

GOVERNOR'S MESSAGE.

GENTLEMEN OF THE COUNCIL AND HOUSE OF REPRESENTATIVES:

Since the meeting of the last Legislature, the affairs of the Territory have continued, in most respects, satisfactory. Though certain enterprises have been retarded to some degree, from various causes, nevertheless unmistakable progress has been made in the settling up of the country and in the development of its resources. The general health of the people has been good, and peace and order have prevailed throughout the Territory.

Agricultural crops have been abundant, and the husbandmen have been amply rewarded for their labor. No causes of distress from poverty have existed where an honest effort has been made to obtain a livelihood.

The laboring classes have been furnished with steady employment, and well remunerated for their services, and in this respect they have been more fortunate than others of their fellow men in many portions of the country.

The mines in their further development have increased in positive value, and where energy and skill have been displayed in working them, promise large returns to their owners.

Many which, but two years since, were regarded as mere prospects of doubtful worth, have grown into well developed mines of great value.

The facilities for milling and smelting have kept pace with the product of the mines. Several extensive establishments have been erected for the reduction of ores, all of which, I believe are in successful operation, and afford additional employment for a large number of men.

Already attention is being directed to the vast coal fields of the Sanpete County, where are to be found immense veins of bituminous coal of superior quality for coking and ordinary uses. The day appears not distant when these mines will furnish fuel for the smelting of our ores at a cost probably of one-fourth the money now paid for Pennsylvania coke. This event will mark a new era, giving fresh impetus to our mining and smelting enterprises. Although mining and its consequent industries are as yet in their infancy, they nevertheless furnish a large number of citizens with employment and a ready market for home products; beside, they are the money-producing interests of the people, and it is reasonable to expect that within a short time they will be sources of great wealth to Utah.

When we reflect upon the material resources of the Territory—rich in agriculture, gold, silver, lead, copper, zinc, sulphur, salt, iron and coal, with a climate unsurpassed by any other in America—we can realize the necessity for correct legislation and such as will protect the humblest citizen in his rights and guard the interests of all legitimate enterprises.

FINANCES.

The reports of the Territorial Auditor and Treasurer for the two years ending December 31st, 1877, have been received, and I herewith submit them for your information. These reports exhibit no great indebtedness against the Territory which it cannot liquidate, provided the money due from the Counties is paid into the Treasury; however, these outstanding accounts and Auditor's warrants present a condition of affairs relative to the finances, which cannot be regarded otherwise than unsatisfactory. Evidently some plan should be devised whereby the Territory can be relieved of its embarrassment in this particular.

COMMON SCHOOLS.

A revision of the law relating to schools, so that it shall be more in accord with the progress and spirit of the times, and more acceptable to the entire people, is needed, and I trust will receive your attention.

Under its present provisions every religious denomination in Utah deems it necessary to furnish schools for its children, while but one of these denominations receives any assistance from the Public Treasury. In this city alone more than thirty thousand dollars are annually expended for private tuition, which is no inconsiderable tax, and by many hard to bear. This amount of money should furnish schooling for nearly the whole number of children in the city; whereas under the present arrangement, it procures instruction for only about one-fifth of the entire number of the school age.

It would be wisdom to divide this city into—say, six school districts, with a high school as near the centre as may be convenient and to furnish each district with buildings devoted exclusively to school purposes, and to provide all of them with teachers selected for their moral worth and qualifications as teachers, regardless of their religious bias. A graded system of instruction in keeping with a place of this size, should then be inaugurated, which will meet the requirements of the children who are to be educated. Such a system, when once established, would give the greatest satisfaction to all who are interested, and I am confident could be maintained for less money than is now yearly expended for schools. Any system of public instruction which will be beneficial to this city, can be adopted by all the cities and towns in the Territory with like good results. No State or Territory in the Union is better calculated to maintain graded schools than Utah, as nearly her entire population reside within corporate limits and towns. An appropriation should be made by the Legislature amply sufficient for educational purposes, and the money should be raised by a direct tax levied upon the taxable property of the Territory, in the same manner as funds are raised for other Territorial expenses.

The law now in force leaves the districts to decide for themselves whether or not they will raise by taxation the money necessary to maintain schools. This provision virtually leaves the question of schools or no schools to the Legislature, where it properly belongs. Public schools should be under no sectarian influence. Morality, integrity and the other virtues should be inculcated in all institutions of learning, but religious teaching should be left to the parents, the Sabbath schools and to the churches. If a child's religious training under these influences will not stand the jostle of public schools, it will be little practical use to him in after life.

IRRIGATION.

While I realize the difficulties of an attempt to regulate the water in an arid country so as to give individuals their exact proportion, and while it can hardly be expected the matter will ever be so adjusted as to give entire satisfaction, yet I am confident a system can be devised which will come nearer to it than the present one.

