



Christmas.

According to immemorial custom we wish our readers a Merry Christmas. Far away from our friends in the East, whilst we snugly nestle among the vertebrae of the backbone of America, we shall not forget the days of our earliest and most joyous associations.

What the Miners Expect from the Legislature.

The Legislature having met, it is reasonable to discuss the questions which must occupy its attention, and no duty of the journalist is more imperative. Now the one thing paramount, in Montana, is mining; and this is a subject which is perhaps more fruitful of litigation than any other.

We feel certain that Congress will not interfere with the title of the inhabitants of this Territory, for their lands and claims, if our interests be fairly set before them, but the omission of such a step might induce legislation, fatal to our prospects and our law-givers should lose no time in laying before that body, a memorial expressing the wishes of the people, on that subject.

So far as the Indians are concerned, all people will be willing to let school-boys' law settle our difficulties. This is terse but significant: "Let us alone and we will let you alone." But we are for giving the copper gentlemen a lesson that will not be forgotten, should they still evince their preference for the American breed of horses in the way familiar to pilgrims.

Concerning education volumes might be written, but only a few words can here be said, in addition to the excellent remarks of the Governor. At a trifling expense to each inhabitant, every child could be taught; and this is a sine qua non to future prosperity and morality.

Mail facilities must be enormously increased, or inconveniences and a literary destitution must be the consequences. Above all, the postal transmission of books and papers should be sought from the home authorities. This throws us back on the road question. Good roads, at a low level, must be made ere mails can keep time or even run at all, in winter.

The Governor's Message.

The message of Governor Edgerton to the first Legislature ever convened in Montana, is to be found in our present issue. The mere fact itself is worthy of special notice. Two short years, replete, however, with incidents more romantic than the fables of the eastern magi, have passed away since Gold was first discovered here, and more potent than the necromancer's talisman, the very mention of the fact has turned a pathless and solitary region into a busy hive of industry, the hunting ground of the Indian has become the home of the white man, and the unceasing murmur of active life breaks in upon the stern silence of these rugged mountains and untrodden defiles.

There are ten topics in the document before us, which demand instant attention from the Legislature, viz: Roads to the States, Mining Interests, Congressional Legislation concerning Mining Lands, Indian Affairs, Agriculture, Education, Mail Facilities, Taxation, Currency, and Jail Accommodation. The Governor takes just and broad views of the mining interests, but as there is no material difference between them and the propositions enforced in earlier numbers of this journal, and also in another column of to-day's paper, we shall not say more on this subject than that we believe the legislation advised is both expected and required by the people.

We are glad to hear of the proposed new road to the States. The great elevation of the present line of travel renders us almost isolated during the winter months—and in view of our rapidly increasing population, a short winter line is the only preventative against occasional short commons, to use the mildest expression. In any petition to Congress it might be well to notice the vast increase in value that would accrue to the lands of Iowa and the north-western States when all their surplus grain would find a market in this Territory at prices remunerative to the grower, even after deducting the cost of transit.

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we should think, of the unrevealed eventualities of the time to come.

Perhaps no question affects us more immediately than that of the currency. It should be generally known that Chief Justice Hosmer has decided that in all cases where credit is given, treasury notes will pay the face of the bill. That is, a merchant giving credit for \$100 can be legally tendered \$100 in treasury notes, by the debtor, in full discharge of the account. No other ruling would be equitable, and certainly none other would be legal, for gold is no more dollars and cents than wheat or barley. It is a commodity worth \$18 per ounce, and unless accounts are kept in pennyweights and grains cannot stand for currency. The case of California is cited, and the scarcity of money there, is adduced, with stringent logic, as an argument for our own consideration. Capital is needed to develop our claims. If it come from the East, it will be in treasury notes, and if this be made our currency, the scarcity of money will disappear, and prosperity will be universal. Gold that does not weigh the same in all scales, especially late in the evening, and upon the whole, we think no more necessary measure can be introduced, than one making the national currency, vulgarly called greenbacks, the circulating medium. Another fact must not be omitted, and that is, that the gold current in this city, from October to April, is not worth as much by 25 per cent, as that in circulation from April to October. It is blown by the merchants, blown by the bankers, mixed with quartz and the refuse of the gulch, and all the real dust goes to the States. It is essential to our welfare, and the value, as compared to gold, will soon regulate itself.

