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IN THE SENATE OF THE UNITED STATES.

DECEMBER 6, 1866.

Ordered to be printed.

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## AMENDMENTS

Proposed by Mr. HOWARD to the amendments reported by the Committee on Territories to the bill (S. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes, viz: Insert at the end of section fourteen the following:

1       And if any person shall presume to solemnize a mar-  
2       riage in said Territory who is not by this act authorized so  
3       to do, he shall be deemed guilty of a misdemeanor, and upon  
4       conviction thereof before any court of competent jurisdiction  
5       shall be punished by a fine not exceeding five hundred nor  
6       less than one hundred dollars, or by imprisonment in the  
7       penitentiary not exceeding six months nor less than one  
8       month, or by both; such fine and imprisonment at the dis-  
9       cretion of the court.

Insert as additional sections the following:

1       SEC. 26. *And be it further enacted,* That the probate  
2       courts in their respective counties in said Territory are

3 hereby authorized to hear, try and determine civil causes  
4 wherein the damage or debt claimed does not exceed three  
5 hundred dollars. And said courts are hereby authorized to  
6 try criminal cases arising under the laws of the Territory,  
7 where by law the person convicted cannot be punished by a  
8 fine exceeding one hundred dollars nor by imprisonment ex-  
9 ceeding six months; but in cases where the person convicted  
10 may be punished by a fine of more than one hundred dollars  
11 or by imprisonment for more than six months, or by both  
12 fine and imprisonment, and where the person convicted may  
13 be punished by death; and in matters of naturalization said  
14 courts shall have no jurisdiction or authority.

1       SEC. 27. *And be it further enacted*, That the judges of  
2 the supreme court of said Territory, or a majority of them,  
3 may fix, and when they deem it expedient may alter, the  
4 time and place of holding the supreme court, and also the  
5 times and places of holding district courts for the transaction  
6 of business arising under the laws of the Territory, and the  
7 number of terms which may be held in each district annually;  
8 and they may assign the judges to the several districts.

1       SEC. 28. *And be it further enacted*, That it shall be the  
2 duty of the United States district attorney for the Territory,  
3 personally or by his assistant, to attend all the district courts  
4 which may be held in said Territory, and to perform the  
5 duties of prosecuting attorney; and that the district attorney

6 and United States marshal shall each receive for his services  
7 in criminal cases, or proceedings arising under the laws of  
8 the Territory, the same fees or compensation as are allowed  
9 for like services in criminal cases or proceedings arising  
10 under the laws of the United States; and such fees or com-  
11 pensation being taxed by the court or judge before whom  
12 the services were rendered, or by the supreme court of the  
13 Territory, shall be paid to the district attorney and marshal,  
14 respectively, from the territorial treasury, annually on the  
15 third Monday in December.

1       SEC. 29. *And be it further enacted,* That for the pur-  
2 pose of holding district courts for the transaction of business  
3 arising under the laws of the Territory it shall be lawful for  
4 the United States marshal, or his deputies, to take possession  
5 of any court-house, council-house, town-house, or other public  
6 building, and to furnish the same in a suitable manner for  
7 holding the court at the expense of the Territory, unless the  
8 same shall be previously furnished by the territorial authori-  
9 ties, and to hold and occupy the same so long as shall be  
10 necessary for holding the court.

1       SEC. 30. *And be it further enacted,* That in all cases or  
2 proceedings where imprisonment may be ordered, if there  
3 shall be no safe and suitable jail or other prison in the district,  
4 it shall be lawful for the court or judge to order the person  
5 to be imprisoned in any jail or prison in the Territory. And

6 it shall be the duty of the marshal, or other officer, to execute  
7 such order.

1       SEC. 31. *And be it further enacted*, That, if it becomes  
2 necessary in the due execution of any order of a district court,  
3 or a judge thereof, it shall be lawful for the United States  
4 marshal, or his deputies, to take possession of any jail or  
5 prison in the Territory, and to occupy the same so far and so  
6 long as shall be necessary for the due execution of such order.

