

EDMUNDS-TUCKER BILL.

Text of this Most Infamous Measure

As It Left the House Yesterday.

A BILL.

To amend an act entitled "An Act to amend Section fifty-three hundred and fifty-two of the Revised Statutes of the United States in reference to bigamy, and for other purposes," approved March twenty-second, eighteen hundred and eighty-two.

WIFE OR HUSBAND MAY TESTIFY.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any proceeding and examination before a grand jury, a judge, justice or a United States Commissioner or a court, in any prosecution for bigamy, polygamy or unlawful cohabitation under any statute of the United States, the lawful husband or wife of the person accused shall be a competent witness, and may be called but shall not be compelled to testify in such proceeding, examination, or prosecution; and shall not be permitted to testify as to any statement or communication made by either husband or wife to each other during the existence of the marriage relation, deemed confidential at common law.

ATTACHMENT FOR WITNESS.

SEC. 2.—That in any prosecution for bigamy, polygamy or unlawful cohabitation, under any statute of the United States, whether before a United States commissioner, justice, judge, a grand jury, or any court, an attachment for any witness may be issued by the court, judge, or commissioner, without a previous subpoena, compelling the immediate attendance of such witness, when it shall appear by the oath or affirmation of at least two credible persons in writing to the commissioner, justice, judge or court, as the case may be, that there is reasonable ground to believe that such witness will unlawfully fail to obey a subpoena issued and served in the usual course in such cases; and in such case the usual witness fees shall be paid to such witness so attached: Provided, that the person so attached may at any time secure his or her discharge from custody by executing a recognizance before any commissioner, judge, justice or court of the United States, with sufficient surety, conditioned for the appearance of such person at the proper time as a witness in the cause or proceeding wherein the attachment may be issued.

MARRIAGES TO BE RECORDED—PENALTY, ETC.

SEC. 3.—That every ceremony of marriage, or in the nature of a marriage ceremony, of any kind, in any of the Territories of the United States, whether either of both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a writing, stating the fact and nature of such ceremony, the full names of each of the parties concerned and the full name of every officer, priest and person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony; which certificate shall be drawn up and signed by the parties to such ceremony, and by every officer, priest and person taking part in the performance of such ceremony and shall be by the officer, priest or other person solemnizing such marriage or ceremony filed in the office of the probate court, or, if there be none, in the office of the court having probate powers in the county or district in which such ceremony shall take place, for record, and shall be immediately recorded, and be at all times subject to inspection as other public records. Such certificate, or the record thereof or a duly certified copy of such record, shall be prima facie evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. Any person who shall willfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court.

EXISTING EVIDENCE ADMISSIBLE.

SEC. 4.—That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible for that purpose.

DISFRANCHISING WOMEN.

SEC. 5.—That it shall not be lawful for any female to vote at any election hereafter held in the Territory of Utah for any public purpose whatever, and no such vote shall be received or counted or given effect in any manner whatever; and any and every act of the Governor and Legislative Assembly of the Territory of Utah providing for or allowing the registration or voting by females is hereby annulled.

IDENTIFYING VOTERS PROHIBITED.

SEC. 6.—That all laws of the Legislative Assembly of the Territory, of

Utah, which provide for numbering or identifying the votes of the electors at any election in said Territory, are hereby disapproved and annulled; but the foregoing provision shall not preclude the lawful registration of voters, or any other provisions for securing fair elections which do not involve the disclosure of the candidates for whom any particular elector shall have voted

CERTAINTY JURISDICTION OF PROBATE JUDGES.

SEC. 7.—That the laws enacted by the Legislative Assembly of the Territory of Utah, conferring jurisdiction upon probate courts, or the judges thereof, or any of them, in said Territory, other than in respect of the estates of deceased persons, and in respect of the guardianship of the persons and property of infants, and in respect of the persons and property of persons not of sound mind, are hereby disapproved and annulled; and no probate court or judge of probate shall exercise any jurisdiction other than in respect of the matters aforesaid; and every such jurisdiction so by force of this act withdrawn from the said probate courts or judges shall be had and exercised by the district courts of said Territory, respectively.

INCEST DEFINED—PENALTY.

SEC. 8.—That if any person related to another person within and not including the fourth degree of consanguinity, computed according to the rules of the civil law, shall marry or cohabit with or have sexual intercourse with such other so related person, knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment in the Penitentiary not less than three years and not more than fifteen years.

ADULTERY—PENALTY.

SEC. 9.—That when sexual intercourse is committed between a married person of one sex and an unmarried person of the other sex both persons shall be deemed guilty of adultery, and shall, upon conviction thereof, be punished by fine not exceeding \$100, or by imprisonment not exceeding three months, or both in the discretion of the court.

