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## GOVERNOR'S MESSAGE.

EXECUTIVE OFFICE, Utah Territory,  
Great Salt Lake City,  
January 13th, 1868.

Gentlemen of the Legislative Assembly:

Before proceeding to suggest to you such measures as seem to me suitable for Legislative action, it cannot but be appropriate for me to congratulate you upon the constantly improving condition of our national affairs. Upon emerging from the terrible civil war which for years had tasked to the utmost our national energies, various new and intricate political problems suggested themselves for consideration and decision. In the new questions thus arising we were entirely without precedents for our guidance. It is not to be wondered at, therefore, that among those statesmen equally solicitous for the public weal, there should arise vital and irreconcilable differences of opinion. Such differences of opinion have doubtless, in some measure, impeded the progress of reconstruction. At the same time such delay has given opportunity for a full and candid discussion of the conflicting political theories, and the people, the tribunal of last resort, have become more fully qualified for the rendition of a final and righteous judgment.

We should be faithless and blind indeed did we believe that the Benificent Father, who has so signally manifested His protecting care over us in the years that are passed, would now withhold His all-powerful guidance; or did we doubt for an instant the thorough loyalty, intelligence and constancy of the people.

During the past year a most satisfactory reduction has been made in the volume of our national indebtedness, and our ability to speedily liquidate and cancel such indebtedness has been fully demonstrated.

Questions relating to national finances must necessarily require much attention and discussion for many years. The views of our Chief Magistrate and his Minister of Finance, advising a reduction of our redundant paper currency and an early resumption of specie payments, are such as must commend themselves to all disciples of sound systems of finance.

During the past year also our neighboring republic of Mexico, by the expulsion of foreign troops from her soil, has virtually put down the last armed offshoot of our own civil war. While we can not but lament the blood-thirsty outrages which followed the triumph of the national arms, yet much must be pardoned to the feelings of an excitable people goaded to frenzy by the long endured exactions and tyrannies of a foreign and detested power.

### TERRITORIAL FINANCES.

I transmit herewith for your consideration the Annual Reports of the Territorial Auditor and Treasurer. Also the Adjutant General's Report in relation to the extent and condition of the Militia of this Territory. Utah is, I believe, of all the States and Territories of our Union, alone, in being entirely free from indebtedness. In this respect our condition is a subject of congratulation. The policy of never living beyond one's means is as admirable in Territorial as in individual affairs, and the wisdom of your predecessors in this regard, can not be too highly commended.

### PENITENTIARY.

I have several times observed the prisoners sentenced to our Penitentiary engaged in laboring upon the highways and wearing a ball and chain as a safeguard against attempts at escape or rescue. While the policy of compelling all prisoners to labor with diligence is one which meets my cordial approval, I question whether thus exposing them to public gaze and frequent execration, bearing upon them the symbols of their disgrace, is not calculated to render the prisoners hardened in morals and insensible to public opinion. The true

end of all punishment—the reform of the prisoner himself, thus fails of accomplishment. In my opinion some system should at once be devised and adopted whereby prisoners should be kept at labor within the walls of the place of their confinement.

### COMMISSIONERS OF DEEDS.

No statute seems to have been passed relative to the appointment of Commissioners of Deeds, to reside in other States and Territories. The services of such officers are often almost indispensable in commercial, legal and real estate transactions, and legislation should be had relative to their appointment during your present session.

### TOWN SITES.

You have already twice petitioned Congress to donate the proceeds of Town Sites within the Territory to the fund for the support of common schools. At its last session a law was passed by Congress virtually granting the prayer of your petition. By this law the town authorities may enter the land at the price of \$1.25 per acre in trust for the occupants of the same, but may fix the price at which the lots shall then be conveyed to the real owners. The difference between the two prices may thus form a school fund of considerable magnitude. Steps have already been taken to perfect the title to the site of Great Salt Lake City, and the land will undoubtedly be conveyed to the Corporation during the present season. In view of this fact it will become your duty during your present session to enact such laws as are necessary to render operative and effectual the law of Congress.

