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IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1871.

Mr. CRAGIN asked and, by unanimous consent, obtained leave to bring in the following bill; which was read twice and ordered to be printed.

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**A BILL**

To aid the execution of the law against polygamy, and to prevent that crime in the Territory of Utah, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That citizens only of the United States shall be competent to  
4       serve as grand or petit jurors in the Territory of Utah.

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

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

1        SEC. 4. That in the absence, or in case of sickness  
2 or other disability, of any of the judges, it shall be com-  
3 petent for either of the other judges to hold a court in the  
4 district of the absent or disabled judge, and to perform any  
5 and all official duties in such district which might be per-  
6 formed by the judge assigned to such district were he per-  
7 sonally present and not disabled; and it is hereby made the  
8 duty of the judges in said Territory, upon the request or di-  
9 rection of the executive of said Territory, to proceed to the  
10 district of the absent or disabled judge, and to hold the courts  
11 therein, and to do and perform such official acts as might be  
12 performed by the absent or disabled judge.

1        SEC. 5. That the probate judges shall be appointed  
2 by the governor, and their term of office shall be four  
3 years, unless sooner removed by the governor, and in  
4 all cases a party to any suit or proceeding, before  
5 a justice of the peace or the probate court, feel-  
6 ing himself aggrieved by the judgment or decision  
7 of the justice of the peace, or by the judgment or  
8 decision of the probate court, may appeal from such judg-  
9 ment or decision to the district court of the district in which  
10 the proceedings before the justice or probate court are had.  
11 And in all cases of appeal from one court to another where  
12 a bond or other security is now required to be given by the  
13 party appealing, it shall not be lawful to demand or exact of

14 such party the payment of costs adjudged or taxed against  
15 him until the appeal shall be finally disposed of by the appel-  
16 late court.

1       SEC. 6. That the supreme court of said Territory may  
2 make rules and regulations as to the mode and manner of taking  
3 and perfecting appeals from one court to another in said Ter-  
4 ritory, so that the just rights of the parties may be secured  
5 and preserved.

1       SEC. 7. That property of no person, corporation, or asso-  
2 ciation shall be exempt from taxation, and all assessments  
3 shall be equal according to the cash value of the property:  
4 *Provided*, That the real estate of any religious society, cor-  
5 poration, or association, to an amount not exceeding ten thou-  
6 sand dollars, and all lots or parcels of ground used exclusively  
7 as burial places or depositories of the dead, may be exempted  
8 from taxation; but this exemption shall be applied equally and  
9 without discrimination to every kind and description of sects  
10 and denominations of worshipers, and not otherwise.

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

1       SEC. 9. That there shall be in the militia of said Terri-

2 tory no officers of higher rank or grade than that of major  
 3 general; and all officers, military and civil, except consta-  
 4 bles, shall be selected, appointed, and commissioned by the  
 5 governor; and every person who shall act, or attempt to  
 6 act, as an officer, either civil or military, without being first  
 7 commissioned by the governor, and qualified by taking the  
 8 proper oath, shall be deemed guilty of a misdemeanor, and,  
 9 upon conviction thereof, shall be subject to a fine not exceed-  
 10 ing one thousand dollars, and imprisonment in the peniten-  
 11 tiary not exceeding one year.

1        SEC. 10. That the militia of said Territory shall be  
 2 organized and disciplined in such manner and at such  
 3 times as the governor of said Territory shall direct, and  
 4 all the officers thereof shall be appointed and commis-  
 5 sioned by the governor. As commander-in-chief the gov-  
 6 ernor shall make rules and regulations for the enrolling  
 7 and mustering of the militia; and he shall yearly, between  
 8 the first and last days of October, report to the Secretary of  
 9 War the number of men enrolled and their condition, the  
 10 state of discipline, and the number and description of arms  
 11 belonging to each company, division, or organized body.  
 12 Aliens shall not be enrolled and mustered into the militia.

1        SEC. 11. That marriages in said Territory may be  
 2 solemnized only by justices of the supreme court, or  
 3 by justices of the peace duly appointed and qualified

4 in their proper townships or precincts, or by any priest  
5 or minister of the gospel regularly ordained and settled or  
6 established as such in said Territory, or by any bishop or  
7 elder in the so-called Mormon church, between parties com-  
8 petent to enter into the marriage contract. And the person  
9 solemnizing such marriage shall sign and deliver to the hus-  
10 band and the wife a certificate thereof, wherein shall be set  
11 forth the names, the ages, and places of residence of the par-  
12 ties, and the place and date of such solemnization, together  
13 with the names of witnesses, not less than two, present at  
14 such solemnization; which certificate may be recorded in the  
15 office of the proper register of the county, and the register  
16 shall be entitled to the same rate of fees for recording such  
17 certificates as is allowed for recording deeds of land; and  
18 such certificates, or a certified copy of the record, shall be  
19 evidence in any court of the facts therein set forth, as above  
20 required. All such registers shall henceforth be appointed by  
21 the governor of said Territory, and be subject to be removed  
22 from office by him. Marriage, so far as its validity in law is  
23 concerned in said Territory, is hereby declared a civil con-  
24 tract, to which the consent of parties, capable in law of con-  
25 tracting, is essential. No man, a resident of said Territory,  
26 shall marry his mother, his grandmother, daughter, grand-  
27 daughter, step-mother, grandfather's wife, son's wife, grand-  
28 son's wife, wife's mother, wife's grandmother, wife's daughter,

