

cause they thought it was wise to do so, to allow the judges, in the first place, to make satisfactory provision, if they could, without invoking any of the forces or opportunities which surround a legislative competition for a choice of districts, and if the judges failed or refused, then, without further legislation by Congress, to confer upon the Legislature the power, and enjoin upon the Legislature the duty, of setting the matter right. That seemed to the committee to be wise, and for several reasons, to one or two of which I will refer.

There is nothing exceptional in this case in committing such a power to the judges. The highest court in the land, sitting in the Capitol, does the same thing. Has there ever been any difficulty in allowing the Chief Justice, as the organ of the court, to distribute the judges in the various circuits? Not at all. It would be rather an odd thing to provide that Congress should do it, and if Congress failed to do it, then that the court might do it, and to assume, as this debate assumes, that there must necessarily be some impropriety or ill-motive in the court if they attempted to do it.

Mr. SARGENT. If my friend will allow me a moment, do I understand him to say that the power which he speaks of goes to the question of fixing the boundaries of the districts in the United States and fixing the times and places of holding courts therein?

Mr. CONKLING. I had not said that. It would not have been true if I had said it.

Mr. SARGENT. That is what this bill provides, and therein it differs from the illustration which the Senator gives.

Mr. CONKLING. I thought I had disposed of that element in the case by correcting a statement made by the Senator before, which I sought to do by saying that there is no complaint in respect of the boundaries of the districts or the places where the courts are held. That question is not up, as we should say in court, and therefore it is not necessary to consider it. On the contrary, I repeat again, and I ask the Senate to observe it, that the only matter in question upon this bill is as to the allotment of judges in these districts. There is no pretense of anything else.

Mr. SARGENT. The Senator dismisses everything else; but I wish to say that that is one of the objections made by the Delegates to the bill; one which they dwell upon with me, and one which I urged in the few remarks that I made.

Mr. CONKLING. Will the Senator say to me that any Delegate told him that in any Territory there is complaint that the districts are not properly bounded and the courts properly located?

Mr. SARGENT. I say the Delegates claim that under the provisions of this bill there is danger of both these contingencies.

Mr. CONKLING. I have heard the Senator say that, and my answer to it is that in point of fact there is no such thing in the case. The phraseology of the bill does apply undoubtedly, as he says, to the districting of the Territories. The districts are made. There is no complaint about it; there is no difficulty in regard to that, the whole question being as to which judge shall serve in the respective districts; and therefore I am addressing myself to the matter in difference, and not to that matter which might be in difference, but is not in fact a subject of controversy at all.

I was going therefore to say that it seems to me entirely unwarranted, and that I think was the judgment of the committee, to assume, as the Senator does assume in a portion of his remarks, that the bench of the Territories is likely to be composed of men so unworthy that they would sit down to jockey or cheat or impose upon each other in respect to a fair and equitable distribution of duties. It seems to me that when in the bill you have placed a supervisory power by the Legislature to act if the court does not act, that is enough, without assuming that the judges are to behave like rascals, or to sit down to pick each other's pockets. As far as I know the judges in the Territories, it would be quite unjust and quite unreasonable to assume any such thing; and I know that in some instances—I do not speak now of that unanimity which the Senator thought prevailed among the Delegates of the Territories; I have not canvassed all the judges; the committee have not letters from

them all before it—but speaking of some of the Territories, I do know from letters which have been addressed to me that the judges say that all difficulty on this subject would disappear if the court was simply permitted in the first instance by a quorum of the court to fix the allotment in case they could do so, leaving the Legislature to intervene afterward and act if the court was unable or unwilling so to do. That was the view of the committee; and my impression is, from a somewhat careful consideration of the subject, if the Senate will just allow this to be tried, it will put an end to the whole matter. If it does not, I say to the Senator from California that when this courteous and reasonable opportunity has been given to the courts to dispose of this matter themselves, if they fail and if the plan fails, it will be very easy at the next session of Congress to correct it, and in the mean time no difficulty will have occurred.

