

THE DESERET NEWS: WEEKLY.

GOVERNOR'S MESSAGE

TO THE LEGISLATIVE ASSEMBLY OF
THE TERRITORY OF UTAH

EXECUTIVE OFFICE, U. T.
Salt Lake City, Jan. 11th, 1869.

GENTLEMEN OF THE LEGISLATIVE ASSEMBLY:

On account of the absence from the Territory of His Excellency, Governor Durkee, for the purpose of recuperating his failing health, it devolves upon me to perform the duty annually incumbent upon the Executive, to address your Honorable Body concerning the progress during the past year of affairs of general and local interest, and to advise with you touching such matters as may appear to need further legislation, as well as to draw your attention to other subjects which require your consideration.

It may be observed that the recommendations made include many subjects which have heretofore been referred to. Concerning such matters it may be well to draw your attention to the increased importance of their nature. The population of the Territory is being continually augmented; intercourse with other communities has become more common, and the classes of people, connected with commercial and other interests, are becoming greater in number. As a consequence, laws which were adapted to the circumscribed wants of the people of the Territory in their former condition, do not, in all cases, meet the requirements of the position into which they are brought by the progress of events.

The more extensive and general the business relations of a people become, the more particularly is there required in the laws governing the pursuits in which its members are engaged, and subjects which before required little or no attention, also become of importance, requiring the enactment of laws to regulate their course. Being a body organized directly from among the people, you are probably conversant with such legislation as may be necessary to place them in harmony with the relations into which they are thus being placed, and to that object your especial attention is invited.

NATIONAL AFFAIRS.

During the past year many events have transpired, the results of which will have an important bearing upon the future welfare of our country, among which the Presidential election lately held in the States may be considered.

Although, as a Territory, we have no voice in the choosing of a Chief Magistrate of the nation, yet, as loyal citizens, we cannot but feel a deep interest in the issues which arise among the political parties of the day. Living upon the public domain, which is directly under the control of the legislative power of the Union, the principles or ideas entertained by the dominant party therein become the more important to us, inasmuch as they affect indirectly our prosperity.

As far as can be foreseen, the triumph of the principles of the Republican party indicated by the election of General Grant to the Presidency, will be beneficial to the country. The uniform success which has attended the public acts of the President elect, by which he has won the confidence of his fellow-citizens, justifies the expectation that with the incoming of his administration, renewed vigor will be given to projects looking to the advancement of the nation towards greater harmony, wealth and prosperity.

NORMAL SCHOOL.

In connection with the school system established in this Territory, I would suggest the propriety of legislation authorizing the institution and carrying on of a Normal School, for the purpose of preparing competent teachers for the schools of the different districts.

The advantages to be derived from such a school are too obvious to need amplification. A uniform and requisite knowledge by instructors of those branches necessary to the proper development of the minds of the young, greatly increases the probability that their progress will be rapid in their studies, and gives the public confidence that proper measures are being taken for the advancement of the educational interests of the country.

FREE SCHOOLS.

By an Act providing for the establishment and support of Common Schools, approved Jan. 19, 1866, it was enacted in section seven, that the Trustees, authorized to be elected by section four of the

same Act, should have the power to assess a tax of one-fourth of one per cent. on all taxable property in their respective districts, to build and keep in repair suitable buildings for the accommodation of schools, and for other school purposes; they were also authorized to increase the amount of taxation, if sufficient means could not be obtained for the object contemplated by the rate of tax mentioned, to any rate not exceeding three per cent., as should be decided by a vote of two-thirds of the tax-payers voting at a meeting called for the purpose; also, by the same section, and in a similar manner, a sum not exceeding one per cent. per annum was authorized to be assessed, to pay teachers, supply books and furnish other necessary adjuncts to schools.

This Act undoubtedly looked to the establishment of Free Schools, but as the first section of it left it to the option of the inhabitants of the several districts, whether they should give effect to the provisions of the Act or not, that object has been far from attained.

The organization of schools as they now exist, is based upon a combination of the plans by which Select and Common Schools are supported; taxation, tuition fees, and voluntary contributions being resorted to in order to procure means to carry them on, but I am not informed of the existence of a single Free School in the Territory.

