

GOVERNOR'S MESSAGE

TO THE LEGISLATIVE ASSEMBLY OF UTAH.

EXECUTIVE OFFICE, G.S.L. CITY,
November 12, 1860.

TO THE COUNCIL AND HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF UTAH:

GENTLEMEN:—The Judges of the Supreme court of this Territory, having advised me recently that their predecessors had exceeded the limits of their authority in attempting to fix the times and places of holding courts for the trial of Territorial cases in their respective districts, and that therefore their action in the case was virtually null, I took the matter into consideration, and decided that the public interest demanded that there should be no farther delay in holding sessions of the several district courts; that no doubts ought to exist in relation to the proper times and places of holding them; and that the duty of creating or modifying the districts for the judges, assigning them to their respective districts, and providing the funds necessary for holding such courts, devolved properly upon the Legislative Assembly.

I therefore summoned you by a proclamation, dated 20th October, 1860, to convene at the Social Hall in this city, on this twelfth day of November, 1860.

I recommend that you at once repeal the resolution approved 19th January, 1855, which fixes the time at which the Legislature should convene its annual sessions, and that you take such legislative action, as will cause this extra or called session to rest on the same basis as an annual one. Prompt attention to this matter I deem very important.

The Chief Justice and his associates will enter upon the duties of their respective offices so soon as you have made the necessary arrangements. I believe that the professional and personal reputation of these gentlemen entitles them to the respect and confidence of the community, and will dispel the distrust engendered by the action of their predecessors.

During the recess of the Legislature, Mr. John Kay, the former Marshal for Utah, left the Territory on a visit to England, his absence occasioning a vacancy in that office. I filled it by appointing Mr. McKean.

I would here take occasion to remark, that it is very desirable that the Territorial Marshal should in every way be qualified for the performance of the duties of his office, as upon him will devolve the business of all Territorial cases, to the exclusion of the U. S. Marshal, whose duties are restricted to U. S. cases.

It is of the highest importance to dispose of the vexed question with regard to the respective powers of the U. S. and Probate courts. The U. S. Judges are supposed to entertain opinions adverse to the exercise of certain powers of the Probate court, claimed by the latter, under 29th section, 1st chapter, of an act passed by the Legislative Assembly in relation to the Judiciary, approved July, 1852, as follows: "The several Probate courts, in their respective counties have power to exercise original jurisdiction, both civil and criminal, and as well in chancery as at common law, where not prohibited by Legislative enactment; and they shall be governed in all respects by the same general rules and regulations as regards practice as the District courts." In this action the Legislature relied upon chapter 51, section 9, Organac Act, as follows: "The jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate courts and of Justices of the Peace, shall be as limited by law." No case has come up for the decision of this question, upon its own merits. There should be no further delay in securing an opinion which would be final.

I have urged this subject upon the attention of the Secretary of State; and, in his reply, have been assured that the subject had been submitted to the Attorney General on the second day of May, 1860; since which time I have not received any further communication on that subject from his office.

So long as this conflict as to the respective powers of the courts continues, the mandates of the higher courts should be implicitly obeyed.

The population of the western portion of this Territory, known as Nevada, has recently become much more numerous, in consequence of the influx of a large number of persons, attracted by the mineral wealth of that region. Those persons, who labored to secure the benefits of county organization, encountered formerly violent opposition, which arose, I believe, chiefly from unfounded objections to the statutes of this Territory. A more thorough knowledge of the character of these statutes dispelled this prejudice and induced the more law-abiding persons to receive and recognize them as the law of the land.

The vast extent of uninhabited country which separates these valleys from those of Sierra Nevada, renders intercourse between them very inconvenient, and makes it very probable that the latter will receive a separate Territorial organization from the Government, so soon as the increased population shall have become permanent, and sufficiently large to justify the United States in granting their request for one.

At the last annual election, Carson county renewed its organization, and elected its county officers and a representative to the Legislature. All these officers have received their commissions.

