

doctrine. Think of the consequences involved in such a step! Had it been the gratification of lust, or sensual appetites, an easier method, and one infinitely more popular, might have been found. But this was not the object. A command from God had been received, and though that command came in contact with their own traditions, prejudices and education, and was in direct opposition to the popular views of Christendom, it had to be obeyed. History, sacred and profane, may be sought in vain for an instance on the part of a people which will bear comparison with the sublime devotion of the Latter-day Saints in taking the stand they have on this question. They knew in the beginning what the consequences might be: the loss of reputation, the hatred of the world, complete ostracism from society, and probably death; but they did not flinch. They had put their hand to the plow and they were determined not to look back. The same feeling which animated them then animates them now. They have shown in the past that they are capable of making every sacrifice for their religion. That spirit may not be very apparent to many now; but it only smoulders. Let the wind of persecution fan it, and it will burn with as fierce and pure a flame as it ever did. A record of heroism will be furnished that posterity will emblazon on the pages of history for all ages to admire.

But God cannot be counted out of this question. He will have a share in its discussion. He commanded, and the Latter-day Saints obeyed, and at what sacrifices all the world knows. If a contest, therefore, is to be inaugurated, the position of the Latter-day Saints is a subordinate one; the Lord is the principal on one side, and those who oppose this doctrine are the principals on the other. If they are determined to push this matter to an issue, they can doubtless be accommodated; but who can have doubts about the result?

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the United States marshal of Utah Territory may appoint a deputy in each of the judicial districts of said Territory; *Provided,* that before any such deputy shall be authorized to enter upon the discharge of his duties his appointment must be approved by the judge of the district court of the district for which said deputy is appointed; and said deputy must take and subscribe the same oath prescribed by law to be taken by the marshal, and give bond with good and sufficient sureties to said Marshal in the penal sum of \$10,000, conditioned for the faithful discharge of his duties as such deputy; and said appointment, approval, oath, and bond shall be entered upon the journals of said court.

SEC. 2. *And be it further enacted,* That it shall be the duty of said marshal, in person or by his deputies, to attend the district and supreme courts of said Territory, and serve and execute all process, orders, judgments, or decrees issued, rendered, or directed by said courts or by any judge thereof.

SEC. 3. *And be it further enacted,* that the United States district attorney of said Territory may also appoint an assistant in each of the judicial districts of said Territory; *Provided,* that before any such assistant shall enter upon the discharge of his duties his appointment must be approved by the presiding judge of the district court of the district for which such appointment is made; and said assistant must take and subscribe the same oath prescribed by law to be taken by the district attorney, and said appointment, approval, and oath shall be entered upon the journals of said court.

SEC. 4. *And be it further enacted,* That it shall be the duty of said district attorney, in person or by his assistants, to attend all of the district courts of said Territory, and perform the duties of prosecuting attorney in all criminal cases arising in said courts.

SEC. 5. *And be it further enacted,* That only citizens of the United States, over the age of twenty-one years shall be competent to serve as grand or petit jurors in said Territory.

SEC. 6. *And be it further enacted,* That the grand jury of said Territory shall consist of fifteen good and lawful men, twelve of whom concurring, may find and return a bill of indictment.

SEC. 7. *And be it further enacted,* That at least twenty days before the time of holding each regular term of the district courts of said Territory, in their respective districts, the United States marshal of said Territory, or one of his deputies, shall, in connection with the clerk of the district court for which a term is to be holden, select from the body of the people of said district thirty-nine good and lawful men having the necessary qualifications to serve as jurors, and make a list in writing of the names of the persons so selected, and append thereto a certificate stating that said persons have by them been selected to act in the aforesaid capacity, and setting forth the court, district, and term of court for which they were selected, which certificate

