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GEORGE Q. CANNON,

EDITOR AND PUBLISHER.

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Clagett's Judiciary Bill.

Mr. Clagett, on leave, introduced the following Bill Relating to the courts and judicial proceedings in the Territories, in the House of Representatives, May 6, 1872, which was read twice, referred to the Committee on the Judiciary, and ordered to be printed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the organized Territories of the United States, exclusive of the District of Columbia, shall constitute three judicial circuits, as follows: The Territories of Washington, Idaho, and Montana shall constitute the tenth circuit; Utah, Wyoming, and Dakota, the eleventh circuit; Colorado, New Mexico, and Arizona, the twelfth circuit. There shall be appointed in each of said circuits a circuit judge, who shall reside in his circuit and shall receive the same compensation and shall possess the same power and jurisdiction therein as the other circuit judges of the United States exercise in their respective circuits in cases arising under the Constitution and laws of the United States; and, in addition thereto, such circuit judges shall exercise the powers and jurisdiction in the several Territories which are now conferred by law on the supreme courts thereof; and the said supreme courts are hereby abolished. All papers and records belonging to the said supreme courts in the several Territories shall be transferred to the circuit court, and all cases and proceedings pending in said supreme courts shall be proceeded with in the circuit courts to a final determination. Appeals and writs of error from the circuit courts in the Territories shall be allowed to the Supreme Court of the United States in cases arising under the Constitution and laws of the United States in all cases where appeals and writs of error are allowed from the circuit or district courts of the United States, and also in all cases involving the constitutionality or legality of a territorial statute. In all other cases the judgment and decrees of the said circuit courts shall be final.

SEC. 2. That whenever a new State shall be formed from any of the Territories aforesaid, such new State shall remain as a part of the circuit in which the Territory was situated, and be subject to the laws governing other circuit courts in the States. There shall be held at the capital of each Territory two terms of the circuit court in each year, the time to be fixed by the presiding judge.

SEC. 3. That the circuit and district courts of said Territories are hereby declared territorial courts while exercising

their jurisdiction in cases arising or properly cognizable under the laws of said Territories; and the legislative assemblies of said Territories shall have power to prescribe by law the pleading, practice, and procedure in all cases in chancery and at common law now pending or hereafter instituted in said territorial courts, and to provide in such cases for the joinder of legal and equitable causes of action, for the interposition of equitable defenses to legal causes of action, and for the same mode of pleading, practice, and procedure in cases in chancery and at common law: *Provided*, That nothing in this act shall be construed to authorize said legislative assemblies to change or interfere with the pleading, practice, or procedure in said courts while exercising their jurisdiction as circuit or district courts in cases arising under the Constitution and laws of the United States: *And provided further*, That the existing legislation of the several Territories prescribing the mode of pleading, practice, and procedure in said territorial courts, as specified herein, is hereby recognized as valid, and declared in force in said courts and in the determination of all appeals therefrom, until the same shall be amended, modified, or repealed by the legislative assemblies of said Territories, respectively.

SEC. 4. That in the Territory of Utah it shall be the duty of the United States marshal, in person or by his deputies, to attend all the courts held by the circuit judge and district judges in said Territory, and to serve and execute all process and orders issued or directed by said courts, or by a judge thereof, when exercising their jurisdiction in criminal cases arising under the laws of the United States or the laws of said Territory; and it shall be the duty of the United States attorney for the Territory, personally or by his deputy or assistant, to attend all the courts which may be held by the circuit judge and district judges, or either of them, in said Territory, and to perform the duties of prosecuting attorney; and that the United States marshal and United States marshal, and each grand and petit juror, shall receive for his services, in criminal cases or proceedings arising under the laws of the Territory, the same fees or compensation as are allowed for like services in criminal cases or proceedings arising under the laws of the United States; and such fees or compensation being taxed by the court or judge before whom the services were rendered shall be paid to the said attorney, marshal, and jurors respectively, from the territorial treasury annually, on the third Monday in December.

SEC. 5. That whenever a district judge of said Territory of Utah shall determine that a grand jury is necessary, or that a petit jury for the trial of criminal cases will be needed, such judge, at least thirty days before the commencement of the term at which such jury will be required, together with the probate judge of the county in which the court is to be held, shall select from the male citizens of the United States over twenty-one years of age resident of the district, a sufficient number to constitute the juries required, not less than five hundred. Each of said judges shall select a name alternately until the required number shall be secured.

SEC. 6. That the names of the persons when selected shall be written on separate slips of paper of the same quality and size, and carefully and uniformly folded and deposited in a box to be prepared for that purpose, which box shall be locked with two separate locks, and the district judge shall retain one key and the probate judge the other. Whenever a venire is to be issued for either a grand or petit jury, the two judges shall open the box, and the clerk of the court, in their presence, shall draw from the same the number of jurors required, and make a list in writing of the persons constituting each panel so drawn, and the district and probate judges shall affix their certificates to the fact, and the time and place of drawing, and file the same in the office of said clerk, whereupon the clerk shall issue a venire to the marshal, commanding him to summon the persons so drawn to attend and serve as such jurors, at the time and place

designated by the district judge, and such jurors shall constitute the regular panel for such term of the court for all criminal cases, whether arising under the laws of the United States or under the laws of the said Territory. If at any time during the term of court the names of the persons drawn from the box shall be exhausted, others shall be drawn and summoned in the same manner as hereinbefore provided. Each party, on the trial of criminal cases where the punishment is death, shall be entitled to twelve peremptory challenges; in other criminal cases, to six. In all criminal cases the court, and not the jury, shall pronounce the judgment, under limitations prescribed by law, and a verdict of three-fourths of the jury shall stand as the verdict of the whole. In case either the district or probate judge should fail or refuse to act, in any case where they are required to act together by the provisions of this law, the other shall have power to do all things herein required, notwithstanding such failure or refusal.

