THE EVENING NEWS.

PUBLISHED DAILY, SUNDAYS EXCEPTED AT FOUR O'CLOCK.

Thursday, - - Feb. 5, 1874.

DAVID O. CALDER, EDITOR AND PUBLISHER.

MUNICIPAL ELECTION.

PEOPLE'S TICKET.

For Mayor:
DANIEL H. WELLS.

Aldermen:

1ST WARD, - - ISAAC GROO
2ND " - GEO. CRISMON.
3RD " JETER CLINTON.
4TH " - - JOHN SHARP.
5TH " ALEX. C. PYPER

Councilors:

BRIGHAM YOUNG,
THEODORE McKEAN,
ALBERT CARRINGTON,
J. R. WINDER,
HENRY GROW,
N. H. FELT,
DAVID McKENZIE,
H. B. CLAWSON,
THOMAS WILLIAMS.

Treasurer:
PAUL A. SCHETTLER.

Recorder:
ROBERT CAMPBELL.

Marshal:
J. D. T. McALLISTER.

NEWS OF THE DAY.

AN investigation of charges of corruption, preferred in connection with the election of Governor Booth of Cal., to the U. S. Senate, was commenced at Sacramento last night.

In to-day's telegraph news appears an extract from a letter written by Earl Russel, expressing his sympathy with the German government in its struggle with the Ultramontanes.

The seventh annual session of the National Grange of the patrons of husbandry commenced in St. Louis yesterday; thirty-two States and two Territories were represented.

Tweed's counsel are taking the steps necessary to have his case reviewed before the court in general term.

A riot among twelve hundred convicts occurred at Oran, in Algeria, on Tuesday last.

A miner from Pioche, yesterday afternoon, in San Francisco, attempted to murder the ex-president of the San Francisco stock board.

The election news from Great Britain is still favorable to the Disraeli party.

A shocking casualty occurred at Guilford, Me., yesterday morning—a house caught fire, and its inmates, a man and his wife and child, were all burned to death.

The iron trade of America is in a very unprosperous condition. According to returns read before the Iron and Steel Association; which assembled at Philadelphia yesterday, forty-eight out of fifty rail mills, and 138 out of 385 foundries in the country are closed, and twelve thousand hands are unemployed.

The National Reform Association met in convention at Pittsburg, yesterday; the main object of this party is said to be to obtain a recognition of God in the Constitution of the United States, and in furtherance thereof speeches were made by a number of clergymen and others. We are of the opinion that it would be about as useful for them to spend their time in searching for the philosopher's stone, for a mere verbal recognition of the existence of a Supreme Being in the Constitution would be hardly likely to make either the people or the country one wit better or worse; an object more worthy the ambition and labors of clergymen would surely be to induce the people to recognize the existence of a God and to regulate their acts accordingly.

General Harney has been saying a good word for the Indians before the military committee of the House of Representatives, at Washington, D. C., and it is such a rare occurrence that it is almost as refreshing as a spring in a desert. The General seems to have spoken like one having authority, and it is doubtful whether he could truthfully have borne as flattering a testimony in favor of civilized people among whom he has had experience, as he has done for the savages! He thinks that if the Indians are treated fairly there will never be any trouble with them; he never knew but two instances in which they violated a treaty, and they had grown old and the chiefs who made them had died before they were sought to be enforced by the government. He says that Indian troubles are principally caused by whisky dealing and dishonest agents, and to abolish the former he favors hanging or shooting the dealers. He is decidedly of the opinion that Indian affairs can be much more efficiently and honestly managed by army officers than by civilians, unless army officers have changed very much since he knew them.

A serious R. R. accident fifty miles north of Chicago this morning.

The Committee on Public Lands of the House of Representatives have reported adversely to the Colorado irrigation project.

A grocery store at Evansville, Ind., was burned this morning, and its proprietor, his wife and four children and a bar keeper were all burned to death.

THE GOVERNOR'S VETO.

IN another part of the NEWS to-day will be found a Memorial of the Legislative Assembly, the elected representatives of the people of the Territory, to Congress assembled, praying that body before specially legislating for Utah, to appoint a committee to investigate the situation of the Territory, and especially the charges of disloyalty, insubordination, etc., made against the people thereof, by certain parties who are urging Congress to hasty legislation of that character.

