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THE ELECTION BILL,

AS AMENDED AFTER HAVING ONCE BEEN VETOED BY THE GOVERNOR, AND WHICH WAS VETOED A SECOND TIME YESTERDAY:

A BILL

PRESCRIBING QUALIFICATIONS FOR ELECTORS AND OFFICE HOLDERS, PROVIDING FOR THE REGISTRATION OF VOTERS AND REGULATING THE MANNER OF CONDUCTING ELECTIONS.

SECTION 1—*Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That annually on the first Monday of August, there shall be a general election held in each precinct in the several counties of this Territory, for electing all officers not otherwise provided for, and the terms of office of all officers elected, shall be as now provided by law.

SEC. 2. That an election for Delegate to Congress of the United States, for the Territory of Utah, shall be held in each precinct on the Tuesday next after the first Monday in November, in the year 1886, and every second year thereafter.

SEC. 3. That in case of the death, resignation, or other disability of the Delegate to Congress or any member of the Legislative Assembly, or Probate Judge of any county in this Territory, it shall be the duty of the Governor, within ten days after receiving notice of the death, resignation, or other disability of such officer, to call a special election in the Territory, District or County where such vacancy shall have occurred, for the purpose of filling the same.

SEC. 4. In case of a vacancy by the death, resignation, or other disability of any county or precinct officer, except Probate Judge, made elective in any county in this Territory, it shall be the duty of the county court in such county to fill such vacancy by appointment: *Provided*, that each person elected or appointed to any county or precinct office, shall be a citizen of the United States and a voter of this Territory, as defined by statutes of the United States and of the Territory of Utah, and shall qualify as by law required, within twenty days after receiving notice of his election or appointment, and all personsre-elected to any office, thereby becoming their own successors, shall, when so elected, quality and be commissioned as required by law.

SEC. 5. All officers elected or appointed to fill vacancies as provided in this Act, before entering upon the duties of their office, shall qualify in the same manner as though they had been elected at any general election, and shall hold office until the ensuing general election, and until their successors are elected and qualified.

SEC. 6. No person shall be eligible to be elected a Delegate to the Congress of the United States from this Territory, who has not attained the age of twenty-five years, and has not been seven years a citizen of the United States, and has not been a resident in this Territory during one year next preceding the day of election, and who has not the qualifications of a voter therein.

SEC. 7. No person shall be eligible to a seat in either branch of the Legislative Assembly, unless he has been a resident in the county or district to be represented, during at least one year next preceding the day of election.

SEC. 8. No person shall be eligible to be elected or appointed to any Territorial, district, county or precinct office, nor shall hold any office of public trust, honor or emolument in this Territory, unless he is a citizen of the United States and shall have been a resident in this Territory at least one year next preceding such election or appointment.

SEC. 9. No officer or soldier of the United States army or other person subject to military authority, shall be eligible to hold any office, or serve on any jury, or vote at any election in this Territory, unless his home or place of residence was herein at the time of engaging in such service.

SEC. 10. Every person, male or female, over the age of twenty-one years, who is a citizen of the United States, who is not disqualified by the provisions of any statute of the United States or of this Territory; who has been a resident in the Territory for six months, and a resident of the precinct where his or her vote is to be cast, for thirty days prior to the date of registration, who has not been convicted of felony or treason; and is not idiotic or insane, and who has been or may be registered as hereinafter provided, shall be a qualified elector, and entitled to vote at any election in this Territory.

SEC. 11. All elections shall be held, conducted, and returns thereof made, as in this Act provided.

SEC. 12. The Assessors in and for their respective counties are hereby constituted the registration officers, and they are required to appoint a resident deputy in each precinct, who shall act for one year, unless sooner removed by the appointment of another person, to assist in carrying out the provisions of this Act. The Assessor of each county, in person or by deputy, shall hereafter revise and correct the registration lists of voters at the times and in the manner provided in this Act, and if any person whose name is not on the list of voters of his precinct, made for the last general election, shall claim the right to vote therein, the registration officer shall require such person to subscribe and take if a male the following oath or affirmation:

TERRITORY OF UTAH, County of——— } ss.

