

BIENNIAL MESSAGE

OF

HIS EXCELLENCY

FREDERICK W. PITKIN,

TO THE TWO BRANCHES

OF THE

LEGISLATURE OF COLORADO,

JANUARY 5, 1881.

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# BIENNIAL MESSAGE.

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*Gentlemen of the Senate*

*and of the House of Representatives :*

You have assembled at the Capital at the period fixed by law, representing the people of the various sections of the State, to enact such laws as in your judgment the interests of the State may require. I congratulate you upon the prosperity which prevails everywhere within our borders and upon the anticipations which we may reasonably indulge that the near future will bring to our people and to our industrial interests a still greater degree of prosperity than we now enjoy.

It seems proper at this time that we should recognize the blessings which we have received from the Ruler of the Universe who shapes the destinies of States and Nations, and devoutly implore his guidance and protection in the future.

In pursuance of the requirements of the Constitution I now proceed to submit such information as I possess, in relation to the condition of the affairs of the State, together with such recommendations as seem to me to be for the best interests of the people.

I will first invite your attention to financial affairs.

## FINANCES.

Although events have occurred during the past two years which were unexpected, and which required expenditures that could not have been anticipated, the financial affairs of the State are most gratifying. The condition of the State Treasury, November 30, 1880, as shown by the reports of the Auditor and Treasurer, was as follows:

Warrants outstanding . . . . .	\$169,537 64
Certificates of indebtedness outstanding . . . . .	<u>43,276 02</u>
Total debt . . . . .	\$212,813 66
Deduct cash in Treasury . . . . .	<u>67,146 99</u>
Indebtedness over cash in Treasury . . . . .	\$145,666 67
Add interest on warrants . . . . .	13,520 00
Interest on certificates of indebtedness . . . . .	<u>3,700 00</u>
Excess of debt over cash in Treasury . . . . .	\$162,886 67
Amount due State on taxes payable January 1, 1881 . . . . .	\$431,338 57
Deduct outstanding indebtedness . . . . .	<u>162,886 67</u>
Balance due above indebtedness . . . . .	\$268,451 90

In addition to the above indebtedness of the State, there should be included the sum of \$19,506.15, for which certificates of indebtedness have been issued since November 30, 1880, in payment of the military expenses at Leadville last summer. These expenses, although incurred during the last fiscal year, were not allowed by the Military Board until December last, and are not, therefore, embraced in the statements of the Treasurer and Auditor.

Although the taxes are due and payable at the present time, the experience of former years shows that the principal payments will not be made until spring; that the payment of other portions will be delayed until succeeding years, and some will not be collected at all.

The expenses of the State government, and of its several educational, charitable and penal institutions, con-

continue from day to day; and although the amount of revenue due the State so largely exceeds the present indebtedness, it can hardly be hoped that this floating and constantly accumulating indebtedness can be extinguished by the receipts from taxes during the present year.

Most of the States of the Union have a large bonded debt in addition to the floating indebtedness represented by State warrants for current expenses. Few, if any, of the States are in as healthy a financial condition as Colorado. If the taxes are burdensome in any of the counties, examination will show that they are for other purposes than the support of the State institutions.

#### PENITENTIARY.

The expenses necessarily incurred in restraining and supporting the criminal classes in our penal institutions are very burdensome, and are increasing from year to year. The reports of the officers of the Penitentiary herewith submitted show the number of convicts to be as follows:

November 30, 1878,	- - - -	146
November 30, 1880,	- - - -	226

being an increase of nearly fifty-five per cent. during the past two years. As most of these convicts have been sentenced to hard labor, the managers of the institution have endeavored to utilize their labor to the best advantage. New buildings and improvements of the most substantial character have been constructed. The estimated value of the improvements is \$32,631.23. There has also been received from the earnings of the shoe shop, \$22,023.05, making a total value of \$54,654.28 derived by the State in money and in improvements to State property from the earnings of the convicts during the past two years. The expenditures of the institution for that period were \$92,809.19.