The legislation thus demanded for Utah is of such an extraordinary kind, so malignant in spirit, so proscriptive in character, so destructive of the privileges, liberties, and rights of American citizens, and so thoroughly at variance with every understood principle of American government, that any one who is in favor of hurrying it through Congress betrays thereby the fact that he is aware of the repulsive nature of such legislation, and every candid, fair-minded man will see at once the necessity, and be decidedly in favor of a full, free and impartial ventilation of affairs here, and of the alleged reasons why such legislation is considered necessary. What is there to be objected to in this? Is a perfect understanding of the situation a disadvantage to legislators, and is ignorance, or at most one-sided testimony, an advantage? If the people here are open to the serious charges preferred against them, and Congressional legislation is really necessary in consequence, what possible reasonable objection can there be to a fair and thorough investigation, that all the light obtainable may be had upon the subject before legislation is attempted? This, surely, must be infinitely better than legislating hastily, blindly, with partial information, and, consequently, with almost absolute certainty, in a blundering and entirely inadequate and unrequired manner.

Yesterday, Governor Woods took occasion, in vetoing the memorial, to make a long string of charges against the Legislature and the people, in his usual supercilious and dictatorial style, as if he was lecturing and hectoring a parcel of school boys. But what does all that amount to? It afforded his Excellency a chance for indulging in a little more of his peculiar kind of spread-eaglism. But supposing that all his charges were true? would that prove that careful investigation were unnecessary? Not a bit. On the contrary, it would be a strong plea in favor of the strong necessity of investigation, and a careful not random legislation to remedy the wrong.

The Governor complains that the Legislative Assembly does not legislate precisely as he recommends. Is it under any obligation to do so? If it is, what is the use of a Legislature? The Governor himself could take its place, and be allsufficient to perform its labors, as he evidently thinks he is. The Legislature is a deliberative assembly, and its duty is to act upon its own convictions of duty, and not to blindly and slavishly follow his. He may be superlatively sagacious and wise, but the Legislature is not bound by law to think so, nor to receive his suggestions as inspirations of infallibility. His Excellency may not conceive that it is possible for him to be a fallible creature, but we beg to asure him that he is, notwithstanding, and no men are more sensible of that fact than the members of the Legislature of Utah. In fact, his Excellency keeps thrusting that fact before their eyes with wonderful persistence.

The Governor complains that Congress has made certain acts criminal, and that the Legislature of Utah has not done the same. If Congress has done it, why need the Territory do it? Are not the acts of Congress sufficient? Do they need confirmation by the Territorial Legislature?

His Excellency says that crimes have been committed in Utah, and the criminals go unpunished. What has the Legislature to do with that? Why don't the judicial and executive officers administer the laws which the Legislature has enacted?

The Governor says the Legislature has violated the Organic Act. If so, Congress has had abundant opportunity to note the same, and why object to an investigation of such alleged mislegislation?

The Governor, in effect, gives the legislators a black character. What has he to do with that? The people have chosen them for their representatives. If any of them have broken the law, they are answerable to the law. The Legislature has heard rumors concerning his Excellency's antecedents, but what has the Legislature to do with those rumors? Must it talk about them ostentatiously and insultingly in a message to him? Pshaw!

His Excellency says the election law of the Territory is not perfectly in accord with the U.S. law. If so, does his Excellency think the Territorial law superior to the U. S. law? Or rather is not the conflicting portion of the former made void by the latter, and therefore what need of harping upon the subject?

The Governor says there has not been a jury impanelled in Utah for more than three years, whose verdict would be valid, nor can there be under the present law? Does the Governor wish to usurp judicial functions? Does he set himself above the Supreme Court of the United States? Who is the very man that caused the impanellment of illegal juries for a year and a half or so? Who but the present U. S. Chief Justice for the Territory? It was not the proceedings of the legislature, but the decisions of Chief Justice McKean that were absolutely and unanimously reversed by the Supreme Court in Washington, D. C. And who refuses now to have juries impanelled according to law, but this very Chief Justice? In the other two districts juries have been impanelled lately, and it is only in this, the third, where they have not been allowed to be impanelled. From 1859 juries have been impanelled, at various times, in all the districts under the law. Yet his Excellency says they can't be.

In this hasty resume, we really cannot go into all the Governor's statements, for lack of time and space, but we will now take up one that he seems to make a principal reliance, that of the election of certain officers by the legislature, in, as he claims, violation of the Organic Act, instead of letting him nominate them.

What does the Organic Act say on this point? The seventh section says—

"That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Utah."

Here is a provision for the choosing of certain officers. They may be "appointed or elected," "in such manner as shall be provided by the Governor and Legislative Assembly." In accordance with that provision of the Organic Act, the Governor and Legislature in former years provided a way—by "election," for the choosing of those officers. They were empowered, by the Organic Act, to do it either by appointment or election. They chose election.

Now what does the Organic Act further say? The same section says—

"The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for."

What did the Governor and Legislature do in the premises? An Act of the Legislature was approved March 3, 1852, providing for the election of a Territorial Marshal and an Attorney-General by the joint vote of both Houses of the Legislative Assembly. We may take these two as representative officers, to make our present argument the more brief. From that time to this those officers have continued to be chosen in that way. For twenty-two years the choice of those officers has been thus elective. Congress has been cognizant of this law, has never annulled it, but by non-annulment has virtually approved of it. Silence gives consent. This law and this method of choosing these officers has therefore the sanction, not only of prescription, but of local and congressional law, and juries have been impanelled and cases tried through those officers so chosen. This accords with the opinion of the Supreme Court of the United States.