COMPLAINT CAN BE MADE BY ANY ONE.

SEC. 10.—That all laws of the Legislative Assembly of the Territory of Utah which provide that prosecution for adultery can be commenced only on the complaint of the husband or wife are hereby disapproved and annulled; and all prosecutions for adultery may hereafter be instituted in the same way that prosecutions for other crimes are.

POLYGAMY A CONTINUING FELONY.

SEC. 11.—That the marriage relation between one person of either sex and more than one person of the other sex shall be deemed polygamy. Polygamy or any polygamous association or cohabitation between the sexes is hereby declared to be a felony, and shall be punished by confinement in the penitentiary for a term of not less than one year nor more than five years; and the continuance of the polygamy or polygamous association or cohabitation between the sexes after any indictment or other legal proceeding is commenced against any person, shall be deemed a new offense, punishable as aforesaid.

ILLEGITIMATE CHILDREN CANNOT INHERIT.

SEC. 12.—That the laws enacted by the Legislative Assembly of the Territory of Utah, which provide for or recognize the capacity of illegitimate children to inherit or be entitled to any distributive share in the estate of the father of such illegitimate child are hereby disapproved and annulled; and no illegitimate child shall hereafter be entitled to inherit from his or her father or to receive any distributive share in the estate of his or her father; Provided, That this section shall not apply to any illegitimate child born within twelve months after the passage of this act; nor to any child made legitimate by the seventh section of the act entitled, "An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States in reference to bigamy and for other purposes," approved March 22, 1882.

FORMER EDMUNDS LAW NOT REPEALED.

SEC. 13.—That nothing in this act contained shall be construed to repeal the act of Congress entitled "An Act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes," approved March 22, 1882; but the provisions of said act, except in so far as they are repugnant to this act, shall be applicable to this act as if herein expressly mentioned; and the power given to the President by the sixth section of said act shall be applicable to the offenses created by this act.

DISINCORPORATING THE CHURCH.

SEC. 14.—That the acts of the Legislative Assembly of the Territory of Utah incorporating, continuing or providing for the corporation known as the Church of Jesus Christ of Latter-day Saints, and the ordinance of the so-called General Assembly of the State of Deseret incorporating the Church of Jesus Christ of Latter-day

Saints, so far as the same may now have legal force and validity, are hereby disapproved and annulled, and the said corporation, in so far as it may now have or pretend to have any legal existence is hereby dissolved.

DISINCORPORATING THE P. E. FUND CO.

SEC. 15.—That all the laws of the Legislative Assembly of the Territory of Utah, or of the so-called government of the State of Deseret, creating, organizing, amending or continuing the corporation or association called the Perpetual Emigrating Fund Company are hereby disapproved and annulled; and the said corporation in so far as it may now have or pretend to have any legal existence is hereby dissolved; and it shall not be lawful for the Legislative Assembly of the Territory of Utah to create, organize or in any manner recognize any corporation or association, or to pass any law for the purpose of or operating to accomplish the bringing of persons into the said Territory for any purpose whatsoever.

ATTY. GENL. TO CONDUCT DISINCORPORATION PROCEEDINGS.

SEC. 16.—That it shall be the duty of the Attorney-General of the United States to cause such proceedings to be taken in the Supreme Court of the Territory of Utah as shall be proper to declare void and to dissolve the said corporations mentioned in the preceding section and in the 14th section of this act and pay the debts and to dispose of the property and assets thereof according to law and equity.

APPEAL LIES FOR POLYGAMY AND UNLAWFUL COHABITATION—CASES SPEEDED.

SEC. 17.—That the eleventh paragraph of the third section of the act entitled "An act in relation to courts and judicial officers of the Territory of Utah," approved June 23d, 1874, be, and the same is hereby amended, so as to read as follows: "A writ of error from the Supreme Court of the United States to the Supreme Court of the said Territory shall lie in all criminal cases where the accused shall have been sentenced to capital punishment, or convicted of bigamy, polygamy or unlawful cohabitation, or of any offense under the act entitled 'An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States in reference to bigamy, and for other purposes,' approved March 22nd, 1882, or under this act, whether the judgment complained of was rendered before or after the approval of this act; and a writ of error from the Supreme Court of the United States to the Supreme Court of the Territory shall likewise be allowed, or to any judgment or decree rendered in any proceeding or suit authorized under the sixteenth section of this act. And the Supreme Court of the United States is authorized to speed all cases arising under this section and dispose of them as promptly as possible without regard to their place upon the docket: Provided, however, that the writ of error or appeal hereby allowed shall be taken and prosecuted within the period limited in like cases from judgments and decrees of the Circuit Courts of the United States, or within one year from the approval of this act.