1       SEC. 32. *And be it further enacted*, That it shall be the  
2 duty of the governor of said Territory, so often as it shall  
3 appear to him necessary, to inspect, or cause to be inspected,  
4 the jails and other prisons in said Territory, and the manner  
5 persons are held, treated, and employed therein, and the  
6 governor shall make rules and regulations for the imprisonment  
7 and keeping of persons in the jails or other prisons ; and he is  
8 hereby empowered to remove the wardens and keepers of all  
9 prisons and jails, or other officers connected therewith, and to  
10 appoint others in their stead, so often as in his opinion the  
11 public good shall require it.

1       SEC. 33. *And be it further enacted*, That all acts or  
2 parts of acts, whether of the United States or of said Terri-  
3 tory, inconsistent with the provisions of this act, are hereby  
4 disapproved and annulled, and this act shall take effect and  
5 be in force from and after its passage.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 3, 1867.

Ordered to be printed.

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# AMENDMENTS

Intended to be proposed by Mr. HOWARD to the amendments reported by the Committee on Territories to the bill (S. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes, viz :

At the end of section thirteen of the reported amendments insert the following :

1       And if any person shall presume to solemnize a mar-  
2   riage in said Territory who is not by this act authorized so  
3   to do, he shall be deemed guilty of a misdemeanor, and, upon  
4   conviction thereof before any court of competent jurisdiction,  
5   shall be punished by a fine not exceeding five hundred nor  
6   less than one hundred dollars, or by imprisonment in the  
7   penitentiary not exceeding six months nor less than one  
8   month, or by both such fine and imprisonment at the dis-  
9   cretion of the court.

After section thirteen of the amendments reported by the committee insert the following :

1       SEC. 14. *And be it further enacted,* That if any man



2 in said Territory of Utah shall claim and pretend to have the  
3 right to the society or the services of any woman not law-  
4 fully married to him, by reason of her having been sealed,  
5 devoted, or consecrated to him by any ceremony, rite, conse-  
6 cration, sacrament, form, order, decree, sentence, vote, or  
7 direction of the so-called Mormon church, or of any prophet,  
8 president bishop, priest, or other officer or functionary of said  
9 church; or of any member thereof, whether with or without  
10 the consent of such woman, and shall cohabit with such  
11 woman, he shall be deemed guilty of a crime, and shall, upon  
12 conviction thereof before any court of competent jurisdiction  
13 be punished by a fine of not more than ten thousand nor less  
14 than five hundred dollars, or by imprisonment at hard labor  
15 in the penitentiary of said Territory not more than five years  
16 nor less than three months, or by both such fine and im-  
17 prisonment at the discretion of the court; and in all such  
18 cases such woman shall be deemed a competent witness on  
19 the trial of the offender.

1     SEC. 15. *And be it further enacted,* That all children,  
2 the fruit of any such pretended sealing or spiritual marriage  
3 as aforesaid, hereafter born in said Territory, shall be deemed  
4 and held to be the heirs of their mother, but not of their father;  
5 and it shall be lawful for any woman in said Territory, claimed  
6 as such spiritual wife of any man, but not married to him  
7 according to law, to sue for and recover from him compensa-

8 tion for her labor and services while such his spiritual wife,  
9 in an action of assumpsit, without any deduction under pre-  
10 tence of support and maintenance of her by him during the  
11 period of such spiritual marriage, and also to sue for and  
12 recover any real estate, money, or other personal property,  
13 given, granted, or conveyed by her since the passage of the  
14 act of eighteen hundred and sixty-two, entitled "An act to  
15 punish and prevent the practice of polygamy in the Territo-  
16 ries of the United States and other places, and disapproving  
17 and annulling certain acts of the legislative assembly of the  
18 Territory of Utah," to any person or body politic as a volun-  
19 tary gift, donation, or contribution to said pretended Mormon  
20 church, or for its benefit, directly or indirectly; and any  
21 woman in said Territory not lawfully married, but who at  
22 any time has been in the relation of such spiritual marriage  
23 above mentioned, shall in all courts and places be deemed a  
24 femme sole.

