

A BILL

Regulating Elections in the Territory of Utah and for other Purposes.

Presented by Mr. SPRINGER, in the House of Representatives, January 28, 1876. Read twice, referred the Committee on Judiciary, and ordered to be printed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled. That every male citizen of the United States, of the age of twenty-one years and upward, who shall have resided in the Territory of Utah for six months next preceding any election and ten days in the precinct or ward in which any such person offers to vote, shall be entitled to exercise the elective franchise in said Territory: *Provided*, That no bigamist, or polygamist, nor any person who is insane, non compos mentis, under guardianship, or who has been convicted of felony or bribery, unless restored to civil rights, shall be permitted to vote at any election in said Territory, and that none but qualified voters shall be elected to or hold any civil office therein.

SEC. 2. That there shall be three judges of elections in each election precinct of said Territory, consisting of the senior justice of the peace of such precinct, and two other electors, one of whom shall be appointed by the governor and the other by the county court of each county in which such precinct is situated, at least ten days before each annual election, who shall each serve for one year, or until his successor is appointed.

SEC. 3. That the judges of each election-precinct shall choose two persons having the qualifications of electors to act as clerks of the election, who shall continue to act as such during the pleasure of the judges by whom they are chosen.

SEC. 4. That previous to any vote being taken at any election, the judges and clerks of election shall severally take an oath or affirmation in the following form, to wit: "I, A. B., do solemnly swear (or affirm) that I will perform the duties of judge (or clerk, as the case may be) according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and illegal voting in conducting the same." And if there should be a failure in the appointment of such judges, or if either or all of them should fail to attend, or neglect or refuse to take the foregoing oath or affirmation, his or their place or places may be filled by the choice of such qualified voters residing within the precinct as may be present at the place of election at the time such choice is made, and the person or persons so chosen shall perform the duties and take the oath of judges at such election.

SEC. 5. That in case there shall be no officer or person present at the opening of the election authorized by law to administer an oath, the judges of the election are each hereby authorized to administer the required oath or affirmation to the other, and to the clerks of election, and such oath or affirmation shall be reduced to writing, subscribed by the parties, duly attested under the hand of the person before whom taken, and prefixed to each of the poll-books.

SEC. 6. That at all elections the polls shall be opened at the hour of seven in the morning, and continue open until seven o'clock in the afternoon of the same day, at which time the polls shall be closed: *Provided*, That if it shall become necessary for the voters to choose a judge or judges of the election as hereinbefore prescribed, in that case the election may commence at such time as necessity may require, but must close at the hour designated.

SEC. 7. That upon opening the polls, proclamation thereof shall be made by one of the clerks, and thirty minutes before the closing of the polls proclamation shall be made in like manner that the polls will close in thirty minutes.

SEC. 8. That the judges of election for each precinct at the commencement of each election, and before any ballots shall have been deposited, shall open and publicly exhibit the ballot-box, to the end that the judges, clerks, and electors present may see that no ballot is in said box, after which the same shall be locked, and the key delivered to one of the judges of election, and

shall not be opened during said election, except for the purpose and in the manner hereinafter provided. An opening shall be made in the top or lid of each of such ballot-boxes not larger than shall be sufficient to admit a single closed ballot to be inserted therein at one time, through which each ballot shall be deposited.

SEC. 9. That each clerk of the election shall keep a poll-book, which shall contain two columns, the first headed "Number," the second, "Names of voters;" and the names of each elector voting shall be entered and numbered in regular succession under such headings in each poll-book.

SEC. 10. That every elector shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the judges in presence of the board. The ballot shall be a white-paper ticket, which shall contain, written or printed, or partly written and printed, the name of the person or persons for whom the elector intends to vote, and shall designate the office to which each person so named by him is intended to be chosen.

SEC. 11. That the names of all persons voted for by any elector at any general or special election shall be on one ballot.