A large number of the people who inhabit the region bordering on the Sierra Nevada are

employed in mining, and will probably require some legislative action, suited to their peculiar needs. This benefit, I trust, will be extended to them, so far as it may be consistent with the general interest. Your powers do not extend to the primary disposal of the soil, but much good may accrue to them from grants for temporary use and occupancy.

The condition of the Indian tribes of this Territory demands the immediate attention of the government. The Indian title has not been extinguished, nor indeed have any treaties been made with any Indians inhabiting this country. Spain, from whom indirectly this country was acquired by the United States, uniformly refused to recognize any title in the Indian tribes to the lands occupied by them; but though the grant of the Pope may have been sufficient for the semi-barbarous Spaniard, it should have no influence on a humane and enlightened government. I recommend that a memorial be addressed to the proper officer at Washington, requesting the immediate appointment of commissioners to treat with the tribes of this country, and with the wandering tribes of Bannacks and Shoshones who roam over the portions of Oregon bordering the northern frontier of Utah.

It may be well also to embody in your memorial an expression of opinion in regard to the Indian farms, as they have been hitherto conducted in this Territory. These farms occupy a large quantity of land required by the industrious inhabitants; and, as I believe, they serve chiefly to support a few persons in comparative idleness. Some wheat is produced on them which averages to the United States a cost of more than ten dollars a bushel, and, in my opinion, a large part of this wheat is consumed by the producers.

It is time that this community should be relieved from the burden of feeding the Indians throughout the country. If a wise and liberal policy shall actuate the appointment of suitable commissioners, and shall frame their instructions, it will be an act of justice and humanity towards the Indian. It will relieve the inhabitants from depredations, the emigration from robbery, and their families from wholesale butchery. Then the officers of the Indian department might exchange the contempt and distrust of the Indians for their respect and confidence.

So soon as the Indian title shall have been extinguished, the government will doubtless establish land offices in this Territory. In this connection I would repeat that the land laws of our country are based upon wise and liberal principles. To actual settlers upon the public domain they extend protection against the usurpations of individuals and speculations of monopolists.

When these lands are open to sale and pre-emption, the public interest, and especially the interest of the poorer classes, would be promoted by restricting claims by law to less than quarter sections. I think they should be restricted to lots not exceeding twenty acres.

I should recommend that Congress be memorialized on the subject of the restriction of pre-emptions, in accordance with the suggestions contained in the foregoing paragraph; also, with regard to the permanent establishment of some system of equitable distribution of water and timber. If this latter provision be neglected, the occupants of the canyons and timbered lands may exercise an oppressive influence upon the cultivators of the arable lands in the valleys.

A large quantity of merchandise is sold annually at Fairfield, near Camp Floyd. I am told that no taxes have been collected from this source. If these goods are properly exempt from taxat on, it should be so understood. If any legislation on this subject be required, I request that you will supply it, so that the proper officers may be enabled to perform their duties.

This Territory has never received her quota of arms from the United States. H. K. Craig, colonel of ordnance, has addressed to me several communications on the subject. On the 11th January, 1860, he advised me that there was then due to Utah, 2,775 muskets, together with accoutrements, etc., which by existing regulations would be delivered at any place in the Territory "situated upon navigable waters, or otherwise easily accessible; to be designated by the Governor or other authorized officer of the Territory. The United States cannot, however, incur any extraordinary expenses for the transporting the arms into the interior by land." I herewith annex a statement of the cost of small arms, field artillery, and their equivalent in muskets.

In my opinion, the "Revised Statutes" contain several acts and resolutions, which ought to be repealed. With a laudable desire to strip Legislation of superfluous forms, your predecessors have left some acts hardly intelligible. To the uninitiated, others which are intended to govern the practice in the courts, are simply absurd. If nothing else can be effected, the index ought to be rendered intelligible.

