

A BILL

In aid of the execution of the laws in the Territory of Utah, and for other purposes.

SEC. 1. 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 ten thousand dollars, 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 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 in accordance with the sixth section of the act of Congress entitled "An act providing for a district and circuit court in the United States for the district of Nevada, and for other purposes," approved February twenty-seven, eighteen hundred and sixty-five, the aforesaid marshal and district attorney of said Territory of Utah, shall severally be entitled to charge and receive for the services they may perform double the fees and compensation allowed by the act of Congress, entitled "An act to regulate the fees and costs to be allowed clerks, marshals and attorneys of the circuit and district courts of the United States, and for other purposes," approved February twenty-six, eighteen hundred and fifty-three.

SEC. 6. 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. 7. 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. 8. And be it further enacted, That at least ten 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 twenty-seven 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 summons 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 twelve 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 one full petit jury: 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. 9. 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 a 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. 10. And be it further enacted, That the said first judicial district shall embrace the counties of Millard, Sanpete, Sevier, Pinte, 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, Cash, Weber and Richland, and that the regular terms thereof shall be held at Ogden City, 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. 11. 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, both 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 or polygamy, and upon that fact appearing by examination on voir dire or otherwise, such persons 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 in all prosecutions for bigamy or adultery, the lawful wife of the accused shall be a competent witness to prove both the first and subsequent marriage or marriages of her husband, but for no other purpose.

SEC. 13. And be it further enacted, 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 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 towards them as such, shall, unless rebutted, be sufficient to sustain the prosecution; and in all cases in which a woman is accused, the same rules of evidence shall apply to her acts and admissions.

SEC. 14. 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 effect 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 the statutes of limitations shall not bar a prosecution for any of the crimes specified in this act, nor for the crime of bigamy, concubinage or adultery, hereafter committed.

SEC. 16. And be it further enacted, That the last sentence in the thirty-first section of an act of the Legislature of Utah, entitled "An act in relation to crimes and punishments," approved March six, eighteen hundred and fifty-two, which is in the words following, to wit: "No prosecution for adultery can be commenced but on the complaint of the husband or wife," be, and the same is hereby disapproved and repealed. And that the residue of said section, which in the words following, to wit: "Every person who commits the crime of adultery shall be punished by imprisonment not exceeding twenty years nor less than three years, or by fine not exceeding one thousand dollars and not less than three hundred dollars, or by both fine and imprisonment, at the discretion of the court," be, and the same is hereby adopted and enacted, and any violation of this section, the fourteenth section of this act, and the act against bigamy may be charged in separate counts in the same indictment, which indictment may conclude, generally, against the statutes in such cases made and provided.

SEC. 17. 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. 18. 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 judgement 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 and directed 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. 19. 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. 20. And be it further enacted, that no one living in or practicing bigamy, polygamy, or concubinage, shall be admitted to citizenship of the United States; nor shall any such person hold any office of trust or profit in said Terri-

tory, 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 the following oath or affirmation, 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 neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or 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; 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."

SEC. 21. 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. 22. 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 and shall hold their offices for the term prescribed by law, unless sooner removed, or their successor shall before then be appointed.

SEC. 23. And be it further enacted, That an appeal shall be allowed from all final decisions, orders, judgments, or decrees of any justice of the peace or probate courts in said Territory, to the district court of the district in which the proceedings before such justice or probate court are had, and in correction of the proceedings of justices of the peace and probate court 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 in accordance with the usages of the common law.

SEC. 24. 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, grand-

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