

APPENDIX

TO

SENATE PROCEEDINGS.

1864

FIRST BIENNIAL MESSAGE
OF
GOVERNOR H. G. BLASDEL,
DELIVERED TO THE LEGISLATURE OF NEVADA,
JANUARY 10, 1867.

BIENNIAL MESSAGE.

STATE OF NEVADA, EXECUTIVE DEPARTMENT, }
Carson City, January 10th, 1867. }

Gentlemen of the Senate and Assembly:

For abundant harvests, successful enterprises, and the blessings of health and peace; for the preservation of our liberties, the reestablishment of order, the progress of science and the triumphs of humanity, we have occasion for special gratitude to Almighty God.

In the discharge of my constitutional obligations, I communicate to you the condition of the State, and recommend such measures of legislation as, in my judgment, it would be wise to adopt. Your present session will be one ever memorable in the history of the State. As the representatives of the people and a component part of the great national sovereignty, you are called to the performance of important duties and the discharge of grave responsibilities. It is your high privilege and sacred obligation to ratify the amendment to the Federal Constitution proposed by the late Congress.

By armed rebellion, the people of the South changed their political relation with the Federal Government, suspended their State organizations and forfeited their lives and property. While humanity forbids the enforcement of the penalty, and mercy demands forgiveness for the crime, justice and liberty cry aloud for the exaction of guarantees that will ever secure the nation against a recurrence of intestine war. Government is ordained for, and its primitive obligation is, the protection of the citizen in the tranquil enjoyment of life, liberty and property. If it discharge these functions wisely, it will command the respect, obedience and admiration of the people; but if it permit its authority to be defied and its laws violated with impunity, if it impose no penalty upon crime and exact no security against repeated criminality, the prime object of its ordination is abandoned, disobedience and lawlessness invited and rewarded, and a just contempt of its authority is inspired and merited.

The magnanimity displayed by the Government in the proposed terms of restoration has no parallel in the history of nations. The just equalization of political power by a change in the basis of representation, the protection of life, liberty and property extended to the weak, heretofore enslaved and brutalized; the exclusion of a prominent few, who have added perjury and infidelity to reason, from holding office under the Government; the validity of the public debt acknowledged and held sacred, and the illegality of debts contracted in the effort to subvert the national authority recognized, are the only conditions imposed—are the wise, just and merciful terms upon which it is proposed to restore

those lately in rebellion to their forfeited lives and estates and clothe them again with all the rights, privileges and dignity of American citizens.

Can a victorious nation, jealous of its honor and vigilant of its liberty, exact less? Can conquered rebels reasonably expect more? Rome hurled her traitors from the Tarpeian Rock, and all other civilized governments punish treason with death.

Shall America commit to the keeping of her criminal enemies, without qualification and without guarantees, the Government they so madly made war to destroy and the liberties they so wickedly attempted to subvert? I heartily approve the proposed Amendment. I believe its adoption by the requisite number of States will effect the perfect restoration of the Union and complete an equitable readjustment of our national difficulties. I believe it is just to the Southern people themselves and necessary to their moral, social and material advancement; that through it the obstacles that have retarded their progress in the past will be swept away. I believe it will remove that prejudice, allay that hatred which was the great source of our national ills, and induce that comity and friendship always indispensable to the public prosperity and peace. I believe it will place the national life beyond the hazard of another rebellion, and, by securing the great results of the war, perpetuate republican institutions. I believe it will give to humanity a new impulse, and surround liberty with new barriers alike impregnable to anarchy and despotism. I transmit the proposed Amendment to you with the confident belief that your patriotism, fidelity and zeal for the public welfare will prompt your immediate action, and with the earnest hope that the wisdom, justice and necessity of the measure will command your unqualified approval.

FINANCE AND STATE DEBT.