shall be signed by the persons making such selection and filed with said clerk; whereupon said clerk shall forthwith issue a venire, directed to said marshal or his deputy, commanding him to summon the fifteen persons first named on said list to be and appear in said court on the first day of the term thereof (to be named in said venire) to serve as grand jurors; also to issue a like venire commanding said marshal or his deputy to summon the remaining twenty-four persons on said list to be and appear at said term to serve as petit jurors; and the persons so selected and summoned shall constitute one full grand and two full petit juries; *Provided,* That, if all or any number of the persons so selected and summoned shall fail to appear, shall be excused by the court, or shall be challenged, or if for any other cause whatever it shall become necessary, the court, both in the case of the grand and petit jury, may order the panel to be filled by talesmen, summoned by the marshal or his deputy, from the body of the district or from the bystanders.

SEC. 8. *And be it further enacted,* That if at any special or adjourned term of the district courts of said Territory it shall become necessary to have either a grand or petit jury, or both, after the juries for the regular term have been discharged from attendance, the presiding judge of the district court requiring the attendance of such jury or juries may, in his discretion, issue a special order requiring the marshal or one of his deputies, and the clerk, to forthwith select and summon a jury or juries, according to the foregoing provisions of this act. And any judge of the district courts of the said Territory of Utah is hereby authorized and empowered to appoint, at such times and places as he may deem expedient, as many special terms of court in his district as in his opinion the necessities of business may require, thirty days notice to be given of the time and place of holding such special term in some newspaper in general circulation in said Territory.

SEC. 9. *And be it further enacted,* That the said first judicial district shall embrace the counties of Millard, Sanpete, Sevier, Piute, Beaver, Iron, Washington, Rio Virgin, and Kane, and that the regular terms of the court thereof shall be held at the city of Beaver, in said county of Beaver, commencing on the first Monday of June in each year; that the said second judicial district shall embrace the counties of Tooele, Salt Lake, Utah, Wasatch and Juab, and that the regular terms thereof shall be held at Salt Lake City, commencing on the first Mondays of February, May and September, in each year; that the third judicial district shall embrace the counties of Davis, Morgan, Summit, Box Elder, Cache, Weber and Rich, and that the regular terms thereof shall be held at Corinne, in said county of Box Elder, and shall commence on the first Mondays of January and June in each year; but the time of commencing said regular terms of said several courts may be changed by the Governor, when it shall appear to him that a different time would accommodate the judge and the people of the said several districts better.

SEC. 10. *And be it further enacted,* That in criminal cases both the prosecution and the accused shall have the right and privilege to challenge, for cause, the array and polls of the grand and petit jury, and in all prosecutions for bigamy, and the crimes specified in this act, no person shall be competent to serve, either as grand or petit jurors who believes in, advocates, or practices bigamy, concubinage or polygamy, and upon that fact appearing by examination on voir dire or otherwise, such person shall not be permitted to serve as a juror. And in all criminal trials each of the parties shall have the right to challenge peremptorily six of the petit jurors.

SEC. 12. *And be it further enacted,* That whereas marriage in said Territory of Utah rests solely on the contract of the parties, followed by cohabitation, there being no form, manner or ceremony prescribed by the laws of said Territory for the solemnization of this important relation in society, or requiring any recordation, certificate, or publication of the same: That, in all prosecutions for bigamy, concubinage, or adultery, it shall not be necessary to prove either the first or subsequent marriages, by the registration or certificate thereof, or other recorded evidence, but the same may be proved by such evidence as is admissible to prove a marriage in other cases, and proof of cohabitation by the accused with more than one woman as husband and wife, his declarations and admissions that such women are his wives, his acts recognizing, acknowledging, introducing, treating, or deporting himself toward them as such, shall, unless rebutted, be sufficient to sustain the prosecution.