The present buildings contain only two hundred and ten cells. The officers of the prison are of the opinion that for the maintenance of proper discipline only one prisoner should be confined in a cell. The number of prisoners at the present time exceeds the number of cells. Within the three months immediately preceding the date of the reports, sixty-six new convicts were received, and there is but little doubt that the number will be largely increased during the next two years. The reports show that a new building with cells should be erected, that the present dining room is too small for the accommodation of the prisoners, and also that a building for hospital purposes is required. If you are of the opinion that these new buildings should be constructed, provision should be made for beginning work immediately, as a considerable time must necessarily elapse before they can be completed.

The commissioners and warden also report that additional prison grounds must be secured for the new buildings. The main street of Cañon City passes directly in front and on the south side of the prison buildings. On the opposite side of the street from the prison, the State owns seven acres of land, but this ground cannot be used for these purposes, as the street prevents the extension of the prison walls in that direction. The land surrounding the prison grounds on the north, east and west is owned by the Colorado Coal and Iron Company. The portion north and northwest of the prison grounds consists of a stone and lime quarry, from which the stone and lime has mostly been obtained heretofore used in the construction of the prison buildings and walls. The land east of the prison is comparatively level, and this is the only ground upon which the new buildings can be erected.

The commissioners have made a conditional contract with the Coal and Iron Company for the purchase of twelve acres containing the whole of the lime quarry and a portion of the stone quarry in the rear of the penitentiary, for the sum of \$2,500, and also for the exchange of the land owned by the State across the street for an equal number of acres east of the penitentiary, where the new walls can be extended and where the new buildings should be erected.

To enable the commissioners to carry out this contract it will require legislative action appropriating the \$2,500 for the purchase money and giving authority to convey the seven acres of land owned by the State in exchange for an equal number of acres to be conveyed by the Coal and Iron Company.

In several of the States there are prisons for women. We need no such prison in Colorado as there is no female convict in our penitentiary.

The warden recommends that instead of giving each convict ten dollars in cash he should be furnished transportation to the place where he was sentenced, or to some other point equally distant, as it is too frequently the case that the money given him by the State is spent for intoxicating liquors as soon as the prisoner is released.

The commissioners and warden have estimated the expenses of the penitentiary for the coming two years as follows:

Materials for new buildings . . . . .	\$8,000 00
Purchase money for quarries . . . . .	2,500 00
Maintenance and expenses of prison . . . . .	117,500 00
	<hr/>
Total . . . . .	\$128,000 00
Less probable earnings . . . . .	30,000 00
	<hr/>
Appropriation asked . . . . .	\$98,000 00

The report of the warden gives the names and particulars of the five persons whom I have pardoned during my term of office. Since the date of report one additional person has been pardoned by myself and one by Lieutenant-Governor Tabor while he was acting governor, both of which latter pardons took effect on Christmas, 1880. A more liberal exercise of the pardoning power might have somewhat diminished the expenses of the prison, but it would not have probable increased the safety of the public.

In December, 1880, the Honorable M. N. Megrue, who has served the State so acceptably as warden of the penitentiary, tendered his resignation, and Judge W. B. Felton was appointed to succeed him. Under the faithful administration of the board of commissioners and Warden Megrue, I believe the Colorado penitentiary has been as honestly and economically managed as any similar institution in the country.

#### MUTE AND BLIND INSTITUTION.

This institution was established nearly seven years ago. Although intended for two distinct classes of persons—the mutes and the blind—it has, up to the present time, been used exclusively for the benefit of the mutes. This has been occasioned by the very limited accommodations which could be afforded by the small appropriations heretofore made, which were insufficient for the most numerous class—the mutes.

The system of instruction required for those who are deprived of hearing and speech is entirely different from that required by the blind, and if even a limited number of the blind had been received into the institution, it would have been necessary for the trustees to have secured the services of a teacher especially educated for the instruction of the blind.

During the past two years extensive additions have been made to the building, and the system of water works, which supplies the city of Colorado Springs, has been extended to this institution. These permanent improvements have cost nearly \$7,000, and have greatly enlarged the accommodations, and added much to the convenience and health of the inmates, and the safety of the property from fire. The present value of the buildings and grounds is estimated at \$20,000. The number of mute pupils at the date of the annual report was thirty-six. They are being instructed in the ordinary branches of English education, and the older pupils in such mechanical pursuits as will enable them to become self-supporting, instead of being compelled to depend, as paupers, upon the cold charities of the world.

