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COMMUNICATION TO THE LEGISLATIVE ASSEMBLY OF UTAH ANNEXED TO THE GOVERNOR'S MESSAGE.

EXECUTIVE OFFICE,
G.S.L. CITY, 10th Dec. 1860.

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

GENTLEMEN:—

On the 12th ultimo, at a called session, I addressed to the Council and House of Representatives my annual message, in which I made such suggestions as the public interest seemed to demand. Copies of that communication, together with the Reports of the Treasurer and Auditor, are herewith annexed. I invite your attention to them.

The necessity of an early assignment of the Chief Justice and his associates, with the view of ensuring in good season sessions of the Courts in their respective districts, is again urged upon your consideration. There should be a careful avoidance on your part of any action which might be construed into a desire of unnecessarily postponing the holding of district courts for the transaction of Territorial business. I am convinced that, should you adopt any measure calculated to produce such an impression, it would prove alike unwise and impolitic.

Your attention is called to the fact that, under the existing law, special sessions of the district courts can only be held "upon the petition of not less than one hundred legal voters and tax payers residing in any judicial district;" at the same time, the effect of such petition may be obstructed by a larger number of "like qualified signers" remonstrating against the petition. As a remedy for the evils which, in certain cases, may arise from the action of persons who, under sanction of the law, might seek to obstruct the course of justice, I would recommend that the judges be authorized to hold special sessions or county courts in one or more counties in their several districts for the trial of Territorial causes.—An additional reason for the adoption of the change suggested, is that parties residing at points remote from the stated places for holding courts, may receive the benefits of them, without being subjected to unnecessary inconvenience and expense.

The Chief Justice and his associates should be authorized to alternate in the several districts, and it should be made incumbent on them to hold courts whenever the presiding judge of a district may, from any cause, be unable to officiate.

Some change should be made in the penal code, by which the Territory may be relieved from the expense of transporting prisoners from remote parts of the country to the Penitentiary in this county.

Many of the laws now on the statute book were passed under a condition of things, which will soon cease to exist. You cannot reasonably anticipate a continuance of the partial isolation which has characterized your early history in this region. It must be borne in mind that you are situated upon the great highway between the oceans, which is already traversed by expresses and telegraphs, and is soon to witness the establishment of a railroad transporting through your valleys the commodities of the world. It would be well that you make timely preparation for changes that are fast approaching you, and are ultimately inevitable. New relations between yourselves, and between yourselves and the outer world must occur. I would, therefore, urge upon you that you appoint committees to prepare a code of laws, suited to the present and future requirements of this community.

The judges are constituted your legal advisers in these matters; to them I refer you.

A. CUMMING.

GOVERNOR'S MESSAGE

TO THE

LEGISLATIVE ASSEMBLY OF UTAH.

EXECUTIVE OFFICE,
G.S.L. CITY, 12th Nov., 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.

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 United States Marshal whose duties are restricted to United States cases.

It is of the highest importance to dispose of the vexed question with regard to the respective powers of the United States and Probate courts. The United States 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 Feb. 4, 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, Organic 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 connexion 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 for 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 land in the valleys.

A large quantity of merchandize 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 taxation, 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 this 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.

A Disgraceful Occurrence.

On Monday evening last, as reported by a man about town, at a dancing school in the Tenth Ward, taught by a person whose temperance principles are not very ultra, the master and some of his pupils having imbibed a little too freely at an establishment near by or elsewhere, got into a muss and, in the gyrations performed, several lost their perpendicularity by coming in contact with fists that were freely used to make the melee interesting.

It is not pleasing to refer to such occurrences, and it is high time that all such drunken concerns were broken up; and why parents or guardians will permit their sons and daughters or those under their charge to attend a dancing school taught by an inebriate, or where intoxicating liquors are not inhibited, we are at some loss to determine. There are not many such institutions in the city, and when one is found to exist, it should be broken up instantly.

An Old Nephite Coin.

Hon. George Peacock, of Manti, has exhibited in our office an old copper coin, recently found by some explorer or hunter on the Colorado river, on both sides of which are hieroglyphics or characters and Hebrew coin letters. Not being one of the "learned," we submitted it to Professor Phelps, who has given us the following as a literal translation of the characters. On one side, it reads, according to the rendition:

"The King, Hagagadonihah, over the kingdom near the sea west, sends to all greeting: one senine."

On the other side—

"In the 95th year of the Kingdom of Christ, 9th year of my reign: Peace and life.

Mottoes: "Weapon to weapon:
Life for life."

The coin is 1765 years old; and is evidently a Nephite Senine or farthing, as mentioned in the fifth chapter of second Nephi, in the Book of Mormon—English edition, page 517. It is about the size of an English farthing. The numerals are plain Arabic figures.