

Memorial of Certain Lawyers.

(CONTINUED.)

The last section of the act referred to provides (pages 31 and 32, General Laws) that any matter involving litigation may be referred to arbitrators or referees selected by the court or the parties, and upon a hearing before such tribunal it is required to decide the matter, and file its judgment, which is to be entered and have the same effect as if given by the court.

The right to a hearing by a judicial tribunal is thus denied, and the right of trial by jury abolished unless the court see fit to grant it.

The repugnance of this legislation, not only to the organic act, but to the principles of common right, we submit has no parallel in the legislative history of any other country.

The Supreme Court of the United States having recently, in the case of *Clinton vs. Englebrecht*, affirmed the binding force and validity of the present jury law of this Territory, especial attention is called to the complications and burdensome provisions of this law. Without entering into an elaborate detail of its objectionable features, we will simply state that the Motion element have the exclusive control of the selection of jurors in our courts of general jurisdiction, and that for the improper exercise of this control, for the prejudices and partialities of the element aforesaid against other portions of the people of said Territory, there is no remedy or redress whatever.

Furthermore, it is our conviction that under the present system, carried out with the purest motives and best intentions, the machinery (so to speak) of the system is so complicated, and in different parts has to be worked by so many different persons, that to obtain a jury panel in any case is justly subject to challenge will be very difficult; that in a great majority of cases such challenge could be properly interposed for defects occurring in simply carrying out the attempt to carry out the provisions of the law.

And this being so, the right of trial by jury in this Territory is in effect denied, and criminals go unpunished and the rights of the people unprotected.

Reference is also made to page 33, section four of an act in relation to justices of the peace, by which such courts are permitted to "decide cases without process" when the amount claimed is less than \$100, and by section thirteen, same act, which permits the justice to hear and decide cases when the amount exceeds \$100, the justice shall have the same powers as other courts of arbitration, and shall have power to enforce his decision thereon, which decision shall be an act of the controversy.

Such monstrous provisions need no comment for their condemnation.

By the act of 1870 some portions of the acts referred to are repealed, but the proposition that the general system of legislation in Utah has been subversive of the authority of the Federal Government is not affected by this fact.

We submit further that in providing for the filling of offices of territorial marshal, (Laws of Utah, page 38), territorial attorney general, (page 38), territorial auditor, (page 35), territorial treasurer, (page 37), territorial school superintendent, (page 224), territorial surveyor general, (page 77), territorial wardens of penitentiary, (page 36), territorial directors of penitentiary, (page 96), territorial notaries public, (page 24), by the joint vote of the Legislative Assembly, is a deliberate violation of the seventh section of the organic act, in violation of which all such officers shall be appointed by the Governor, by and with the advice and consent of the territorial council.

We also submit that the act of February 12, 1870, constitutes the right of suffrage by conferring it on an alien woman without even qualification of time of residence, but on the sole condition that she become what is termed the "wife of a citizen," without any limit to the capacity of such "citizen," for this new process of naturalization. When it is remembered that most of these women, by assuming domestic relations with men in violation of the laws of Congress, could not become citizens by naturalization in the courts, the purpose of this summary process of making legal voters of them is apparent.

In support of the third, fourth and eighth propositions we advert to the absence of any statute of frauds, or registration, of inheritance or marriage. Such an omission cannot simply be an oversight, but must have been intentional and deliberate. We submit that the ordinary exigencies of a civilized community demand legislation upon these subjects.

About four fifths of the legislation of the Territory during its existence for twenty-one years is made up of charters to local municipalities and grants of special privileges to individuals, as will be seen by reference to the volume containing the general laws, from which we have quoted.

We refer to the following: Parowan city, 25 square miles; Manti city, 35 square miles; Tootle city, 9 square miles; St. George city, 25 square miles; Beaver city, 35 square miles; Fillmore city, 35 square miles; Grantsville city, 18 square miles; Coalville city, 20 square miles; Deseret city, 35 square miles; Smithfield city, 16 square miles; Franklin city, 18 square miles; Hyrum city, 9 square miles; Mendon city, 9 square miles; Willard city, 6 square miles; Washington city, 20 square miles; Delta city, 30 square miles; Lehi city, about 16 square miles; American Fork, about 16 square miles; Pleasant Grove, about 40 square miles; Provo Grove, about 25 square miles; Springville Grove, about 25 square miles; Spanish Fork, about 30 square miles; Payson Fork, about 25 square miles; Mantu Fork, about 16 square miles; Salt Lake Fork, about 16 square miles; Nephi Fork, about 16 square miles; Alpine Fork, about 4 square miles; Ogden Fork, about 20 square miles; Logan Fork, about 16 square miles; Wellsville Fork, about 16 square miles; Moroni Fork, about 40 square miles; Brigham Fork, about 12 square miles; Richmond Fork, about 16 square miles; Kayville Fork, about 18 square miles; Ephraim Fork, about 12 square miles; Mount Pleasant, 16 square miles; Spring Fork, 16 square miles.

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