The Treasurer and Controller have not yet submitted their annual reports; it is impossible, therefore, to give an exact detailed statement of the finances of the State. The State debt, exclusive of Territorial liabilities assumed, approximates \$278,000 in coin. Of this amount there will be due, February 1st, 1867, \$218,000, and of floating debt, \$60,000. The balance in the Treasury, January 1st, 1866, was \$51,000. The total receipts during the last fiscal year, from all sources, were \$425,000. The total disbursements were \$320,000. The balance on hand, in all the different funds, is about \$156,000, mostly in currency. As the Legislature will not again convene until January, 1869, it will be necessary to make appropriations to defray the expenses of the State Government for two years. To meet these expenses, provide for the payment of outstanding indebtedness and place the affairs of the State upon a permanent cash basis, I recommend the negotiation of a loan of \$300,000. This amount, with accruing revenues, will, in my opinion, entirely relieve our financial embarrassment and leave us with ample means in the treasury to meet current expenses. I would recommend the issuance of ten per cent. bonds, to run ten years, and the appropriation of a sufficient amount of the first revenue arising from the property tax to pay the interest thereon semi-annually and create a sinking fund, which will extinguish the principal within ten years. In addition to the debt strictly that of the State, there are outstanding liabilities, incurred by the late Territory of Nevada and assumed by the State, which are not fully provided for. I recommend the passage of a law providing for their payment.

PUBLIC LANDS.

Through the generosity of the General Government, this State is the donee of the following lands:

First—The sixteenth and thirty-sixth sections of each township.

Second—Five hundred thousand acres, under Act of Congress, 1841.

Third—Thirty thousand acres for each Senator and Representative of the State in Congress, under Act of Congress, July 2, 1862.

Fourth—Twenty sections under section 8 and twenty sections under section 9 of the Enabling Act of March 21, 1864.

Fifth—Seventy-two entire sections, under Act of July 4, 1866.

These donations, exclusive of the sixteenth and thirty-sixth sections, amount to 661,680 acres. Of the sixteenth and thirty-sixth sections there are over 3,000,000 acres. These gifts were made for the following specified purposes, named in the above order:

The first for educational purposes, and is so applied by the Constitution. The second for internal improvements, applied by the Constitution to university and educational purposes, which application was sanctioned by Congress July 4th, 1866. The third (90,000 acres) for teaching "agriculture and the mechanic arts," applied by the Constitution to university and education; and Congress, July 4, 1866, gave permission for it to be used for the additional purpose of teaching the theory and practice of mining. The fourth for public buildings at the State Capitol, for legislative and judicial and State Prison purposes equally, is applied by the Constitution to university and education, subject to Congressional sanction not yet given. The fifth, for university purposes exclusively. In disposing of the proceeds of the sales of these lands, the Legislature can place so much as it chooses arising from the sales of the first and second donations in each, the University Fund and the Public School Fund; must place all from the third and fifth in the University Fund, and those from the fourth equally in a "Legislative and Judicial Public Building Fund" and a "State Prison Building Fund" (or if otherwise appropriated, it must be subject to the approval of Congress).

In addition to the above, Congress has provided that this State shall receive five per cent. of all the moneys realized from sales, by the United States, of public lands lying within our limits after the admission of Nevada into the Union, to be applied to "making and improving public roads and constructing ditches or canals, to effect a general system of irrigation of the agricultural lands of the State, as the Legislature shall direct."

In view of the fact that the State is already provided with Prison buildings, and has no means on hand with which to construct legislative and judicial buildings, would it not be well to provide that the proceeds of the sale of all the lands granted for those purposes, as well as the five per cent. upon lands sold by the United States, be placed in a "Legislative and Judicial Building Fund," and to obtain, if possible, the sanction thereof by Congress? If done, these moneys can be temporarily invested in State or national securities.

An Act of 1864-5, amended in 1866, provides for the sale in part of the sixteenth and thirty-sixth sections. Some 2,127 acres have been sold, at the price fixed by law, which, in my opinion, is too high. It is not fair to presume that any considerable portion of those lands will be sold by the State at two and a half dollars per acre, when the United States is selling at one and a quarter.

The amendatory Act of 1866 renders the law ambiguous and defective. There are other Acts which provide for the location only of the forty sections and the 500,000 acres above stated. No action has yet been taken under them. It would be well to repeal all former legislation upon this subject, and, carefully preserving all rights acquired under it, pass one general law embodying plain and full provisions for the sale of all the above enumerated lands, and the application of the various proceeds as indicated; the issuance and sale of floating land warrants to be located upon them before or after official survey should be

provided for. In order to prevent complicity, secure the interests of the State in the best possible manner, and expedite the location and sale of all the lands belonging to the State, it would be well to establish a State "General Land Office," and create the offices of "General Agent" and "Locating Commissioner." It should be made the duty of the Locating Commissioner to ascertain, as speedily as possible, all instances in which the 16th and 36th sections have been disposed of by the General Government, and locate other lands in lieu thereof, as permitted, that we may not lose them entirely. Also, to locate all the different donations as fast as surveyed by the United States Surveyor General, report them to the General Agent, and he by proper legal proceedings obtain the patent of the United States therefor. In this particular the State would lose much by delay. In enacting these provisions, especially in relation to location and sale, it would be necessary to observe closely the privileges given and the restrictions made by "An Act concerning certain Lands granted to the State of Nevada," approved July 4, 1866. Also, the 7th, 8th, and 9th sections of the Enabling Act. These locations may be made as a whole without reference to the donations severally, but if so made, the proceeds of sales, as fast as paid into the Treasury, should be apportioned to the several funds above designated, ratably in proportion to the whole.