SEC. 12. That every elector in voting shall deliver his ballot, in full view, to one of the judges, who shall, upon the receipt thereof, pronounce, in an audible voice, the name of such elector; and, if no objection to his qualification be made, and if the judges shall be satisfied that the elector is legally entitled to vote, the judge to whom such ballot was delivered shall put the same in the box without inspecting the names thereon, if it be folded, and thereupon the clerks shall enter and number the name of such elector in the poll-books, as hereinbefore prescribed.

SEC. 13. That if any person offering to vote shall be challenged as unqualified by any judge or clerk of the election, or by any other elector, one of the judges shall declare to the person so challenged the qualifications of an elector, and if such person shall then declare himself duly qualified and the challenge be not withdrawn, such person shall be sworn by one of the judges to truly answer such questions as may be asked of such person by any of the judges touching his qualification to vote, and thereupon such person shall be fully interrogated by one or more of the judges as to his right to vote, and if in answer such person shall make such statements as shows that he possesses the requisite qualifications of an elector, such person's ballot shall be received; otherwise it shall be rejected: *Provided*, That if any person offering to vote be challenged on the ground that such person is an alien, and upon examination by the judges under oath such person shall state that he has been naturalized, such person shall not be allowed to vote unless he produces to the judges a certificate, duly certified, showing that such person has been naturalized in a court of competent jurisdiction; and if the certificate produced be from a court in Utah Territory, then in that case a duly certified copy of the court-records admitting such person to citizenship must be produced. But, if upon such examination, it shall appear by the statements of the person challenged that he has lost the original certificate of his naturalization, and the record thereof has been destroyed, such person shall in that case be allowed to vote; and if any person shall refuse to be so sworn when his vote is challenged, or being sworn refuses to answer the questions asked him by any of the judges relevant to his competency, such person's ballot shall be rejected.

SEC. 14. That when any person is sworn as hereinbefore provided, and after examination as to his qualifications is allowed by the judges to vote, the clerk shall write opposite such elector's name on the poll-books, and enclose the same in brackets, the word "sworn," and such poll-books, or either of them, shall be taken in all cases which may arise under this act, as evidence of the fact that such person was duly sworn as herein provided.

SEC. 15. That as soon as the polls of the election shall be finally closed, the judges shall immediately proceed to canvass the votes given at such election, and the canvass shall be public, and continuous without adjournment until completed.

SEC. 16. That the canvass shall commence by a comparison of the

poll-lists from the commencement, and a correction of any mistake that may be found therein until they shall be found to agree; the box shall then be opened and the ballots found therein counted by the judges, unopened, except to ascertain whether each ballot is single; and if two or more ballots shall be found so folded together as to present the appearance of a single ballot they shall be laid aside until the count of the ballots is completed; and if upon a comparison of the count with the poll-lists it shall be found that the ballots in the box exceed in number the whole of voters on the poll-lists, the ballots so laid aside shall be rejected; if, in the opinion of a majority of the judges, such ballots thus folded together were voted by one elector, and if, after so rejecting such ballots, there shall yet remain more ballots than the number of voters on the poll-books, they shall be replaced in the ballot-box and thoroughly mingled, and one of the judges shall be blindfolded and publicly draw out therefrom so many ballots unopened as shall be equal to the excess of the ballots.

SEC. 17. That the ballots and poll books agreeing or being made to agree, the board shall then proceed to count the votes, and in no case shall the ballot-box be removed from the room in which any election may be held until all of the ballots are counted. The ballots shall be taken out carefully, one by one, by one of the judges, who shall open them and read aloud the name of each person contained therein, and the office for which every such person is voted for. Each clerk shall write down each office to be filled and the name of each person voted for for such office, and shall keep the number of votes each receives by tallies as they are read aloud by the judge.