LIMITING CHURCH PROPERTY.

SEC. 18.—That all religious societies, sects or denominations shall have the right to have and to hold, through trustees appointed by the several county courts of the Territory, so much real property for the erection of houses of worship, and for the residence of minister, priest or other religious teacher, as shall be needed for the convenience and use of the several congregations of such religious society, sect, or denomination; Provided, however, That such real property shall not exceed in an incorporated town or city, ten acres, or elsewhere fifty acres. Nor shall any such society, sect or denomination have and hold, except in the value of buildings erected on said real property as aforesaid, and in the value of the personal property used in religious worship, or for the comfort of those assembled therefor, a greater amount in money value than fifty thousand dollars.

COMMISSIONERS' JURISDICTION EXTENDED.

SEC. 19.—That commissioners appointed by the Supreme Court and District Courts in the Territory of Utah shall possess and may exercise all the powers and jurisdiction that are or may be possessed or exercised by judges of the peace in said Territory under the laws thereof, and the same powers conferred by law on commissioners appointed by circuit courts in the United States.

AUTHORITY OF MARSHALS EXTENDED.

SEC. 20.—That the Marshal of said Territory of Utah, and his deputies, shall possess and may exercise all the powers in executing the laws of the United States possessed and exercised by sheriffs and their deputies as peace officers; and each of them shall arrest or cause to be arrested all offenders against the law in his view, and carry them before the proper officer or court for examination according to law. They shall have power to prevent assaults and batteries and to quell and suppress riots, routs and affrays.

NAUVOO LEGION DISBANDED—THE MILITIA.

SEC. 21.—That all laws passed by the

so-called State of Deseret and by the Territory of Utah for the organization of the militia thereof, or for the creation of the Nauvo Legion, are hereby annulled, repealed and declared void and of no effect; and the militia of Utah shall be organized and subjected in all respects to the laws of the United States regulating the militia in the Territories, Provided, however, That all general officers of the militia shall be appointed by the Governor of the Territory by and with the advice and consent of the Council thereof. The Legislative Assembly of Utah shall have power to pass laws for organizing the militia thereof, subject to the approval of Congress.

PRIVATE LAND OR WATER FRANCHISES ANNULLED.

SEC. 22.—That all laws passed by the General Assembly of Deseret or by the Legislative Assembly of Utah granting or confirming any water, timber or herd rights on any part of the public domain, or any special privilege therein, to any person or to any civil or ecclesiastical corporation or association, or to any person for the use and benefit of any such corporation or association, are hereby annulled and declared void. And the Attorney-General of the United States is hereby directed to cause such proceedings to be had in the Supreme Court of the Territory of Utah as shall enforce this section and also to void and set aside all fraudulent entries upon homestead or preemption claims to lands in said Territory as may come to his knowledge. And the Supreme Court of said Territory shall have all needful jurisdiction in law and equity for the purposes of this act.

THE WIDOW'S DOWER.

SEC. 23.—(a) A widow shall be endowed of a third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless she shall have lawfully released her right thereto.

(b) The widow of any alien who at the time of his death shall be entitled by law to hold any real estate, if she be an inhabitant of the Territory at the time of such death, shall be entitled to dower of such estate in the same manner as if such alien had been a native citizen.

(c) If a husband seized of an estate of inheritance in lands exchanges them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

(d) When a person seized of an estate of inheritance in lands shall have executed a mortgage or other like conveyance of such estate before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged or so conveyed as against every person except the mortgagee or grantee and those claiming under him.

(e) Where a husband shall purchase lands during coverture, and shall at the same time execute a mortgage or other like conveyance of his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or other grantee or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to her dower in such lands as against all other persons.

(f) Where in such case the mortgagee or other grantee or those claiming under him, shall after the death of the husband of such widow, cause the land mortgaged or so conveyed to be sold, either under a power of sale contained in the mortgage or conveyance, or by virtue of the decree of a court of equity, and if any surplus shall remain after payment of the moneys due on such mortgage or conveyance, and the costs and charges of the sale, such widow shall nevertheless be entitled to the interest or income of the one-third part of such surplus for her life, as her dower.

(g) A widow shall not be endowed of lands conveyed to her husband by way of mortgage unless he acquire an absolute estate therein during the marriage estate.

(h) In case of divorce dissolving the marriage contract for the misconduct of the wife, she shall not be endowed.

(i) The term lawful wife, wherever used in this statute, shall be held to mean, in all cases of Mormon or plural marriages the first wife and such wife only shall be entitled to dower under this act on the death of her husband.