Mr. FRELINGHUYSEN. Mr. President, the judges of the courts are generally men of intelligence and character, and they are well informed as to the necessities of the districts and as to the legal business which is to be done. It seems to me that they have the intelligence and the character making them the safest judges on this subject, and the general good feeling which exists among the members of the bench would secure impartiality and fairness; but if it does not, if they cannot agree, the whole subject under this amendment is to go to the Legislature. It certainly cannot be insisted that the Legislature of a Territory is a body having more information or higher character than the judges who are appointed in these courts. Therefore I certainly think that the shape in which the bill is now amended is much better than that in which it came from the House of Representatives. The whole effect of the amendment is first to leave this matter to the judges, and if they fail, then to the Legislature. The bill as it came to the Senate left it first to the Legislature, and if they failed to the judges.

Mr. MERRIMON. I have very great respect for the Committee on the Judiciary, and especially for their deliberately expressed judgment, but I must beg to dissent from the amendment which the committee propose. It provides that the judges of the Territory shall fix the districts and they shall do it annually, that they shall fix the times for holding the courts and the places for holding the courts, and that they shall allot the judges to hold them. With all respect to the committee, I think that is wrong. It seems to me that the fixing of the districts and the times and places of holding the courts is especially a legislative power, and one that ought to be exercised by the Legislature. The members of the Legislature certainly are more familiar with the wants of the people located all over the Territory than a judge who does not get close to the people or know much about their wants. My observation of the profession is, that the judges are the least qualified of all men to know where a court ought to be held or when it ought to be held. It is their business to hold the court and administer the law at the time and place designated by the legislative power. That is so in the States, and it seems to me it ought to be so in the Territories.

Besides, while ordinarily (I am glad to be able to say it) we have competent and able men upon the bench, it is not infrequent that we have lazy men upon the bench, men who do not busy themselves about looking after the wants and interests of the people. When the litigation of the country is brought before the judges in court, they hear the facts of the case and apply the law to it, and that is the end of it with them. It is not well that they should be too close to the people or too much among them. They ought to sit where they are disinterested; and I say therefore they are less qualified than the Legislature to determine the time when and the place where the court should be held, or the size of a district or how districts ought to be regulated. If I comprehend the proposed amendment, it provides that the judges shall arrange all these matters.

It often happens that the people are very jealous of the times of holding courts, the places of holding courts, and the compass and form of the districts. I think it

would be placing the judges in a very unhappy situation as judges to have the people complaining of them that they have not laid off this district in a way that suits the convenience of the populace, or have not held court at the particular place to suit the convenience of a locality, or have not held it at a time to suit one portion of the community or another portion. It imposes upon them a labor that does not pertain legitimately to their office, and it imposes it in such a way as is calculated to engender prejudice against the judges. It seems to me that the legislature is the appropriate power to fix the time and place of holding court and the form of the district, and the judges ought only to be charged to hold the courts, and they ought to be charged by the law and their oath of office to hold courts at the time and place designated by the Legislature.

(TO BE CONTINUED)

TWENTY-TWO CHOICE COWS and other stock for sale, at Owen's, five miles north of Jordan Bridge, west side, near Read's. w34

PAMPHLETS, Catalogues and price lists printed at the NEWS Office.

#### Chapped Hands and Face,

SORE LIPS, Dryness of the Skin, etc., etc., cured at once by *Hegeman's Camphor Ice, with Glycerine*. It keeps the hands soft in all weather. See that you get *Hegeman's*. Sold by all Druggists. Only 25 cents. Manufactured only by *Hegeman & Co., Chemists and Druggists, NEW YORK*.

## Best in the World!

So say ONE THOUSAND of the World's most

### GIFTED MUSICIANS.

## THE HIGHEST AWARD

Was given at the World's Exposition,

## Universelle Paris!

The Special Jury, International Jury and two sub-Juries

OF THE

## VIENNA EXPOSITION

Including most Eminent Artists and Experts from different countries, awarded the

## First Medal

TO THE

## MASON & HAMLIN

### ORGANS,

Thus AGAIN stamping them the

## Best in the World

Other American Organs were

### NOT FOUND WORTHY

Of any, not even an inferior Medal.

Sole Agents for Utah,

## CALDER & CARELESS

EVERY DESCRIPTION

OF

## FANCY JOB PRINTING

AT THE

DESERET NEWS OFFICE.

## Pianos and Organs.

THE ST. LOUIS

### MERCANTILE COMP'Y

Capital \$100,000.

THIS Company buy their instruments directly from the manufacturers for cash, and are thereby enabled to sell at the lowest prices.

### Emerson Pianos and Needham's Silver Tongue Organs a Specialty.

Any other first-class instrument furnished to order.

