

## GOVERNOR'S MESSAGE

*Gentlemen of the Legislative Assembly:*

In accordance with approved precedent and time-honored custom, it is the duty of the Executive to communicate to the Legislature at each recurring session the condition of the Territory and to recommend such legislation as may be deemed expedient and adapted to the varied wants and manifold interests of the people.

It is a source of regret, no less to me than to your honorable body, that the unlooked for absence of the Governor has devolved this duty upon me with so limited a notice as to make it impossible for me to discharge it with entire satisfaction to myself or with justice to you. Under these circumstances I can hardly hope or essay to do more than lay before you the reports of the several Territorial officers whose duty it is to report through me to your Honorable Body, accompanied by a few general suggestions in relation to the condition of the Territory and the legislation which in my judgment is needful and proper.

I have the honor to lay before you the reports of the Territorial Auditor and Treasurer and also of Chief Justice Wilson, and Associate Justice Hawley, which are required by Section 4, Chapter 1 of an act concerning the Judiciary.

The report of the Chief Justice it is proper to say is merely a memorandum from which he intended to compile a more elaborate and formal report. In his absence I have thought proper to place it before you, knowing it contains suggestions worthy of, and which will undoubtedly commend themselves to, your attention and consideration.

The report of Associate Justice Hawley has been prepared with great care and will be found to contain many valuable suggestions.

### FINANCE.

From the reports of the Territorial Auditor and Treasurer it will be seen that the finances of the Territory are in a prosperous and healthy condition, presenting as they do the unusual fact that the Territory is entirely free from debt; a condition not only gratifying in itself but almost without a parallel in the history of other parts of our common country. In congratulating you upon this flattering condition of affairs I need hardly add that it reflects great credit on those who have had the administration of the finances of the civil government throughout the Territory. So far as I have been able to inform myself the affairs of all the counties in the Territory are in a like creditable condition.

The general prosperity of the country and of the Territory is a subject of congratulation. Peace and plenty smile throughout the land. The crops of the Territory have been with but slight exceptions abundant, offering new and continued proofs of the richness of the soil and its adaptability to agricultural and grazing purposes. Although in the counties of Cache, Iron and Washington the ravages of the grasshoppers have, to a great extent destroyed the crops, still it is gratifying to know that there is no suffering among the mass of the people.

### RAILROADS.

Since the adjournment of the last Legislature, the Pacific Railroad, perhaps the most stupendous work of science and of art the mind of man has conceived and his energies consummated, has been completed. Excelling all precedent in the rapidity of its construction across plain, over mountain, through cañon and valley; dotting the hitherto almost uninhabitable wastes with prosperous towns and villages; spanning a continent with its iron bands and connecting the civilization of the growing west with the teeming millions and golden commerce of the far off Ind.; it cannot fail in such an age as ours, to prove the prolific mother of progress and improvement. It should be a source of pride to the people of this Territory that they have contributed not a little by their well directed efforts to the completion of this great work. The Utah Central Railroad Company, organized pursuant to the act of February 19th, 1869 already connects the capital of the Territory with this great trans-continental highway and it needs no spirit of prophecy to foretell that the day is near at hand when, stretching to the South far across the great Rocky Mountain snow belt, it will find a terminus where the glittering blue of the Gulf of California rushes the turbid waters of the Colora-