Provision should be made for the adjustment of conflicting claims to the same property; also where persons have interest in property by way of lease, mortgage or otherwise, for fully protecting such interests.

There having been heretofore no legal titles to lands within the Territory, no legislation relative to real estate has been deemed necessary, but at the present session full provision should be made for the conveying or encumbering of real estate or any interest therein, for dower rights therein if it were deemed best to grant such rights for the taxation of real estate, etc.

### STATUTE OF LIMITATION.

No laws limiting the time within which civil actions may be brought have been, as yet, enacted. Such statutes operate most advantageously in the prevention of litigation after a reasonable time has been allowed a party to assert his rights, and also render litigation much less vexatious, dilatory and expensive, by requiring actions to be brought within a period, where, in most instances, the evidence would be comparatively fresh in the memories of the witnesses.

I trust that this matter may receive attention during the present session of your body.

### RATES OF INTEREST.

Experience has demonstrated that all laws whereby rates of interest for the loan of monies are sought to be fixed, are worse than useless; that the price of money, as of any other commodity, is best left to be governed by the universal law of supply and demand. At the same time it is desirable that where no specific agreement be made between the parties, the rate should be fixed by law. Much controversy and litigation would thus be avoided, while the just rights of no persons would be affected thereby.

### CORPORATIONS.

No law at present exists relative to the formation of Corporations or Joint Stock Companies. A special act of the Legislature is necessary for the organization of such companies. Much trouble to yourselves would be avoided and greater simplicity and uniformity secured by the enactment of a general law under which Corporations and Joint Stock Companies might be formed, and by which the rights, powers and liabilities of the stockholders should be precisely defined and guarded.

### LIMITED PARTNERSHIPS.

By the common law of Partnerships the entire separate property of each partner is liable to be taken in payment of

the partnership liabilities. This rule has a tendency to prevent men of means from engaging in many meritorious enterprises, the management of which must be entrusted to less experienced and responsible hands. To obviate this difficulty laws have been enacted in many States whereby the liability of a partner is limited to a certain fixed sum, due notice of the limited character of his liabilities being given in a manner fixed by the Statute. I would respectfully suggest the passage of such a law by the present Legislature of the Territory.

### LIEN OF MECHANICS AND OTHERS.

In many of the States laws exist giving to mechanics who perform labor in the erection of buildings, or to merchants and others who furnish materials for such buildings, a lien upon the building and land upon which it stands for the labor so performed or materials so furnished. Such laws are found to operate most advantageously to all parties, and I would suggest that a similar statute be enacted by you at the present session.

### CATTLE DRIVES.

It is the usage at present for all cattle running at large to be annually collected at some point in each county for identification. Much complaint is made by persons having small droves of cattle which they themselves watch or have herded, at being obliged to drive their cattle to the general rendezvous and bear a proportion of the expenses of such collection. I am not sufficiently familiar with this subject to suggest for your consideration any specific relief, but call your attention to the matter in the hope that you may be able to devise some method of remedying the evil complained of, without impairing the efficiency of the present system. In any event it would be advisable to have the cattle drives regulated by some statutory enactment, rather than by custom, which may be capable of as many interpretations as there are interested parties.

### CODE OF PROCEDURE IN CIVIL ACTIONS.

Heretofore the people of this Territory have been almost isolated from the world. Their commercial transactions have been comparatively limited, and from their imperfect titles to real estate, transactions therein have been few and simple. You are now, however, about to experience a great transition. The rapid approach of that marvel of our days, the Pacific Rail Road, will virtually transfer you from the outskirts to the center of our continental civilization.

Commercial, agricultural and mining enterprises will be prodigiously stimulated and enlarged. Transactions in real estate will become more numerous, intricate and imperfect.

Heretofore litigation has been unfrequent, and the few legislative enactments relative to civil actions have perhaps sufficed for the requirements of the people. This condition of affairs is, however, now nearly at an end. With the rapid increase and development of business, numerous controversies must arise requiring the intervention of the courts, demanding more ample and explicit enactments for the speedy rendition of justice.

