

ACTS OF LEGISLATIVE ASSEMBLY OF UTAH TERRITORY: EIGHTH ANNUAL SESSION. PUBLISHED BY AUTHORITY.

An Act

Concerning costs and fees of Courts, and for other purposes.

SEC. 1.—Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, that the fees and compensation in District Courts, of officers and other persons herein named, shall be as follows:—

The clerk's fees shall be, for issuing and sealing a writ, 50c	
Docketing a case 15c. Each subsequent docketing, 10c	
Entering judgment on a suit, without process, 25c	
Entering cause on judgment docket, 20c	
Entering each order of court, 20c	
Filing each case in a suit, except appeals, 10c	
Entering special bail, 20c	
Swearing and empanelling each jury, 20c	
Administering oath to each witness on trial, 5c	
Entering verdict of jury and judgment, 25c	
Entering satisfaction of judgment, 5c	
Issuing writ of execution, 25c	
Taking cost, 15c	
Entering exonerator, 10c	
Entering surrender, 10c	
A commission to take depositions, 50c	
All motions in one suit, 15c	
All the rules in one suit, 20c	
If there be but one, 10c	
A venire for a jury, 25c	
Making a complete record in each cause when ordered by the court for every hundred words, 15c	
Copy of record when required per 100 words, 10c	
Every certificate when required with seal of court, 25c	
A subpoena to include all the witnesses called for at the time of issuing, 25c	
Filing record of appeal, writ of error, supercedas, certiorari or habeas corpus, 5c	
Recording assessment of damages, 15c	
Copy of paper not herein provided, for every hundred words, 10c	
For administering oath in naturalization cases, 10c	
Filing the same, 10c	
For certificate of application, 30c	
Certificate of naturalization, 50c	
Taking a recognisance, 15c	
Each bond required by law, 50c	
Certificate of admission to the bar, 50c	
No fees shall be demanded from grand or petit jurors, or witnesses, for issuing a certificate entitling them to fees as such.	

A County Court may allow the clerk of a District Court any sum not exceeding \$50 per annum for services in criminal cases where the defendants are acquitted; and in all civil and criminal cases, the fees of a clerk of a Probate Court shall be the same as heretofore provided for a clerk of a District Court.

SEC. 2.—And be it further enacted, that the fees of the clerk of the Supreme Court shall be, for issuing and sealing each writ, 75c	
Docketing cause each time, 15c	
Entering cause on judgment docket, 25c	
Entering each order, motion or rule, 20c	
Filing each paper, 10c	
Entering judgment, 35c	
Entering nonsuit, discontinuance, dismissal, or nolle prosequi, 15c	
Entering satisfaction of judgment, 15c	
Entering return of execution, 15c	
Taking costs, 25c	
Copy of paper or record per 100 words, 10c	
Certificate, 40c	
Taking bond, 50c	
Assessment of damage, 25c	
Entering cause on court calendar, 15c	
Entering appearance of parties, 10c	
Signing final record, 20c	
Making complete record per 100 words, 15c	
Certificate of admission to the bar, \$2.00c	
For all services not specified he shall receive such compensation as shall be allowed a Clerk of a District Court for like services.	

SEC. 3.—And be it further enacted, that the fees of the Territorial Marshal or a Sheriff or either of their Deputies shall be, for serving any writ and returning the same (subpoenas excepted) for one defendant, 50c	
For each additional defendant, 25c	
Commitment to prison, 25c	
Discharge from prison, 25c	
Attending with a person before a judge or court when required at any time not a regular term, \$1.50c	
Mileage in going with such person before said judge and returning, per mile, 5c	
Serving a writ of possession or restitution, 50c	
Copy of a paper required by law, for each 100 words, 15c	
Serving and returning a subpoena, for each person therein named, 20c	
Calling a jury in each cause, 20c	
Summoning a grand and petit jury, \$5.00c	
Traveling fees going and returning per mile, 6c	
Selling land or other property on execution per day, 1.50c	
Making and executing a deed for property sold on execution, 1.00c	
Serving one person with an order of court, besides mileage, 15c	
Summoning a jury in cases of forcible entry and detainer, 1.00c	
Serving an execution or order for partition of real estate or assigning dower, besides mileage, 50c	
Each bond, 25c	
For collecting and paying over all sums under \$200, five per cent.	
All sums over \$200 and less than \$500, three per cent.	
All sums over \$500 and under \$1000, two per cent.	
And all over \$1000, one per cent.	
Returning a prisoner not served, 10c	
Receiving a prisoner on surrender by bail, 25c	
Taking new bail, 25c	
Detaining a prisoner (to be paid out of the County treasury when the prisoner is insolvent) per day, 35c	
The Territorial Marshal or a Sheriff may be allowed by the proper County Court, a sum not exceeding \$50 for services rendered the county, in delivering notices and other duties actually performed for which no specified sum is provided by law.	