do. From these mighty branches will shoot forth others which will lace and interlace the valleys of the Territory. The mighty strides in progress already achieved, bringing the Territory from comparative isolation into contact with the great marts of the world, cannot fail to work many changes in the condition of the people and revolutionize, to a great extent, their industrial pursuits and resources. The prosperous trade heretofore enjoyed with Montana and Idaho on the north, Nevada on the west and the emigrant trains at home has nearly or entirely failed; but new fields for development and industry have been and are constantly being opened. Dull, and perhaps hard times and spare money markets must necessarily accompany the transition. It was for the people of Utah to discover and demonstrate to the world, the richness of her soil; it remains for them now to more fully develop her no less extensive mineral and manufacturing resources. By a proper combination of all these branches of industry, can we alone hope to give strength and greatness to the country and lay broad and deep the foundations of a permanent prosperity. A community whose chief—whose only pursuit is agriculture, may for a time enjoy a limited degree of prosperity, but it cannot hope to become as wealthy or as great as a community where agriculture, manufactures, commerce and mining each holds its proper part in the economy of its existence. The Territory of Utah presents an ample field for the highest civilization and improvement. With resources surpassed by few of her sister States or Territories; rich in the minerals of iron, coal, copper, salt, lead, silver and gold, in agriculture, capable of sustaining a greatly increased population, with a climate that knows neither the rigor of northern winters, nor the languor of southern summers, far from miasmatic diseases which are the bane of most new countries, a population, industrious and frugal, there is no physical reason why it should not be among the foremost in the race for commercial empire, power and greatness. But in order to meet with success, the people must be encouraged by appropriate legislation in all its legitimate branches. I would respectfully urge you to foster manufactures, mining, agriculture and all the arts, and that you encourage the building of canals and irrigating ditches. The experience of Lombardy and the Southern Mediterranean countries has demonstrated that, when once a complete system of irrigating ditches and canals has been established, agriculture can be more cheaply and profitably carried on, because more certainly pursued, than in countries subject to the exigencies of flood and drought. The Jordan, Provo, Spanish Fork, Sevier, Sanpete, Rio Virgen, Weber, Ogden, Bear, Cub and Beaver rivers, with their sources and affluents will furnish water enough to irrigate the whole Territory and the first cost of such works for the distribution of water once provided for, it could be furnished to the consumer with very little expense. While much has already been accomplished by individual effort, the more extended works referred to are yet sleeping in the muscle, enterprise and energy of the people, awaiting only the proper legislation which shall sound the note for their awakening. In the furtherance of this end, I would particularly call your attention to the desirability of the enactment of a general incorporation law, pursuant to the Act of Congress of March 2nd, 1867, and also of an Act authorizing the formation of limited partnerships. The benefits arising from corporations, in the consolidation of means for the attainment of objects beyond the power of individual effort are so manifest as hardly to require, at this day, any argument to enforce the utility of such institutions. From the earliest times have these advantages been recognized and utilized by the wisest legislators, and in modern days incorporations for the accomplishment of great public ends have become a part of the legislation of every civilized State. With proper checks, limitations and safeguards to protect the rights of the people, they are justly regarded as essential to the well being and continued advancement of every community. The law governing corporations and defining their rights and privileges has been digested by the wisdom of ages, and it is, therefore, not an untried or uncertain field of legislation which is thus commended to your favorable consideration. Nearly all works of a public nature require the expenditure of large amounts of money, and while individuals may be induced, by public spirit or the hope of gain, to invest a portion of their means, few are found

who are willing to embark all their capital in an enterprise, the management of which must, in most instances, necessarily be left to others. Through the agency of corporations most of the great works of the past have been, and all the great works of the present are being accomplished. Through their means oceans and rivers are navigated, telegraphs are constructed, canals and irrigating ditches are dug, factories are run, mines are worked, schools and banking houses are established. The passage of a wise and judicious incorporation law would have a great tendency to bring hither that capital which is so much needed in the development of the many and varied resources of the Territory, and especially would it aid in the development of the mines. There is no place in the United States where the influx of capital would so materially increase the prosperity of the people. It would expel that spirit of desolation and of solitude which broods over and guards some of the richest mines, and wrest bright treasures from the rock ribbed fortresses of nature.

Through a system of immigration, as novel as it has been efficient, large numbers of foreigners have been induced to come to this country. Most of them at once poor and industrious, gathered from all portions of the world, they have brought with them the useful arts of many climes, which, combining, cannot but aid materially in advancing the Territory in all elements of prosperity and true progress. At the late annual Territorial Fair there were on exhibition manufactured articles, not only creditable to the Territory, but which attest alike its capability in manufactures and the skill and genius of its people. Cloths, flannels and blankets of home manufacture were exhibited, not inferior to the highest grades of imported goods of their character; leather, and goods manufactured therefrom, that would be a credit to any community; watches, made in Salt Lake City, equal in scientific arrangement to the best specimens from the factories of Europe or America; pottery, creditable alike to the resources of the Territory and the skill of its artisans; cocoons and spun silk, warranting the belief that manufactured silk will ere long be one of the exports of Utah, and many other works of art, exciting at once the admiration and surprise of all who behold them. I need hardly say that these several enterprises require, as they are entitled to receive, the fostering care of friendly legislation, and would be greatly accelerated by a well digested general incorporation law.