These pupils, notwithstanding their physical infirmities, seem to be as bright and intelligent as average children of their age. As soon as the peculiar system of instruction taught at this institution introduces them to the great world of knowledge and thought, they readily become experts in all mechanical pursuits requiring the use of only the eye and the hand. It is impossible that we should not sympathize deeply with these persons whom misfortune has deprived of those faculties which enable them to communicate with their fellow men, and to contend for the great prizes of wealth and fame in the various pursuits of life.

The least which the State can do is to educate them for such pursuits as are adapted to the faculties of which they have not been deprived. I submit herewith the interesting reports of the President, Dr. Buckingham, and of the other officers, showing that the institution is in a most prosperous condition. From these reports and from my



own personal visits I am satisfied that the institution has been managed carefully and economically, and that all who have any official connection with it are deeply interested in the welfare of the children. I believe that the children are treated with the greatest tenderness, and that they are making rapid progress in education.

The request of the Board of Trustees that the tax of one-fifth of a mill may be continued for the support of the institution and for the erection of an additional building will, I doubt not, receive your careful consideration.

#### COLORADO INSANE ASYLUM.

The last Legislature provided for the establishment of an Insane Asylum and for its location at Pueblo, provided a tract of land to the amount of forty acres in or near said city, suitable for such an institution, should be donated to the State. The Board of Commissioners of said asylum selected a site, and a conveyance of the property was made to the State as provided by the law. The commissioners also purchased for the immediate use of the State a building at a cost of thirteen thousand dollars. Considerable time was required to make necessary alterations, to construct additional buildings and to secure the furniture necessary to prepare it for occupancy. The institution was opened on the 23d day of October, 1879, and the insane patients, which were then being maintained at the expense of the State in various eastern asylums, were removed to Pueblo. Although the buildings have accommodations for only thirty-eight inmates at one time, there have been seventy-seven patients admitted and treated since the day it was opened. During the many years in which the State provided for its insane in institutions at the East, very few were discharged, and they remained a continuing expense

to the State. The report of Dr. Thombs, the superintendent, shows that of the patients received at Pueblo, twenty-five have been discharged, twenty-three of whom had recovered, and two had improved to such an extent that they could be properly cared for by their friends. The expense of maintaining these patients at Pueblo has been considerably less than if the State had paid the usual charges for their support at Eastern asylums. And had they been sent to other States for treatment, there would have been an additional expense for railroad transportation amounting to about ten thousand dollars. Therefore, on account of the diminished cost of maintenance at Pueblo, the saving in railroad transportation and the greater probability that the patients will be discharged at the earliest day when the State can reasonably be relieved from the burden of their support, the establishment of this asylum seems to be a matter of economy.

It has become apparent that the capacity of the present buildings is entirely insufficient for the protection and proper treatment of this class of unfortunate persons. The rapid growth of this State during the past two years, and the increase in population which may be reasonably expected from year to year, renders it absolutely necessary that the present buildings be enlarged as speedily as possible. There are, at the present time, quite a number of persons who have been adjudged insane, who are confined in county jails for want of accommodation in the asylum, and they are compelled to remain there until, by the death or discharge of patients, vacancies occur by which they can be admitted. The report of the superintendent states that about seventy per cent. of cases of recent origin treated at insane asylums may be expected to recover, and

that diseases of the brain become chronic in direct proportion to the delay in securing the proper treatment. It is, therefore, not only a matter of humanity, but of economy, that adequate accommodations should be provided for the treatment of these persons as soon as they have been adjudged insane. The superintendent states that employment and exercise in the open air, for such portion of the patients as can be indulged in these liberties, is one of the most beneficial agencies for restoring them to their normal condition. Although a large proportion of the cases under his treatment have been chronic cases, a large amount of work has been done by these patients in clearing and fencing land, planting shade and fruit trees, in the construction of buildings and ditches, and in various employments about the asylum. The commissioners and the superintendent are of the opinion that the forty acres of land now owned by the State is entirely insufficient for the purposes of the asylum, and that by securing additional land at the present time for the employment of patients, it will not only be a great benefit to them by raising many articles of food required at the asylum, but will contribute materially toward making the institution self-supporting

I have visited the asylum at various times, since it was established, and have each time been impressed most favorably by what I have seen and what I have been able to hear of its management. I believe the patients are treated with the greatest kindness and with great professional skill. The commissioners, in my judgment, have acted with zeal and fidelity for the best interests of the State. I heartily concur in the recommendations heretofore referred to. There are other recommendations made by the superintendent in relation to traveling expenses of patients, cloth-

ing, mode of admission to the asylum and methods for determining the question of their insanity, which I recommend to your attention.

