

shall hold his office for four years, and until his successor is appointed and qualified. The judge of said court shall appoint a clerk of said court. The salary of said district judge shall be \$3500 per annum, to be paid in the same manner as the salaries of other district court judges of the United States.

Sec. 21. The board of commissioners created by the ninth section of the act of Congress of March 22, 1862, entitled "an act to amend section 5352 of the revised statutes of the United States," is hereby abolished, and the duties prescribed by said section and the acts of Congress amendatory thereof shall, until some other or different provision is made by the territorial legislature, be performed by a board consisting of the governor, attorney-general, and the three justices of the supreme court, elected as provided for in this act. This section shall not take effect until the first day in January, 1893.

Sec. 22. Section four of the act of Congress, approved June 23, 1874, entitled "An act in relation to Courts and Judicial Officers in the Territory of Utah," is hereby repealed, and until some other and different provision shall be made by the territorial legislature, it shall be the duty of the district judges, elected as provided in this act, to appoint in each county three jury commissioners, who shall meet in each county on the second Monday in January of each year and prepare a jury list, which shall contain the names of 200 electors of the county, duly qualified to serve as jurors. From such list the probate judge and county clerk of such county shall, at least ten days prior to the beginning of any term of the district court, upon order of the district judge, draw the necessary number of names to constitute a grand or trial jury, or both, if so ordered by the district judge. No person shall be competent to serve as a juror unless he has resided in the county for six months next preceeding and is an elector of the county, and can read and write the English language. In any county there be less than two hundred qualified electors, then the jury shall be drawn from the whole number of electors in the county. This section shall not take effect until January 1, 1893.

Sec. 23. Section 1 of the act of Congress approved June 23, 1874, entitled "An Act in Relation to Courts and Judicial Officers in the Territory of Utah," is repealed. All process issued by the supreme court of the Territory of Utah shall be served by the United States marshal for said Territory, and he shall be paid therefor out of the Territorial treasury the same fees and charges that are allowed for like services in cases arising under the constitution and laws of the United States. All process from the district courts of said Territory shall be served by the sheriff of the county in which such process is to be served. Or if the sheriff be a party to any suit, then process in such suit shall be served by such person as the district judge may appoint. This section shall take effect January 1, 1893.

Sec. 24. It shall be the duty of the district attorney elected as herein provided to attend upon the district courts in their respective districts and prosecute or defend therein all causes in

which the Territory, or the people thereof, or any county, is a party, on behalf of the Territory or people of such county, as the case may be. Sections 2 and 3 of an act of Congress approved June 23, 1874, entitled, "An act in relation to courts and judicial officers in the Territory of Utah," are hereby repealed. This section shall take effect January 1, 1893.

Sec. 25. All prisoners in the territorial penitentiary at Salt Lake City, Utah, and in the custody of the United States marshal, upon the 1st day in January, 1893, serving under sentence of commitment for the violation of territorial laws, may thereafter be confined in said penitentiary, provided a contract agreeable to both parties be made between the governor of said territory and the attorney-general of the United States. And all prisoners committed to said penitentiary after that date may likewise be confined in said penitentiary under such contract, provided that the territorial legislature may at any time provide any other or different place of confinement for said prisoners, or may make any other or different arrangements for their sustenance and confinement.

Sec. 26. The territorial legislature may provide by law for the sale for the benefit of the public school fund of aid territory of any part or all of sections 16 and 36 of the public lands within said territory that have not been alienated by the United States, and in like manner provide for the sale and disposition of lands reserved in said territory for university purposes for the benefit of a university fund; provided, that none of said lands shall be sold for a less price than \$10 per acre.

Sec. 27. All laws and parts of laws now in force in conflict with any of the provisions in this act are hereby repealed.

### THE VARIETY THEATRE.

The following complaint was lodged with the Clerk of the Third District Court this morning:

IN THE THIRD JUDICIAL DISTRICT COURT OF UTAH TERRITORY, SALT LAKE COUNTY.

Benjamin F. Stewart, plaintiff, vs. Salt Lake City, George M. Scott, Frank H. Hyde, Richard W. Young, Andrew J. Pendleton, Eli A. Folland, Oscar H. Hardy, William J. Tuddenham, and William F. James, defendants.

I. The plaintiff complains of the defendants for that the defendant Salt Lake City at all times hereinafter stated was and now is a municipal corporation created by the laws of Utah Territory.

II. That among other things it is by the charter of said city provided that the City Council of Salt Lake City is thereby empowered by ordinance and enforcement thereof to license, tax and regulate the manufacturing, selling, giving away or in any other manner disposing of spirituous, vinous or malt liquors, and the persons who engage therein; to restrain, prohibit and punish the manufacturing, selling, giving away, or in any other manner disposing of spirituous, vinous or malt liquors, without a license granted to exercise said power, conjointly or

separately; to prohibit the selling, giving away, or in any manner disposing of spirituous, vinous, or malt liquors upon Sundays, public holidays and election days; to adopt and employ proper and convenient means for carrying the same into effect; to have the power to require the payment in advance, into the city treasury, for purposes of revenue for each and every license granted for manufacturing, selling, or otherwise disposing of such liquors, a sum not exceeding at the rate of twelve hundred dollars per annum." That at the time of the grievance hereinafter complained of the said last mentioned provisions of law were in full force and effect, and were and are the sole and only source and power whereby said City Council derived any power or authority over the subject matter of said law.

III. That under the authority so granted said Salt Lake City by the legislators of Utah Territory in its charter, said City Council heretofore passed substantially the following ordinances, regulating the sale of liquors, viz: "Section 42, Chapter xxiii, Revised Ordinances of said Salt Lake City, provides that no person shall manufacture, sell, barter, deal out or otherwise dispose of any spirituous, vinous, malt or other intoxicating liquors without first obtaining from the City Council a license therefor; that by section 43 said chapter of said Revised Ordinances, it is provided that application for said license shall be made by petition to the City Council signed by the applicant and filed with the recorder; that said petition must state definitely the principal place at which such liquors are to be manufactured, sold, bartered dealt out or otherwise disposed of and whether at wholesale or at retail; that applicant shall also file with the petition a bond to Salt Lake City, conditioned that during the continuance of his license he will keep an orderly and well regulated house, that he will not allow gambling with cards, dice, or any other device or implements used in gambling within his house where such business is conducted; that he will pay all damages, fines and forfeitures which may be adjudged against him under the provisions of said chapter 23, of said revised ordinance and an act of the governor and legislative assembly of the Territory of Utah, entitled an act to license and regulate the manufacture and sale of intoxicating liquors, approved March 9th, 1882; that such bond shall be in the sum of \$1,000, with two or more sureties; that said sureties must justify on oath that they are residents within the Territory and are worth the amount specified in said bond over and above all their debts and liabilities, exclusive of property exempt from sale on execution; that such justification shall be in writing, signed by the persons justifying, and shall be attached to and filed with the bond.

That by section 44 of said chapter of said revised ordinances it is provided as follows: "That on the City Council granting the license petitioned for, which shall be for the period of three months, the applicant shall pay into the city treasury the amount hereinafter specified for such license and shall receive the treasurer's receipt