29 wife's granddaughter, nor his sister, his half-sister, brother's  
 30 daughter, sister's daughter, father's sister, or mother's sister.  
 31 No woman shall marry her father, grandfather, son, grand-  
 32 son, step-father, grandmother's husband, daughter's husband,  
 33 granddaughter's husband, husband's father, husband's grand-  
 34 father, husband's son, husband's grandson, nor her brother,  
 35 half-brother, brother's son, sister's son, father's brother, or  
 36 mother's brother. No marriage shall be contracted while  
 37 either of the parties has a former wife or husband living in  
 38 the United States or elsewhere, unless the marriage with such  
 39 former wife or husband shall have been dissolved. All per-  
 40 sons being within the degrees of consanguinity within which  
 41 marriages are herein prohibited to residents of said Territory,  
 42 and declared to be incestuous and void, who shall intermarry  
 43 with each other, or who shall commit adultery or fornication  
 44 with each other, shall be punished by imprisonment at hard  
 45 labor, in the penitentiary of the Territory, not more than fifteen  
 46 years nor less than six months.

1        SEC. 12. That if any officer herein authorized to sol-  
 2 emnize marriage shall knowingly and willfully solemnize a  
 3 marriage between parties either of whom is disqualified to en-  
 4 ter into the marriage contract, he shall be deemed guilty of a  
 5 misdemeanor, and, upon conviction thereof before a court hav-  
 6 ing competent jurisdiction, he shall pay a fine of not less than  
 7 one hundred dollars nor more than five hundred dollars, and



8 stand committed until the fine shall be paid. And if any  
9 person shall presume to solemnize a marriage in said Terri-  
10 tory who is not by this act authorized so to do, he shall be  
11 deemed guilty of a misdemeanor, and, upon conviction thereof  
12 before any court of competent jurisdiction, shall be punished  
13 by a fine not exceeding five hundred nor less than one  
14 hundred dollars, or by imprisonment in the penitentiary not  
15 exceeding six months nor less than one month, or by both  
16 such fine and imprisonment, at the discretion of the court.

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

17 cases such woman shall be deemed a competent witness on  
18 the trial of the offender.

1       SEC. 14 That it shall be lawful for any woman in said  
2 Territory, claimed as such spiritual wife of any man, but not  
3 married to him according to law, to sue for and recover from  
4 him compensation for her labor and services while such his  
5 spiritual wife, in an action of assumpsit, without any deduc-  
6 tion under pretense of support and maintenance of her by  
7 him during the period of such spiritual marriage, and also to  
8 sue for and recover any real estate, money, or other personal  
9 property given, granted, or conveyed by her since the  
10 passage of the act of eighteen hundred and sixty-two, enti-  
11 tled "An act to punish and prevent the practice of polygamy  
12 in the Territories of the United States and other places, and  
13 disapproving and annulling certain acts of the legislative  
14 assembly of the Territory of Utah," to any person or body  
15 politic as a voluntary gift, donation, or contribution to said  
16 Mormon church, or for its benefit, directly or indirectly; and  
17 any woman in said Territory not lawfully married, but who  
18 at any time has been in the relation of such spiritual marriage  
19 above mentioned, shall in all courts and places be deemed a  
20 feme-sole.

1       SEC. 15. That every person, male or female, who  
2 shall knowingly and willingly aid and assist in, or be  
3 present at, the ceremony or rite of Mormonism known as such



4 sealing or spiritual marriage, with intent to countenance, encour-  
5 age, and give effect to the same, shall be deemed guilty of a  
6 crime, and, on conviction thereof before a court of competent  
7 jurisdiction, shall be punished as last aforesaid; and the person  
8 or persons celebrating or solemnizing such rite, or performing  
9 such ceremony, shall be punished as last aforesaid, and by a  
10 fine of at least one thousand dollars each, and imprisonment  
11 at hard labor in such penitentiary for at least two years. And  
12 if any person shall publicly or privately counsel, advise, or  
13 persuade any man or woman to commit the crime of poly-  
14 gamy, made punishable by the act of Congress of eighteen  
15 hundred and sixty-two, such person shall be deemed  
16 guilty of a misdemeanor, and, upon conviction thereof, shall  
17 be fined in any sum not exceeding five hundred dollars, or  
18 imprisoned at the discretion of the court for a term not exceed-  
19 ing twelve months. And it shall be the duty of the judges  
20 of said Territory, at the commencement of each term of the  
21 court at which a grand jury shall be called, to give in special  
22 charge to the grand jury so much of this act as relates to  
23 polygamy and marriage.

