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A BILL

To Aid the Execution of the Law against Polygamy, and to prevent that Crime in the Territory of Utah, and for other purposes.

[Introduced to the Senate of the United States, December 4, 1871, by Aaron H. Cragin, New Hampshire.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That citizens only of the United States shall be competent to serve as grand or petit jurors in the Territory of Utah.

Sec. 2. That the United States marshal or other officer, in selecting grand or petit jurymen, shall select them from the body of the people; and in the trial of any case in which the United States shall be a party, the United States shall have the same right to challenge jurors as the other party has.

Sec. 3. That it shall be the duty of the United States marshal, in person or by his deputies, to attend all the courts held by the United States justices or judges in said Territory, and to serve and execute all process and orders issued or directed by said courts, or by the judges thereof.

Sec. 4. That in the absence, or in case of sickness or other disability, of any of the judges, it shall be competent for either of the other judges to hold a court in the district of the absent or disabled judge, and to perform any and all official duties in such district which might be performed by the judge assigned to such district were he personally present and not disabled; and it is hereby made the duty of the judges in said Territory, upon the request or direction of the executive of said Territory, to proceed to the district of the absent or disabled judge, and to hold the courts therein, and to do and perform such official acts as might be performed by the absent or disabled judge.

Sec. 5. That the probate judges shall be appointed by the governor, and their term of office shall be four years, unless sooner removed by the governor, and in all cases a party to any suit or proceeding, before a justice of the peace or the probate court, feeling himself aggrieved by the judgment or decision of the justice of the peace, or by the judgment or decision of the probate court, may appeal from such judgment or decision to the district court of the district in which the proceedings before the justice or probate court are had. 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.

Sec. 6. That 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, so that the just rights of the parties may be secured and preserved.

Sec. 7. That property of no person, corporation, or association shall be exempt from taxation, and all assessments shall be equal according to the cash value of the property: *Provided*, That the real estate of any religious society, corporation, or association, to an amount not exceeding ten thousand dollars, and all lots or parcels of ground used exclusively as burial places or depositories of the dead, may be exempted from taxation; but this exemption shall be applied equally and without discrimination, to every kind and description of sects and denominations of worshippers, and not otherwise.

Sec. 8. That in all suits or proceedings at law or in equity, wherein the United States are neither a party nor interested, the fees of the officers of the court may be taxed against and collected of the proper parties under the direction of the court, and the collection thereof enforced by execution or attachment against the property of the party.

Sec. 9. That there shall be in the militia of said Territory no officers of higher rank or grade than that of major general; and all officers military and civil, except constables, shall be selected, appointed, and commissioned by the governor; and every person who shall act, or attempt to act, as an officer, either civil or military, without being first commissioned by the governor, and qualified by taking the proper oath, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding one thousand dollars, and imprisonment in the penitentiary not exceeding one year.

Sec. 10. That the militia of said Territory shall be organized and disciplined in such manner and at such times as the governor of said Territory shall direct, and all the officers thereof shall be appointed and commissioned by the governor. As commander-in-chief the governor shall make rules and regulations for the enrolling and mustering of the militia; and he shall yearly, between the first and last days of October, report to the Secretary of War the number of men enrolled and their condition, the state of discipline, and the number and description of arms belonging to each company, division, or organized body. Aliens shall not be enrolled and mustered into the militia.

