

be brought on a judgment at any time within five years, while Sec. 1434, which makes provision for the issuing of executions, says they can only issue at any time within three years after the entry, thereby allowing a judgment creditor five years within which to sue on his judgment, but only three years in which to obtain an execution to levy on property, thereby compelling him, at the end of that time, to commence a suit on his judgment and to litigate his case again in order to protect his interests. Furthermore, the lien which attaches to real estate by virtue of a judgment properly docketed by the clerk of the court is vacated at the end of two years. If the word *three* in Sec. 1434 and the word *two* in Sec. 1429 were respectively changed to the word *five* the statutes would then harmonize, and be more in keeping with substantial justice.

FEES OF JURORS.

The statutes of the Territory make no provision for the payment of petit jurors except in criminal cases. This is unjust to jurors and a source of embarrassment to the courts. Jurors are required to attend court, and they should be paid for their services no matter whether attending on civil or criminal business.

To remunerate the Territory for paying jurors in civil cases, I would suggest there be a jury fee taxed as costs in every civil case submitted to a jury. The Marshal or other officer collecting such fees should be required to pay them into the Territorial Treasury. A practice similar to this has been adopted in some of the States, and, I am informed, gives entire satisfaction.

An appropriation amply sufficient to pay all jury fees should be made by the Legislature. As matters now stand Territorial scrip can be bought on the streets at from forty to sixty cents on the dollar, so that the juror receives when attending on criminal cases only about one-half the pay allowed by law.

The plaintiff in any civil action or proceeding should be held responsible to the officers for their fees. If judgment is recovered against the defendant, these fees are taxed as costs of suit, and the plaintiff is thereby remunerated, provided the defendant is able to respond, but if not, the plaintiff should lose the fees rather than the officers of the court, who have earned them at his instance. Such a law would make parties more cautious in bringing suits and in compelling their services when there are no funds or property in the possession of the defendant which can be reached by an execution. To provide for such contingencies I would therefore recommend that the costs of suit be taxed to and paid by the plaintiff, whether he prevails in his action or not. If he does prevail, then he will have an execution for the amount of his judgment and costs against the defendant.

SILK.

The silk culture is attracting some attention in the Territory, and it has now been demonstrated by actual experiment that our climate and soil are admirably adapted to the mulberry tree and the production of silk. It is believed this will be a profitable industry. It requires but small capital to engage in it, and it is especially suited to persons of limited means who desire to make safe investments and are satisfied with reasonable returns for their labor. The silk which has been produced so far is of good quality and the manufactured fabrics are of an excellent and substantial character. If any legislation is deemed necessary to foster this branch of home industry, I hope you will not fail to enact it.

MARRIAGE.

Provisions should be made whereby the marriage ceremony may be performed by persons authorized by law to do so. The statutes are ominously silent on this important subject. It is usual elsewhere to confer such authority upon magistrates, executive officers and clergymen of all religious denominations. I should be gratified to see a law of that kind prevail in this Territory, with a requirement that all marriages shall be made a matter of public record, and that parties who perform these ceremonies shall furnish the recorder with a certificate containing the names and ages of all persons united by them in marriage.

CRIMINAL PRACTICE ACT.

Previous to the meeting of the last Legislative Assembly, the

members of the Bar and other leading citizens of this city, composed of both parties, held a meeting called for the purpose of appointing committees who should draft such laws, to be presented to the members of the Legislature, as the imperative necessity seemed to demand in this Territory. Among others, a committee consisting of two leading attorneys was appointed to prepare a penal code and a criminal practice act. They attended faithfully to the duties assigned them, adopting for their guide, so far as practicable, the California Code. I called the attention of the Assembly to these measures when it convened, and urged their passage. The recommendation was adopted so far as to pass a penal code, which was modeled after the California system and which defined numerous offenses and affixed to them appropriate penalties but, for some reason unexplained, the Legislature failed to enact a code of procedure for the courts in criminal cases, except such as are held by justices of the peace.

