to that modification, so that it shall be fifteen.

The PRESIDING OFFICER. The amendment of the Senator from California will be modified so as to read "except in capital cases where the prosecution and defense shall each be allowed fifteen challenges."

The amendment was agreed to.

MR. INGALLS. I offer the following as an additional section to the bill:

"That in all cases in which any person was deprived of his or her property in the Territory of Utah prior to the year 1860 by the actions of the Mormons; or who before that time was forced to leave the Territory in consequence of the hostility of the Mormons, and whose property was taken, used, disposed of, or appropriated by the said Mormons, or who suffered any deprivation of property or personal wrong at the hands of said Mormons, he or she, or his or her heirs or legal representatives shall have the right to sue and recover for such losses and injuries to person or property against the individual Mormons, or against those who then had control of the Territory, or they may sue for and recover the identical property, real, personal, or mixed, of which the original party was deprived as aforesaid, the same in all respects as if the suit had been brought at the time the wrongs were committed: *Provided*, That such suits shall be brought in the proper courts within three years from this date."

It is well known, Mr. President, that in the disturbances in this Territory prior to the year 1860 a large number of people were expelled and their property confiscated and otherwise disposed of. Since that

time there have been no courts to which parties could resort for the enforcement of their rights or the redress of their wrongs, and by lapse of time now that the courts are established they will be barred. The intention of this section is simply to remove the bar of the statute of limitations which has been enforced by the act of the Mormons themselves and to allow parties to sue in the courts for the recovery of their property or for the redress of their wrongs.

MR. SARGENT. Will the Senator state what the statute of limitations in the Territory of Utah is?

MR. INGALLS. I do not know what it is.

MR. SARGENT. I think I am very reliably informed that there is no statute of limitations at all in the Territory of Utah. In that case the amendment is entirely unnecessary. It raises a great many questions that I think would be necessary to be considered by the Senate. The amendment cannot pass without discussion. It embraces too many propositions of a novel character. There is no necessity for it, for the reason I have mentioned. I do not think any Senator can controvert the proposition which I make, that there is no statute of limitations, and has not been, in the Territory of Utah. That would dispose of any necessity for the amendment, and would answer the reason which is given by the Senator himself. The proposition itself, however, is of very doubtful character. It may be a question whether under it old hatreds will not be stirred up, whether on false pretensions persons may not be persecuted who are entirely innocent, and whether persons who are not at all responsible for the actions complained of may be held liable for them. If I understood the reading of the amendment it provides that anybody who had control in Utah in the ordinary sense, who held any office of power there, should be responsible for the acts of any one, no matter who, that was lawless in any part of the Territory extending for years back.

Certainly provisions of this kind ought not to be incorporated in this bill. If there was any necessity for anything of the kind, if anybody complained that the courts of Utah which are opened by the bill have not been open all the time, so that he could begin a suit, or that he is prevented from so doing by any statute of limitations, then we might give it a respectful hearing; but it will take too much time to justify us in adopting this amendment in the loose manner in which it is drawn.

MR. INGALLS. It is a matter of public notoriety that the courts in Utah have been closed during the period to which the amendment refers, and the bill that is now under consideration is for the express purpose of providing courts in Utah by which these questions may be tried. So far as the questions involved in the amendment are concerned, I would state to the Senator from California that they are neither numerous nor novel. It is simply and purely a question whether the bar of the statute of limitations shall be removed as against the persons by whom these crimes were committed; and the difficulty has been that the courts having been closed there has been no forum, no tribunal to which those parties could apply for redress. It appears to me that the amendment is so humane, it is so just, it is so in accordance with all the principles of law that there ought to be no discussion whatever in the Senate upon it. It should be adopted without controversy.

MR. THURMAN. I must confess my surprise that such an amendment as this is pressed on this bill, and I should be more surprised were it not that I have a very firm conviction that one of the great objects of this bill, if not the greatest object of it, is to stir up litigation whereby certain gentlemen of the profession in Utah may make money. I believe that but for that special interest of stirring up litigation in that Territory, we should hear nothing of this bill.

