DESERET NEWS:
WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - - Feb. 11, 1874.

THE GOVERNOR'S VETO.

In another part of the NEWS to-day will be found a Memorial of the Legislative Assembly, the elected representatives of the people of the Territory, to Congress assembled, praying that body before specially legislating for Utah, to appoint a committee to investigate the situation of the Territory, and especially the charges of disloyalty, insubordination, etc., made against the people thereof, by certain parties who are urging Congress to hasty legislation of that character.

The legislation thus demanded for Utah is of such an extraordinary kind, so malignant in spirit, so proscriptive in character, so destructive of the privileges, liberties, and rights of American citizens, and so thoroughly at variance with every understood principle of American government, that any one who is in favor of hurrying it through Congress betrays thereby the fact that he is aware of the repulsive nature of such legislation, and every candid, fair-minded man will see at once the necessity, and be decidedly in favor of a full, free and impartial ventilation of affairs here, and of the alleged reasons why such legislation is considered necessary. What is there to be objected to in this? Is a perfect understanding of the situation a disadvantage to legislators, and is ignorance, or at most one-sided testimony, an advantage? If the people here are open to the serious charges preferred against them, and Congressional legislation is really necessary in consequence, what possible reasonable objection can there be to a fair and thorough investigation, that all the light obtainable may be had upon the subject before legislation is attempted? This, surely, must be infinitely better than legislating hastily, blindly, with partial information, and, consequently, with almost absolute certainty, in a blundering and entirely inadequate and unrequired manner.

Yesterday, Governor Woods took occasion, in vetoing the memorial, to make a long string of charges against the Legislature and the people, in his usual supercilious and dictatorial style, as if he was lecturing and hectoring a parcel of school boys. But what does all that amount to? It afforded his Excellency a chance for indulging in a little more of his peculiar kind of spread-eaglism. But supposing that all his charges were true, would that prove that careful investigation were unnecessary? Not a bit. On the contrary, it would be a strong plea in favor of the strong necessity of investigation, and of careful not random legislation to remedy the wrong.

The Governor complains that the Legislative Assembly does not legislate precisely as he recommends. Is it under any obligation to do so? If it is, what is the use of a Legislature? The Governor himself could take its place, and be allsufficient to perform its labors, as he evidently thinks he is. The Legislature is a deliberative assembly, and its duty is to act upon its own convictions of duty, and not to blindly and slavishly follow his. He may be superlatively sagacious and wise, but the Legislature is not bound by law to think so, nor to receive his suggestions as inspirations of infallibility. His Excellency may not conceive that it is possible for him to be a fallible creature, but we beg to asure him that he is, notwithstanding, and no men are more sensible of that fact than the members of the Legislature of Utah. In fact, his Excellency keeps thrusting that fact before their eyes with wonderful persistence.

The Governor complains that Congress has made certain acts criminal, and that the Legislature of Utah has not done the same. If Congress has done it, why need the Territory do it? Are not the acts of Congress sufficient? Do they need confirmation by the Territorial Legislature?

His Excellency says that crimes have been committed in Utah, and the criminals go unpunished. What has the Legislature to do with that? Why don't the judicial and executive officers administer the laws which the Legislature has enacted?

The Governor says the Legislature has violated the Organic Act. If so, Congress has had abundant opportunity to note the same, and why object to an investigation of such alleged mislegislation?

The Governor, in effect, gives the legislators a black character. What has he to do with that? The people have chosen them for their representatives. If any of them have broken the law, they are answerable to the law. The Legislature has heard rumors concerning his Excellency's antecedents, but what has the Legislature to do with those rumors? Must it talk about them ostentatiously and insultingly in a message to him? Pshaw!

His Excellency says the election law of the Territory is not perfectly in accord with the U.S. law. If so, does his Excellency think the Territorial law superior to the U. S. law? Or rather is not the conflicting portion of the former made void by the latter, and therefore what need of harping upon the subject?

The Governor says there has not been a jury impanelled in Utah for more than three years, whose verdict would be valid, nor can there be under the present law? Does the Governor wish to usurp judicial functions? Does he set himself above the Supreme Court of the United States? Who is the very man that caused the impanellment of illegal juries for a year and a half or so? Who but the present U. S. Chief Justice for the Territory? It was not the proceedings of the legislature, but the decisions of Chief Justice McKean that were absolutely and unanimously reversed by the Supreme Court in Washington, D. C. And who refuses now to have juries impanelled according to law, but this very Chief Justice? In the other two districts juries have been impanelled lately, and it is only in this, the third, where they have not been allowed to be impanelled. From 1859 juries have been impanelled, at various times, in all the districts under the law. Yet his Excellency says they can't be.

In this hasty resume, we really cannot go into all the Governor's statements, for lack of time and space, but we will now take up one that he seems to make a principal reliance, that of the election of certain officers by the legislature, in, as he claims, violation of the Organic Act, instead of letting him nominate them.

What does the Organic Act say on this point? The seventh section says—

"That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Utah."