Upon referring to the yearly report made by the Superintendent of Common Schools to your body for the year 1867, it will be observed that the number of children between the ages of four and sixteen years, residing in the 161 districts furnishing returns to him, was 21,316, of whom, only 12,539 were enrolled as attending school. Here, as in every State and Territory, there is a class of persons living, who are in indigent circumstances, and to whom, to pay the smallest amount for the education of their children, would be a burden. Others, from not fully considering the subject, are not aware of the importance of education, and consequently allow their children to grow up in ignorance, rather than furnish the means for their improvement, and it is presumed that the large per centage of children not being educated is owing to the existence of these classes in our midst.

In his report for the year eighteen hundred and sixty-four, the Superintendent states that he "does not favor education by taxation, because, while the sentiments of the people are favorable to education, they are equally unfavorable to taxation," and that "while under the present regulations many tax themselves from one to four per cent. and pay it willingly to the school teacher, would feel very differently were the Territory to assume the assessment and collection of such a heavy tax." While taxation is conceded to be vexatious, it is submitted whether, considering the great importance of the subject, it is better to allow the prejudice of a few against paying a required amount to a Territorial officer, to subvert the interests of the public generally, by depriving a portion of the children in the Territory of school privileges.

All classes of persons are interested, directly or indirectly, in the establishment of Free Schools—directly by having children of their own to educate, or indirectly by the obligations under which every member of society is placed to favor all enterprises tending to the common weal. By an equal assessment on taxable property, as contemplated by the Act of 1866, it is presumed that sufficient means might be procured to extend the facilities for education to every child in the Territory—affording to the rich and poor an equal chance at the fountain of knowledge.

It is therefore suggested that the Act of 1866 be amended, so as to allow the assessment and collection of a sum sufficient for the support of Free Schools throughout the Territory, to be assessed in connection with other Territorial taxes, and that the provisions of the same be required to be carried out.

MEMORIALS TO CONGRESS.

Our Honorable Delegate succeeded, upon the representations made in the Memorial addressed to that body at the last session of the Assembly, in obtaining prompt action upon a bill for the establishment of a Land Office for the Territory, which is a matter of congratulation.

However, owing to the fact that the corners established by the different parties employed in the survey of the Public Lands in the Territory having been of so unsubstantial a character, that but few, if any of them, can be found in existence, a re-survey will have to be made before settlers can procure a complete title to their lands from the Government.

This fact, I am informed by the Surveyor-General of the Territory, has been brought to the notice of the proper authorities in Washington, with the suggestion that the money appropriated at the last session of Congress for Public Surveys be used in a re-survey of such portions of the Public Lands found to be available for settlement and cultivation. Should this not be authorized, I would suggest that Congress be memorialized to make an appropriation of \$60,000 for the purpose, that sum being considered necessary by the Surveyor-General.

The building now being used for the confinement of Penitentiary convicts is not of sufficient size, and improper ventilation and other causes, render it unsuitable for that purpose, and it is suggested that a memorial be addressed to Congress, asking that the Internal Revenue derived from this Territory, for a period of sufficient length to obtain the requisite amount, be set aside for the purpose of providing the necessary Penitentiary accommodations. Appropriations of this character have been made by Congress for the Territories of Montana and Idaho, and no good reason seems to exist why a like policy should not be extended to this Territory.

CONFINEMENT OF PRISONERS.

There is a want of legislation providing for the reception and sustenance of prisoners brought from other Counties in the Territory to be confined in prisons situated in the County of Salt Lake.

The lack of secure places of confinement throughout the Territory, necessitates the commitment of nearly all persons whose imprisonment becomes necessary, to the prison provided in this County.

In the cases of offenders against the laws of the Territory, I am informed that it is the practice to receive and keep them, charging the cost of their keeping to the respective Counties from which they are sent.

This is the correct course of proceeding; but while it is not authorized by legislative enactment, officers of prisons are not compelled to receive those committed to their care from places outside of a certain limit, thus leaving it in a manner discretionary with a mere ministerial officer, whether persons brought to them shall be incarcerated or not.

More particularly is the want of legislation felt in cases where offenders against the laws of the United States are concerned.

Section eight, of an Act in relation to the Penitentiary, approved Jan. 20, 1860, provides that the Warden "shall receive all persons duly committed," but probably on account of a re-imbursement of the necessary expense of keeping a prisoner of this kind, not being so readily or easily secured as in the case a Territorial offender, officers of the Territorial Penitentiary have repeatedly refused to receive persons committed to their charge by United States officials. No other place being provided for their confinement, the result of this is, that they have had to be either turned loose, without an opportunity being given of having their guilt or innocence established, or turned over to the military authorities to be cared for. The injustice of the former course, both to the person and to the public, is apparent to all, and the latter course should never be pursued, except in cases where the civil authorities are incapable of enforcing the civil laws of the country.