Sec. 11. That marriages in said Territory may be solemnized only by justices of the supreme court, or by justices of the peace duly appointed and qualified in their proper townships or precincts, or by any priest or minister of the gospel regularly ordained and settled or established as such in said Territory, or by any bishop or elder in the so-called Mormon church, between parties competent to enter into the marriage contract. And the person solemnizing such marriage shall sign and deliver to the husband and the wife a certificate thereof, wherein shall be set forth the names, the ages, and places of residence of the parties, and the place and date of such solemnization, together with the names of witnesses, not less than two, present at such solemnization; which certificate may be recorded in the office of the proper register of the county, and the register shall be entitled to the same rate of fees for recording such certificates as is allowed for recording deeds of land; and such certificates, or a certified copy of the record, shall be evidence in any court of the facts therein set forth, as above required. All such registers shall henceforth be appointed by the governor of said Territory, and be subject to be removed from office by him. Marriage, so far as its validity in law is concerned in said Territory, is hereby declared 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, step-mother, 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, sister'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 dissolved. All persons being within the degrees of consanguinity within which marriages are herein prohibited to residents of said Territory and 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 fifteen years nor less than six months.

Sec. 12. That if any officer herein authorized to solemnize marriage shall knowingly and wilfully solemnize a marriage between parties, either of whom is disqualified to enter into the marriage contract, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before a court having competent jurisdiction, he shall pay a fine of not less than $100 nor more than $500, and stand committed until the fine shall be paid. And if any person shall presume to solemnize a marriage in said Territory who is not by this act authorized so to do, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred nor less than one hundred dollars, or by imprisonment in the penitentiary not exceeding six months nor less than one month, or by both such fine and imprisonment at the discretion of the court.

Sec. 13. That if any man in said Territory of Utah shall claim and pretend to have the right to the society or the services of any woman not lawfully married to him, by reason of her having been sealed, devoted, or consecrated to him by any ceremony, rite, consecration, sacrament, form, order, decree, sentence, vote, or direction of the so-called Mormon church, or of any prophet, president, bishop, priest, or other officer or functionary of said church, or of any member thereof, whether with or without the consent of such woman, and shall cohabit with such woman, he shall be deemed guilty of a crime, and shall, upon conviction thereof before any court of competent jurisdiction, be punished by a fine of not more than ten thousand nor less than five hundred dollars, or by imprisonment at hard labor in the penitentiary of said Territory not more than five years nor less than three months, or by both such fine and imprisonment, at the discretion of the court; and in all such cases such woman shall be deemed a competent witness on the trial of the offender.

Sec. 14 That it shall be lawful for any woman in said Territory, claimed as such spiritual wife of any man, but not married to him according to law, to sue for and recover from him compensation for her labor and services while such his spiritual wife, in an action of assumpsit, without any deduction under pretense of support and maintenance of her by him during the period of such spiritual marriage, and also to sue for and recover any real estate, money, or other personal property given, granted or conveyed by her since the passage of the act of eighteen hundred and sixty-two, 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," to any person or body politic as a voluntary gift, donation, or contribution to said Mormon church, or for its benefit, directly or indirectly; and any woman in said Territory not lawfully married, but who at any time has been in the relation of such spiritual marriage above mentioned, shall in all courts and places be deemed a feme-sole.

Sec. 15. That every person, male or female, who shall knowingly and willingly aid and assist, in or be present at, the ceremony or rite of Mormonism known as such sealing or spiritual marriage, with intent to countenance, encourage, and give effect to the same, shall be deemed guilty of a crime, and, on conviction thereof before a court of competent jurisdiction, shall be punished as last aforesaid; and the person or persons celebrating or solemnizing such rite, or performing such ceremony, shall be punished as last aforesaid, and by a fine of at least one thousand dollars each, and imprisonment at hard labor in such penitentiary for at least two years. And if any person shall publicly or privately counsel, advise, or persuade any man or woman to commit the crime of polygamy, made punishable by the act of Congress of eighteen hundred and sixty-two, such person shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding five hundred dollars, or imprisoned at the discretion of the court for a term not exceeding twelve months. And it shall be the duty of the judges of said Territory, at the commencement of each term of the court at which a grand jury shall be called, to give in special charge to the grand jury so much of this act as relates to polygamy and marriage.

Sec. 16. That it shall not be lawful for the Mormon church, so-called, or of any of its officers or members as such, to grant divorces or solemnize marriages except as provided in section eleven of this act.

