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Message of the President of the United States, transmitting a copy of a communication of the 21st of December last to the Secretary of State by the Governor of the Territory of Nevada

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A copy of a communication of the 21st of December last to the Secretary of State by the governor of the Territory of Nevada.

MARCH 27, 1862.—Read, referred to the Committee on Territories, and ordered to be printed.

To the Senate and House of Representatives:

I transmit a copy of a communication of the 21st of December last, addressed to the Secretary of State by the governor of the Territory of Nevada, and commend to the particular attention of Congress those parts of it which show that further legislation is desirable for the public welfare in that quarter.

ABRAHAM LINCOLN

WASHINGTON, *March 26, 1862.*

EXECUTIVE DEPARTMENT,

Carson City, N. T., December 21, 1861.

SIR: On the 19th and 20th days of July last I had the honor to address you a communication reciting the history of my doings to that date, and was subsequently gratified to receive a communication, under date August 5, in reply, in which you were pleased to approve the measures I had taken to put this government into successful operation. A second communication from your department, under date August 12, approving and indorsing my course in convening a territorial legislature at an earlier day than was contemplated by the organic act, unless a special necessity seemed to exist for so doing, afforded me also, great satisfaction.

I beg leave to resume a narrative of the incidents pertaining to the government of this Territory from the point to which my letters to your department, above referred to, carry me.

On the 24th day of July last, in obedience to the policy relative to an earlier convening of the legislature, and as a preparatory step provided for in the organic act, I issued an order to take the census, and, in the absence of the United States marshal for this Territory, selected a competent substitute in the person of a citizen of this town to perform this duty. The return of the census marshal having been made in due form on the 8th day of August last, I issued my proclamation ordering an election to be held, in which I divided the Territory

temporarily into districts and precincts for election purposes, and endeavored to equalize the apportionment of representation to the various districts as fairly as possible. An election was held throughout the Territory, as ordered on Saturday, the 31st day of August last, resulting in the selection of nine members of the council and fifteen members of the house of representatives, together with a delegate to the Congress of the United States.

As an urgent necessity seemed to exist for a second term of court in the first judicial district, I issued my proclamation on the 21st day of August last calling an additional term to meet the necessities and wants of the people.

On the 24th day of September, the returns of the late election having been filed in the office of the secretary of the Territory, as required by law, I issued my proclamation announcing the election of the Hon. John Cradlebaugh as delegate to Congress, together with the following named persons as members of the council and house of representatives, viz: Council—Solomon Geller, John Wilson Grier, Thomas Hannah, R. M. Luther, Augustin W. Pray, J. W. Pugh, Isaac Rooss, W. M. Stewart, Jacob L. Van Bokkelen. House of representatives: Samuel Youngs, William E. Teall, James McLean, William P. Harrington, John D. Winters, M. N. Mitchell, Eph. Durham, John H. Mills, Mark H. Bryant, Edward C. Jug, James H. Sturtevant, William J. Osborn, John C. Wright, William L. Card, R. M. Ford.

On the 1st day of October last the legislative assembly met, in accordance with the directions as conveyed by proclamation, at a house situated a short distance from this city, it being the only suitable building which could be obtained for the purpose. On the second day of the session, a permanent organization having been attained, I appeared before the two branches in joint session and read my first message. The proceedings of the legislative assembly, during their sixty days' session, were unusually harmonious. The code of laws passed were substantially those of our neighbor, California, which code, together with that of the State of New York, served as a convenient basis and guide.

Such modifications as were made were dictated by our peculiar wants as a people, our interests here being exclusively mining interests, as agriculture is, at least for the present, regarded as of minor importance.

As an evidence of the strong attachment of our people to the Union, the Constitution, and the enforcement of the laws, I deem it of sufficient importance to allude in this communication to the strong Union resolutions which passed both branches of the legislative assembly unanimously, as also the complimentary resolutions upon the retirement of Lieutenant General Scott from active service, which breathe the love and affection with which the old chieftain is universally regarded in this community.