In addition to the books contained in the Utah Library, there are a large number of public documents, reports, statutes and valuable miscellanies, which, for want of a suitable room in which to deposit them, are comparatively useless.

A suitable arrangement should be made for securing rooms, in which not only the Territorial library might be arranged more commodiously than at present, but also the books above referred to. It is some years since any appropriation was made by Congress for the increase of the library, and I presume, your delegate to Congress, Colonel Hooper, could secure the passage of a bill for that purpose.

I have witnessed with pleasure the evidences of increasing interest in the subject of education. In this city and throughout the Territory, many large and spacious school houses have been built, and the sight of hundreds of children who daily attend them is very cheering. The past year has also witnessed the establishment by President Young of a college for the instruction of youths in the higher branches of education. But as yet you have no free or common schools; and I would again impress upon you the vital importance of appropriating a portion of the Territorial revenue to the establishment and maintenance of such schools. The future destiny of your children for weal or for woe depends on their moral and intellectual culture. The children of the rich and the poor are equally in need of it. Some system should therefore be adopted, which will enable every child to obtain these inestimable benefits. It is evident that persons who are competent to undertake the dignified and difficult task of education, should be recompensed with certainty and liberality.

I would again call your attention to the extent and number of herd grounds. A temporary, but exclusive use of these grounds has been granted to a few individuals to the manifest injury of the community. These grants ought to be repealed.

The Penitentiary still continues in the condition to which I alluded last year. Humanity and policy alike require that some plan should be adopted by which the prisoners may be furnished with regular and remunerative employment. This would not only be conducive to their health and general improvement, but also defray the cost of their maintenance.

I regret to be obliged to state, that the northern part of the Territory is infested by bands of cattle thieves, who commit depredations upon the ranges and dispose of their plunder in the vicinity of the military reserves. It is quite time that all good men should unite in bringing these desperadoes to justice. When the district courts commence their sessions they will probably take cognizance of these offences.

I herewith annex the annual reports of the Auditor and Treasurer, which you will please submit to the proper committee for their examination and report.

A. CUMMING.

Dr. Forney and the Superintendency.

The late Superintendent of Indian Affairs for Utah Territory, Dr. J. Forney, who has made some half dozen trips to and from Washington, since his suspension from office last summer, in order to get his accounts with the Department settled up properly, took his final departure for home on Friday last, as understood by those most familiar with his affairs. He was accompanied by Captain Ruth, special agent of the United States, who came all the way from the federal city, at the Doctor's request, to assist in unraveling the mystery that seemed to envelop his official acts and prevent a settlement of his accounts.

Captain Ruth has been here some two months working faithfully, endeavoring to ascertain what was or was not done by the late Superintendent while in office, and arrange his accounts so that they could be understood by the auditor. How far he succeeded in ascertaining the real facts in the case has not transpired, but rumor says that he traced up most of the Doctor's alleged fraudulent transactions, and found that they existed principally in imagination; and that the great difficulty which had attended the settlement occurred in consequence of the loose and irregular manner in which the accounts had been kept, which report is probably not far from the truth.

The Doctor has been somewhat unfortunate in his official career, but his energetic course in getting out of the difficulties involved in his settlement with the department, is commendable, and he will doubtless come off victorious over those who are supposed to have been the principal cause of his suspension from office. That he had enemies, those acquainted with the circumstances that have transpired well know, and the lax manner in which his business was transacted gave them an excellent opportunity for pitching in and ousting him from the enviable position which he occupied, thinking, perhaps, that they might by some hook or crook benefit themselves by the operation.

It is a long time since we took much interest in contests between office-holders and office-seekers, and we generally care but little who comes off first best in such fights. Dr. Forney was evidently not well skilled in the management of Indian affairs, and did not know how to purchase and distribute Indian goods after the plan usually adopted by superintendents. His successor may be more scientific in such matters.

