

Thursday, April 22, 1874.

TERRITORIAL COURTS AND JUDGES.

DEBATE IN THE U. S. SENATE, APRIL 17, 1874.

(CONTINUED.)

Mr. BOREMAN. I did not mean by anything I said to convey the idea that the Judges in the Territories were worse than other men; but we admit that they are human, and if you leave this matter to them, it will be nothing but what would result from the ordinary course of things that each judge would like to have a better place, and in these Territories there are great preferences. Some portions of a Territory are comparatively a wilderness, while in other portions they have cities, comfortable places for living, and so on. The assignment to a particular district in a Territory is sometimes almost a banishment for the time being, away from railroads, and the ordinary conveniences of travel, and the other conveniences that we have in the States.

Now, sir, this provision is anomalous. I do not know of any State where this is allowed to be done by the judges. As I remarked before, it is generally fixed for the time by a constitutional convention, and subsequently by the Legislature. Judges are elected for particular districts by the people. They are elected by the people for a particular Territory. Here we propose to allow the Legislature of the Territory to set off the districts. Judges are human beings, as I remarked, and they are influenced just like any other men as to their own interests. We propose to remove them upon their own interests, but we propose, or the House proposes by this bill, to remove them in an impartial body of men, to wit, the Legislature of the Territory, which, as has been well remarked by the Senator from California, must know the wants of the different portions of the Territory equally with the judges. They are sent up by the people to represent their interests. They understand better no doubt how these districts should be arranged, and they will understand the will of their people as to the quality and character and capacity of the judges to be assigned to a particular district. I cannot see from the various reasons which have been assigned, by different members of the Judiciary Committee, why we should substitute what they have reported rather than take what the House has sent to us. I think the House proposition is the better one.

Mr. WRIGHT. I only wish to add one word. If I supposed, as is implied by what has been said, that there was a necessary or probable antagonism between the judges and the people of a Territory, and that the judges were not as solicitous for the best interests of the Territory as any other officers who are sent there, or who may be sent there, I have no idea that the judges when they come to arrange their districts will ever for one moment think of anything else but to what they believe to be the best interests of the Territory. I believe that there is such kindness of feeling between the judges, men of character and intelligence, that when they come to determine this question they will have reference to the convenience of the people and the convenience of each judge as far as possible.

It is suggested by the Senator from West Virginia that he is not aware that in any State it is left to the judges to assign the times for the holding of courts and who shall hold such courts. I beg to say to him that in the State of Ohio, a general law, under which the district and circuit judges, the territorial jurisdiction of each being the same, meet during the month of January each year and arrange the terms throughout that year when the courts are to be held, how many are to be held, and for what length of time. The places are fixed by the general law; that is of course at the county towns; but the judges themselves fix the time of holding the courts, how long they shall hold their terms, and I have never heard a single suggestion of any trouble in connection with the power thus given to the judges. I doubt not it is the same in other States also.

Mr. CAMERON. I move that the Senate proceed to the consideration of executive business.

Mr. CONKLING. I ask the Senator to withdraw that for a moment while I make a remark. Indeed I think he ought to let us take a vote on this bill.

Mr. CAMERON. May I ask the Senator for what purpose he desires the floor?

Mr. CONKLING. I simply want to make a remark.

Mr. CAMERON. Will the Senator renew the motion afterward?

Mr. CONKLING. I wish the Senator would not insist upon his motion now, because this ought to be disposed of. It is a crying matter. We can vote in a moment. I do not think there will be any more debate.

Mr. CAMERON. I will yield for a moment.

The President Officer (Mr. SCOTT) in the chair. The Senator from Pennsylvania withdraws his motion.

Mr. CONKLING. Mr. President, a moment ago, when I moved to reconsider this matter without having the bill before me, I did not venture to say what I recollected, as I thought, and what the bill shows. I want now to bring it to the attention of the Senate. The House bill contained not one word of the fact which my friend from North Carolina so eloquently discussed, not one syllable touching the fixing of boundaries of districts, the places where courts should be held, or anything whatever of that sort. Let me read to the honorable Senator the House bill:

"The Legislature of each of the organized Territories, except the Territory of Utah, shall at each regular session thereof make an assignment of the judges to hold the courts in the several districts of such Territories."

(TO BE CONTINUED.)

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