1       SEC. 16. *And be it further enacted,* That every person,  
2 male or female, who shall knowingly and willingly aid and  
3 assist in, or be present at, the ceremony or rite of Mormonism  
4 known as such sealing or spiritual marriage, with intent to  
5 countenance, encourage, and give effect to the same, shall be  
6 deemed guilty of a crime, and, on conviction thereof before a  
7 court of competent jurisdiction, shall be punished as last  
8 aforesaid; and the person or persons celebrating or solemniz-

ing 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.

1        SEC. 17. *And be it further enacted,* That property, real  
2        and personal, in said Territory of Utah, not disposed of by  
3        last will and testament, shall, upon the death of the owner  
4        thereof, descend, subject to his lawful debts, as follows:

5        First. In equal shares to his children, born in lawful  
6        wedlock, and to the issue of any such child deceased, by right  
7        of representation; and if there be no such child of the intes-  
8        tate living at his death, his estate shall descend to all his other  
9        lineal descendants; and if all the said descendants are in the  
10       same degree of kindred to the intestate, they shall share the  
11       estate equally; otherwise, they shall take according to the  
12       right of representation.

13       Second. If he shall leave no issue, his estate shall  
14       descend to his widow during her natural lifetime, and after  
15       her decease, to his father; and if he shall leave no issue nor  
16       widow, his estate shall descend to his father.

17       Three. If he shall leave no issue, nor widow, nor father,  
18       his estate shall descend in equal shares to his brothers and  
19       sisters, and to the children of any deceased brother or sister,  
20       by right of representation: *Provided,* If he shall have a



21 mother also, she shall take an equal share with his brothers  
22 and sisters.

23 Four. If the intestate shall leave no issue, nor widow,  
24 nor father, and no brother nor sister living at his death, his  
25 estate shall descend to his mother, to the exclusion of the  
26 issue, if any, of deceased brothers or sisters.

27 Five. If the intestate shall leave no issue, nor widow, and  
28 no father, mother, brother nor sister, his estate shall descend  
29 to his next of kin, in equal degree, excepting that where there  
30 are two or more collateral kindred in equal degree, but claim-  
31 ing through different ancestors, those who claim through the  
32 nearest ancestor shall be preferred to those claiming through  
33 an ancestor more remote: *Provided, however:*

34 Six. If any person shall die, leaving several children, or  
35 leaving one child, and the issue of one or more other children,  
36 and any such surviving child shall die under the age of  
37 twenty-one years, and not having been married, all the estate  
38 that came to the deceased child by inheritance from such de-  
39 ceased parent shall descend in equal shares to the other  
40 children of the same parent, and to the issue of any such  
41 other children who shall have died, by right of representa-  
42 tion.

43 Seven. If at the death of such child who shall die under  
44 such age, and not having been married, all the other children  
45 of his said parent shall also be dead, and any of them shall

46 have left issue, the estate that came to said child by inherit-  
47 ance from his said parent shall descend to all the issue of  
48 other children of the same parent; and if all the said issue  
49 are in the same degree of kindred to said child, they shall  
50 share the said estate equally; otherwise, they shall take  
51 according to the right of representation.

52       Eight. If the intestate shall leave a widow and no  
53 kindred, his estate shall descend to such widow.

54       Nine. If the intestate shall leave no widow nor kindred,  
55 his estate shall escheat to said Territory for the use of  
56 primary schools.

57       Ten. Every illegitimate child shall be considered as the  
58 heir of his mother, and shall inherit her estate in like manner  
59 as if born in lawful wedlock; but shall not be allowed to  
60 claim, as representing his mother, any part of the estate of  
61 any of her kindred, whether lineal or collateral; and, in case  
62 he die intestate, without lawful issue, his estate shall descend  
63 to his mother, or, if she be dead, then to his next of kin on  
64 the part of his mother, as if he had been legitimate.