Here is a provision for the choosing of certain officers. They may be "appointed or elected," "in such manner as shall be provided by the Governor and Legislative Assembly." In accordance with that provision of the Organic Act, the Governor and Legislature in former years provided a way—by "election," for the choosing of those officers. They were empowered, by the Organic Act, to do it either by appointment or election. They chose election.

Now what does the Organic Act further say? The same section says—

"The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for."

What did the Governor and Legislature do in the premises? An Act of the Legislature was approved March 3, 1852, providing for the election of a Territorial Marshal and an Attorney-General by the joint vote of both Houses of the Legislative Assembly. We may take these two as representative officers, to make our present argument the more brief. From that time to this those officers have continued to be chosen in that way. For twenty-two years the choice of those officers has been thus elective. Congress has been cognizant of this law, has never annulled it, but by non-annulment has virtually approved of it. Silence gives consent. This law and this method of choosing these officers has therefore the sanction, not only of prescription, but of local and congressional law, and juries have been impanelled and cases tried through those officers so chosen. This accords with the opinion of the Supreme Court of the United States.

In 1870 a Federal Judge ousted the Territorial Marshal. But in the celebrated Engelbrecht case the Supreme Court of the United States, in 1871, unanimously decided the district court at fault, and the Territorial Marshal the proper officer to execute processes in Territorial cases, and to impanel juries in such cases. Yet the Governor says it can't be done, and the Marshal is illegally chosen, and therefore no juries can be empanneled. The Engelbrecht decision says expressly—

"Nor do we think the other objection sound, viz: That the required participation of the Territorial marshal in summoning juries invalidated his acts, because he was elected by the legislature, and not appointed by the Governor. He acted as Territorial marshal under color of authority, and if he was not legally such, his acts cannot be questioned indirectly."

In relation to the Territorial Attorney. This question too has gone before and been acted upon by the Supreme Court of the United States and decided in favor of the legality of that officer and his acts. We cannot now go lengthily into this case—"Zerrubbabel Snow, plaintiff in error, *vs.* the United States *ex rel.* Charles H. Hempstead United States District Attorney. In error to the Supreme Court of the Territory of Utah."

The question was, which of the two attorneys—Territorial or Federal, is the legal officer to prosecute Territorial; cases in the U. S. District Courts in the Territory? The decision of the U. S. Supreme Court was that Mr. Snow, the Territorial Attorney, was the proper and legal officer, thus again reversing the decision of the Supreme Court of the Territory. The decision was given in the October term, 1873. This is the language of the decision—

"The power given to the legislature is extremely broad. It extends to all rightful subjects of legislation consistent with the Constitution and the organic act itself. And there seems to be nothing in either of these instruments which directly conflict with the territorial law. If there is any inconsistency at all, it is in that part of the organic act which provides for the appointment by the President of an attorney for the territory. But is that necessarily an inconsistency? The proper business of that attorney may be regarded as relating to cases in which the government of the United States is concerned. The analagous case of the marshal, and the separation of the business of the courts as to government and Territorial cases, seem to give some countenance to this idea. At all events, it has sufficient basis for its support to establish the conclusion that there is no necessary conflict between the organic and the territorial laws. The organic act is susceptible of a construction that will avoid such conflict. And that construction is supported by long usage in this and other territories. Under these circumstances it is the duty of the court to adopt it and to declare the territorial act valid."

Tnere is an appeal case pending in the Supreme Court of the United States, involving the question of the jurisdiction of the Probate Courts of this Territory. But similar arguments may be used on that question as on those relating to the marshal and the attorney, and the Engelbrecht case settled the jury matter.

Therefore the assertion of the Governor that juries cannot be legally impanelled nor cases legally tried in this Territory, because of the imperfect state of the laws, is sheer pretence, without the slightest foundation in fact. In 1873 prisoners were tried and convicted, in the second judicial district, and sent to the penitentiary, and in the first district several men have been indicted, whose cases are now pending. It is only in the third district, and under Chief Justice McKean, that the court finds insuperable difficulties in the impanellment of juries and in the trial of criminal cases, in the very district and with the very judge where absolutely illegal juries, chosen by Federal officers, were in vogue for a year and a half, and disempanelled only on the reversory decision of the Supreme Court of the United States.

Thus the statements of the governor as to the illegality of certain local officers and the impracticability of impanelling juries and administering the laws crumble to the ground.

SOME R. R. CURRENCY.

We have before us a piece of currency, the face of which reads as follows—

"Salt Lake City, January 15, 1874.

"Salt Lake City National Bank of Utah, 15 days after date, will please pay to the order of W. B. Welles, Treasr., or bearer, 5 Five Dollars.

"Bingham Canyon and Camp Floyd R. R. Co.

"C. W. Schofield,
"President.

"Wm. B. Welles,
"Secretary."

On the left side of the note are the figures "5" and "190," and on the right side are the word "Five" and the letter "A." On the back of the note is the following—"Redeemable at the Salt Lake City National Bank, Utah," with the figure "5" on each side of the reading. There is no endorsement of the note, further than what we have shown.