Sec. 17. That no citizen of the United States who is living in the practice of polygamy shall be competent to serve as a grand or petit juror in criminal cases arising under the said act of eighteen hundred and sixty-two, or in criminal cases arising under this act touching the solemnization of marriages, sealing, or spiritual marriage, counseling or advising to commit the crime of polygamy, and being present at the ceremony of sealing herein mentioned. And in such cases it shall be the duty of the United States district attorney for the Territory, or any attorney acting in his stead, to ascertain, by inquiry or otherwise, whether any of the grand or petit jurors are polygamists; and if any such are found, it shall be the duty of the judge holding the court forthwith to discharge such juror or jurors from hearing, trying, or determining such case or cases; and said attorney shall have the unrestricted right of challenge for this or other cause, both in the case of the grand and petit jury.

Sec. 18. That laws and parts of laws of Utah Territory which in any way interfere with the primary disposal of the soil by the United States are hereby disapproved and annulled.

Sec. 19. That all commissions and appointments, both civil and military, heretofore made or issued, or which may be made or issued before the first day of July, eighteen hundred and seventy-two, shall cease and determine on that day, and shall be of no effect or validity thereafter.

Sec. 20. That 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 the conviction of some crime, shall be competent voters.

Sec. 21. That if any person not qualified to vote shall vote, or offer to vote, at any election, or if any qualified voter shall cast, or offer to cast, at any election more than one vote for the same officer or officers, he shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof before any court having jurisdiction, be punished by fine not exceeding five hundred dollars, or by imprisonment in the penitentiary not exceeding one year, or by both such fine and imprisonment, at the discretion of the court.

Sec. 22. That no person under the age of twenty-one years shall be capable of holding or exercising any civil office in said Territory.

Sec. 23. That in prosecutions for the crime of polygamy, proof of cohabitation by the accused as husband or wife, or the acknowledgments of the party accused of the existence of the marital relation of husband or wife, shall be sufficient to sustain the prosecution.

Sec. 24. That the probate courts, in their respective counties in said Territory, are hereby authorized to hear, try, and determine civil causes wherein the damage or debt claimed does not exceed three hundred dollars. And said courts are hereby authorized to try criminal cases arising under the laws of the Territory, where by law the person convicted cannot be punished by a fine exceeding one hundred dollars nor by imprisonment exceeding six months; but in cases where the person convicted may be punished by a fine of more than one hundred dollars, or by imprisonment for more than six months, or by both fine and imprisonment, and where the person convicted may be punished by death, and in matters of naturalization, said courts shall have no jurisdiction or authority.

Sec. 25. That the judges of the supreme court of said Territory, or a majority of them, may fix, and, when they deem it expedient, may alter, the time and place of holding the supreme court, and also the times and places of holding district courts for the transaction of business arising under the laws of the Territory, and the number of terms which may be held in each district annually; and they may assign the judges to the several districts.

Sec. 26. That it shall be the duty of the United States district attorney for the Territory, personally or by his assistant, to attend all the district courts which may be held in said Territory, and to perform the duties of prosecuting attorney; and that the district attorney and United States marshal shall each receive for his services in criminal cases, or proceedings arising under the laws of the Territory, the same fees or compensation as are allowed for like services in criminal cases or proceedings arising under the laws of the United States; and such fees or compensation being taxed by the court or judge before whom the services were rendered, or by the supreme court of the Territory, shall be paid to the district attorney and marshal, respectively, from the territorial treasury, annually on the third Monday in December.