That a country must have suitable buildings for the confinement of criminals, admits of no doubt, and as soon as a jail, conducted on remunerative principles, is established so soon may we count upon a decrease of crime, a secure custody of the lawless and a diminution of expense.

Some excellent patriotic remarks close the message and we trust that the programme so ably sketched by the Governor, will be carried out by the Legislature. The result must be increased prosperity and stability in territorial affairs.

Bannack Correspondence.

[From our Special Correspondent.] BANNACK, Dec. 21st, 1864.

My ideas of the members of the two Houses of the Assembly must be deferred for the relation of events which have transpired since I last wrote you.

After the adjournment on the 12th, there were numerous caucuses, and speculations became rife as to what Mr. Rogers would do with the Governor's "iron clad." It had been currently reported that he had been service with the late terminations of Sterling Price, and his report was thoroughly believed by his friends, so that if justice had been done him in the premises, he would have seen more bayonets than ballots, and in the place of honors would have received a halberd. For this reason he was nominated for the House and elected, and for this reason, also, he was the prominent candidate for the honors of the Speaker's chair.

He came on Monday evening on the coach, anxiously enquiring if the organization was yet effected. Mr. McCormick cared nothing about taking the oath himself, he had become so thoroughly versed in the Machiavellian philosophy, that he sees clearly how consistently he may be a good friend of the Government, a Union man par excellence, and yet aid this Rebellion against the American people will design to elect a President to his liking. Hence, swearing to support the Government and constitution, by the logic of McCormick, is swearing to aid the rebellion until some one comes into office who will properly distribute the spoils. So with that sinister countenance of his, he went to the Governor to induce him to make an exception, in this matter of swearing, in favor of his rebel friend. This "oath" was not only in the way of Rogers, but Pemberton, of your place, did not think it would agree with his stomach, and like the sensible man he usually is, refused to compromise his friends by accepting one of the chief clerkships.

Thursday came. Lawrence took the oath in the Council, and in the House Rogers dictated an oath which he said he could take and not turn his stomach, even if it did trouble his digestion, and the House voted to let him in if he would take that. Down it went, and a joint committee of the two houses waited on the Governor to inform him that they were ready to hear any communication he should be pleased to make to them.

The Governor thought that it was his duty to see that it was the Legislative Assembly of Montana, organized in pursuance of law, before he made any communication to them, and so he mildly told the committee that he had a communication to make to the Legislative Assembly, but not to any house until it was properly organized.

The committee returned, reported, and history must say that here began the most ridiculous farce enacted in many years. Children's war is terrible, compared with the one waged in the interests of this rebel for two or three days. They gravely passed a resolution to appoint a committee to go and tell the "school master" of the Governor. They mistook fastism and froth, bombast and buncombe, for a little good sense, and in their hot haste to make a point against the Governor, transformed themselves into—well, pick animals of ineluctable euphony.

Begg in the Council, and McCormick and Mayhew in the House, thought the Governor would scare at one of those speeches as so familiar, but they did not move the Governor into a state of uneasy nervousness, even. Then the threat to tell the people of Montana, fell powerless; to tell Congress had the same effect, and finally, to tell Abraham the elected and elected, resulted ditto. The Governor seemed an "iron-clad"—humbled his tune and cracked his jokes with his wonted unconcern, and the farce finally fell through of its own dead weight. Rogers resigned; the buzzards who were here after such pickings as a faithful Democratic Legislature is wont to regale its rotaries with, swore horribly, and McElrah, who aspires to be the Thurlow Wood of Montana, and who

opened a new political campaign the day after the last election, spoke of that victory as—

"Dead Sea fruit that tempts the eye, But turns to ashes on the lips."