The appearance of the note approximates towards the appearance of ordinary national bank currency, or greenbacks, and any person, not much in the habit of handling legal tender, would be very likely, at first sight, to suppose a note of this kind a portion of the ordinary currency issues of the bank named, which bank, however, is in no wise bound, by the note, to redeem it. The "Bingham Canyon and Camp Floyd R. R. Company" is the responsible party, and not the "Salt Lake City National Bank," although the name of the latter appears in bold characters, while the name of the former is in far smaller and less distinct characters, on the face of the note.

These notes are evidently issued to be used as currency, although they have merely the force and nature of checks or orders on the bank stated. The apparent intent of their issue is to deceive the uninitiated portion of the public, though we have no idea of saying that the issuers have any such real intent. But, being so near an imitation of common bank currency, these notes can not be considered a creditable resort for the party issuing them, nor are they likely to be considered very creditable to any bank whose name appears so prominently upon their face.

In noticing these notes we desire simply to call the attention of the public to their existence and nature, that no person may inadvertently receive them, except for what they are really worth.

THE CRUSADE AND THE CRUSADERS.

There is a purpose most plainly manifest among parties in this City and Territory, prominent among them being some of the federal officers for the Territory, to oppose, decry, malign, and endeavor to overthrow and abolish everything, every institution and law and ordinance, in which the people have any voice, and to reduce the citizens to a condition of, at best, virtual disfranchisement. The attitude and spirit of these officials and others in sympathy with them, are not the attitude and spirit of American citizens towards American citizens, but the attitude and spirit of Roman conquerors toward a subjugated people, who had no rights that their conquerors were bound to respect, no rights at all, except such as their conquerors might choose to grant them.

It is in this spirit that the many misrepresentations concerning the people and the situation here are sent to the administration in Washington, to Congress, and to the distant public.

The people of this community, their legislature, their officials, Territorial, county, and municipal, their representatives of all kinds, civil, military, and religious, their institutions, governmental, political, commercial, social, and religious, in fact everything pertaining to the people, especially everything distinctive, is misrepresented and falsely and highly colored for political effect, upon public sentiment, in order to force Congress to the enactment of laws which will deprive said people of the common rights of American citizens and place them under the thumbs of those who are scheming for their overthrow, as completely and as hopelessly as ever a captive was under the thumb of a Roman conqueror. The same overbearing, arrogant, insolent, haughty, and imperious manner is assumed by those schemers towards the people, so far as it is considered safe to do so, as ever was assumed by ancient conqueror toward the people whom he had subjugated by fire and sword and untold enormity of brutality.

This is the kind of spirit in which the attacks are made upon the municipal officers, upon the municipal council, and upon the municipal police. An angel from heaven could not please the crusaders. Were his conduct as pure as snow, he would not escape their calumnious tongues. The more righteously he acted, the more they would find fault with him, abuse and vilify him, and misrepresent his motives and his deeds. The administration of this City perhaps has not its equal on the continent for economy, studied carefulness, and abunuant solvency as to municipal finances. Yet the most reckless misrepresentations are made of its condition, and eagerly scattered to the four winds, to create more and more, and bitterer and bitterer prejudice against the community, to impel Congress to such action as would leave an indelible stain upon American history, and be absolutely annihilative of American liberty.

This is a western country, a frontier country, a mining country, to which flows, at times, all the scum from other and older communities. In addition to this, there is the existing prejudice against the large majority of the citizens, and many of the local officers, here, because of their religion, a prejudice which has been most undignifiedly and unwisely cherished and fanned to unwonted heat by extra-official opposition made to the laws, ordinances, institutions, habits, and customs, which the people, in the exercise of their undoubted sovereign right as American citizens, have elected to adopt.

Among the many visitants to this city are some of the most wicked, most villainous, most desperate characters that America or the world produces. Some of these reckless characters, steeped in crime, and caring for neither God nor man, come under the surveillance and into the custody of the police of this city. Not only naturally and by habit, as well as by residence in frontier and new mining communities, are these characters wild, wicked, and desperate, swift to assault, maim, or kill, with or without provocation, but they are emboldened in their wickedness and ferocity by the perverse attitude and course of the judiciary and other federal officials, and in the not baseless hope that *hapeas corpus* will secure them immunity from municipal punishment, richly due for their offences. Thus encouraged, they are apt to put on airs, and indulge in provoking threats, and in language of so vile, filthy, loathsome, and often personally and aggravatingly insulting a character that no man, however phlegmatic, can hear it unmoved. The police have to endure all this abuse, have to carry their lives constantly in their hands, have to submit to be called by the foulest epithets it is possible for the ingenuity of fiends to conceive of, and yet are expected by the crusaders to be meeker than Moses, to deport themselves with lamblike gentleness in arresting and securing wolves, hyenas, tigers in the shape and semblance of humanity.

While uncompromisingly opposed to unwarrantable extra-official action, whether on the part of police, or aldermen, or marshals, or judges, or officers of any kind, we do maintain that the officers of the law should be sustained in the exercise of their legal and constitu-