In 1870 a Federal Judge ousted the Territorial Marshal. But in the celebrated Engelbrecht case the Supreme Court of the United States, in 1871, unanimously decided the district court at fault, and the Territorial Marshal the proper officer to execute processes in Territorial cases, and to impanel juries in such cases. Yet the Governor says it can't be done, and the Marshal is illegally chosen, and therefore no juries can be empanneled. The Engelbrecht decision says expressly—

"Nor do we think the other objection sound, viz: That the required participation of the Territorial marshal in summoning juries invalidated his acts, because he was elected by the legislature, and not appointed by the Governor. He acted as Territorial marshal under color of authority, and if he was not legally such, his acts cannot be questioned indirectly."

In relation to the Territorial Attorney. This question too has gone before and been acted upon by the Supreme Court of the United States and decided in favor of the legality of that officer and his acts. We cannot now go lengthily into this case—"Zerrubbabel Snow, plaintiff in error, *vs.* the United States *ex rel.* Charles H. Hempstead United States District Attorney. In error to the Supreme Court of the Territory of Utah."

The question was, which of the two attorneys—Territorial or Federal, is the legal officer to prosecute Territorial cases in the U. S. District Courts in the Territory? The decision of the U. S. Supreme Court was that Mr. Snow, the Territorial Attorney, was the proper and legal officer, thus again reversing the decision of the Supreme Court of the Territory. The decision was given in the October term, 1872. This is the language of the decision—

"The power given to the legislature is extremely broad. It extends to all rightful subjects of legislation consistent with the Constitution and the organic act itself. And there seems to be nothing in either of these instruments which directly conflict with the territorial law. If there is any inconsistency at all, it is in that part of the organic act which provides for the appointment by the President of an attorney for the territory. But is that necessarily an inconsistency? The proper business of that attorney may be regarded as relating to cases in which the government of the United States is concerned. The analagous case of the marshal, and the separation of the business of the courts as to government and Territorial cases, seem to give some countenance to this view. At all events, it has sufficient basis to support the conclusion that there is no necessary conflict between the organic and the territorial laws. The organic act is susceptible of a construction that will avoid such conflict. And that construction is supported by long usage in this and other territories. Under these circumstances it is the duty of the court to adopt it and to declare the territorial act valid."

There is an appeal case pending in the Supreme Court of the United States, involving the question of the jurisdiction of the Probate Courts of this Territory. But similar arguments may be used on that question as on those relating to the marshal, and the attorney, and the Engelbrecht case settled the jury matter.

Therefore the assertion of the Governor that juries cannot be legally impanelled nor cases legally tried in this Territory, because of the imperfect state of the laws, is sheer pretence, without the slightest foundation in fact. In 1873 prisoners were tried and convicted, in the second judicial district, and sent to the penitentiary, and in the first district several men have been indicted, whose cases are now pending. It is only in the third district, and under Chief Justice McKean, that the court finds insuperable difficulties in the impanellment of juries and in the trial of criminal cases, in the very district and with the very judge where absolutely illegal juries, chosen by Federal officers, were in vogue for a year and a half, and disempanelled only on the reversory decision of the Supreme Court of the United States.

Thus the statements of the governor as to the illegality of certain local officers and the impracticability of impanelling juries and administering the laws crumble to the ground.

SOME R. R. CURRENCY.

WE have before us a piece of currency, the face of which reads as follows—

"SALT LAKE CITY, January 15, 1874.
"Salt Lake City National Bank of Utah, 15 days after date, will please pay to the order of W. B. Welles, Treasr., or bearer, 5 Five Dollars.
"Bingham Canyon and Camp Floyd R. R. Co.
"C. W. SCHOFIELD, "President.
"WM. B. WELLES, "Secretary."

On the left side of the note are the figures "5" and "190," and on the right side are the word "Five" and the letter "A." On the back of the note is the following—"Redeemable at the Salt Lake City National Bank, Utah," with the figure "5" on each side of the reading. There is no endorsement of the note, further than what we have shown.

The appearance of the note approximates towards the appearance of ordinary national bank currency, or greenbacks, and any person, not much in the habit of handling legal tender, would be very likely, at first sight, to suppose a note of this kind a portion of the ordinary currency issues of the bank named, which bank, however, is in no wise bound, by the note, to redeem it. The "Bingham Canyon and Camp Floyd R. R. Company" is the responsible party, and not the "Salt Lake City National Bank," although the name of the latter appears in bold characters, which the name of the former is in far smaller and less distinct characters, on the face of the note.