I,———being first duly sworn (or affirmed) depose and say that I am over twenty-one years of age, and have resided in the Territory of Utah for six months, and in the precinct of ———one month immediately preceding the date hereof, and I am a native born, or naturalized, (as the case may be) citizen of the United States, and a taxpayer in this Territory; and I do further swear (or affirm) that I am not a bigamist or a polygamist; and that I do not cohabit with more than one woman.

———
Subscribed and sworn to before me this——day of——188

———
Registration Officer for ——— Precinct.

Or if a female, the following oath or affirmation:

TERRITORY OF UTAH, County of——— } ss

I,———being first duly sworn (or affirmed) depose and say that I am over twenty-one years of age, and have resided in the Territory of Utah for six months, and in the precinct of ———one month immediately preceding the date hereof, [and am a native born or naturalized, or the wife, widow or daughter (as the case may be) of a native-born or naturalized citizen of the United States,] I do further solemnly swear (or affirm) that I am not cohabiting with a bigamist, polygamist, or any person cohabiting with more than one woman.

———
Subscribed and sworn to before me this——day of——188

———
Registration Office for———Precinct.

Upon the receipt of such affidavit, the registration officer shall place the name of such person on the registry list of voters for said precinct in case the name of any person claiming the right to vote, is erased from the registration list of his precinct under the next section, the name of such person shall be restored to said list by the registration officer, at any time prior to or during the week commencing the first Monday in July of each year, upon such person taking the foregoing oath, and if such person offers to take said oath it shall be the duty of such registration officer to administer it, and restore the name of such person as aforesaid; and if upon the proper showing to the Senior Justice of the Peace for any precinct, it shall be found that disqualified persons have been registered, the registration officers shall upon the order of the said Justice strike off the names from the registration lists.

SEC. 13. It shall also be the duty of the assessor of each county, in person or by deputy, on or before the first Monday in May, of 1886, and at the time of making the annual assessment for taxes in each year thereafter, to take up the transcript of the next preceding registration list, and proceed to the revision of the same, and for this purpose he shall visit every dwelling house in each precinct, and make careful inquiry if any person, whose name is on the list, has died, or is otherwise disqualified as a voter of said precinct, or removed from the precinct, and make a list of all such disqualified persons, a copy of which shall be posted up in three public places in the precinct best calculated to give public notice, not later than the first day of June, together with a notice that unless such persons appear before said Assessor at his office during the first three days of the week commencing on the first Monday in July in said year, and show cause why their names should be continued on the registry list, that the same shall be stricken off; and in case of a failure to so appear and show cause, the Assessor or his deputy, as the case may be, shall strike such name from the list. He shall also ascertain, while making the annual assessment, whether any qualified voter resides therein, whose name is not on the list, and if so he shall add the name thereto, in the manner provided in the preceding section.

SEC. 14. It shall also be the duty of each Assessor, in person or by deputy, during the week commencing on the first Monday in July of each year, at his office, to enter on the registry list the name of any voter that may have been omitted, on such voter appearing and taking the oath prescribed in Section 12 of this Act; and representatives from each political party shall be entitled to be present and witness such registration.

SEC. 15. Upon the completion of the list, it shall be the duty of each Assessor to make out a duplicate list in alphabetical order, for each precinct, containing the names of all the registered voters of such precinct, and shall, on or before the first Wednesday after the second Monday in July in each year, deliver all of said lists and affidavits to the Clerk of the County Court.

SEC. 16. The Clerk of the County Court shall deliver to the Assessor the registry lists for the revision thereof, or adding names thereto, and the Assessor, in person or by deputy, shall, during the week commencing on the last Monday in September, in the year 1886, and every second year thereafter, enter the names of the voters on the registry list in the manner provided in Section 14 of this Act, and upon the list being completed, proceed as required by Section 15 of this Act; *Provided*, That in such case he shall deliver the list and affidavits on or before the 10th day of October in such year.