RE-APPORTIONMENT OF ELECTION DISTRICTS.

SEC. 24.—That the existing election districts and apportionments of representation concerning the members of the Legislative Assembly of the Territory of Utah are hereby abolished; and it shall be the duty of the Governor, Territorial Secretary and the United States Marshal in said Territory, forthwith to re-district said Territory, and apportion representation in the same in such manner as to provide, as nearly as may be, for an equal representation of the people (excepting Indians not taxed) being citizens of the United States, according to numbers, in said Legislative Assembly, and to the number of members of the Council and House of Representatives, respectively as now established by law; and a re-

cord of the establishment of such new districts and the apportionment of representation thereto shall be made in the office of the Secretary of said Territory; and such establishment and representation shall continue until Congress shall otherwise provide; and no persons other than citizens of the United States, otherwise qualified, shall be entitled to vote at any election in said Territory.

EDMUNDS REGISTRATION AND ELECTION LAW CONTINUED.

SEC. 25.—That the provisions of section nine of said act approved March 22d, 1882, in regard to registration and election officers, and the registration of voters, and the conduct of elections and the powers and duties of the board therein mentioned, shall continue and remain operative until the provisions and laws therein referred to be made and enacted by the Legislative Assembly of said Territory of Utah shall have been made and enacted by said Assembly and shall have been approved by Congress.

A TEST OATH FOR VOTERS.

SEC. 26.—That every male person over 21 years of age resident in the Territory of Utah shall appear before the clerk of the probate court of the county wherein he resides and register himself by his full name, with his age, place of business, his status, whether single or married, and if married, the name of his lawful wife, and shall take and subscribe an oath to be filed in said court stating the facts aforesaid and that he will support the Constitution of the United States, and will faithfully obey the laws thereof and especially will obey the law aforesaid approved March twenty-second, 1882, and this act, in respect of the crimes in said acts defined and forbidden; and that he will not directly or indirectly aid, abet counsel or advise any other person to commit the same. No person not so registered, or who shall have been convicted of any crime under this act or under "An Act to amend Section 5352 of the Revised Statutes of the United States in reference to bigamy and for other purposes," approved March 22, 1882 or who shall be a polygamist, or shall associate or cohabit polygamously with persons of the other sex, or who shall not take and subscribe the oath aforesaid, shall be entitled to vote in any election in the Territory, or be capable of jury service or to hold any office of trust or emolument in the Territory.

LEGISLATIVE COUNCIL APPOINTED BY THE PRESIDENT.

SEC. 27.—That the Council of the Territory of Utah shall hereafter consist of thirteen members, appointed by the President, by and with the advice and consent of the Senate, every two years, the members of which shall be citizens resident in the said Territory, one to be selected from each district of the Territory, according to the apportionment provided for in the 23d section of this act.

OFFICERS APPOINTED BY THE GOVERNOR.

SEC. 28.—That all judges of the county and probate courts and selectmen of each county of said Territory, and all clerks of said courts, justices of the peace, sheriffs, constables and other Territorial, county, district and municipal officers, shall hereafter be appointed as follows, and all laws to the contrary are hereby repealed:

"The President shall have power to nominate and, by and with the advice and consent of the Senate, to appoint all judges and selectmen of the county and probate courts for the term of two years. The said courts shall appoint their clerks, recorders and registers of deeds, wills, and other property by law required to be recorded.

"The Governor, by and with the advice and consent of the Council, shall have power to appoint all justices of the peace, sheriffs, constables and all other county, district and municipal officers of the Territory not herein otherwise provided for.

TERRITORIAL SCHOOL SUPERINTENDENT ABOLISHED.

SEC. 29.—That the office of Territorial superintendent of district schools created by the laws of Utah is hereby abolished; and it shall be the duty of the Governor of said Territory to appoint a commissioner of schools, who shall possess and exercise all the powers and duties heretofore imposed by the laws of said Territory upon the Territorial superintendent of district schools, and who shall receive the same salary and compensation, which shall be paid out of the treasury of said Territory. The said commissioner shall have power to prohibit the use in any district school of any book of a sectarian character or otherwise unsuitable. Said commissioner shall collect and classify statistics and other information respecting the district schools in said Territory, showing their progress, the whole number of children of school age, the number who attend school in each year in the respective counties, and average length of time of their attendance, the number of teachers and the compensation paid to the same, the number of teachers who are Mormons, the number who are not Mormons, the number of children of Mormon parents and the number of children of parents who are not Mormons, and their respective average attendance at school. All of which statistics and information shall be annually reported to Congress, through the Governor of said Territory and the Department of the Interior.