SEC. 7. That each judge may fix the times and places of holding district courts in his district for the transaction of business arising under the laws of the Territory, and the number of terms which may be held annually. The district courts shall have exclusive original jurisdiction of all actions for divorce, and shall take jurisdiction of such actions now pending therein. In case the territorial legislature shall fail to make provision for the payment of the fees and compensations for this act made chargeable upon the territorial treasury, then, in such case, the same shall be paid out of the funds which have been or shall be appropriated by Congress to defray the expenses of the territorial legislature, and for the compensation of the members thereof.

SEC. 8. That in prosecutions for the crime of bigamy or polygamy, proof of cohabitation by the accused as husband or wife, or the acknowledgment of the party accused of the existence of the marital relation of husband or wife, shall be sufficient to sustain the prosecution.

SEC. 9. That no person shall be eligible as a grand or petit juror in said Territories in criminal cases who practices polygamy, or who has conscientious scruples against the conviction of persons charged with the offense of polygamy; and in determining the question of disqualification under this provision the court may, in its discretion, appoint three triors who shall investigate and decide upon the competency of the juror.

SPECIAL TO THE DESERET NEWS.

By Telegraph.

GENERAL.

NEW YORK, 15.—The Chamber of Commerce, to-day, with but one dissenting voice, adopted a resolution approving the supplementary article to the treaty of Washington.

NEW YORK, 16.—The following is the only important portion of the *Alabama* correspondence, now before the Senate, that has not been previously published in one form or another. On May 8th, Secretary Fish telegraphed Schenck as follows:

"All the propositions made by the British government, involve, covertly, probably without design, what this government cannot agree to, viz; the withdrawal from the province of the tribunal, what we believe to be entirely within their competence. I need not repeat our conviction, that the arbitrators have a right to decide whether the claims to which Great Britain objects, are not admissible, or that the United States will be contented to abide their decision, whether favorable or adverse to that class of claims. The proposition of the British government is upon the basis of that view which they have heretofore presented, which shall be a principle of future action and conduct. The view which we have presented is not a principle but an opinion, as to the construction of the specific treaty, and being applicable only to the one pending difference, an accidental

and temporary question, it cannot be a principle for future action. This government holds directly opposite views with regard to the competence of the tribunal to consider the validity of its claims, and although desirous of coming to an honorable understanding, it cannot adopt the British view, or make it the basis of a reciprocal engagement. In my telegram yesterday, I explained that the president cannot and will not withdraw any part of what has been submitted within his constitutional power of the intent and spirit of the treaty. If the British government persists in their demand, the responsibility of whatever failure of the treaty may ensue, must rest with them, and you will have advised them of the impossibility resulting, as well from the constitutional inability of the President to withdraw what this government is of the opinion has been submitted within the extent and meaning of the treaty, as from his unwillingness to compromise the rights and dignity of the government, by yielding to a demand not founded on right, or sustained by any valid construction of the treaty. He hopes, however, that the British government may see a way to maintain the treaty, in the suggestion of a new article, as mentioned in my telegram yesterday. Should they not adopt this suggestion, the inference will be almost unavoidable, that they have deliberately determined to abrogate the treaty; if, however, they adopt the suggestions, you may say that the probability is that Congress will adjourn about the latter part of this month, time may be saved therefore if the negotiations on this point should be conducted here, rather than in London. If they desire such negotiations, it may be advisable to save time, that they give instruction to their minister, here. You will keep me advised as to the probable action of the British government, so that the President may communicate the correspondence to Congress on Monday, in case the British government intend to break this treaty.

Signed, FISH.

On the 9th inst., Schenck telegraphed Fish that he had presented the latter's views to Granville, as contained in his telegram of the 8th, and that the British government made great and, apparently, insurmountable objections to the adoption of a new article.

It is understood that Stokes' trial will soon come off. Judge Ingraham has been asked to preside.

FOREIGN.

LONDON, 15.—The spirit of the London press to-day on the treaty is about as follows:

The attention of England is turned to the American Senate. We have done our duty, and the best hope remaining is that the decision has been confided to that body, always holding the highest place for gravity and wisdom. The *Morning Call* and *Telegraph* are sanguine that patriotism will over rule politics and the treaty will survive. The *Standard* remarks:

"We have made sacrifices enough, let the Senate repeal the treaty amendment. It is not our fault if the American constitution is defective or the government weak. It will not be a loss if we are released from the liability incurred out of our exaggerated difference towards a kindred, high spirited but exacting people."

The *Times* makes no allusion to the subject.

MADRID, 17.—News has been received that the forces of Gen. Letorna have defeated five thousand Carlists at Manaria, capturing many prisoners. Serano reports that he has established his headquarters at Galdacano.

LONDON.—The *Tripoli* accident occurred at four o'clock yesterday morning, when most of the passengers were asleep. Carnsore Point, off which the steamship went ashore, is the most south easterly extremity of the Irish mainland. Several sailing vessels which were in the vicinity took off the passengers and landed them at Wexford. The luggage of the passengers was subsequently secured by other vessels and carried to Queenstown.