SEC. 17. Voters removing from one election precinct to another in the same county may appear before the Assessor at any time previous to the delivery of the registry list to the Clerk of the County Court, and have their names erased therefrom, and they may thereupon have their names registered in the precinct to which they may remove. The Clerk of the County Court shall file and carefully preserve all such affidavits and registry lists and shall make a copy of each precinct registry list, and cause the same to be posted up at least fifteen days before any election, in a public place at or near the place of election, and shall make and transmit another copy to the judges of election. It shall also be the duty of the Clerk of the County Court to give notice on the list so posted, that the Senior Justice of the Peace for said precinct will hear objections to the right to vote of any person registered, until sunset of the fifth day preceding the day of election.

SEC. 18. The Clerk of the County Court shall cause to be printed or written a notice, which shall designate the offices to be filled, and stating that the election will commence at ..... (designating the place for holding the polls) one hour after sunrise, and continue until sunset on the ..... day of ....., 18...., (naming the day of election). Dated at ....., A. D. 18....

———
Clerk of the County Court.

A copy of which shall be posted up, at least fifteen days before the election, in three public places in said precinct best calculated to give notice to all the voters.

SEC. 19.—The objections to the right to vote referred to in Section 17 shall be made by a qualified voter, in writing, and delivered to said Justice, who shall issue a written notice to the person objected to, stating the place, day and hour when the objection will be heard. The person making the objection shall serve, or cause to be served, said notice upon the person objected to, and shall also make returns of such service to the Justice before whom the objection shall be heard; *Provided*, That where the objection is made on the ground of non-residence or removal from the precinct, service of said notice may be made by letter containing such notice deposited in the postoffice addressed to the person objected to, at his last known place of residence, with the postage prepaid thereon, and by posting said notice in three public places in the precinct best calculated to give public notice. Such service shall be made at least ten days before the election. Upon the hearing of the case, if said Justice shall find that the person objected to is not a qualified voter, he shall, within three days prior to the election, transmit a certified list of the names of all such unqualified persons, to the Judges of election, and said Judges shall strike such names from the registry list before the opening of the polls.

SEC. 20. The County Court shall, at its first session in June of each year, appoint three capable and discreet persons in each precinct in the County, at least two of whom shall be of the political party which was in the majority at the last previous election, and one shall be of the political party that was in the minority at the said election, if any such party there be in such precinct, to act as judges of general and special elections; and said Court shall designate one of these persons so appointed, to preside, and the other two to act as clerks of said election: *Provided*, That in precincts where the number of registered voters shall exceed five hundred, the Court may designate two or more polling places, appoint additional judges and designate, by letters of the alphabet, who shall vote at each of such polling places. And the Clerk of said Court shall make out certificates of said appointments, and transmit the same by mail or other safe conveyance, to the persons so appointed, who, previous to entering upon said office, shall take and subscribe an oath to the effect that they will well and faithfully perform all the duties thereof to the best of their ability, and that they will studiously endeavor to prevent any fraud, deceit or abuse at any election over which they may preside. If, in any precinct, any of such judges decline to serve or fail to appear, the voters of said precinct, first assembled on the day of election, to the number of six or more, at or immediately after the time designated for opening of the polls, may elect a judge or judges to fill the vacancy or vacancies, and the person or persons so elected shall qualify as hereinbefore provided.

SEC. 21. The County Court shall provide the necessary books, blanks, stationery, and ballot boxes, which ballot boxes shall be made of galvanized iron, of suitable size, each with a Yale or other safe lock and two keys, one of the keys to be kept by the presiding Jude of Election, and one by the Clerk of the County Court; there shall be an opening through the lid of each ballot box of sufficient size to admit a single ballot; *Provided*, If any county has good and substantial ballot boxes, with Yale or other safe locks and keys, the same may be used.