SEC. 4.—Be it further enacted, that the fees of the Clerks of County Courts shall be, for recording proceedings in term time, per day, 2.00c	
For entering other records and accounts kept in his office, for each folio of 100 words, 10c	
For making calculation and carrying out the amount of taxes on the assessment roll, per day, 2.00c	
For making out abstracts of assessment roll, for each 100 words (4 figures counting one word), 10c	
For each bond for an officer, to be paid by such officer, 50c	
Filing all returns of an election, 50c	
For each certificate, 25c	
Copy of any paper or record, per 100 words, 10c	
For each advertisement of an election, 15c	
SEC. 5.—Be it further enacted, that the fees of Justices of the Peace in civil cases shall be, for docketing each suit, 10c	
For summons or warrant, 25c	
Precept for jury, 15c	
Every subpoena including all witnesses asked for at the time, 20c	
Swearing a jury, 15c	
Entering a verdict, 15c	
Entering judgment, 25c	
Taking and certifying any acknowledgment, 25c	
Administering oath, 5c	
Every continuance or adjournment, 10c	
Every continuance or adjournment, 15c	
Taking depositions, per 100 words, 15c	
Certifying a deposition, 20c	
Taking bail, recognizances or security, 25c	
For every discontinuance or satisfaction, 15c	
Entering amicable judgment, 25c	

Transfer of judgment, 25c	
Filing each paper, 5c	
Opening judgment, after default, 15c	
Taking cost, 10c	
Issuing writ of attachment, 25c	
Taking bond for the same, 25c	
For holding inquiry in cases of forcible entry and detainer, in addition to other fees per day, 1.00c	
Writ of restitution, including execution for costs, 25c	
Rule to take deposition, when the witness is out of the Territory, 25c	
For every execution, 25c	
Transcript of judgment, per 100 words, 15c	
For hearing any matter wherein a jury is called, 25c	
For administering an oath out of court, 15c	
When justices are called from their offices, mileage per mile, 5c	
Copy of the proceedings in any case, 10c	
Certificate thereof, 15c	
Affidavit for attachment, 15c	
For renewing execution, 15c	

SEC. 6.—And be it further enacted, that the fees of Justices of the Peace in criminal cases shall be, for warrant or search warrant, 25c

Commitment to jail, 15c	
For affidavit, 15c	
Taking recognisance, 25c	
Entering judgment for fine or punishment, 25c	
Order of discharge to jailor, 25c	

SEC. 7.—And be it further enacted, that the fees of a Justice of the Peace, when acting as Coroner to be paid by the estate of the deceased, when solvent, shall be, for summoning and swearing a jury, 50c

For issuing subpoena or warrant, 25c	
For viewing each body, taking and returning inquest to Probate Court, 5.00c	
For other services and expenses, an allowance may be made by the County Courts, not exceeding \$12.00c	
For other services, fees as in civil cases.	
SEC. 8.—And be it further enacted, that fees of Constables in civil and criminal cases shall be, for serving summons, for each person therein named, 25c	
For serving warrant, 25c	
Copy of every summons or warrant, 15c	
Traveling to and from place of service, per mile, 5c	
Summoning a jury, 50c	
Attending the same on trial, 50c	
For serving execution, 25c	
Advertising and selling property, 75c	
Advertising without selling, 25c	
For notifying plaintiff of service, 20c	
Return of execution, when no levy is made, 10c	
Each notice of attachment being issued, 15c	
Bond for the same, 25c	
For serving attachment, 50c	
On all sums collected and paid over on executions, seven per cent.	

Serving subpoena, 15c

Commitment to prison, 25c

SEC. 9.—And be it further enacted, that Witnesses' fees shall be, each witness for a day's attendance before a District or Probate Court, 50c

Attendance before a Justice of the Peace per day, 50c	
Mileage per mile, 6c	

Provided that no witness shall be compelled to attend any Court in civil cases, unless he shall receive, in advance, from the party subpoenaing him, his mileage going and returning, and his fee for one day's attendance, and shall not be required to remain in Court longer than one day, unless he is paid in advance for each day's attendance.