While our courts are still left to the guidance of the common law methods, which are uncertain and often contradictory, and the mode of procedure in criminal cases varies with the opinions of the judges who preside over them, nothing is settled and determined, nor can it be under the present provisions of the law. The rule laid down by one judge is changed by his successor, and persons accused of crime are tried by no well-settled, or clearly defined principles of law. This constantly varying practice is not only unjust to the courts, but prejudicial to the rights of the accused who is on trial. This loose system of criminal procedure is wrong in every respect and should receive your immediate attention. In cases where parties are convicted of murder in the first degree, a doubt exists whether the judge has authority under the statutes to pronounce sentence upon them, and whether by law, there is even any punishment. The difficulty arises from the fact that, while the Legislature adopted that portion of the California code which enacts the penalty of death in cases of murder, it failed to adopt the other portion of the code which provides a method for executing the sentence. There is now in the Territory a case of murder involving this very difficulty, which has gone to our Supreme Court on appeal, and which will probably be carried to the Supreme Court of the United States in order to settle this mooted question.

DIVORCE.

In my message two years ago I referred to the law of divorce, specified some of its objectionable features, and requested to have it revised, but as the matter was not acted upon at that time, I present it again, trusting you will not adjourn without adopting a well-considered bill and such as will throw around marriage all the necessary safeguards. The practice in vogue in our Probate Court is to exercise jurisdiction in divorce suits over parties whether they reside within or without the Territory, and in numerous instances these cases have been decided without giving the defendants the usual notice, thereby depriving them of an opportunity to be heard, however meritorious may have been their defence. I cannot present the case now more pointedly than I have formerly, and will call your attention to what was then said: "By an act of Congress our Probate Courts have jurisdiction over suits for divorce, but Congress intended, no doubt, such jurisdiction should be exercised with caution and carefully guarded by Territorial statutes. The law is defective and should be modified. The laws of Utah allow divorce to parties not residing in the Territory, by showing to the satisfaction of the Court the complainant wishes to become a resident. To prevent an abuse of the law I recommend the statutes be so amended as to require of the complainant in any case for divorce an actual bona fide residence of one year prior to the commencement of suit, in the county or district in which legal proceedings are instituted." The law is so loose in its provisions as to invite an illicit practice, which has recently been carried on to an alarming extent and brought disgrace alike upon the Territory and those engaged in procuring divorces. The sooner you act in the premises the sooner Utah will be relieved of the odium of these unsavory proceedings.

COMMISSIONERS.

For a series of years after the settlement of this inland country, the people were of one faith, and whatever their differences, they were adjusted by a council of the church, consequently few laws were necessary and those of the simplest character. But when railroads were completed through the Territory, then another class of people came into the country, attracted here by the rich mineral deposits and engaged in mining and its kindred pursuits. The advent of this element, with its new enterprises, necessitated further legislation, and that of a different kind. Since that period the meetings of the Legislature have been biennial and limited to a certain number of days, so that the statutes have necessarily undergone revision at every session, to meet the exigencies of the hour, until they contain incongruities which it appears impossible to correct during the time prescribed. To remedy these difficulties it has been suggested, and I fully concur in the suggestion, that a commission eminently qualified for its duties should be appointed to codify the laws and eliminate from them whatever is in conflict with Congressional enactment. They should also be instructed to draft such bills as they may deem advisable for the public good and submit their work to the next Assembly for its approval. Such an arrangement would enable its members to devote a large portion of their time, during the session, to the consideration of necessary measures rather than to the preparation of bills, as is usually the case, and also enable them to bring up the work of legislation to date and to present to their constituents a well digested system of law. Such commissions are not unusual in the States, and are created for the purpose of simplifying the statutes and presenting a better system of jurisprudence than it is possible to provide without such assistance. If such a commission be appointed, it should consist of men learned in the law and fully competent to discharge the onerous duties which they are called upon to perform.

MOUNTAIN MEADOWS MASSACRE.