SEC. 18. That as soon as all of the votes are read and counted, the result shall be publicly announced by one of the judges or clerks. Each of the poll-books and tally-lists shall be attached together, and two certificates shall be drawn up and attached to each of the poll-books and tally-lists, stating the number of votes each person voted for has received, and designating the office to fill which he was voted for, which number shall be written in words at full length. Each certificate shall be signed by the judges and witnessed by the clerks. One of said certificates, with the poll book and tally-list to which it is attached, shall be retained and preserved by one of the judges until the next annual election. The ballots shall be strung upon a cord or thread by one of the judges, during the counting thereof, in the order in which they are taken from the ballot-box, read, and entered on the tally-lists by the clerks; and said ballots, together with the other of said certificates, with the poll-book and tally-list to which it is attached, shall be sealed up by the judges and clerks, and indorsed "Election Returns," and be directed by one of the judges, to be determined by lot if they cannot otherwise agree, to the clerk of the county court in which the election is held, within five days after the election; and said ballots, certificate, poll-book, and tally-list shall be filed by said clerk, and the date of the reception indorsed thereon by him, and thereafter held and preserved by said clerk in his office for future reference and use by any elector who may desire access to the same, and that they may be used as evidence in any criminal prosecution arising under this act, or in any case pertaining to the election.

SEC. 19. That the county court of each county shall meet on the first Monday after each election to canvass the election returns; and if the returns from each precinct in the county where the polls were opened at such election shall not have been received by the clerk of the county court at that time, then said court shall adjourn, but not beyond the second Monday after such election; and said court shall then proceed, in public, to open the returns and canvass the vote of such county for each person voted for, and declare the result thereof, and make abstracts of the votes for Delegate to Congress, for members of the legislative assembly, territorial and district officers, on one sheet, stating, in writing, the names of the persons voted for, the number of votes each received, and designating the office to fill which each was voted for, and on another sheet shall make an abstract of the votes for county and all other officers not before mentioned, in form

as above required; which abstracts shall be certified to under the hands of the persons composing said court, or a majority of them, as correct, and attested by the seal of said court, and be filed with the clerk of the county court of said county. A duplicate of the first-named abstract, certified and attested as above, shall be immediately sent, by mail or express, to the secretary of the Territory by the clerk of the county court; and it shall also be the duty of such clerk to issue and deliver a certificate of election to the persons qualified to hold office receiving the highest number of votes for county and all other offices, except for Delegate to Congress, members of the legislative assembly, territorial and district officers; and the secretary of the Territory, in the presence of the governor, shall, within forty days after election, or sooner if the abstracts of the election be received from all the counties before that time, proceed to canvass the votes given for Delegate to Congress, for members of the legislative assembly, territorial and district officers; and the governor shall grant a certificate of election to the persons qualified to hold office having the highest number of votes for the respective offices.

SEC. 20. That the manner of conducting the voting at town or city elections, canvassing the votes, and making the returns thereof, shall be the same as hereinbefore provided, except that the returns shall be made to the city or town council, which shall perform the duties and pursue the same course in canvassing the votes of the town or city as are performed and pursued by the county court in the case of other elections, and the mayor shall issue certificates of election to the persons qualified to hold office having the highest number of votes for the respective offices.

SEC. 21. That every elector in the Territory, or in any city or town, shall have the right of inspection of all public records.

SEC. 22. That if any person examined under oath, as prescribed by the foregoing provisions, shall wilfully and corruptly make false statements concerning his or her qualifications as an elector, such person shall be adjudged guilty of wilful and corrupt perjury, and punished as provided by the act of Congress relating to that crime.

SEC. 23. That if any person shall, directly or indirectly, use any threats, menace, or force, or any corrupt means or device at or previous to any election held pursuant to this act, toward any elector, to hinder or deter him from voting at such election, or shall attempt by any means whatever to awe, restrain, hinder or disturb any elector in the free exercise of the right of suffrage, or shall, after the election, threaten, vote for, or in any manner take part in, the excommunication of any person from any church, or organization called a church, on account of such person having voted for, or omitted to vote for, any particular person or persons at any election, or shall vote more than once at any election, or shall knowingly hand in two or more tickets folded together, or shall attempt to vote more than once at the same election, or knowingly vote at a place where he has no lawful right to vote, or knowingly vote without having the right to vote, or shall attempt to so vote, such person shall, upon conviction, be punished by a fine not exceeding two thousand dollars, or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