We hear a great deal about a failure of the courts there and of a want of courts. If there is want of courts there, it is the want of the officials. There is law enough for courts now, but it seems that some gentlemen must have an act passed that shall give rise to litigation in Utah; and here is a proposition to go back to 1860, to go back fourteen years: to stir up suits for assaults and batteries, for trespass, and the like, suits that in every State of this Union that has a civil code are barred in one or two years—to go back and take them up and revive the causes of action against not simply the wrong-doers, but to create a cause of action against those who were in the government of the Territory whether they were the wrong-doers or not; to revive actions absolutely barred. Where does the Senator get his authority to do that, I should like to know?

MR. INGALLS. The Senator, certainly, as a lawyer, must be familiar with the facts that if the Mormons themselves have kept the courts closed and refused parties the forum in which these matters can be tried, when we now attempt to institute courts and provide for the administration of justice, these claims ought certainly to be sometimes tried and heard.

MR. THURMAN. It will not do to say that the Mormons have refused a forum. Ever since 1856 there have been courts of the United States in that Territory, I believe before 1860; courts maintained by the power of the General Government and competent to afford redress to anybody who was wronged in that Territory. This proposition therefore is, as I said before, to revive causes of action that are absolutely barred; and I once more demand of the Senator to know where he finds authority to do such a thing as that? He has no more right to revive a cause of action where the bar has become complete, than there is to legislate that his horse shall become my property. You may before the bar becomes complete, in a case of the statute of limitations, extend that act; but after the bar of the statute becomes complete the Legislature has no power to revive that cause of action.

MR. INGALLS. Does not the Senator admit the fact that the statute of limitations never runs against fraud?

MR. THURMAN. I do not admit any such thing.

MR. INGALLS. It has been established by the Supreme Court of the United States repeatedly.

MR. THURMAN. I do not admit any such thing as that the statute of limitations does not run against fraud. It runs against many cases where there is fraud, actions of

deceit, actions for obtaining money by false pretenses, and a vast variety of cases.

But, sir, that is not the question. The Senator's amendment goes to everything; it goes to the question of an action of ejectment for real estate forsooth when it is as well-settled law in this country as anything can be settled that where the bar of the statute of limitations is complete in respect to real estate, it operates to divest the title of him who has been out of possession and to vest title in him who has had the possession required by the statute. You propose to take a man's property, which is his as much as if he held it by patent from the United States, and to take it by an act of Congress! Surely, sir, it cannot be necessary to back against such a proposition as this amendment unless we are prepared to stir up the very worst state of things that can exist in any country—a universal litigation from one end of it to the other, and that with a feeling on the part of nine-tenths of the people of that Territory that this litigation is part of a persecution they are to endure, and endure perhaps even to the death.

MR. FRELINGHUYSEN. Mr. President, I shall vote against this amendment. There are a great many amendments which have been made to this bill which I have agreed to, not because I thought they ought to be made, but because by reason of the situation of the bill I do not think it is wise when we are within two hours of the end of the session to introduce on this bill new matter which has nothing to do with the great object we have in establishing law in that Territory; and therefore I shall vote against the amendment.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

MR. SPRAGUE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill passed.

PENITENTIARIES.—The act concerning territorial penitentiaries, passed near the close of this last session, transfers the penitentiaries of Montana, Idaho, and Wyoming to the care of the United States marshals for those Territories, according to the relevant act approved Jan. 10, 1871.

The matter stands thus—first those Territories had charge of their respective penitentiaries, then the United States had, then the Territories had, and now the United States resume charge. It is all a matter of money to those Territories. It is said to be cheaper to them to let the U. S. have care of those establishments, and board and lodge the territorial prisoners at so much per head.