It is now twenty years since an atrocious crime was committed in the southwestern portion of this Territory, known as the Mountain Meadows massacre. Up to the present time but one of the parties engaged in that horrible affair has been punished. Other persons have been indicted for the same offence, but they have evaded the officers of the law so successfully since their indictment that their arrest, trial and conviction are now quite improbable, unless the Legislature interests itself in the matter and offers a suitable reward for their apprehension. It is believed friends are in communication with these men, and warn them of the approach of officers, and such vigilance is maintained, that though frequent attempts have been made to arrest them, they have been foiled by these persons. This is a matter which you should inquire into, and I suggest a committee be appointed early in the session with all necessary authority to investigate the causes operating against the arrest and trial of these indicted parties. I urge this matter in the interest of justice and good government, that the guilty may be punished and the innocent vindicated. I also urge it in the interest of every innocent person living here at the time of the terrible massacre.

The responsibility of that melancholy transaction should rest upon the parties engaged in it, and not upon the entire population residing in the Territory when it occurred.

POLYGAMY.

The majority of the people of this Territory belong to a religious sect known as the "Latter-day Saints." I do not intend to discuss the merits or demerits of this new religion, but to refer to one of its distinctive features, polygamy. This system of marriage has continued here for thirty years, and for fifteen years in violation of law. In all the States and Territories except Utah it is considered a grave offense and is severely punished. Polygamy is no less a crime here than in other portions of our country, and yet the law remains a dead letter upon the statutes. I regard this system of marriage an evil undermining the peace of society brought within its influence, and carrying with it dark shadows which rest like a blight upon the offspring of these illegal relations

and the women who are maintained in them. The number of polygamous wives in Utah is large—how large I have not the means of knowing—yet it is safe to say they number thousands. Such a condition of things is an anomaly nowhere else to be found in a Christian country. This, gentlemen, is a serious question, and should be met openly and with candor. It is for you to decide whether from all the surroundings you will take action in the premises and provide against the continuance of these criminal relations, or ignore the consequences of this state of affairs. Congress has reserved to itself the right to approve or disapprove of any territorial legislation, and also to enact such laws as may appear necessary to the welfare of the people. Yet, notwithstanding these reserved powers, it is more than probable that Congress would acquiesce in any measures inaugurated by yourselves looking to a permanent and equitable settlement of this question. The Territories are the wards of the National Government, created by Congress, and whatever privileges are enjoyed within them, are extended by that body, all of which Congress has the power to modify or revoke. The policy of the government has been to allow citizens of the Territories to legislate for themselves, and no doubt it will continue in that policy, provided they enact judicious laws, such as are in accord with the General Government and in harmony with those of the States and not otherwise. Polygamous marriages are so frequent and so numerous throughout this Territory, and the sentiment of a majority of the people so much in their favor, that the officers of the law, though charged with the duty of enforcing the law, find themselves unable to do so without further and more stringent legislation on the subject.

This legislative body has sufficient jurisdiction over the matter to provide such enactments as the circumstances require; but if it fails to act in the premises, then it is the duty of Congress to take cognizance of the fact and to provide such legislation as will meet this case, or abolish the law which makes polygamy a crime. Polygamy and the union of church and state are stumbling-blocks in the way of a settled condition of affairs in this Territory, and are alike detrimental to the interests of the dominant church and the entire people.

Any religious body in this country holding two such tenets as I have just referred to, which are so antagonistic to American ideas and republican government, will be the object of distrust in other respects, though blameless and even praiseworthy.

CONCLUSION.

The attention of the members of the last Assembly was directed to some of the measures to which I now refer, but as they failed to be adopted, I again present them, trusting the progress of events has so far modified public opinion respecting them that favorable action will now be taken. To complete the work necessary to be done will severely tax your energies and probably your patience, nevertheless if you succeed in the undertaking your labors will not be in vain, and to the consciousness of having done a public service will be added the approval of a grateful constituency.

Permit me in conclusion, gentlemen, to express the hope that the same generous spirit which characterized the deliberations of the last session will prevail during this, and that the result of your labors will be satisfactory to the people and conducive to the permanent welfare of Utah.

The Housekeepers' Responsibility

How many suffer from dyspepsia and other ills, by the neglect of the housekeeper to see that the food provided is made from articles that are not injurious to health. Among the articles which are perfectly pure and wholesome is Dr. Price's Cream Baking Powder. Encourage its sale by a liberal patronage.

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