SEC. 24. That if any judge or clerk of an election shall, previous to putting the ballot of any elector in the ballot box, attempt to pry into or find out any name or names on such ballot which shall have been handed in by said elector in a folded form, or if any judge or clerk of any election shall open or suffer the folded ballot of an elector which has been handed in to the board of judges, to be opened or examined previous to putting the same into the ballot box, or if any judge or clerk of an election shall make or place any mark or device on any folded ballot, which has been handed in to the board of judges by any elector, with the view to ascertain the name of any person or persons for whom such elector shall have voted at any such election, or if any judge or clerk of an election, without the consent of the elector, shall disclose the name of any person or persons which such judge or clerk shall have fraudulently or illegally dis-

covered to have been voted for by such elector at any election, every such judge or clerk of an election so offending, upon conviction thereof, shall be punished as provided in the foregoing section. Every person who shall forge or counterfeit returns of an election purporting to have been held at a precinct, town, or ward where no election was in fact held, or shall wilfully substitute forged or counterfeit returns of election, in the place of the true returns, for a precinct, town or ward where an election was actually held, shall, upon conviction, be punished by imprisonment as above provided. Every person who shall wilfully add to or subtract from the votes actually cast at an election in any returns of such election, whether such person be an officer of such election or not, and every officer of elections who shall wilfully make false and fraudulent returns, in any manner whatever, of an election held in any precinct, town, or ward, and every person whomsoever, through whom any such returns are required by law to be made, who shall alter such election returns, shall, upon conviction, be punished as provided in the foregoing section. Every person who shall aid or abet in the commission of any of the offenses mentioned in this act, or who being present at or cognizant of the commission of either of said offenses, and shall not give information thereof as soon as practicable to the district attorney, or grand jury of the proper county, or to some justice of the peace of such county, or shall fraudulently and wilfully omit to perform the duties required by this act, shall, for every such offense, be punished, upon conviction thereof, as above prescribed.

SEC. 25. That the governor, upon the written request of twenty or more electors residing in any remote settlement or mining camp in said Territory, which is not already embraced in an election precinct in which the place of voting is not over five miles from such settlement or mining camp, shall, by proclamation, establish an election precinct in such settlement or mining camp, designating the boundaries of the same and the place at which elections therein shall be held.

SEC. 26. That all laws and parts of laws of said Territory relating to suffrage or in conflict herewith are hereby repealed.

CORRESPONDENCE.

The Non-Enforcement of Law an Evil.

CENTERVILLE, Davis Co., Feb. 7, 1876.

Editor Deseret News:

Many people clamour for more law when they do not enforce one half the law already upon our statute book, although I am willing to admit that not one out of twenty of the citizens of our Territory have it in their reach to know what the laws of our Territory are, for it is very difficult for even the acting officers of the Territory to obtain them for love or money. It seems rather severe to punish people for breaking laws when they have no means of knowing them until sentence is passed upon them. Not wishing to find fault with the powers that be, I would suggest for the consideration of our representatives that the statutes of our Territory be revised and printed and for sale at a price and in sufficient number that any citizen can purchase. I do not wish to be understood that more legislation is not necessary, for the growing interest and rapid development of our Territory certainly demand new enactments, and in many instances a revision of some already enacted. I do not consider that the representatives of the people are to blame that we have not the necessary laws to meet the present wants, for they have labored assiduously each session of the Legislative Assembly to provide the necessary laws to meet the exigencies of the times, and too often, after their careful and indefatigable deliberations of forty days, they have been made to realize the force of the almighty veto power vested in the governor in the nullifying of everything they have done that would have been of any worth to their constituents.

Many agriculturists complain of the stock raisers in their vicinity, that their crops are invariably more or less destroyed by stock, and their