The manner of issuing, selling, locating, and making proper proof and record of locating floating land warrants, should be carefully specified; also, when, where, from whom and under what requirements patents may be obtained. Failure to provide for the early location and prompt sale of these State lands can but result in great injury; on the other hand, if judiciously disposed of, the general prosperity of the State will thereby be greatly advanced.

STATE OFFICERS.

The duties of all the State officers have not been defined by law. Some of them are discharging their duties by virtue of the Constitution only, or by virtue of that and incidental provisions of statutes. It is evidently perplexing to them to be guided only by the general permissions and restrictions of the fundamental law. Among the legislation needed under this head may be instanced that contemplated by the 13th and 14th sections of the 5th Article of the Constitution.

STATE MINERALOGIST.

Herewith I transmit the Annual Report of the State Mineralogist, made as required by law to the "Board of Regents of the State University." I recommend that the salary of this officer be fixed at a definite sum, and made payable as those of other State officers, from the fact that the moneys now or to be placed in the "University Fund" are by the Constitution otherwise applied.

APPORTIONMENT OF SENATORS AND ASSEMBLYMEN.

Under existing laws the Legislature is composed of fifty-seven members, nineteen of them Senators and thirty-eight Assemblymen, apportioned among the several counties as follows: Storey County, 4 Senators and 12 Assemblymen; Douglas County, 1 Senator and 2 Assemblymen; Esmeralda County, 2 Senators and 4 Assemblymen; Humboldt County, 2 Senators and 3 Assemblymen; Lander County, 2 Senators and 4 Assemblymen; Lyon County, 2 Senators and 3 Assemblymen; Churchill County, 1 Senator and 2 Assemblymen; Nye County, 1 Senator and 2 Assemblymen; Ormsby County, 2 Senators and 3 Assemblymen; Washoe and Roop Counties, 2 Senators and 3 Assemblymen.

In my opinion it would be prudent and just to re-apportion the representation

in both branches, basing the new apportionment principally upon present population; thus giving to each county, as near as may be, its equal and fair voice in determining the policy and prescribing the laws of the State. It would be wise to reduce the aggregate representation in the Legislature. Twelve Senators and twenty-five Assemblymen would, in my judgment, constitute a body sufficiently numerous to protect the general interests of the people at large as well as the local interests of the several communities.

LOSSES BY INDIANS.

During the last session an Act was passed by which a Commission was created to ascertain the losses sustained by citizens of Humboldt County by Indian depredations during the years 1864, 1865 and 1866, and report thereon to the Governor. The Commission have faithfully performed their duty, and submitted their report, which I herewith transmit, and recommend that you forward the report and accompanying proofs to and memorialize Congress, asking an appropriation for the payment of the claims and expenses incident to the Commission.

ELECTION LAW.

The 31st section of this Act, page 216, Statutes of 1866, provides, in effect, that if any two or more candidates for a State office shall receive an equal, and the highest, number of votes cast for the same office, the Governor shall issue a proclamation, ordering a new election therefor. That provision is in contravention of Section 4, Article V, of the Constitution, which requires that in such cases "The Legislature, by joint ballot of two branches, shall elect one of said persons to fill said office." The law should be made to conform to the Constitution. It should be further amended so as to provide a mode by which, in all proper cases, the offices of Senators and Assemblymen may be officially declared vacant, and writs of election thereupon be issued to fill them.

EASTERN AND SOUTHERN BOUNDARIES.