Then came a motion to send another committee to the Governor, which our Democratic friends thought degrading, but it went over their heads, and the Governor waited upon the Assembly and read them his message.

It would have pleased your readers could they have seen how blandly Bagg looked at the Governor from behind that bizarre appendage of his, when the reference was made to the war and the condition of affairs in the States. All the rest of the "faithful" were thoroughly disgusted, but the good Major is never so foolish.

Below is a list of the officers: President.—R. Lawrence, Madison Co. Secretary.—G. A. Haynes, Beaver Head county. Assistant Secretary.—F. H. Angevine, Madison county. Enrolling Clerk.—John C. Ryan, Madison county. Engrossing Clerk.—R. Harford, Madison county. Sergeant at Arms.—H. G. Otis, Beaver Head county. Doorkeeper.—H. Gilman, Beaver Head county. Fireman.—S. Chamberlain, Beaver Head county. Page.—W. P. Edgerton, Beaver Head county.

Speaker.—George Detwiler, Jefferson county. Chief Clerk.—W. L. Brown, Madison county. Assistant Clerk.—G. H. Stevens, Beaver Head county. Enrolling Clerk.—Dick Richardson, Madison county. Engrossing Clerk.—Blake, Madison county. Sergeant at Arms.—George Hill, Madison county. Doorkeeper.—Flaw, Beaver Head county.

There is one other matter about which I am jealous. In the council, an inveterate scribbler is writing letters to the Post, and I caught another "knight of the quill" trying to do the same thing. Now I worked hard for this position—got it fairly—am paid for writing these letters. That they do not suit all, is why they suit me so well. I have represented my claim according to law, and no one shall jump it with impunity. Let the audacious gentlemen beware.

More anon. FRANKLIN. P. S.—In reading over the foregoing with reference to the farce enacted by the Democratic members of the Assembly, I am compelled to ask you to make my apology to those Santa Fe Jacks, that do the freighting Summitward.

It is the right of freemen to bear arms; but privileges which are at war with the interest of society are often wisely curtailed and sometimes, prudently abolished. We think that in this kind of "Abolition" all will concur. On Saturday night two men were shot in Hattie's saloon, without any reasonable cause for the affray. That they and some others were not killed or mortally wounded, was a mere chance.—There is no need of weapons either for defence or offence, in Virginia City. The place would be as quiet as Boston, if the practice of carrying arms were abolished. The legislature ought to make it penal, in a high degree, for any private citizen to carry deadly weapons into any public place of resort or about the streets. The welfare and safety of the public demand it.

QUACKERY.—If some kind of check be not placed by the Legislature upon those who seek to fill their pockets, at the expense of the life and health of their unlucky patients, the consequences must be most disastrous. A leg lost, and some scores of deaths, are the fruits of quackery in this place, besides minor injuries innumerable. In a majority of instances a civil action is, practically, no adequate remedy. Some severe punishment should be meted out to people who maim and afflict by their ignorance, those who rely on a supposed skill having no earthly foundation but ignorance, brass and a doctor's shingle.

The Duty of Union Men.

At no time since the inception of the rebellion has the prospect of peace been so bright and cheering as at present. We have occasionally before seen glimmers of sunshine through the fearful night of carnage and desolation which has so long enveloped the land; but never during this trying period have we seen the benignant sun of peace shine out, as it now does, with the effulgence of meridian day. The whole horizon is illumined with a blaze of victory. Sheridan has driven the enemy pell mell out of the Shenandoah Valley; Sherman has virtually undisputed control of Georgia and Alabama; Grant is thundering at the very gates of the rebel Sebastopol; Price and his myriads have been hurled head-long from the State of Missouri; while, to crown all, in the terrible conflict just fought between treason and patriotism, slavery and freedom, Union and anarchy, Jeff. Davis and Lincoln, the cause of Right has achieved one of the brightest triumphs recorded in American annals. God be thanked for the result! This stupendous sacrifice of blood and treasure has not been for naught. The star of Liberty will not yet go down in anarchy and blood forever. The freedom-loving millions of the world can still cling with unflinching confidence to the starry banner as the last and best hope of humanity.