SEC. 22. The County Court shall furnish the Judges of Election in every precinct with a sufficient number of plain envelopes, for election purposes; said envelopes shall be uniform in color and size, without any marks, writing, printing or device upon them, and no other size or kind shall be used at any given election. Before opening the polls, the ballot box shall be carefully and publicly examined by the Judges of Election, who shall satisfy themselves that nothing is therein. It shall then be locked and the key thereof securely kept by the presiding judge, and said ballot box shall not be opened during the election:

SEC. 23. At the opening of the polls at all general or special elections, the Judges of Elections, for their respective precincts, shall designate one of their number to act as a clerk, who shall have in custody the registry list of voters, and shall examine the same, and make the entries therein required by section 25 of this Act; and another of their number to act as a clerk who shall write the name of each person voting, and opposite to it the number of the vote.

SEC. 24. Every voter shall designate on a single ballot, written or printed, the name of the person or persons voted for, with a pertinent designation of the office to be filled, and when any question is to be decided in the affirmative or negative, he shall state the proposition at the bottom of the ballot, and write thereunder "yes" or "no," as he may desire to vote thereon, which ballot shall be neatly folded and placed in one of the envelopes herein-before provided for, and delivered to the presiding Judge of election, who shall, in the presence of the voter, on the name of the proposed voter being found on the registry list, deposit it in the ballot box, without any mark whatever being placed on such envelope, otherwise the ballot shall be rejected.

SEC. 25. Whenever any ballot shall be deposited in the ballot box, the judge having the registry list shall write thereon the word "voted" opposite the name of the person casting the vote, and the other Judge, acting as clerk, shall write the name of the voter and the number of the vote upon a list to be made by such Judge, but no other sign or mark shall be attached to the name of the voter.

SEC. 26. As soon as the polls shall be closed, the Judges of election shall immediately proceed to canvass the votes cast at such election, and continue without adjournment until completed. All candidates voted for may be present, either in person or by representative, to witness said canvass. If any envelope contains two or more ballots of the same kind, one only shall be counted; and if any envelope contains two or more different kinds of ballots, none shall be counted.

SEC. 27. The canvass shall commence by the Judges who have acted as Clerks of the election comparing their respective lists and ascertaining from said lists the number of votes cast. The box shall then be opened and the ballots therein taken out and counted by the Judges. The presiding Judge shall then open the ballots and call off therefrom the names of persons voted for, and the offices they are intended to fill, and the Judges acting as Clerks shall note the same upon lists provided for that purpose; and all the ballots shall be immediately returned to the ballot box, and the ballot box shall be locked and securely sealed.

SEC. 28. After the canvass shall have been completed, the Judge of Election shall add up and determine the number of votes cast for each person for the several offices, which result shall be placed on the lists made by the Judges acting as Clerks of the election, and the Judges shall thereupon certify to the same, and immediately forward all the lists, securely sealed, together with the ballot box, to the Clerk of the County Court, by a qualified voter of the county, who shall, before taking the same, take and subscribe an oath to the effect that he will deliver the same to said Clerk, without unnecessary delay, and that he will use his utmost ability to prevent any interference whatever therewith, by any person whomsoever.

SEC. 29.—On receipt of the ballot boxes and returns of election, the Clerk of the County Court, in the presence of at least one member of the County Court, who is not publicly known as a candidate voted for at such election, shall break the seal of the returns, and all candidates may be present as provided in Section 26 of this Act, and said clerk and member, or members, of the County Court shall carefully examine the returns, and if no irregularity or discrepancy appear therein affecting the result of the election of any candidate, they shall accept said returns as correct; but if any irregularity appear and the right of any person voted for, for any office, is in any way affected thereby, or if there shall be any disagreement in the returns as to the number of votes cast for any officer who is elected by the votes of more than one county, then the clerk and said members of the County Court shall open the ballots from said precinct and canvass the same so far as to determine the rights of the person whose office may be affected. They may also cause to appear before them such persons as they may deem proper, and take their testimony in relation to said election in said precinct.