SEC. 13. *And be it further enacted,* That any man in said Territory, who shall, after this act goes into effect, live or cohabit with one woman or more, other than his lawful wife, as his wife or wives, shall be adjudged guilty of the crime of concubinage, and upon conviction thereof, shall be punished by fine not exceeding one thousand dollars, and by imprisonment in the penitentiary at hard labor, not exceeding five years; and in all prosecutions for the violation of this section the alleged concubines of the accused shall be competent witnesses to establish or disprove the charge: *Provided,* That no statement made by any such witnesses shall be used against, admitted, or allowed to affect them in any manner in any case whatsoever, and an indictment charging said crime to have been committed

with more than one woman, will be sustained by proof, showing the same to have been committed with one only or more.

SEC. 15. *And be it further enacted,* That every person who commits the crime of adultery shall be punished by imprisonment not exceeding five years nor less than one year, or by fine not exceeding \$1,000 nor less than \$100; or by both fine and imprisonment, at the discretion of the court; and any violation of this section, the thirteenth section of this act, and the act against bigamy, entitled, "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah," approved July 1, 1882, may be charged in separate counts in the same indictment, which indictment may conclude, generally, against the statutes in such cases made and provided, and the thirty-first section of an act of the Legislative Assembly of the Territory of Utah, entitled, "An act in relation to crimes and punishments," approved March 6, 1852, be, and the same is, hereby disapproved and annulled.

SEC. 16. *And be it further enacted,* That in all cases or proceedings where imprisonment may be ordered, if there be no jail or prison in which the person or persons to be imprisoned can with safety be kept, the court or judge may order such person or persons confined in any military prison or camp of the United States in said Territory; and the officer or person in command of such prison or camp is hereby authorized and required, on the order of the court or judge, to receive and safely keep such person or persons until they shall be lawfully discharged from custody.

SEC. 17. *And be it further enacted,* That if the United States marshal or any of his deputies shall be resisted or threatened with resistance, in the execution of any writ, order, process, judgment or decree of any court or judge of said Territory, said marshal or either of his deputies may, if in their judgment assistance is necessary, apply to the commander, or person in charge of any military camp or post of the United States in said Territory, or to any one having charge of troops of the United States therein, for a posse to aid such officer; and upon such application being made, the commander, or person in charge of such military camp, post or troops, is hereby authorized to detail a sufficient number of men to enforce the writ or other process, whatever it may be, which is being or is threatened to be resisted. And said marshal, or either of his deputies, may make application for such assistance when necessary to suppress any mob, riot or other disturbance of the peace.

SEC. 18. *And be it further enacted,* That it shall be the duty of the Governor of said Territory, so often as it shall appear necessary, to inspect, or cause to be inspected, the jails and other prisons in said Territory, and the manner persons are held, treated and imprisoned therein. And the Governor shall make rules for the regulation and government of said jails and prisons; and he is hereby empowered to remove the wardens and keepers of all jails and prisons, or other officers connected therewith, and appoint others in their stead as often as in his opinion the public good shall require.

SEC. 19. *And be it further enacted,* That no alien living in or practicing bigamy, polygamy or concubinage, shall be admitted to citizenship of the United States; nor shall any person living in or practicing bigamy, polygamy or concubinage, hold any office of trust or profit in said Territory, vote at any election therein, or be entitled to the benefits of the homestead or pre-emption laws of the United States, and the district courts of said Territory are hereby authorized to issue writs of *quo warranto*, on the information of the district attorney or other person interested, to test the right of any one discharging the duties of or claiming the right to any office in said Territory; and the judges of elections are hereby authorized to examine under oath all persons who may offer to vote, as to their qualifications and right so to do, and all persons appointed or elected to office in said Territory, before entering upon the duties of such office, and before being entitled to any salary or other emoluments thereof, shall take and subscribe one of the following oaths or affirmations, to wit: "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States hostile or inimical thereto; (or I do solemnly swear (or affirm) that I have been relieved by an act of Congress, as provided for by the third section of the fourteenth article of the amendments to the Constitution of the United States) that I am not living in or practicing bigamy, polygamy or concubinage; and I will not hereafter live in or practice the same. And I do further swear (or affirm) that to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey all

of the laws of the United States, and will not counsel, advise or encourage any other person to disobey or violate the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God;" and said oath when taken and subscribed, shall be certified by the officer before whom the same was taken and subscribed, and said oath so certified shall forthwith be forwarded to the Secretary of said Territory, who shall place the same on file in his office.