SEC. 10.—Be it further enacted, that Jurors' fees shall be, for grand jurors per day, to be paid by the proper county, 75c

Petit jurors per day, 75c	
Mileage per mile, 5c	
Jurors each day before a Justice of the Peace, 50c	

SEC. 11.—And be it further enacted, that fees of Judges of Probate shall be, for granting letters of administrators or probate of wills, 1.00c

When the same are contested, 1.00c	
Hearing a complaint against spendthrift or lunatic, 1.00c	
Appointing a guardian for minor or lunatic, 50c	
Decree for probate of will, 75c	
When contested, 1.00c	
Decree for settlement of estate, 50c	
Order for distribution, 50c	
Examining and allowing inventory, for the first page, 25c	
Every succeeding page, 10c	
Any writ or process issued under seal, 25c	
Examining and allowing accounts, not exceeding one page, 25c	
Every additional page, 10c	
Warrant to appraise or divide estate, 25c	
Issuing commission to receive and examine claims of creditors when an estate is represented insolvent, 25c	
Allowing an appeal, 25c	
Approving securities of executor or administrator, 25c	
Assigning personal estate to widow, 25c	
Assignment of dower in real estate, 25c	
Disallowance of application for letters of administration, or probate of will, to be paid by the losing party, 75c	
For every continuance, 15c	
Order for sale of personal estate, 25c	
Certificate of necessity for sale of real estate, 25c	
Extending letters of administration, 50c	
For bonds upon letters of administration or appointment of guardian, 50c	
Probate of will and letters testamentary thereon, 50c	
Drawing a decree respecting the probate of will or codicil, 50c	
Bond for the execution, 25c	
Drawing order of distribution, 25c	
A quietus, 25c	
Filing each paper, 5c	
Administering an oath, 5c	
Recording all papers required by law to be recorded, for every one hundred words, 15c	
Appeal or other bonds, 25c	

A warrant to divide an intestate estate among the heirs, a warrant to set off the widow's dower, or a warrant to receive and examine the claims of an insolvent estate, 25c

A citation or summons for the first person named therein, 25c

Each other person named therein, 10c

Entering and filing a caveat, 15c

To apportion an insolvent estate among the creditors, 75c

Seal to an exemplification, 15c

When a translation of any will, deed, or other writing is required he shall be entitled to receive for every one hundred words, 25c

When sitting on civil or criminal cases per day, 3.00c

Hearing each divorce case, 5.00c

SEC. 12.—Be it further enacted, that the fees of Notaries Public shall be, for every protest with seal, 1.00c

Attesting letters of attorney and seal, 50c

Drawing and taking proof and acknowledgment of any legal instrument not exceeding two pages, 1.00c

Certifying power of attorney, 25c

Affidavit with seal, 25c

Registering protest of bill of exchange, 50c

For non-acceptance or non-payment, 50c

Drawing and certifying affidavit, 25c

Each oath or affirmation, 10c

of their deputies, shall be allowed one dollar and fifty cents a-day, for every day he shall attend upon the Supreme court, which compensation may be paid from the Territorial treasury.

SEC. 15.—A Sheriff shall be allowed one dollar for every day he is required to attend, and does so attend, a district court, which may be paid out of the county treasury of the proper county: Provided, that if a district court shall deem it expedient, said court may make an order to command any number of constables to attend said court, not exceeding three, to be entitled to one dollar per day each, for every day such constables shall actually attend; and said order shall be entered on the record.

SEC. 16.—Fees of Prosecuting Attorneys in the district and probate courts shall be, for drawing an indictment, 75c

For attendance on the grand jury, for each indictment, 50c

For prosecuting each criminal, 3.00c

For entering nolle prosequi, 1.00c

For replying to motion to quash, 25c

Replying to demurrer, 25c

Attendance on district court per day, 1.00c

Attendance on probate court per day, 75c

That in all cases where fees shall not be collected from complainant or defendant, the county court is authorized to pay, not exceeding fifty per cent of the above costs of attorneys, from the county treasury—and the attorney-general may also receive from the Territorial Treasurer, a sum not exceeding \$50 annually, for services rendered in suits to which the Territory is a party.

SEC. 17.—When two or more persons are served, mileage shall be computed by the officer only from the most remote place, unless the places are in opposite directions, and a successful party in any suit shall, in no case, recover the costs of more than two witnesses to one fact.

SEC. 18.—If any officer shall wilfully or corruptly take greater fees than are herein before expressed and limited, for any service to be done by him in his office, or if any person shall charge or demand and take any of the fees hereinbefore ascertained, when the business for which such fees are chargeable shall not have been actually done and performed, such officer, for every such offence, shall, on conviction thereof before any Justice of the peace of the proper county, forfeit and pay into the county treasury a sum not exceeding ninety dollars.