The statutes make provision for irrigation districts, the election of officers, etc., but fail to define the rights of individuals, or give them any permanent privileges. The law is so meagre in its provisions that a supply of water depends more on the good-will of neighbors than upon any rights which can be enforced. Neither will the people of the Territory have any sufficient guaranty against serious difficulties until their individual interests to the water are more specifically defined by law. We should bear in mind that in the absence of Territorial legislation on this subject the common law prevails, and is wholly inapplicable to countries which have to depend upon the water courses for a sufficient supply of water, not only for ordinary uses but for the purposes of irrigating the soil.

A well considered law would be of great service, especially to agriculturists, and prevent litigation, which must grow out of the present system. Legal title to water is quite as essential in this Territory as legal title to land, and as soon as acquired it should be a part of, and go with, the realty and made a

matter of record in the same manner as real estate.

SECRET BALLOT.

I desire to call attention to the law regulating elections, and request that it be so amended as to relieve it of an objectionable feature known as the "marked ballot." That portion of the statute relating to the registration of votes as a precaution against fraud, is acceptable to the people and is considered amply sufficient as a safeguard, without the accompanying provision requiring the name of the elector to be written in the poll-books, and opposite to it the number of his vote. This is regarded as espionage, enabling the officers of election, if so disposed, to tell how and for whom each person votes. I also suggest the propriety of providing for two judges of election in every precinct instead of one, and make it the duty of the County Court to appoint the officers, and to select one from each of the political parties, thereby giving to each a friend at the polls. Also, that every ballot be sealed up in an envelope before being deposited; the envelopes to be of uniform color and size, and to be furnished to judges of election by the County Courts for free distribution at the places of holding the elections.

This, it seems, would afford to every citizen entitled to vote an opportunity to do so in accordance with his own wishes. The right of suffrage allowed to citizens should carry with it the right to exercise that suffrage in a manner satisfactory to himself, without the possibility of being called to account for his choice of candidates, or of experiencing unpleasant consequences. The duty of the Legislature to "guard the purity of the ballot box" is unquestioned, but it would be an abuse of power to so entangle it as to thwart the wishes of the people; otherwise suffrage, which has been given as a high constitutional privilege wherewith to protect their rights and opinions recoils on its possessors and subverts the very ends and objects it was intended to accomplish.

COMPILED LAWS.

The Legislature, at its last session, created a commission to compile the statutes and laws then in force and those enacted during that session. The bill provided that when the books should be published they should be placed in the hands of the Auditor of Public Accounts, to be by him disposed of in the following manner: To the Governor, Secretary, and Judges of the Supreme Court, one copy each; to the members of the Legislature and to the territorial officers, one copy each; and two hundred copies to be retained for the use of members of future Legislatures, etc., but made no provision for a free distribution of a certain number outside of the Territory to persons and libraries entitled to them.

The Legislature appropriated six thousand dollars to meet the expenses of publication, to which Congress subsequently added four thousand dollars more, to be drawn and paid over subject to the approval of the Governor.

It was deemed advisable, Congress having contributed so liberally in aid of the work, to set aside a certain number of the books for the use of the President of the United States, members of his cabinet, heads of bureaus, the various committees of the Senate and House of Representatives, and for the use of State and territorial libraries. I will add that this Territory is under obligations to nearly all of the States for law reports and other public documents, and in return for these contributions they have requested to be furnished with copies of our statutes, legislative documents, and such other publications as we may have, for the use of their libraries, which they consider incomplete without them.

To supply this demand, the commission placed in the hands of the Secretary of the Territory two hundred copies of the compiled laws, with the understanding that the matter should be laid before the present Legislature for approval, and for a further contribution of one hundred copies to the same object.

In complying with these requests we only liquidate a debt which has long been due, and which should have been provided for in the bill relating to the compilation of the laws.

BAIL.

Under the present practice, parties who are bound over for trial

not unfrequently escape, and are not to be found when their cases are ready for trial. Although bail is thereby forfeited, yet the prosecuting officer is obliged to wait until the succeeding term of court before he can bring an action on the bond, get judgment and collect the money. This defective bail system is a serious drawback to an efficient and prompt execution of the law; besides, it is no uncommon thing that, by the time judgment is rendered, no property can be found out of which to satisfy the execution.

The law in respect to bailors should be amended, and their liabilities made more specific and positive. A liquidated bond should be required by persons who offer themselves as surety for others, and a bond on which the officers of the court can proceed at once to collect the money, if forfeited. Such bonds should be a lien on the real estate mentioned therein, and the courts be empowered to issue process for the collection of the sum agreed upon, without further legal proceedings.

CHattel Mortgages.

A requirement of law is needed which will make it obligatory on mortgagees of personal property to record their titles in the county where the property is situated. A provision of this kind would afford ample notice to third parties of the transaction, and allow the mortgagor to retain possession of the property so long as he complies with the conditions of his agreement, provided the arrangement is satisfactory to the mortgagee. Under present enactment loans made on this class of securities are considered insecure, unless the pledge is transferred to and remains in possession of the pledgee. The law so modified as to contain the requirement suggested would be of service to persons who deal in this kind of security and equally advantageous to mortgagee and mortgagor.