But, Union men, the end is not yet; you still have an important duty to perform. Let not the splendor of your victories lull you into a false security. This is no time to be sitting on the stool of idleness, and reveling in the glories you have won. Remember there is danger even in victory.—If you believe that copperheadism is dead, and that therefore no further exertion on your part is necessary, be at once undeceived. Again and again have we felt that that scourge had been wiped out from the land forever; but as often has it risen from

its mire and slime, and, armed with the magic power of "Democracy," threatened the very existence of the Republic. Be assured that treason still lurks beneath the folds of the flag, and that without due vigilance on your part, it may yet warm into life, and thrust its fangs into the vitals of the Nation. Now is the golden moment to deal it the fatal blow. Let not the opportunity pass unimproved. The time to influence men's political opinions is after the election, when their minds are cool and rational and open to the dictates of judgment and reason; not before the election, when their passions, prejudices and animosities are red with the heat of partisan strife. What we want, says Gen. Grant, is a vigorous and determined unity of sentiment at the North. The force of this remark is strikingly apparent when we observe with how much of joy we hail the faint glimmers of Unionism that occasionally peer above the surface of Rebellion.

We at once cherish the hope that they are but smothered embers from the pent up fires beneath, which will yet break forth in their majesty, and wrap the fabric of rebellion in a sheet of flame. With what infinite delight, then, must the arch traitor and his minions view the treasonable machinations of a powerful party at the North which every National election contests the possession of the Government? This tower of rebel strength must be torn down, at once and for all time, if we would have peace and prosperity again smile upon our distracted country. Not a stone of it must be left to encourage the rebels in their infernal work of disrupting the Government. To this end let no exertion be spared, no available means left unemployed. Abandon no loyal organizations; but infuse life, vigor and power into them, that they may be of still more efficient service in the grand work of saving the Republic.

Montana, especially, owes this duty to herself. Overrun for the present by rebel fugitives from Missouri, and Copperheads from the sinks of treason, Southern Indiana and Southern Illinois, her voice in the National Council is to-day mingled with the allies of the enemies of the country.—Let that foul blot be wiped from her fair escutcheon. Let her not stand out, alone among her sister Territories, an object of detestation to all loyal men. Let us go to work with a will and a determination that will sweep every vestige of disloyalty from our midst. Let it not be said that, while rivers of blood were streaming from heroic hearts for the salvation of the Republic—millions of treasure poured out, for the same hallowed purpose—and mourning and desolation enshrouding a myriad hearthstones,—we were unmindful of all else but our slavish devotions at the altar of Mammon. Let us but do our whole duty, and then, when the Nation's flag again floats in the gentle zephyrs of peace, planted as that banner will be on the stable foundation of universal liberty, we shall have the proud satisfaction of knowing that we assisted in the noble work, and of seeing our infant Territory swell the gladsome chorus, Long live the Republic! D. R. L.

District Court Decision. Chief Justice Hosmer delivered the following opinion with reference to the validity of the Idaho Statutes within the Territory of Montana: The question presented under that provision of the statutes of Idaho, requiring the payment of a tax by attorneys, inasmuch as it embraces the question of the legality of the proceedings of the courts of this Territory, since its organization, is of great importance. It is only because I am compelled to decide it, that I venture to do so at all; but in the necessity for the decision, I hope to find ample cause and apology for making one.

In the form in which the question is presented, it is new, and, of course, not devoid of embarrassments which might test the learning and capacity of able and able jurists than myself—and when I reflect that even they might fail, I take courage, and proceed to the performance of the duty, not without great distrust of my own judgment, but with the hope that I may at least escape any sinister imputation.

The question is: Are the laws of the Territory of Idaho applicable to the Territory of Montana? If this were a question dependent upon authority and argument alone, this Court, after listening to the numerous and able efforts of the bar last evening would be at a loss for support, whatever might be its position. It is, indeed, all the more difficult to decide the question, after examination of the well fortified conclusions to which, pro and con, lawyers have been driven, who have given the subject ample investigation.