—There is now a continuous chain of railroads from Bangor to New Orleans, composed of eighteen independent roads, costing, for 2,344 miles of road, \$50,354,084.

The Weber County Thieves.

Some two weeks since, we announced that a band of thieves had been discovered in Weber county; that some of them had been arrested, and that the probability was, the others who had not left the country, would be, as the officers of justice were close on their track.

Since then, the court has been in session, in that county, and indictments have been found against several of the band, upon which they have been tried and found guilty. John Laird, jun., Peter Clark and Henry Watkins, on indictments for petit larceny, were, on conviction, each fined ninety dollars. Two of the same persons—Laird and Clark, were also convicted of grand larceny, and each sentenced to two and a half years imprisonment in the penitentiary, and have since entered upon their term of service. Albert Richardson and Benjamin Philips have also been found guilty, but on motion, for cause not ascertained, a new trial has been granted in each case. Henry Watkins, on rendition of judgment against him, paid the fine, but having been accused of another act of theft committed in Davis county, he has been sent there for trial, and also Louis Booth, charged with a similar offence.

The energetic manner in which the officers of Weber have exerted themselves in searching out the thieves and bringing them to justice, will probably be the means of ridding that section of country of the entire gang; for if there are any of the associated villains yet remaining in the Territory, who have not been caught, they will soon follow the example others have set, by leaving the country, lest justice should also overtake them as it has their associates in crime.

Another Stabbing Affair.

For some months past, pistols and bowie knives have not been used so freely in this city, in the adjustment of difficulties arising between persons belonging to a class who, from fear or some other cause, generally have such weapons attached to their persons, as they were after the "civil code" was introduced into the Territory up to some time last spring. Lately, however, there have been some hostile demonstrations on the part of certain "braves;" threats have been made, but none carried into execution, till on Tuesday evening last, when at a party at the Assembly Hall, in the 15th Ward, an altercation took place outside, between a young man named Alphin and J. M. Luce, which resulted in a fight, in which Luce got a severe wound in his right side, by some supposed to be fatal, but the probability is that he may recover.

Who were instrumental in getting up the party we have not learned, neither do we know to what class of citizens those present principally belonged; but the fact of there having been those there who had weapons of death upon their persons, would seem to indicate that all was not right, and to say the least of it the company must have been a little "mixed."

It is reported that Alphin was not the first aggressor, but no investigation of the matter has yet been had, as he put out immediately, and all efforts to discover his hiding place thus far have been fruitless.

Since penning the above, we have been informed that Alphin has delivered himself up to the Sheriff of the county, and claims an investigation of the matter.

New Advertisements.

ESTRAYS.

I HAVE in my possession, ten miles north of the city, a large Yoke of red CATTLE, branded S G on left horn. 37-3 G. D. GRANT.

STRAYED.

FROM the Subscriber, at Sessions Settlement, a Yoke of four year old STEERS. One a red roan with white face and branded D D on left hip; the other a brindle, line back and brockle face, with same brand on right hip. Any one delivering or giving information of them shall be liberally rewarded by 37-3 F. T. ROMRELL.

WILL BE SOLD A BARGAIN!

A quarter LOT, in the Seventh Ward, G. S. L. City, with the improvements thereon, consisting of one Adobe House, well finished, with a Blacksmith's Shop, Fruit Trees, Fencing, etc., together with a Well of excellent water near the door. For terms, inquire of W. I. Appleby, my duly authorized agent. 37-3 PETER I. POOL.

DESERET LYCEUM.

THOSE intending to join any of the Evening Classes of the Lyceum will please call to-morrow evening, at seven o'clock, at Dr. Doremus' School-house, opposite the south gate of the Tabernacle. 37-1

THE BOOKS ARE POSTED.

WE wish to call the attention of those that are indebted to us that their ACCOUNTS MUST BE PAID by the first day of January next, or settled by note drawing interest at the rate of ten per cent. 37-6 J. B. KIMBALL & CO.