I would respectfully urge upon you the great importance of the adoption of a full code of laws, defining the forms and regulating the methods of procedure in civil actions.

The statutes now in force relative to such actions are not sufficiently full, and are also in some particulars open to grave objections. As an instance of the latter class I might refer to the law on the subject of divorce. By the present statute, a divorce may be obtained and one of the most vital relations of life terminated by a proceeding purely *ex-parte*; no notice whatever being given to the defendant.

### MEMORIALS TO CONGRESS.

I would suggest that Congress be again memorialized for the establishment of a Land Office in this Territory, that settlers may speedily secure valid titles to their property and avail themselves of the beneficent provisions of the Homestead Law. This act of simple justice to the hardy pioneers, who by their development of the resources of this mountain region, have added so greatly to the

wealth of the nation, should not longer be delayed. Congress should also be again memorialized for the repeal of that most oppressive law compelling the people of this and adjoining Territories to pay letter postage upon all books and transient newspapers forwarded by mail.

The near approach of the Pacific Railroad would seem to have already removed all apparent reasons which ever existed for this discrimination against settlers upon the frontier. It would surely seem that Congress, instead of restricting the privileges of these settlers upon the Pacific Slope, who by their toils and sacrifices have founded a magnificent empire, should make them even greater than those enjoyed by citizens of the Eastern States, as a partial recompense for their life long battles with the regions, to some extent, of an inhospitable climate and desert soil.

CHARLES DURKEN.

### LEGISLATIVE.

The Legislative Assembly met at 2 p.m. Monday, pursuant to law, in the State House in this city.

**Council.**—Patrick Lynch, Esq., Secretary of the last session, called the roll. The same gentleman, as Clerk of the United States District Court, administered the oath, to the members elect; after which the Council organized with the following officers:—

George A. Smith, President; Patrick Lynch, Secretary; Joseph M. Simmons, Assistant Secretary; J. D. T. McAllister, Sergeant-at-Arms; Albert Carrington, junr., Messenger; Joseph Busby, Foreman; and Joseph Young, senr., Chaplain.

The officials having been duly sworn, Councilor Carrington presented an Act to provide for the Legislature meeting in the City Hall, Great Salt Lake City, which passed; was sent to the House, and passed there; and was engrossed for the Governor's action upon it.

The Council appointed a Committee to wait upon his Excellency, with a like Committee from the House, and inform him that the Council and House would be in session to-morrow, at 2 P.M., in the City Hall, of this city, or at such hour as would best suit him, to receive such communications as he might have to make.

Council adjourned till to-morrow.

**House.**—R. L. Campbell, Esq., Chief Clerk of the House for last Session, called the roll, and the members were qualified by W. W. Phelps, Esq., Notary Public.

The Hon. John Taylor was elected Speaker, and sworn by W. W. Phelps, Esq.; after which the following officers, to complete the organization, were elected, and duly qualified:

**Speaker**—John Taylor.

**Chief Clerk**—Robert L. Campbell.

**Assistant Clerk**—Joseph C. Rich.

**Sergeant-at-Arms**—Sam'l. H.B. Smith.

**Messenger**—Franklin S. Richards.

**Foreman**—George W. Slade.

**Chaplain**—W. W. Phelps.

The Council was then notified that the House was organized and ready to proceed to business.

An Act was received from the Council, relative to the meeting of the Legislature at the City Hall, upon which action was immediately taken, and it passed.

A Committee was appointed to act in conjunction with a similar Committee from the Council, to wait upon his Excellency, the Governor. The House then adjourned to 1 P.M., to-morrow.

Governor Durken signed an Act which had passed the Assembly, removing the sitting of that body from the State House to the City Hall.

**DARK HOURS.**—To every man there are many, many dark hours—when he feels inclined to abandon his best enterprise; hours when his heart's dearest hopes appear delusive; hours when he feels unequal to the burden, when all his aspirations seem worthless. Let no one think that he alone has dark hours. They are the common lot of humanity. They are the touchstone to try whether we are current coin or not.