SEC. 30. After the completion of the canvass, said member or members and clerk of the County Court, shall declare the result thereof, and the clerk of the County Court shall immediately make out and transmit a certificate of election to each person elected to any precinct or county office: *Provided*, That whenever a tie shall occur between two or more persons for the same office, the Clerk of the County Court shall notify each of them thereof, and the same shall be decided by lot in the presence and under direction of the County Court. The notice herein provided for shall state the time and place and the manner in which the tie is to be decided. If any of the persons notified fail to appear by self or by agent, such person shall be deemed to have waived all right to the office, and the clerk shall issue the election certificate to the person appearing; if none of them appear by self or agent, the office shall be deemed vacant, and may be filled as in the case of other vacancies.

SEC. 31. Immediately after the inspection of the ballots in any ballot box, the ballots shall be returned into the box, which shall be locked and securely sealed, and the boxes shall be so preserved for forty days after the result of the election has been declared, during which time notices of contest may be filed with the clerk of the County Court, and immediately after the expiration of the forty days, if no notice of contest be filed, requiring further delay, the clerk of the County Court shall, in the presence of at least one of the members of the County Court, and such candidates voted for as may be present, open each of the ballot boxes and destroy all ballots contained therein; but if notice of contest be filed, the ballots shall not be destroyed until the contest be decided.

SEC. 32. The Clerk of the County Court shall, as soon as possible after the result of the election has been so determined, make out a general abstract thereof in duplicate, and certify to the correctness thereof, one of which he shall file, and one of which he shall post up in his office, and he shall forward to the Secretary of the Territory a certified copy of the names of the persons voted for and the number of votes each has received for other than county and precinct offices. The envelope containing such certified copy shall be plainly marked "Election returns from ——County," (filling in the name of the county as the case may be.)

SEC. 33. As soon as all the returns are received by the Secretary of the Territory, he shall, in the presence of the Governor and such candidates as choose to be present in person or by representative, unseal the same and make an abstract thereof, and the Secretary shall, within ten days thereafter, make out and transmit a certificate of election to each person who appears from said returns to have been elected. In elections for Delegate to Congress, the person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given by him accordingly.

SEC. 34. The Assessors and their deputies shall receive such compensation for their services required by this Act, as the County Court shall determine, and the Judges of election shall receive for their services thirty cents per hour for all services rendered in conducting elections and canvassing votes, and each of said officers is hereby authorized to administer oaths whenever necessary to carry into effect the provisions of this Act.

SEC. 35. All municipal elections shall be held and conducted, and the returns and canvass of votes thereof made substantially in accordance with the provisions of this Act, and it shall be the duty of the city councils of their respective cities to provide for the registering of voters and the appointment or election of all officers necessary, and to furnish all necessary appliances for the carrying out of the provisions of this Section, and to aid them therein, the Clerk of the County Court, on demand of the Recorder of any municipal corporation, shall, on payment of the proper fees, furnish a certified copy of the registry list of voters of any precinct.

SEC. 36. Any omission or irregularity of any Assessor or other officer, pertaining to registration or election matters, shall not invalidate any election or authorize the rejection of any legal votes cast, except to the extent that such omission or irregularity shall have prevented a fair vote, or affected the final result.

SEC. 37. Any person who shall falsely make any return, or falsely make any certificate of election returns, or who shall in any manner procure or assist in the making of the same, or cause the same to be done, or who shall in any manner do or cause any fraud in any election, or having entered upon any of the offices or duties provided for in this Act, shall wilfully fail or neglect to perform any of the duties required of such officer or person, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by a fine not exceeding the sum of one thousand dollars, or be imprisoned in the penitentiary for a term not exceeding two years.

SEC. 38. If any person who is required by this Act to take an oath shall falsely swear, such person shall be deemed guilty of perjury.

SEC. 39. Any person who shall interfere with any registration officer in the discharge of his duties, or the registration of any person entitled to be registered, or who shall offer to vote at any one election, or who, not being registered, shall offer to vote in the name of a registered person, or who shall disturb or be guilty of any riotous conduct at any election in this Territory, or who shall disturb or interfere with the canvassing of the votes, or interfere with the making of the returns, or who carries away, or destroys, or attempts to carry away or destroy any poll list or ballots, or ballot box, for the purpose of breaking up or invalidating such election, or who shall wilully detain, mutilate or destroy any election returns, or in any manner so inteferes with the officers holding such election or conducting such canvass as to obstruct them in the discharge of their official duties, or who shall interfere with any voter in the free exercise of the elective franchise, shall be deemed guilty of a misdemeanor.