By Act of Congress, approved May 5, 1866, there was added to this State on the east all the territory lying between the 37th and 38th degrees of longitude, west from Washington, extending from the 37th to the 42d degree of north latitude, embracing 18,000 square miles, or 11,530,000 acres. This grant was anticipated and provided for in the formation and adoption of the State Constitution, and, therefore, no further action is required. A further addition "commencing on the 37th degree of north latitude at the 37th degree of longitude, west from Washington, and running thence south on said degree of longitude to the middle of the river Colorado of the West; thence down the middle of said river to the eastern boundary of the State of California; thence northwesterly, along said boundary of California, to the 37th degree of north latitude; and thence east, along said degree of latitude, to the point of beginning," was contingently made to become effectual upon the acceptance of the State, through its Legislature. This grant, connecting us as it does with the navigable waters of the Colorado River, and embracing extensive and valuable agricultural and mineral lands, is of great importance to the State, and should be promptly accepted. Looking alone to the Act of Congress, it would seem that all the action necessary on the part of the State, for a full and final acceptance of this last named cession, would be that of the Legislature in the form of an Act or joint resolution. But the establishment of boundary lines by the Constitution would seem to leave the Legislature without present authority to bind the State in the

premises. In order that no misapprehension may arise from a failure to comply with the Act, I suggest the propriety of immediate legislative acceptance as therein contemplated. And in order to legally and fully extend the jurisdiction of the State over the ceded territory, I suggest the propriety of proposing and submitting to the people, for their ratification, an amendment to the Constitution conforming our southern boundary to the lines designated in the grant.

GAMING.

The only law against gaming is that on pages 169 and 170, Statutes of 1864-5. The second section appropriates fines collected under it to purposes not permitted by Section 3, Article XI, of the Constitution, which devotes "all fines collected under the penal laws of the State" to educational purposes. The law should be conformed to the Constitution, and, if possible, made more effectual in the detection and punishment of the crime. Gaming is an intolerable and inexcusable vice. It saps the very foundation of morality, breeds contempt for honest industry, and totally disqualifies its victims for the discharge of the ordinary duties of life. Every energy of the State should be invoked to suppress it.

CARE OF THE INSANE.

In my last Annual Message it was recommended that provision be made for the care of the insane. A Fund should be created for this purpose, to be drawn upon, and the State never without such means, when needed, until provided with an Asylum, and permanent arrangements for the safe keeping, support and proper medical treatment for those thus unfortunate. I hope this important subject will receive, as it merits, your prompt and favorable action.

EDUCATION.

It is truly gratifying that so thorough a system of education has been inaugurated throughout the State; that in all places where a sufficient number of pupils are found, Free Schools are in successful operation; that the average attendance thereon is commendably large, and this great cause in such an advanced and prosperous condition. For detailed information and valuable suggestions as to needed legislation upon this subject, I refer you to the accompanying Annual Report of our late worthy Superintendent of Public Instruction, and to the Eleventh Article of the Constitution.

STATE LIBRARY.

The number of volumes added to the State Library during the last year is 1,432, of which 1,328 are law, and 104 are miscellaneous—making a total now of 4,721 volumes; of law, 2,209, and of miscellaneous works, 2,512. The rapidity with which this Library has been accumulated—the number, value and importance of the volumes it contains, reflect great credit upon the State. With continued fostering care, it will soon be an object of great pride.

PARDONS.

Jim, (an Indian boy) on the 2d of January, 1866, was, by the Recorder's Court at Virginia City, convicted of petit larceny, and sentenced to imprisonment in the Storey County Jail for four months. He was pardoned on the 8th of February, 1866, on the recommendation of the City Recorder, before whom

tried, and the attorney who prosecuted the case, for reasons of good behavior, paltry character of the offense, and sufficient punishment.

H. F. Swazey, on the 8th of December, 1863, was convicted by the First Judicial District Court, Washoe County, N. T., of manslaughter, and sentenced to three years in the Territorial Prison. He was pardoned, and restored to citizenship on the 9th of March, 1866, at the request of many good citizens, amongst them all the Senators and all the Assemblymen (except one) of the second session of the Legislature, and because he had been imprisoned sufficiently long, as the Board of Pardons were convinced, to fully answer the demands of public justice.

Antonio Martinez, on the 29th of January, 1866, was convicted of petit larceny by the Recorder's Court of Virginia City, and sentenced to six months in the Storey County Jail. He was pardoned on the 22d day of June, 1866, on recommendation of said City Recorder and many good citizens of said county, for reasons of good conduct and sufficiency of punishment.

John Egbert, on the 28th of September, 1865, was convicted of grand larceny by the Second Judicial District Court, and sentenced to one year in the State Prison. He was pardoned and restored to citizenship on the 15th of March, 1866, on recommendation of the prosecuting witness, the District Attorney, who prosecuted, the Judge who sentenced him, and many others, for reasons of good conduct and doubt of guilt.