Provision should be made whereby all persons committed by competent authority, and in a proper manner, can be confined at the expense of the Territory, subject to reimbursement from the proper source for the cost of their keeping, and the subject is respectfully submitted for your consideration.

"CHAIN GANGS."

The system of chain gang labor now in vogue here, is a relic of barbarism, needlessly exposing convicts to the public gaze, and tending to harden rather than reform them.

Punishment of a criminal has for its principal object, his reformation and not his disgrace, and confinement, with proper labor, would be of greater efficacy in reforming culprits than their exposure and consequent degradation in the manner mentioned.

INTEREST LAW.

The Interest Law passed by your Honorable body at its last session, declares "That it shall not be lawful to take more than ten per cent. interest per annum, when the amount of interest has not been specified or agreed upon."

According to the legal construction put upon the language of this Act, a creditor is obliged to prove the amount of damages sustained by him to have amounted to ten per cent. per annum of his claim, in all cases where the rate of

interest has not been specified, in order to be able to collect that amount; and although in no such cases can more than ten per cent. per annum be collected, yet it is presumed that your intention was to avoid trouble and delay in litigation, by declaring expressly the rate of interest creditors should receive when it is not specified. It is therefore necessary that the Act in question be amended, in order to give it the efficacy intended.

LIMITED PARTNERSHIPS.

The first section of an Act concerning Partnerships passed by the Legislative Assembly of the Territory, approved Jan. 14, 1857, provides that "the private property of persons engaged in co-partnerships shall be held liable for the debts of the firm, when the partnership property shall prove insufficient to pay them."

This section is but an affirmation of a common law principle, but its applicability to the interests of a community, in view of the increased extent and value of investments in commercial enterprises has been questioned. In many States of the Union, the contrary doctrine has been enacted, and it is suggested that the statute mentioned be amended, so as to make persons entering into partnerships liable to creditors of the firm, as such, only to a certain fixed sum, the amount of which shall be subject of agreement between the parties, and made known in a manner which may also be provided for.

GENERAL INCORPORATION ACT.

A law passed by Congress, March 2, 1867, prohibits the Legislatures of the different Territories from granting private charters or especial privileges, but they may, in the language of the statute, "By general Incorporation Acts, permit persons to associate themselves together as bodies corporate, for mining, manufacturing, and other industrial pursuits."

An Act of that character, properly defining the rights, powers and liabilities of the stockholders, would be of great utility in forwarding the commercial and other interests of the people, and should be incorporated among the Statutes of this Territory.

LIEN LAW.

According to the common law, a mechanic who labors in erecting or repairing buildings, has no lien upon such property, to secure a proper remuneration for his work.

Generally, laws of this character extend the lien to the land upon which the buildings may be situated, and it is respectfully suggested that such a provision be made a part of any legislation you may see fit to enter into respecting the subject.

INDIAN AFFAIRS.

During the past year but little if any trouble has been experienced by depredations being committed by members of Indian tribes residing in this Territory. Small parties of hostile Indians, coming from the Territories of Arizona and New Mexico, have occasionally extended their raids into the southern settlements, but on account of the watchfulness of the settlers and the faithfulness of friendly tribes in that neighborhood, but a small amount of damages have been sustained therefrom.

Owing to the hostile position assumed by many Indian tribes of the Western Territories, a stringent policy has had to be adopted by the military authorities of the country infested by them. That it should seem necessary to prosecute a severe and bloody war against such refractory tribes before a lasting peace can be secured with them, the dictates of humanity cause regret, and lead to the expression of the hope that the necessity will not long exist.

Considering the number of Indians residing in this Territory, it is a subject of congratulation that so little trouble has been lately experienced in dealing with them, and the effect of a change of the administration of their affairs from the Interior to the War Department, or to a separate Bureau, as contemplated by bills now pending before Congress, should be regarded with interest.

PACIFIC RAILROAD, MINERAL RESOURCES, ETC.

The consideration of matters of public moment would be incomplete, did I not refer to the progress made in the construction of the Pacific Railroad. During the past year nearly 1,000 miles of the two branches of this enterprise have been built, and only about 300 miles remain to be constructed to complete the line of communication across the Continent.

The advantages to be derived from the building of this road, cannot be fully foreseen as yet. By it the welfare of the