SEC. 20. *And be it further enacted,* That in the absence, or in case of sickness or disability, of any of the judges of said Territory, or for any cause whatever which renders it necessary, it shall be competent for either of the judges to hold court in any of the judicial districts of said Territory, and it is hereby made the duty of said judges, upon the request or direction of the executive of said Territory, in writing, setting forth the reason and necessity of such request or direction, to proceed to the district designated and to hold the terms of court therein until such necessity shall cease.

SEC. 21. *And be it further enacted,* That the probate judges, justices of the peace, judges of all elections, notaries public, and all sheriffs in said Territory shall be appointed by the Governor; be subject to removal by him, and shall hold their offices for the term prescribed by law, unless sooner removed, or their successor shall before then be appointed.

SEC. 22. *And be it further enacted,* That an appeal by any party aggrieved shall be allowed from all final decisions, orders, judgments, or decrees of all inferior courts in said Territory, to the district court of the district in which the proceedings before such courts are had; and in correction of the proceedings of such inferior courts of said Territory, and to prevent and correct abuses by the same, the district courts of said Territory are hereby authorized to issue writs of error, *certiorari*, *mandamus*, prohibition, and *quo warranto*, and in all cases of appeal from one court to another, where a bond or other security is now required to be given by the party appealing, it shall not be lawful to demand or exact of such party the payment of costs adjudged or taxed against him, until the appeal shall be finally disposed of by the appellate court, and the supreme court of said Territory may make rules and regulations as to the mode and manner of taking and perfecting appeals from one court to another in said Territory, and the security, if any, to be given in such appeals, so that the just rights of the parties may be secured and preserved.

SEC. 23. *And be it further enacted,* That marriages in said Territory may be solemnized only by justices of the supreme court, by justices of the peace duly appointed and qualified, and by any priest or minister of the gospel regularly ordained and settled or established as such in said Territory, between parties competent to enter into the marriage contract. Marriage in said Territory is hereby declared to be a civil contract, to which the consent of parties, capable in law of contracting, is essential. No man, a resident of said Territory, shall marry his mother, his grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, nor his sister, his half-sister, brother's daughter, father's sister or mother's sister. No woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, nor her brother, half-brother, brother's son, sister's son, father's brother, or mother's brother. No marriage shall be contracted while either of the parties has a former wife or husband living in the United States or elsewhere, unless the marriage with such former wife or husband shall have been legally dissolved. All persons within the degrees of consanguinity within which marriages are herein prohibited to residents of said Territory, and hereby declared to be incestuous and void, who shall intermarry with each other or who shall commit adultery or fornication with each other, shall be punished by imprisonment at hard labor in the penitentiary of the Territory not more than twenty years, and be fined not more than one thousand dollars.

SEC. 24. *And be it further enacted,* That in all cases of election by ballot, it shall be unlawful for any person to put any number, figure, or device upon such ballot, whereby any person may be enabled to ascertain by whom the ballot was given; and any violation or attempt to violate this provision shall be deemed and taken to be a crime, and upon conviction thereof the person so offending may be punished by fine not exceeding five hundred dollars, or by imprisonment in the penitentiary not exceeding one year, or by both fine and imprisonment, at the discretion of the court. And at all elections none but male citizens of the United States over twenty-one years of age, residing in the precinct or election district, and not disqualified by conviction of crime by any of the provisions of this act, or otherwise, shall be competent voters.

SEC. 25. *And be it further enacted,* That the probate courts in their respective counties in said Territory are hereby authorized to hear, try, and determine civil causes wherein the debt or damages claimed