65       Eleven. Whenever the parents of an illegitimate child  
66 shall lawfully intermarry, and his father shall, after the mar-  
67 riage acknowledge him as his child, such child shall be  
68 deemed legitimate to all intents and purposes.

69       Twelve. A woman shall not be deemed the widow of  
70 an intestate who has not been lawfully married to him; or

71 who, not having been thus married to him, has cohabited  
72 with him or has been considered by herself as his "spiritual  
73 wife," according to the rites, usages and customs of the  
74 Mormons.

1       SEC. 18. *And be it further enacted,* That the degrees of  
2 kindred shall be computed according to the rules of the civil  
3 law; and kindred of the half blood shall inherit equally with  
4 those of the whole blood in the same degree, except in cases  
5 where the inheritance comes to the intestate by descent,  
6 devise or gift of some one of his ancestors, in which cases all  
7 those who are not of the blood of such ancestor shall be  
8 excluded from such inheritance.

1       SEC. 19. *And be it further enacted,* That the title of a  
2 lawful husband as tenant by the courtesy, and of a widow as  
3 tenant in dower, is hereby recognized in said Territory of  
4 Utah, and shall be enforced by all courts having cogni-  
5 zance thereof; but nothing in this act shall be held to affect  
6 any limitation of an estate by deed or will.

1       SEC. 20. *And be it further enacted,* That inheritance  
2 or succession "by right of representation" takes place when  
3 the descendants of any deceased heir takes the same share or  
4 right in the estate of another person as their parent would  
5 have taken if living; and posthumous children born of law-  
6 ful wedlock shall be considered as living at the death of their  
7 parents.

1        SEC. 21. *And be it further enacted,* That all criminal  
2 cases arising under said act of eighteen hundred and sixty-  
3 two, as well as all criminal cases arising under this act touch-  
4 ing the solemnization of marriages, sealing or spiritual mar-  
5 riage, and being present at the ceremony of sealing herein  
6 mentioned, shall be heard, tried, and determined by the dis-  
7 trict courts of said Territory of Utah, without a jury, upon  
8 information to be presented to the court by the attorney of  
9 said Territory, or by the prosecuting attorney of the county  
10 in which the offence is committed. Such information shall,  
11 before being presented to the court, be verified by the oath  
12 of the attorney presenting it, by the person prosecuting, or  
13 some other credible person; and the same being presented  
14 and filed, the court shall issue a warrant for the apprehension  
15 of the accused, who shall be entitled to bail as in cases of  
16 indictment. If the accused shall, on being arraigned, plead  
17 not guilty to the information, or if he shall refuse to plead  
18 thereto, which standing mute shall be deemed and treated as  
19 a plea of not guilty, the court shall proceed to hear the evi-  
20 dence in the case, both on the part of the prosecution and  
21 the defence, and to find the accused guilty or not guilty, as  
22 the evidence shall warrant, and thereupon to pass sentence  
23 upon or to discharge the accused. But the accused shall, on  
24 the trial, have the right to except to any rulings of the judge  
25 trying the case upon any question of law touching the admis-

26 sibility of evidence offered on the trial by the accused, or  
 27 touching any other question of law arising in the case; which  
 28 exceptions shall be noted by the judge, and in case of a find-  
 29 ing of guilty by the judge, he shall, if the accused shall so  
 30 request of him, report the case to the supreme court of said  
 31 Territory in such manner as fully and fairly to bring before  
 32 it all such questions of law, to the end that said supreme  
 33 court shall pass upon them and reverse or affirm the judg-  
 34 ment as right and justice may require.