On the 18th day of November last, John Blackburn, sheriff of the then county of Carson, which embraced the entire Territory, was assassinated, while in the execution of his official duties, by one William Mayfield. Sheriff Blackburn was a most efficient officer, a terror to evil-doers, and his life has been often threatened. The immediate cause of his murder grew out of the arrest, some months previous, of several well-known desperate characters, and among them Mayfield, who were charged with highway robbery.

His cruel assassination created intense excitement in the community, a reward of \$3,000 was offered for the apprehension of Mayfield by the citizens of Carson, and a large influx of secessionists and gamblers, sympathizers with the murderer from the neighboring towns, was noticed.

The officiating minister, in his funeral sermon, referred to the circumstances attending the death of the deceased, called upon the citizens to arrest the murderer, and volunteered his own services, if necessary. On the 21st day of November Mayfield was arrested and confined in irons in the miserable log building which at that time was made to answer for a jail. His rescue by the secession element, and his lynching by a party of the citizens, were alike loudly threat-

ened; and under the circumstances I hastened to appoint a sheriff, and directed him to call out a guard for the jail, in which was confined other murderers, and, fearing a general jail delivery, despatched at the same time a messenger to Fort Churchill for a file of soldiers. During the night I visited the jail several times, and found it necessary to disarm a former deputy of Sheriff Blackburn. The following day, about noon, a lieutenant with fifteen men, since increased to twenty, arrived, and, under the direction of the sheriff, took possession of the jail. A day or two afterwards the prisoners were removed to a more secure building, which had in the meantime been prepared for the purpose, and the soldiers are now in quiet possession.

The secession element which exists here is made up of a small but desperate class of men, who pursue gambling for a living principally, and who possess the virtue (if it may be so denominated in this instance) of perfect unity in all their plans.

Much feeling was exhibited by these desperadoes upon the arrival of the force from the fort, but the excitement seems now to have subsided.

Prominent among the special acts of the late legislature were bills establishing a boundary commission to visit California and urge the cession of territory to Nevada, provided for in the organic act, the bill making Carson City the permanent capital of the Territory, and the bill suggested by me in my message to the two houses providing for the payment of Nevada's share of the national tax; and I may here, I think with pardonable pride, call your special attention to the gratifying fact that the Territory of Nevada, with one exception, stands alone among the States and Territories of the Union, in having provided by legislation for the payment of her share of the war debt. The money will be subject to the draft of the Secretary of the Treasury of the United States by the month of August next.

As is usually the case in new Territories our first legislative assembly may with propriety be charged with errors, both of omission and commission; and I wish here particularly to refer to several bills which passed both houses, and which I was constrained to approve under protest. Among these were the civil and criminal practice acts, and "An act concerning crimes and punishments." The two first, being of great length, (consisting of seven to eight hundred sections each,) were submitted to me at the heels of the session, and I found it impossible, in the short time allowed me, to read them through with that care which their importance would seem to demand. So great, however, was the necessity for both a civil and criminal practice act that I waived the errors a cursory examination revealed, and approved both bills.

The act entitled "An act concerning crimes and punishments" possessed some features which seemed to me so very objectionable that in my message to the council approving it I used the following language, viz: "While the general scope and tenor of the act meets my unqualified approbation there are some of its provisions which, under other circumstances, I should be glad to see improved by amendments. In view of the short time given me for an examination of the bill and the urgent necessity which exists for criminal statutes of some kind, I am constrained to waive these defects for the public good." "I cannot, however, give my approval to this bill without entering my solemn protest against one of its provisions. I refer to section thirteen, in which it is provided that no black or mulatto person, or Indian or Chinese, shall be permitted to give evidence in favor of or against any white person; and every person who shall have one-eighth part or more of negro blood shall be deemed a mulatto, and every person who shall have one-half of Indian blood shall be deemed an Indian."