SEC. 40. Any person who shall give, or promise or offer to give, to any elector any money, reward or other valuable consideration for his or her vote at an election, or for withholding the same, or who shall give, or promise to give such considerations to any other person or party for such elector's vote or for the withholding thereof, or any elector who shall receive or agree to receive for himself or for another, any money, reward or other consideration for his vote or for an election, or for withholding the same, shall be deemed guilty of a misdemeanor, and shall also forfeit the right to vote at such election; and any elector whose right to vote shall be challenged for any such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue, before his vote shall be received.

SEC. 41. Any person who shall offer any bribe, threat or intimidation to any elector for the purpose of influencing his or her vote, or shall examine any ballot offered or cast at the polls or found in any ballot box, for any other purpose than to ascertain as herein provided what candidate has been elected, or who votes more than once at any one election, or who knowingly offers to vote two or more ballots, or in any manner changes any ballot after the same has been deposited in the ballot box, or adds, or attempts to add any ballot to those legally polled, shall be deemed guilty of a misdemeanor.

SEC. 42. The provisions of all acts and parts of acts superseded by, or in conflict with any of the provisions of this act are hereby repealed.

SEC. 43. This act shall take effect from and after its passage.

GOVERNOR MURRAY'S VETO TO THE FOREGOING BILL.

TERRITORY OF UTAH,
Executive Office,
Salt Lake City,
March 11, 1886.

Hon. W. W. Riter, Speaker of the House of Representatives:

I herewith return H. F. No. 49, without my approval.

This bill is a substantial reenactment of the system of registering voters, and conducting elections, which prevailed in this Territory prior to the act of Congress of March 22, 1882, with the change in the qualification of voters made necessary by that act. That system was regarded by many as unfair and unsatisfactory.

Under it for years the non-Mormon voters practically declined participation in elections, and charges of favoritism and injustice in its administration were made with at least color of plausibility. It was largely because Congress was impressed with this belief that it placed at that time the appointment of election and registration officers under the control of a Board which derived its authority from a source which was not dominated by the people of Utah.

I am unwilling to return to this discarded and condemned system.

The act before me, if approved, will place the registration of voters, and the conduct of elections, in the hands of men who are hostile to the law of Congress, and are opposed to the enforcement of national laws, if inconsistent with their opinions.

To place the registering and the conduct of elections, and the canvassing of votes in the hands of those from whom it was taken, would be going to the old abuses.

This bill is subject to many of the objections which were pointed out in a message transmitted to the last Legislative Assembly by me, declining to approve a bill similar in its essential features to this one. I do not deem it necessary to repeat those objections. My opinions have undergone no change on the subject.

Sections 4 to 9 of the bill are in relation to a subject so distinct from the general purpose of the bill, and already reasonably provided for, that their insertion in this bill appears to be both unnecessary and confusing. The subject of vacancies and terms of office are out of place in such connection, and aside from the objections which I entertain to these sections ought to be omitted from this measure.

This bill, in its essential features, is one that I cannot approve.

I am, very respectfully,
ELI H. MURRAY,
Governor.

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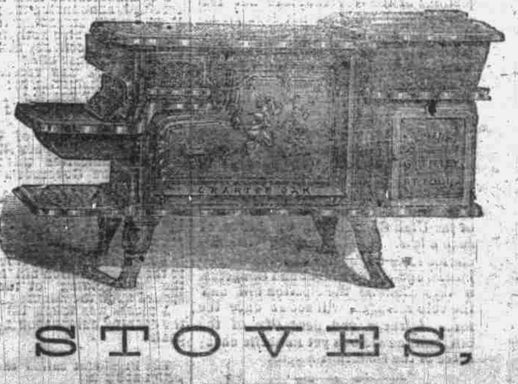

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