## By Telegraph.

### AMERICAN.

WASHINGTON, 30.—Postmaster General Cresswell took a formal leave of his subordinates to-day, and, in a short reply to a resolution of respect and affection presented by them, said that although he relinquished his position without a single feeling of pique or resentment, he left official life voluntarily and without any regret. He would never have retired of his own volition, as he had done, while any imputation against him remained unanswered, but this was no longer the case, and he felt that he had effected every reform which he could hope to accomplish by staying in office until the close of the President's term. He could now confidently challenge any banking or railroad corporation to show a proportional amount of business transacted with a proportionately small loss in comparison with the business of the post office department during his administration of its affairs.

The treasury department employees were considerably agitated to-day, in view of the anticipated reduction of the force; the ladies were particularly disturbed, and collected in groups in various parts of the building discussing the subject. This morning the head of all the bureaus handed Secretary Bristow lists of those to be dismissed. The heaviest discharge was in the bureau of engraving and printing, the services of 375 female employees being dispensed with, leaving twelve hundred persons still employed in that bureau. The scene at dismissal was a sad one, fourteen of those discharged fainted when the announcement was made to them, and physicians were called to their assistance. Forty clerks were dismissed from the second auditor's office, and others will be made to-morrow. It was recommended by the officers of the Bureau that only one of a family be retained, and this recommendation was generally followed. This wholesale discharge will cause

much suffering, which, however, will be somewhat alleviated by the payment of two months' extra salary to every victim of congressional economy. About twenty-five permanent and the same number of temporary clerks were discharged from the interior department, including the patent office, the appropriation for that bureau having been reduced \$20,000. The commissioner has accommodated his business to the circumstances, although he shows that the government will lose largely by the curtailment of expenditure.

NEW YORK, 30.—Theodore Tilton, in an interview to-day, spoke as follows in reference to Mr. Beecher's letter of apology: "The letter was every word of it Mr. Beecher's own composition, it was signed by himself, in his own behalf. I did not demand this apology, and the fact that it was sent to me unasked always added to the reluctance with which I subsequently contemplated making my defense against Beecher. The injurious course by which he permitted his church to indict me before the council, and by which the church and council, together with Dr. Bacon superadded, have fallen upon me, like a mill stone, to crush me to powder. The remainder of his letter bore more heavily upon him than the portion which I quoted; had I printed the whole his friend Tracy would not have said—'I am glad of Tilton's publication.'"

REPORTER. "Many persons believe that the latter part of the letter would have explained away the first part."

TILTON. "If so, then Mr. Beecher is entitled to have it published; it is in his power to publish it at any moment."

REPORTER. "Has he a copy of it?"

TILTON. "I presume he retained one; but if he did not, he has only to ask me for a copy, and he shall have it."

A special to the *Sun* reports that James P. Saunders, a prominent lawyer, was fatally shot in the city court room at Yonkers, N. Y., by Sachman, a gardener, who was defendant in a case he was trying; Saunders is a past grand sire of the Odd Fellows. The assassin was arrested.

CITY OF MEXICO, 21.—A terrible disease of an unknown character has broken out in Ilacoutam, and has become epidemic; the government is assisting the inhabitants, and has adopted measures to prevent the spread of the malady.

WASHINGTON, 30.—Postmaster General Cresswell took a formal leave of his subordinates to-day, and, in a short reply to a resolution of respect and affection presented by them, said that, although he relinquished his position without a single feeling of pique or resentment, he left official life voluntarily and without any regret. He would never have retired of his own volition, as he had done, while any imputation against him remained unanswered, but this was no longer the case, and he felt that he had effected every reform which he could hope to accomplish by staying in office until the close of the President's term. He could now confidently challenge any banking or railroad corporation to show a proportional amount of business transacted with a proportionately small loss in comparison with the business of the post office department during his administration of its affairs.

The Treasury department employees were considerably agitated to-day, in view of the anticipated reduction of the force; the ladies were particularly disturbed, and collected in groups in various parts of the building discussing the subject. This morning the heads of all the bureaus handed Secretary Bristow lists of those to be dismissed. The heaviest discharge was in the bureau of engraving and printing, the service of 375 female employees being dispensed with, leaving twelve hundred persons still employed in that bureau. The scene at dismissal was a sad one, fourteen of those discharged fainted when the announcement was made to them, and physicians were called to their assistance. Forty clerks were dismissed from the second auditor's office and others will be discharged to-morrow.