On the 23d of March, 1855, Congress, from territory belonging to the Territories of Washington, Utah and Dakota, declared the boundaries of the Territory of Idaho, and passed an act for its temporary government. On the month of May, 1857, it declared, from the same act, the boundaries of Idaho, the boundaries of the Territory of Montana, and adopted another act for its temporary government.

Previous to the passage of this last mentioned act, the Legislature of Idaho, at its first session, adopted a code of laws, which were in force over all that part of the territory, afterwards changed to Montana, before its boundaries were declared by Congress. This code, since the organization of the new territory, by a kind of common consent among the people, has been continued, and both the civil and criminal jurisprudence of the Territory has been regulated by it. A great number of civil suits, involving in their determination a large amount of money, and many important personal interests—and an almost equal number of criminal suits, involving the trial and possible punishment of offences of grave character, have had their inception under these laws, and await their final issue in this court, and the other courts of this territory. In fact, the whole fabric of the jurisprudence of the Territory since the month of May, 1857, depends upon the decision of the question now submitted to this Court—and the question is precipitated upon the Court in the midst of the business of an active session, all of which must be declared illegal, if the decision be adverse to the continuance of the statutes of Idaho. To add to the embarrassment of the question, there is one that I feel more than that, which, in the event of a decision either way, obliges me to differ in opinion with so many gentlemen of the bar, who have brought to the discussion of this question an unwonted degree of eloquence and learning.

Viewed in any light, the question is full of difficulty. There is no positive authority on either side, though we are not without precedent for the recognition of the Idaho statutes. It was the case in California, after its separation from Washington, the case of California, cited by counsel, in which Mr. Buchanan, while Secretary of State, gave instructions for the suppression of a military government, by the old Spanish and Mexican laws, until such time as a Territorial or State government could be provided, though unlike ours, resembling it in substance. California was acquired by treaty. Montana was set off from Idaho by act of Congress. Now is there any reason, because of the difference between these two forms of acquisition, why one more than the other should be favored and the same general rule? Doubtless, Mr. Buchanan's reasoning the adoption of the old law, because it was most conformable to the condition and institutions of the people, and not from any supposed or real obligation that the Government was under to resume that authority. The Government at that time, through the instructions of Mr. Buchanan, could as well have obliged the people of California to submit to the common law as the Mexican and Spanish law. But the Mexican and Spanish law was most natural. Now, with the people of this Territory. They did not, as a matter of course, learn that their territory

relations had been changed until some weeks after that event took place. It found them with institutions formed, cities organized, rights held, and controversies commenced under the laws of Idaho. Can it be believed for a moment, that by forming a new Territory, Congress designed to interfere with any of these incidents of a society which could neither force nor prepare for a change which could either deprive of law or which required a forcible and immediate separation from all the law it possessed? Should the suit which had been commenced after the new territory was formed, cease because it was commenced under the laws of Idaho? Should rights and franchises obtained and corporations formed under that law at that time, fail for want of law? Congress, certainly, designed nothing of this sort.

It has been argued with ability and ingenuity, that the Common Law took effect upon the passage of the new act. What is the Common Law? It is really difficult on this continent to determine. It means differently in different States. No part of our country, at any time, has ever been subject to the Common Law as it exists in the parent country. Parts of it, to be sure, have ruled here, but it has never been modified by statutes, distorted by forms, and circumscribed by pleadings, so that an English lawyer, under all its disguises, would find it to recognize its dependence upon the principles in which he had been educated. Would it be a natural or an easy transition from the law of Idaho to the Common Law? Had not such rights been acquired, such institutions formed, such obligations incurred, and such interests involved in controversy under the law of Idaho, as would absolutely have prevented such a transition? Is the absence of positive authority, and when so much depends upon the exercise of ordinary good sense, in the decision of a question of this importance, I can see no reason for adopting a view of the subject, the only effect of which would be to create confusion, multiply difficulties, and complicate controversies already commenced.