### PUBLIC SCHOOLS.

A well organized and efficiently conducted system of public schools is among the highest evidences of the advancement and progress of a people. The State has an interest in the education of every child within its borders. While education confers a great benefit on the recipient of its valuable privileges, the advantages so gained are reflected back, and the bounty of the State, dispensed with an unsparing hand, is returned four fold in the increased virtue and enlightenment of its future citizens. The strength of a State lies in the culture, the intelligence and the industry of its citizens. Considering the early history of the pioneers of these valleys, it is not perhaps to be wondered at that the people of Utah should not in the past have enjoyed those extended educational facilities with which other and older communities have been blessed. But in view of the great importance of this question and the advancement and progress already made in other departments, it is submitted that the time has certainly arrived when every effort of the legislature should be directed towards the attainment of an efficient and wide spread system of common schools. While the higher grades of education are necessarily expensive and consequently beyond the reach of the great mass of the people, it should be the special care of the legislature to see that the common branches of an English education are assured to all the rising generation "without money and without price." Property should cheerfully take up the burden and provide for a system of public free schools. No public expenditure can be more fruitful of good or return more solid and permanent advantages to the Territory. It is but proper that I should congratulate the legislature and the people upon the progress already made, but at the same time it is no disparagement to remind you that there remains much to be done to bring the public school system to that standard to which it should attain. I would therefore recommend that a sufficient tax be levied to make the public schools entirely free so far as the common English branches are con-

cerned and provide a board of examiners who shall award certificates of qualification to parties seeking to become teachers in primary, intermediate and high schools according to the qualification of the applicant, and to offer such inducements to teachers as to induce those skilled in the profession to enrol themselves among the instructors of the youth of this Territory. It has been found in older and more experienced communities that public schools are the most successfully conducted apart from all sectarian influences and that they should not be used as the means to inculcate any particular creed or faith except that sound morality which teaches "that we should not do unto others that which we would not that others should do unto us."

### CIVIL AND CRIMINAL CODES.

The forms, usages and practices of the common law are necessarily elaborate and technical. It has been found conducive to the advancement of justice to avoid as far as possible all the technicalities of the common law in its divisions of actions. To this end the legislatures of most of the States of the Union have passed what are known as civil and criminal codes of practice. These codes abolish the distinction of forms in action and technicalities in practice, and avoid as far as possible those labyrinths of the law, which are too often productive of no good, and only tend to mystify and encumber the progress of justice. The State of New York—a State which is an empire in itself and whose commercial transactions are far greater than those of any other State in the Union—has long transacted its judicial business under, and exemplified the utility and wisdom, of that system of legislation which made a civil and criminal code part of its public laws, since which time a larger portion of the States and many of the Territories profiting by its example, have passed similar codes, and have been rewarded by equal advantages. It is scarcely expected that at one session of the legislature a complete code can be originated, but fortunately you can avail yourselves of the labors of others, and adopt such portions of the codes of other States and Territories as are suitable for the wants of our own. I would in this connection suggest the examination of the code of the State of Nevada, as being one in many respects adapted to the wants of this Territory. It is one of the most recently adopted and was drawn up by a lawyer of great experience and eminent ability for a people whose interests in many respects are similar to our own. The entire legislation of this Territory is comprised in a small volume, which in ordinary States is hardly equal to the legislation of a single year. Perhaps this has arisen from the mistaken idea that the people needed few and simple laws; forgetting that where the statutes leave off, the common law begins, and that in such cases the courts are obliged to resort to its technicalities for the determination of those questions which should be plainly written down in the statutes.

### WITNESSES.

Modern experience I think has demonstrated that the ends of justice are best subserved by allowing all parties, whether interested or not, to testify in their own behalf in both civil and criminal cases; thus enlarging the sphere of the jury and leaving them to determine as to the credibility of witnesses. In civil cases this course helps to facilitate business. The careful and shrewd business man in the conduct of affairs sees to it that his contracts are reduced to writing or are susceptible of proof by disinterested witnesses; but the less wary are too often negligent in these matters and not unfrequently a good cause is lost and justice herself perverted because under the existing law the truth cannot be told. Thus in the tribunals of the land are the unskillful and ignorant, and for that reason perhaps the more unsuspecting, sacrificed to the shrewdness of a more crafty opponent and the rigorous rule of the law. The idea embodied in the common law, that a person, however true in his manhood, is unworthy of credence by reason of a mere nominal interest, no matter how slight, when testifying under the solemnity of an oath, is but the relic of a ruder and less generous age, and unworthy the progress of the 19th century. The jury should be left to determine the reliability of each witness from his appearance on the stand and all the circumstances surrounding each case. In many capital cases when the deceased and the accused are the only parties to the affray, the testimony of the criminal may serve to throw in light, and however much his statement may favor himself, the jury are better enabled to arrive at correct conclusions in

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