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

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

1       SEC. 18. That laws and parts of laws of Utah Ter-  
2 ritory which in any way interfere with the primary disposal  
3 of the soil by the United States are hereby disapproved  
4 and annulled.

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

1        SEC. 20. That none but male citizens of the United  
2 States, over twenty-one years of age, residing in the precinct  
3 or election district, and not disqualified by the conviction of  
4 some crime, shall be competent voters.

1        SEC. 21. That if any person not qualified to vote shall  
2 vote, or offer to vote at any election, or if any qualified voter  
3 shall cast, or offer to cast, at any election more than one vote  
4 for the same officer or officers, he shall be deemed guilty of a  
5 misdemeanor, and shall, upon conviction thereof before any  
6 court having jurisdiction, be punished by fine not exceeding  
7 five hundred dollars, or by imprisonment in the penitentiary  
8 not exceeding one year, or by both such fine and imprison-  
9 ment, at the discretion of the court.

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

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

1        SEC. 24. That the probate courts, in their respective  
2 counties in said Territory, are hereby authorized to hear,  
3 try, and determine civil causes wherein the damage or  
4 debt claimed does not exceed three hundred dollars. And

5 said courts are hereby authorized to try criminal cases  
6 arising under the laws of the Territory, where by law the  
7 person convicted cannot be punished by a fine exceeding  
8 one hundred dollars nor by imprisonment exceeding six  
9 months; but in cases where the person convicted may be  
10 punished by a fine of more than one hundred dollars, or  
11 by imprisonment for more than six months, or by both fine  
12 and imprisonment, and where the person convicted may be  
13 punished by death, and in matters of naturalization, said  
14 courts shall have no jurisdiction or authority.

1       SEC. 25. That the judges of the supreme court of said  
2 Territory, or a majority of them, may fix, and, when they  
3 deem it expedient, may alter, the time and place of hold-  
4 ing the supreme court, and also the times and places of hold-  
5 ing district courts for the transaction of business arising under  
6 the laws of the Territory, and the number of terms which  
7 may be held in each district annually; and they may as-  
8 sign the judges to the several districts.

1       SEC. 26. That it shall be the duty of the United States  
2 district attorney for the Territory, personally or by his as-  
3 sistant, to attend all the district courts which may be held  
4 in said Territory, and to perform the duties of prosecuting  
5 attorney; and that the district attorney and United States  
6 marshal shall each receive for his services in criminal cases,  
7 or proceedings arising under the laws of the Territory, the

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

1       SEC. 27. That for the purpose of holding district courts  
2 for the transaction of business arising under the laws of  
3 the Territory, it shall be lawful for the United States  
4 marshal, or his deputies, to take possession of any court-  
5 house, council-house, town-house, or other public building,  
6 and to furnish the same in a suitable manner for holding  
7 the court, at the expense of the Territory, unless the same  
8 shall be previously furnished by the territorial authorities,  
9 and to hold and occupy the same so long as shall be neces-  
10 sary for holding the court.

1       SEC. 28. That in all cases or proceedings where imprison-  
2 ment may be ordered, if there shall be no safe and suitable  
3 jail or other prison in the district, it shall be lawful for the  
4 court or judge to order the person to be imprisoned in any  
5 jail or prison in the Territory; and it shall be the duty of the  
6 marshal, or other officer, to execute such order.

1       SEC. 29. That, if it becomes necessary, in the due exe-

2 cution of any order of a district court, or a judge thereof, it  
3 shall be lawful for the United States marshal, or his depu-  
4 ties, to take possession of any jail or prison in the Territory,  
5 and to occupy the same so far and so long as shall be neces-  
6 sary for the due execution of such order.

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

1 SEC. 31. That all acts and parts of acts of the  
2 United States inconsistent with the provisions of this act are  
3 hereby repealed; no bill shall become a law without the ap-  
4 proval of the governor of said Territory; and all acts and  
5 parts of acts now passed, or that may hereafter be passed,  
6 by the governor and legislative assembly of said Territory  
7 of Utah, inconsistent with the provisions of this act, are  
8 hereby declared null and void; and it shall hereafter  
9 be unlawful and a misdemeanor for any persons in



10 said Territory, claiming or pretending to be members of  
11 the legislature of the so-called State of Deseret, to assem-  
12 ble together as such legislature, and for the purpose of trans-  
13 acting any business as such; and no election shall be held or  
14 had for any member of said pretended legislature, or any  
15 officer under said so-called State government; and any mem-  
16 ber of the legislative assembly of said Territory who shall pre-  
17 sume to act in any manner as a member of the pretended leg-  
18 islature of the State of Deseret, or shall join or voluntarily be  
19 present at any meeting of members of such pretended legis-  
20 lature, shall cease to be a member of said legislative assembly,  
21 and shall henceforth not act as such.