At the end of the amendments reported by the committee  
 insert the following as additional sections :

1        SEC. —. *And be it further enacted,* That the probate  
 2 courts in their respective counties in said Territory are  
 3 hereby authorized to hear, try and determine civil causes  
 4 wherein the damage or debt claimed does not exceed three  
 5 hundred dollars. And said courts are hereby authorized to  
 6 try criminal cases arising under the laws of the Territory,  
 7 where by law the person convicted cannot be punished by a  
 8 fine exceeding one hundred dollars nor by imprisonment ex-  
 9 ceeding six months; but in cases where the person convicted  
 10 may be punished by a fine of more than one hundred dollars  
 11 or by imprisonment for more than six months, or by both  
 12 fine and imprisonment, and where the person convicted may  
 13 be punished by death, and in matters of naturalization, said  
 14 courts shall have no jurisdiction or authority.



1        SEC. —. *And be it further enacted,* That the judges of  
2 the supreme court of said Territory, or a majority of them,  
3 may fix, and when they deem it expedient may alter, the  
4 time and place of holding the supreme court, and also the  
5 times and places of holding district courts for the transaction  
6 of business arising under the laws of the Territory, and the  
7 number of terms which may be held in each district annually;  
8 and they may assign the judges to the several districts.

1        SEC. —. *And be it further enacted,* That it shall be the  
2 duty of the United States district attorney for the Territory,  
3 personally or by his assistant, to attend all the district courts  
4 which may be held in said Territory, and to perform the  
5 duties of prosecuting attorney; and that the district attorney  
6 and United States marshal shall each receive for his services  
7 in criminal cases, or proceedings arising under the laws of  
8 the Territory, the same fees or compensation as are allowed  
9 for like services in criminal cases or proceedings arising  
10 under the laws of the United States; and such fees or com-  
11 pensation being taxed by the court or judge before whom  
12 the services were rendered, or by the supreme court of the  
13 Territory, shall be paid to the district attorney and marshal,  
14 respectively, from the territorial treasury, annually on the  
15 third Monday in December.

1        SEC. —. *And be it further enacted,* That for the pur-  
2 pose of holding district courts for the transaction of business

3 arising under the laws of the Territory it shall be lawful for  
 4 the United States marshal, or his deputies, to take possession  
 5 of any court-house, council-house, town-house, or other public  
 6 building, and to furnish the same in a suitable manner for  
 7 holding the court, at the expense of the Territory, unless the  
 8 same shall be previously furnished by the territorial authori-  
 9 ties, and to hold and occupy the same so long as shall be  
 10 necessary for holding the court.

1       SEC. —. *And be it further enacted,* That in all cases or  
 2 proceedings where imprisonment may be ordered, if there  
 3 shall be no safe and suitable jail or other prison in the district,  
 4 it shall be lawful for the court or judge to order the person  
 5 to be imprisoned in any jail or prison in the Territory; and  
 6 it shall be the duty of the marshal, or other officer, to execute  
 7 such order.

1       SEC. —. *And be it further enacted,* That, if it becomes  
 2 necessary in the due execution of any order of a district court,  
 3 or a judge thereof, it shall be lawful for the United States  
 4 marshal, or his deputies, to take possession of any jail or  
 5 prison in the Territory, and to occupy the same so far and so  
 6 long as shall be necessary for the due execution of such order.

1       SEC. —. *And be it further enacted,* That it shall be the  
 2 duty of the governor of said Territory, so often as it shall  
 3 appear to him necessary, to inspect, or cause to be inspected,  
 4 the jails and other prisons in said Territory, and the manner

5 persons are held, treated, and employed therein, and the  
6 governor shall make rules and regulations for the imprisonment  
7 and keeping of persons in the jails or other prisons; and he is  
8 hereby empowered to remove the wardens and keepers of all  
9 prisons and jails, or other officers connected therewith, and to  
10 appoint others in their stead, so often as in his opinion the  
11 public good shall require it.

1       SEC. —. *And be it further enacted*, That all acts or  
2 parts of acts, whether of the United States or of said Terri-  
3 tory, inconsistent with the provisions of this act, are hereby  
4 disapproved and annulled, and this act shall take effect and  
5 be in force from and after its passage.