The SILVER TONGUE Organ receives its name from the superiority in a point which constitutes the decisive criterion of excellence in any musical instrument, viz.: Superior Quality of Tone. The durability of this Organ is one of its most remarkable characteristics. Its quality of keeping in good tone, also, is one of the most practical importance.

Terms of Sale Liberal. Monthly or Quarterly Installments to responsible parties.

BRANCH OFFICE FOR UTAH,

No. 31, MAIN STREET,

Opposite Post Office,

SALT LAKE CITY.

THOS. P. MILLER, Manager.



The HOWE SEWING MACHINE, As perfected by ELIAS HOWE JR., Inventor of the Sewing Machine. Best in the World.

## THE HOWE

Is an HONEST Machine, and is not subject to FITS.

### POINTS OF SUPERIORITY:

Simplicity and Perfection of Mechanism. Durability—will last a lifetime. Range of work—without parallel. Perfection of Stitch and Tension. Ease of Operation and Management. Self-Adjusting Take-up. Adjustable Head.

1,500 persons who use the Howe Machine in U. S. will testify to the above. Best Silks and Threads for sale.

SALESROOM REMOVED TO

31 MAIN STREET,

Opposite Post Office.

Call and examine our Stock.

THE HOWE MACHINE CO.

THOS. P. MILLER,

Manager for Utah.

w9 s17 tf

## Spring Work!

Farmers should now purchase their

## GRAIN DRILLS,

Experience having proved that Grain when drilled in requires less Seed, and will yield five to ten bushels per acre more than when hand sown.

Every good Farmer should own and use the

### CELEBRATED

## Thomas Smoothing Harrow,

Which makes the best seed bed, and is the best cultivator known for small grain, grass, potatoes or corn.

It will pay for itself on ten acres.

Gang Plows, Breaking Plow, Field Rollers, Etc.

## FULL STOCK of WAGONS ON HAND at REDUCED PRICES.

Z. C. M. I. Wagon & Machine Yard, opposite Tabernacle.

w40 tf

W. H. HOOPER, Superintendent.

## GET THIS!

APPLETON'S

Revised

## AMERICAN ENCYCLOPEDIA

THE LATEST ISSUED, and the most comprehensive of any Encyclopedia now published, giving information on all subjects. It is

Beautifully Illustrated with Several Thousand Engravings and Numerous Lithographic Maps.

The first volume was issued July, 1873, and the set will be completed in 18 volumes about December, 1874. It is a complete library within itself, and the possessor of so valuable a work will have but little need to enquire outside of its lids for information on any subject whatever.

Subscriber can suit the time of delivery to their own convenience by taking one or more volumes at a time.

Subscriptions received by

WESLEY S. TRESCOTT,

AGENT, SALT LAKE CITY.

d15 ly

### Chapped Hands and Face.

SORE LIPS, Dryness of the Skin, etc., etc., cured at once by *Hegeman's Camphor Ice with Glycerine*. It keeps the hands soft in all weather. See that you get *Hegeman's*. Sold by all Druggists. Only 25 cents. Manufactured only by *Hegeman & Co., Chemists and Druggists, NEW YORK*.

Our Goods are sold by Z. C. M. I. and all its branches. d79-ly eod

### NOW READY.

## CATECHISM FOR CHILDREN.

Bound in Cloth.

### LEGAL NOTICE.

NOTICE IS HEREBY GIVEN, THAT I, Alma Eldredge, Mayor in and for the City of Coalville, Summit county, Territory of Utah, will appear at the U. S. Land Office, Salt Lake City, Utah, before the Register and Receiver thereof, on the 31st day of March, A. D. 1874, at 10 o'clock a.m. of said day, to prove my right to enter the S. 1/2, N. E. 1/4 and S. E. 1/4 Sec. 8, S. 1/2 N. W. 1/4 and S. W. 1/4 Sec. 9, E. 1/2 N. E. 1/4 Sec. 17 and W. 1/2 N. W. 1/4 Section 16, Township 2 North, of range 5 East, of the Salt Lake Meridian, in the Territory of Utah, in trust for the several use and benefit of the occupants of Coalville in said county and territory according to their respective interests under the act of Congress, approved March 2nd, 1867, at which time and place any adverse claimants may appear and contest my right to enter the said land as aforesaid. Witness my hand this 18th day of February, A. D. 1874.

ALMA ELDREDGE,

Mayor.

s 5w 3 1m