J. F. Hewitt, on the 19th of January, 1866, was convicted of forgery by the First Judicial District Court, and sentenced to one year in the State Prison. He was pardoned and restored to citizenship September 15th, 1866, on recommendation of many good citizens, because of mitigating circumstances, first offense, advanced age, dependent family, and good conduct in prison.

Jesse Bonds, on the 20th of March, 1865, was convicted of murder in the second degree, by the Seventh Judicial District Court, and sentenced to ten years in the State Prison. He was pardoned and restored to citizenship October 13th, 1866, on the recommendation of many good citizens of Lander County, on grounds of previous good character, excellent deportment in prison, and sufficient punishment.

F. W. Ames, on the 19th of January, 1866, was convicted of forgery by the Seventh Judicial District Court, and sentenced to one year in the State Prison. He was pardoned and restored to citizenship November 23d, 1866, because of good conduct and term about expired.

Charles Moreau, on the 25th of January, 1866, was convicted of grand larceny by the Seventh Judicial District Court, and sentenced to eighteen months in the State Prison. He was pardoned and restored to citizenship November 26th, 1866, because of infirmity, good conduct, and sufficiency of punishment.

Henry Charles Kettles, on the 2d of December, 1865, was convicted of arson in the second degree, by the Second Judicial District Court, and sentenced to five years in the State Prison. He was pardoned and restored to citizenship December 29th, 1866, because of committing offense at instigation of another, whose conviction and punishment he was the means of procuring by his confession and evidence.

J. McGahan, on the 27th of June, 1866, was convicted of "an assault with a deadly weapon with intent to inflict great bodily injury upon another person," by the First Judicial District Court, and sentenced to two years in the State Prison. He was pardoned and restored to citizenship December 31st, 1866, because strongly recommended by many, among them the Judge before whom tried, and eleven of the trial jury, and for good conduct.

Frank Woods, on the 8th of July, 1864, was convicted of grand larceny by the Third Judicial District Court of Nevada Territory, and sentenced to five years

in the Territorial Prison. He was pardoned January 2d, 1867, because of severity of sentence, first offense, and sufficiency of punishment.

REMISSION.

On the 6th of October, 1862, A. W. Nightingill, in Humboldt County, N. T., became a surety on the bail bond of one Robert Ferris, held to answer the charge of murder. Said Ferris did not appear as required, and his bail was forfeited. This forfeiture as to said Nightingill, was remitted September 26th, 1866, upon recommendation of the County Commissioners of Humboldt County, it appearing satisfactory that the homicide committed by said Ferris was in self-defense.

MISCELLANEOUS SUGGESTIONS.

The charge made by the State for each commission issued to a Commissioner of Deeds is fifteen dollars; this is more than is charged by any other State, and should be reduced.

The choice at the last general election of a Public Administrator (to be ex-officio Coroner) in each county, was provided. This was in accordance with the requirements of the Constitution. The people choose such officers, but when and how to qualify, their duties, and the manner of discharging them, are not provided. A general law should be passed at the earliest practicable time upon this subject.

Section 3, Article XI, of the Constitution, pledges all fines collected under penal laws to educational purposes. A law should be enacted carrying out this provision.

I recommend the repeal of an Act of the Territorial Legislative Assembly, approved December 9th, 1862, limiting to six months the time of commencing civil actions upon judgments, contracts, obligations or liabilities for the payment of money or damages obtained, made, or executed out of the State. The period fixed by this Act is too short, and the discrimination against non-resident creditors is odious and unjust. In repealing it, all acquired rights should be carefully preserved.

I also recommend the amendment of the existing Attachment Law, by extending its provisions to non-resident creditors.

These measures, as they exist, while radically unjust, present also a serious barrier to the obtaining that credit abroad so indispensable to our business prosperity, and the repeal and amendment suggested will, in my opinion, if adopted, promote the general interests of the people.

Provision should be made by law for the disposal of persons convicted of murder, whose punishment may be commuted from death to imprisonment.

CONCLUSION.

I have thus briefly called your attention to those measures of legislation which I deem most important. In conclusion, permit me to express the hope that your labors may be pleasant, and characterized throughout by prudence, economy, and wisdom; that all branches of the Government may act with harmony, unity, and fidelity of purpose, so indispensable to the adoption of wise and just laws, and the promotion of the public welfare.

H. G. BLASDEL