"My objections to the provisions of this section are briefly these: first, a person of one-eighth black blood is not a mulatto in truth nor in fact; and, in addition, the sentiment conveyed is behind the spirit of the age, which is pro-

gressive, and calculated to enlarge in every proper way the privileges of testifying; the object of testimony being to open wide the door for the admission of evidence, and leaving questions relating thereto to be settled by the court and jury upon the ground of credibility rather than competency."

"As an illustration of the impropriety of the provision in the criminal law, it may with propriety be compared with the provisions made in the civil practice act."

"In the latter it is provided that all may testify, whether of negro or Indian blood, who have not one-half or more of such blood in their veins, so that a person of three-fourths white blood may testify in a case where a white man has injured his property, (even so common a piece of property as a dog,) and yet, when injured in his own person, by this provision in the criminal act, his mouth is sealed."

Recent Indian difficulties among the Shoshones, at Roberts's creek, Ruby valley, and various other stations on the overland mail-route, within this and the neighboring Territory of Utah, have for some weeks occupied my undivided attention. The death of the principal chief, "Shop-keep," who was well disposed toward the whites, was the immediate cause of the trouble. His successor, "Buck," is a troublesome Indian, whose policy has been and is to drive from that region the white settlers.

On the 17th day of December last an attack on the Roberts Creek Station was threatened.

I had previously made arrangements in behalf of the Indian department with Brigadier General Wright for a quantity of provisions at Fort Churchill, and when the urgent despatches from the employés of the Overland Mail and Telegraph Companies, in which they stated that they were hourly apprehending an attack, reached me, I was at the fort superintending the forwarding of these provisions, &c., to this and other localities. I immediately called upon the commandant of the fort for a detachment of men; despatched by overland stage Mr. Wasson, the late agent, with provisions, guarded by the detachment of cavalry.

I again most respectfully beg leave to call your immediate attention to the absolute necessity for an increase of the salaries of the federal officers in this Territory.

The same statements and arguments used in my communication of the 19th and 20th July last are still applicable.

The cost of living here can never become less, and the salaries now paid are entirely inadequate to meet the expense incurred for the necessaries of life.

Everything we eat and wear, our furniture, lumber, and grain, is brought over the Sierra Nevadas from California in teams and pack trains, at a cost now of 12 cents per pound freight, and this must always be the case until other means of transportation are provided. Nevada is rich in minerals alone.

I think it my duty also to call your special attention to the necessity that exists that I should have a private secretary. The duties of the executive department have been and are unusually onerous, and I have thus far been compelled to employ one at my own expense, paying him what I could spare from the pittance allowed me.

As you will remember, during the month of July last, and until the middle of August, the secretary of the Territory, as also two of the three United States judges, had not arrived.

A necessity existing for a secretary, I appointed my private secretary, Mr. J. C. Gallaher, secretary of the Territory, *pro. tem.*, and he performed the duties of that office, until the arrival of Mr. Clemens, to my entire satisfaction.

I trust you will give these matters to which, under the circumstances in which the government is placed, I most reluctantly call your attention, a favorable consideration.

An act entitled "An act to provide for a special election," provides that an election shall be held throughout the Territory to fill all the local offices, except the office of district attorney, probate judge for the several districts and counties, and territorial auditor, treasurer, and superintendent of public instruction. These officers I am empowered to appoint.

The election, now close at hand, will, I trust, relieve me at once of much labor and responsibility, and, at the same time, place the government of the Territory in the hands of the people, where it of right belongs.

In the discharge of the several duties devolving upon me, I can hardly expect exemption from errors, and, I fear, faults. If they have occurred, I can only plead inexperience in this new field of action. I can only assure the government of my best exertions and unremitting labors to correct them when pointed out to me.

Sincerely hoping that what has been done, and what may be done, will tend to the advancement of the principles upon which our best of governments rest, I remain, with great respect, your obedient servant,

JAMES W. NYE,
Governor of the Territory of Nevada.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.