Approved Jan. 21, 1859.

A. CUMMING,
Governor Utah Territory.

I certify that the foregoing is a true copy of the original Act on file in my office.

JOHN HARTNETT,
Secretary Utah Territory.

An Act

Defining who are exempt from serving on Juries, and prescribing the mode of procuring Grand and Petit Jurors and Juries for District Courts, and for other purposes.

SEC. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, that members and officers of the Legislative Assembly, Judges of Probate Courts, Select Men, County Treasurers, Clerks of the Supreme, District, Probate and County Courts, the Territorial Marshal, Deputy Marshals, Sheriffs, Deputy Sheriffs, Constables, Attorneys and Counselors at law, persons at the time engaged in teaching school, Ferry-men, Millers, Physicians, Surgeons, and Editors of Newspapers and other periodical publications are exempt from serving either as grand or petit jurors.

SEC. 2. The County Court in each county shall, at its first session in each year, and at such subsequent session or other time as a neglect so to do at said first session or as other circumstances may require, make, from the assessment roll of the county, a list containing the names of at least fifty men, residents of the county, eligible to serve as jurors.

SEC. 3. Said list shall contain only the names of such persons as are known or believed to possess the requisite qualifications for jurors and not entitled to exemption from jury service; and the names thereon shall be apportioned among the different sections of the county as nearly as may be, according to the names on the assessment roll; and the selections of persons to serve as jurors shall, from time to time, be made in such manner, so far as the County Court can judge, as to cause the eligible persons to perform jury duty as nearly as may be in rotation.

SEC. 4. Said list shall contain the christian and surname at length, and the place of residence and occupation of each person named therein, and shall be filed with the Clerk of the County Court, who shall keep in his office a box or other safe place of deposit, in which he shall deposit the names on the list, having previously written each name on a separate ticket and so folded said ticket that the name thereon does not appear.

SEC. 5. When a District Court is to be held, whether for a district or for a county, the Clerk of said court shall, at least thirty days previous to the time of holding said court, issue a writ to a Marshal or any of his deputies, if said court is to be held for a district, or to the Sheriff or any of his deputies of the county in which said court is to be held, if it is to be held for a county, specifying the time and place of holding said court, and requiring him to summon, if for a grand jury, twenty-four eligible men to serve as grand jurors, and if for petit jurors, twenty-four eligible men to serve as petit jurors; and said twenty-four men shall constitute a grand jury, and said twenty-four men shall constitute two full petit juries.

SEC. 6. Upon the reception of said writ, a Marshal or a Sheriff, as the case may be, or either of their deputies, shall proceed to the Clerk of the County Court of the county in which jurors are to be summoned, and said Clerk shall forthwith repair, with said officer having said writ, to the office of said Clerk, who shall, if a grand jury is required, in the presence of said officer, thoroughly shake the tickets previously deposited in a box, or other safe place of deposit, and draw therefrom promiscuously twenty-four tickets, and the persons whose names are on those twenty-four tickets shall be summoned to serve as a grand jury, a minute of which drawing shall be kept by said Clerk with the names entered thereon in the order they are drawn; when, if petit jurors are also required, said Clerk shall proceed in like manner to draw and minute twenty-four tickets, and the twenty-four persons named on said tickets shall be summoned to serve as petit jurors; said Clerk and attending officer shall then sign the minutes of the drawing, which minutes shall be filed by said Clerk in the office of the County Court of the county in which said drawing was had.

SEC. 7. Upon the conclusion of the drawing, and previous to the filing as aforesaid, said clerk shall forthwith make a list of the names of the persons drawn, if any, to serve as grand jurors and a list of the names of the persons drawn, if any, to serve as petit jurors, and certify to said list or lists, and deliver it, or them, to the officer having the writ from the Clerk of a District Court to summon jurors.

SEC. 8. The officer having the writ and jury list, or lists, in charge as hereinbefore provided shall immediately upon his reception of said list or lists, proceed to summon the persons named on said list, or lists, to attend said court, specifying the time and place of its sitting; which summons shall be served by giving each person a written notice, or by leaving a copy of the summons at his residence in care of some person of suitable age and discretion.

SEC. 9. If, in summoning the persons named on said list, or lists, said officer becomes aware that, from any cause beyond his control, there will be a failure by one or more of said persons to appear as required, he shall forthwith repair to the aforesaid Clerk or the County Court, who shall with said officer proceed to draw, as heretofore provided, until the required number of jurors can be procured; and said officer shall return said list, or lists, and writ to said District Court at the time specified, and shall specify the persons summoned and the manner in which each was summoned.