These notes are evidently issued to be used as currency, although they have merely the force and nature of checks or orders on the bank stated. The apparent intent of their issue is to deceive the uninitiated portion of the public, though we have no idea of saying that the issuers have any such real intent. But, being so near an imitation of common bank currency, these notes can not be considered a creditable resort for the party issuing them, nor are they likely to be considered very creditable to any bank whose name appears so prominently upon their face.

In noticing these notes we desire simply to call the attention of the public to their existence and nature, that no person may inadvertently receive them, except for what they are really worth.

MINING STOCKS.

MORNING BOARD.

San Francisco, Feb. 5.

170 Ophir, 39½; 39; 40, b 15; 39½; 40, b 10
785 G & C, 22; 21½; 21¾; 22; b 5; 22; 22½
140 B & B, 27; 27½; 28
120 Savage, 104; 105; 106; 106; 106, b 30
250 Chollar, 73; 74; 72½; 73¼; 73½, b 5; 72½
120 H & N, 64
260 Point, 97; 96; 97, b 30; 95; 95½; 97, b 30
50 Jacket, 76; 76½; 77½; 73
150 Imperial, 7; 6¾; 6⅝
60 Emp Mill, 8¾
1065 Kentuck, 29; 28½; 29¼, b 30; 28½, b 3; 28¼
25 Alfa, 60
410 Belcher, 103; 104, b 30; 103, b 5; 104, b 3; 104, b 10; 103; 102½, b 5; 103
190 Confidence, 10; 9¾
530 Con Va, 65; 66; 67½, b 30; 65½, s 3; 65; 65½
905 S Nev, 22; 22½; 23, b 30; 23; 23½
10 Exchequer, 27½
60 Seg Belcher, 115; 113
150 Buckeye, 2
375 Julia, 7; 6¾; 6¾
70 Caledonia, 31; 31½; 32
20 Knickerbocker, 5½
65 A & U, 1½; 2
370 Globe, 1½
275 Balto, 6½; 6¾; 6½
300 Utah, 9
365 39; 39½; 39½; 39½; 39¾
235 S Hill, 10¾; 10½; 10½, b 30; 10½, b 30; 10½, b 5; 10¾
115 Eclipse, 5½; 5¼
210 Dayton, 7½; 7½, b 30
200 Picton, 50c
125 Dardanelles, 5; 4½
30 N Y Con, 4
100 Oxidental, 3
125 Amn Flat, 4½; 6; 5½
60 Union Con, 18; 16¾
600 Sutro, 3½; 4½; 4½, b 30; 4½, b 30; 4
250 S Overman, 1; 1½
310 Woodville, 1½; 1½
600 Alamo, 8
350 Mint, 15c
200 Franklin, 2
50 Nevada, 1½
15 Kossuth, 7
300 Seg R I, 1½; 1
500 Jakob Little, 4½; 4½
500 Batten, 2
200 Leo, 85c
80 Andes, 2
380 Florida, 3

ARRIVALS.

TAYLOR'S HOTEL.—Feb. 5.

J A Livingston, L Livingston, Stockton, Utah; J E Cowles, New York; A T Lundgvest, J C Hurlbut, Weston, Cache Valley; S H Gardner, Helena, M. T.; R R Clakum.

NEGLECTED COUGHS AND COLDS.—Few are aware of the importance of checking a Cough or "Common Cold," in its first stage; that which in the begining would yield to "Brown's Bronchial Troches," if neglected, often works upon the Lungs.

NOTICE

To the Electors of Salt Lake City.

NOTICE IS HEREBY GIVEN, THAT there will be an ELECTION held in Salt Lake City, on

MONDAY, February 9th, 1874.

For the election of one Mayor, five Aldermen, nine Councilors, one Recorder, one Treasurer and one Marshal, when the polls will be opened at the following places in said city, to wit:

First Municipal Ward, at the School-house of the Ninth School District.

Second Municipal Ward at the Court House.

Third Municipal Ward, at the School-house of the Sixteenth School District.

Fourth Municipal Ward, at the School-house of the Twentieth School District.

Fifth Municipal Ward, at the City Hall.

Polls to be open at 8 o'clock a.m.

ROBERT CAMPBELL,
City Recorder.

Salt Lake City, Jan. 31st, 1874. d59 6t

TAX NOTICE.

THE TAX-PAYERS OF SALT LAKE County who have not paid their Territorial and County Taxes are hereby requested to settle the same at my office at the Court-house to avoid costs and sale of property. Further delay cannot be granted, and the collection of said taxes must be enforced if not paid forthwith.

R. J. GOLDING,
Assessor and Collector for Salt Lake County.

Salt Lake City, Jan. 28, 1874. d57 at tf