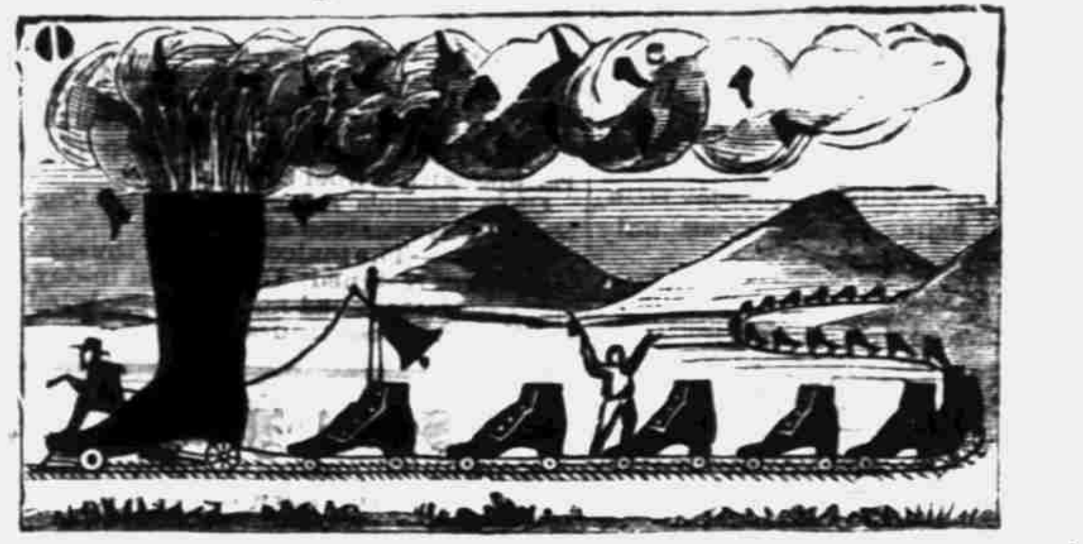
Sec. 27. That for the purpose of holding district courts for the transaction of business arising under the laws of the Territory, it shall be lawful for the United States marshal, or his deputies, to take possession of any court-house, council-house, town-house, or other public building, and to furnish the same in a suitable manner for holding the court, at the expense of the Territory, unless the same shall be previously furnished by the territorial authorities, and to hold and occupy the same so long as shall be necessary for holding the court.

Sec. 28. That in all cases or proceedings where imprisonment may be ordered, if there shall be no safe and suitable jail or other prison in the district, it shall be lawful for the court or judge to order the person to be imprisoned in any jail or prison in the Territory; and it shall be the duty of the marshal, or other officer, to execute such order.

Sec. 29. That, if it becomes necessary, in the due execution of any order of a district court, or a judge thereof, it shall be lawful for the United States marshal, or his deputies, to take possession of any jail or prison in the Territory, and to occupy the same so far and so long as shall be necessary for the due execution of such order.

Sec. 30. That it shall be the duty of the governor of said Territory, so often as it shall appear to him necessary, to inspect, or cause to be inspected, the jails and other prisons in said Territory, and the manner persons are held, treated, and employed therein, and the governor shall make rules and regulations for the imprisonment and keeping of persons in the jails or other prisons; and he is hereby empowered to remove the wardens and keepers of all prisons and jails, or other officers connected therewith, and to appoint others in their stead, so often as, in his opinion, the public good shall require it.

Sec. 31. That all acts and parts of acts of the United States inconsistent with the provisions of this act are hereby repealed; no bill shall become a law without the approval of the governor of said Territory; and all acts and parts of acts now passed, or that may hereafter be passed, by the governor and legislative assembly of said Territory of Utah, inconsistent with the provisions of this act, are hereby declared null and void; and it shall hereafter be unlawful and a misdemeanor for any persons in said Territory, claiming or pretending to be members of the legislature of so-called State of Deseret, to assemble together as such legislature, and for the purpose of transacting any business as such; and no election shall be held or had for any member of said pretended legislature, or any officer under said so-called state government; and any member of the legislative assembly of said Territory who shall presume to act in any manner as a member of the pretended legislature of the State of Deseret, or shall join or voluntarily be present at any meeting of members of such pretended legislature, shall [illegible] be a member of said legislative assembly, and shall henceforth not act as such.



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