SEC. 10. When a District Court is to be held for a district, and the Judge thereof is reliably advised that the ends of justice will be materially promoted by so doing, said Judge may apportion the twenty-four grand jurors among two or more counties in his district.

SEC. 11. After a grand jury is empanelled, sworn or affirmed and charged by the court, said court shall appoint one of their number to be their foreman, and said foreman shall have power to swear or affirm all witnesses, to testify before said grand jury and shall, when the grand jury or any twelve of them have, upon them, good and sufficient evidence, found a bill of indictment, endorse thereon the

words, to wit—"A True Bill," and officially sign his name to said endorsement, and also note or cause to be noted on the bill of indictment the name or names of the witnesses upon whose evidence it was found.

SEC. 12. The Clerk of the district court shall write upon separate tickets the names of the persons returned to serve as petit jurors, shall so fold said tickets that their names thereon do not appear, shall deposit them in a box or other safe place of deposit and, when ordered by the court, draw from said box or place, twelve names; and the persons whose names are drawn shall constitute a petit jury, except such as are legally rejected, and in case of such rejection, said Clerk shall continue to draw until said petit jury is complete, and if the number of the petit jurors returned to said court shall be exhausted, then the proper officer shall, upon the order of the Judge, summon tallmen from the body of the county to complete said panel.

SEC. 13. If, during any term of a District Court, the number of jurors provided proves insufficient, the Clerk of said court shall immediately issue a writ, directed to one of the officers before named as the persons to serve such writs, for the requisite number; and said officer shall at once proceed to procure them in the manner heretofore provided; and in case said writ exhausts the names already selected, the Clerk of the County Court of the proper county shall forthwith call a meeting of said court, which shall immediately select, in the manner already specified, at least as many names as may at that time be deemed sufficient.

SEC. 14. A district court is hereby empowered to sit at the county seat of any county, within its district, to try cases arising in such county, whenever three-fourths of the electors in said county shall, in a writing to that effect, signed by them, petition the Judge of the district to hold a term of court in said county: Provided, that the County Court of said county shall make provision to defray the expenses of said District Court.

SEC. 15. If any person fails to appear as a grand or petit juror, when lawfully summoned, or if a Marshal or his deputy or any clerk of the district or County Court, or any Sheriff or his deputy, fails to fulfill the duties enjoined upon him in this act, without having a reasonable excuse, he shall be considered guilty of contempt, and may be fined for each offence, for the use of the county in which the defendant resides, in any sum not exceeding fifty dollars; unless, at or before the next term of said District Court, good cause be shown for such failure: Provided, that the oath or affirmation of any such delinquent shall at all times be received as competent evidence in his favor.

SEC. 16. It shall be the duty of the Clerk of a District Court, at the close of each term of said court, to make out and give to each juror a certificate, certifying the number of days attendance of, and amount of compensation due to said juror, which certificate, upon being presented to the County Court of the county from which said juror was summoned, shall entitle said juror to be allowed and paid by said county, the sum specified in said certificate, as other demands against the county are paid: Provided, that no juror shall be paid out of the county treasury for any jury service for which he may have received or be entitled to receive pay for sitting as a juror upon United States business.

SEC. 17. All laws and parts of laws conflicting with this act are hereby repealed.

Approved Jan. 21, 1859.

A. CUMMING,
Governor of Utah Territory.

I certify that the foregoing is a true copy of the original act on file in my office.

JOHN HARTNETT,
Secretary of Utah.

An Act

Amending an act prescribing the manner of Assessing and Collecting Territorial and County Taxes.

SEC. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, that the time required by law for the assessment of property, to be made between the first day of January and the first day of March, in each year, as provided in the 6th sec. of the act to which this is an amendment, is hereby extended to the first Monday in June in each year.

SEC. 2. And all business that relates to the adjudicating the complaints of tax-payers, for erroneous assessments, shall hereafter be done at the June term of the county court, instead of their March term, except in such cases as herein provided for in section four of this act.

SEC. 3. The county courts may, at any regular or special term of their court, fix the rate per cent of taxes for the current year, and shall furnish the Assessor and Collector, as soon as practicable after his appointment and qualification, with a tax list, as now provided in the 7th section of the aforesaid act, who is hereby authorized to collect, at any time thereafter, the tax due on all property that is intended to be removed from the county previous to the usual time of collection.

SEC. 4. Any person feeling aggrieved at the assessment made by the Assessor or his deputy, and being desirous to remove his property from the county, before the proper time for adjudication of such cases, as by law provided, may give notice to the Probate Judge of said county, who shall immediately cause