The authority quoted from Chancellor Kent, that "a State neither loses any of its rights, nor is discharged from any of its duties, or obligations, in the form of its civil government," though not authoritative, is full of instruction. In immediate connection with this he says—"The body politic is still the same, though it may have a different organ of communication. So if a State should be divided in respect to territory, its rights and obligations are not impaired; and if they have not been apportioned by special agreement, those rights are to be enjoyed, and those obligations fulfilled by all the parts in common." If this language has any meaning, it is that a State shall, when divided, unless by consent of its people, enjoy the same laws that they enjoyed when intact. Counsel aptly quoted the recent case of the division of the State of Virginia. No change was made in the State constitutional government and laws of the Virginia. The act may have said that the laws of the old State should be continued, but, under other provisions, it was provided, that this provision would have been unnecessary. They would have prevailed as a matter of course. It is so with this Territory. The inhabitants naturally conform to the laws of Idaho after the separation. They did not, from the necessity of the case, do anything else, and no one was involved in the change to make it, even if change had been desirable. They could not do it without undermining and throwing to the winds their whole system of civil and criminal jurisprudence.

But as the decision of this question is not controlled by any direct or positive law, let us try to contemplate it as an original question, now, for the first time presented to a court. Here is a people numbering twenty-five or thirty thousand. They have surrounded but, under other provisions, it was provided, that this provision would have been unnecessary. They would have prevailed as a matter of course. It is so with this Territory. The inhabitants naturally conform to the laws of Idaho after the separation. They did not, from the necessity of the case, do anything else, and no one was involved in the change to make it, even if change had been desirable. They could not do it without undermining and throwing to the winds their whole system of civil and criminal jurisprudence.

With regard to the particular question submitted, as to the liability of attorneys to pay a license, I should, if it were consistent to do so, very gladly relieve them from this liability. But I do not see how it can be done without unmaking the entire fabric, as the statute is to be for a preposterous purpose. I trust that gentlemen of the bar will feel it too great a hardship to comply with the requirements of the law.

DIED. In Gallatin, Jefferson county, on Sunday, December 12, 1864, E. J. Johnson, formerly of Racine, Wisconsin, aged 25 years.

NEW ADVERTISEMENTS.

Notice. ONE of the Best Quartz Mining Interests in Montana for sale at a great sacrifice. 2000 feet, principally interests in discovery claims. On the list are claims on the Silver Basin and Bohemian in Madison county, and the well known Courtwright, Ophir, Montana and Pervian Lodes, in Jefferson county, in Prickly Pear region. They will be sold separately or together. For particulars respecting assays, price, terms of sale, enquire of JOHN C. TURK.

Stray Cattle. TAKEN UP by Wm. Connor, herdman for Ketchikan, Kinney & Co., at their ranch on the Madison, 10 miles below the crossing on the California Road, four red steers, one branded on left hip figure 8, hot cald five years old; one pale red, no brands, 6 years old; one heavy red, no brands, 6 years old; one deep bodied about 7 years old. Owner can have the same by proving property and paying charges. December 19th, 1864.

Notice. THERE will be a monthly meeting of the Nevada Circle, Fanian Brotherhood, in Nevada City, on Thursday evening, January 5th, 1865, at Brady's Hall. A full attendance is expected as business of importance will be transacted. JOHN H. McGRATH, Sec'y.

Notice. REGULAR Meeting nights of the Nevada Circle of Fanian Brotherhood, every Thursday evening. JOHN H. McGRATH, Sec'y.

JUSTUS COOKE. GENERAL AUCTIONEER. Particular attention given to the sale of Live Stock and Real Estate, sales of Stocks of Goods in lots. Office at the Elphinstone Corral, Virginia City, M. T.

Assay Office. THE Undersigned are now prepared to assay all rocks in small or large quantities, of Montana, Silver, Gold, Copper, Lead, Antimony, or Bismuth. Office No. 2, of Content's Block, corner of Wallace and Jackson Streets, Virginia City, M. T. W. Y. LOVELL & CO.