JUSTICES OF THE PEACE.

Since the adjournment of the Legislature several vacancies have occurred in the office of justice of the peace. These offices being elective, and there being no authority for calling a special election to fill them, the vacancies remain unfilled and are awaiting your action. As there has been a general misunderstanding throughout the Territory respecting the law which governs in these cases, I cite the provisions of the United States Statutes relating thereto:

Section 1856 provides, "Justices of the Peace and general officers of the militia in the several Territories shall be elected by the people in such manner as the respective Legislatures may provide by law."

Sec. 1857.—"All township, district, and county officers, except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the Governor and Legislative Assembly of each Territory."

Sec. 1858.—"In any of the Territories, whenever a vacancy happens from resignation or death, during the recess of the Legislative Council, in any office which, under the Organic Act of any Territory, is to be filled by appointment of the Governor by and with the advice and consent of the Council, the Governor shall fill each vacancy, by granting a commission, which shall expire at the end of the next session of the Legislative Council."

Although the "Organic Act" provides that the Governor shall commission all officers who shall be appointed under the laws of this Territory, and the Territorial Legislature has made provision for filling vacancies in the office of justice of the peace by appointment of the County Court, yet both the Legislative and Organic Acts contravene the acts of Congress, which are of more recent date and control in such cases.

STOCK RAISING.

Immense areas of country in Utah are adapted to grazing, and probably can never be put to any use which will be so profitable as stock raising. The mountains, the hills and unoccupied valleys should be utilized for this purpose, and would be a source of considerable revenue to the people. Though this business is carried on to some extent at the present time, it is nevertheless attended with so much risk and with a loss of so many animals that the enterprise is becoming more hazardous every year. The Legislature can remedy one of the principal difficulties connected with this pursuit, by providing more effective methods for

the capture and conviction of the men who drive out of Utah annually large numbers of stolen cattle and horses. The appointment of one efficient, vigilant officer, for each county, but with jurisdiction throughout the Territory, whose duty it shall be to pursue, arrest and bring to trial guilty parties, would undoubtedly put an end to annoyances of this kind.

The measure would probably be more effective if it should contain a provision whereby, if any such officer or officers aid, abet or in any way compromise with persons suspected or guilty of the offence stated, or shall make use of his office for any other purpose than that for which it was created, such officer or officers shall be punished by fine and for a term in the Penitentiary.

PENITENTIARY.

The Penitentiary, for the confinement of persons in the Territory, is placed by law under the care and control of the United States Marshal, and he is by the same enactment made Warden, subject only to such rules and regulations as are prescribed by the Attorney General of the United States. This is the law and authority paramount to territorial enactment on this subject. The compiled laws of Utah provide, by an act approved January 20th, 1860, for a board of directors for the Penitentiary, and a subsequent act, approved January 18th, 1861, provides regulations for governing the Warden and directors. These Territorial acts are in conflict with congressional legislation and provide a different system of government for the Penitentiary from that established by Congress, and should be repealed. Such balances as stand to the credit of the Penitentiary fund by virtue of former appropriations, should be transferred and made available for expenses under its present management.

The expenses of a Territorial Warden have been paid for several years, though no such officer has been known to the law.

Another enactment provides that, "any person convicted by a court of competent jurisdiction, in a Territory, for a violation of the laws thereof, and sentenced to imprisonment, may, at the cost of such Territory, on such terms and conditions as may be prescribed by the Attorney General, be received, subsisted and employed in the Penitentiary during the term of his imprisonment."

There are now confined in that institution thirty-nine convicts, and the number has averaged twenty-seven for the past year. Up to date no provision has been made by the Territory for the expense of maintaining and guarding these convicts. I therefore recommend a suitable appropriation for this purpose.

COLLECTION OF DEBTS.

It is reasonable to suppose that the more easily and certainly debts can be collected by law, the greater will be the facilities for effecting loans and obtaining credit. Money will be put in circulation more freely, and the benefit derived from such a state of affairs will immediately be experienced by the mercantile and laboring classes. As the risks attending the collection of money loaned are increased, in the same proportion will the rates of interest increase.

The attachment law of the Territory affords very inadequate security to creditors, and as a consequence money is rarely loaned, except on bond and mortgage, or on the pledge of collateral securities.

It is deemed advisable to amend the attachment law so as to afford the necessary remedies in all cases of contract for the direct payment of money, when the debt is not paid at maturity. This is the law in California, Nevada and other States, and while it is but just to creditors, it will be also a benefit to those who require credit in their business, by giving them greater facilities for obtaining it at reduced rates of interest.

EXECUTIONS.

Sec. 1434, Compiled Laws of Utah, provides, that the party in whose favor judgment is given, may at any time within three years after the entry thereof, issue a writ of execution for its enforcement.

Sec. 1108 of the same law reads: "Actions other than those for the recovery of real property can only be commenced as follows: within five years; an action upon a judgment or decree of any court of the United States or any of the Territories within the United States." It would appear that an action can