Chas. T. Conant, of New Hampshire, at present chief of the warrant division of the Treasury department was to-day appointed by the President Assistant Secretary of the Treasury, *vice* Sawyer, resigned.

The internal revenue receipts for the fiscal year, ending yesterday, fall only six hundred thousand short of the estimates, while the customs receipts fall short thirty-six millions; the deficiency is wholly chargeable to the September panic, and to finance tinkering by Congress.

CINCINNATI, 1.—A Negro Woman was arrested at Winchester, Ky., Sunday, for poisoning three children of E. C. Tou, two of whom died; she gave no reason.

WASHINGTON.—The public debt has decreased two millions.

Representative Hale returned to Washington last night, and immediately called on President Grant to thank him for his mark of confidence and friendship in tendering him the appointment of Postmaster General, but at the same time to respectfully withdraw his acceptance of that office. The President expressed regret that Hale had come to that conclusion, as he had anticipated with him pleasant official relations. Hale has been in Altoona a few days. It was thought that he would be able to enter upon the duties of his position to-day, as Cresswell had made his arrangements to retire yesterday. He had recovered in a slight degree from the fatigue incident to a long session of Congress, but the excessive heat of a few days past has so weakened him as to compel him to decline the honor. He will leave for his home in Maine to-morrow to seek needed rest. The cabinet met at half-past ten. Cresswell and all the members expressed regret at Hale's declination.

NEW YORK, 1.—Henry Grinnell, who died yesterday, aged seventy-five, will be remembered as having fitted out two vessels to make search for Sir John Franklin.

Admiral Polo de Barnabe, the Spanish Minister at Washington, sails to-day for Spain.

Roderick D. Entwistle, a compositor, bitten two weeks ago by a dog, died to-day in Bellevue Hospital, of supposed hydrophobia.

According to news from Port au Prince, dated the 17th ult., Gen. Michel Domingue was unanimously elected by the national assembly president of the republic of Hayti.

Rev. S. Bellows, pastor of All Souls Church, in this city, was married in Boston last evening, to the daughter of the Rev. Ephraim Peabody.

By a scientific examination of McCormick, who died recently of hydrophobia, a number of prominent physicians have arrived at the conclusion that hydrophobia is a disease of the nerve centres, and not a blood poison, and that the old claim that the disease is often caused by the excited fears of the victim when bitten by a mad dog is untenable. The recent case of Butler, the dog fancier, who died of hydrophobia from the bite of a supposed healthy dog, he being sceptical as to the existence of such a disease as hydrophobia, and of a three year old child, who recently died from the same cause, being cited as proof that the disease is not the result of an excited imagination.

HALIFAX, 1.—The steamer *Faraday*, engaged in laying the new Atlantic cable, left Halifax a week ago, and intelligence from Picton, just received, represents that she struck an iceberg off Halifax, and is a total wreck.

### FOREIGN.

HAVANA, 30.—To-day, the crown heretofore borne by the flag over the palace of the Captain General, was removed.

A lighter, with a party of forty-five persons on board, was capsized to-day off the village of Cajunar, six miles east of Havana, sixteen were drowned.

MADRID, 30.—The Spanish government has resolved to erect a monument to Concha.

HALIFAX, 30.—There was a heavy fall of snow at Cape Breton Island yesterday.

LONDON, 1.—There is great excitement in Corfu consequent on the elections, which take place on Sunday next; thirty citizens were killed and wounded yesterday by the troops, who were called out to quell disorders. Further trouble is apprehended on the day of election.

A dispatch to the *Standard* from Vienna says, "The British ambassador at Constantinople has tendered his good offices as mediator between Persia and Turkey, in the recently arisen complication. The Porte will send an army to the Persian frontier."