As this is an institution so recently established, which will in after years involve considerable expenditures, a more intelligent opinion of its present condition and necessities could be obtained if a committee of your honorable bodies could visit it during the session of the Legislature.

At the same time this committee might, I think, profitably inspect the penitentiary at Cañon City, and the Mute and Blind Institute at Colorado Springs.

#### STATE SCHOOL OF MINES.

This institution was established by the Legislature in 1874. The original plan was to conduct it in connection with Jarvis Hall, an institution of learning then existing in Golden. The building for the School of Mines was erected by the State near the Jarvis Hall buildings, about one mile from Golden. Shortly after the completion of the building for the School of Mines, Jarvis Hall was destroyed by fire, and the State building was left on the open prairie without means of accommodation of pupils. The school received very little encouragement from the State, and was of but little benefit to its educational interests. The Legislature of 1879, however, levied a tax of one-fifth of a mill for its support, and the proceeds of the tax have been wisely applied by the board of trustees to the support of the school and to the erection of a handsome school edifice in the city of Golden, which is in every way suitable for the purposes for which it was intended. For the first time since its establishment, the School of Mines is now prosperous and creditable to the State. Its corps of instructors are able and

efficient, and with proper encouragement it will become one of our most important educational institutions.

As the mining interests are at the present time, and will probably be for generations to come, the principal source of our prosperity and wealth, it is of great importance to the State at large that they should be conducted by men having a special education for the business.

Colorado has heretofore been greatly injured by the erection of worthless reduction works, costing millions of dollars, which were entirely unsuitable for the treatment of ores, as well as by the expenditure of vast sums of money in the development of claims, which, to an intelligent miner, would give no promise of return for the money invested. The failures of these enterprises have brought discredit upon mining as a legitimate industry. While no amount of education can make every mining enterprise a success any more than a thorough education can make every banker or manufacturer successful, yet there is no field of enterprise in which instruction especially adapted to the business will be likely to bring greater returns than in mining. As Colorado will soon become the great mineral producing State of the Union, on account of its mineral resources exceeding those of any other State, it is a matter of public interest that we should afford the best facilities for instructing our citizens in all those branches of knowledge which can be usefully applied to this industry. And in proportion as the men who are at the head of these great enterprises have a thorough knowledge and comprehension of their business, in such proportion will the worthless claims be abandoned, and capital and enterprise will be directed to the hundreds of thousands of mines from which profitable returns may reasonably be expected.

Believing that the institution at Golden may have an important influence in giving an intelligent direction to the mining interests of the State, I think it is worthy of a liberal support. The board of trustees have taken a great personal interest in the school during the past two years, and its present prosperous condition is owing largely to their efforts.

#### STATE BOARD OF AGRICULTURE.

Since the adjournment of the last Legislature the building for the State Agricultural College at Fort Collins has been completed and the college has been opened to the public.

The trustees were very fortunate in being able to secure the services of the Rev. Dr. Edwards, a man of wide reputation as a successful educator, for president of the college, and to secure scientific men of high repute as professors. The number of students up to the present time has been forty-four, and the indications are that this number will be largely increased during the coming year.

Connected with the college building is the college farm, containing two hundred and forty acres of land. The estimated value of the farm and buildings exceeds \$20,000. The course of instruction embraces the usual branches of learning taught in colleges, and also practical and experimental farming.

The experiments made by Prof. Blount have covered a wide range of subjects. He has tested the adaptability of over sixty varieties of wheat to our soil and climate, with remarkable results. He has also experimented with different kinds of corn, oats and other cereals, the methods of sowing and planting, the proper time for irrigation, and the frequency with which the various crops should be irrigated.

Very valuable experiments have also been made by Prof. Annis in the cultivation of fruit trees, grapes and different varieties of vegetables, which are set forth in his report.

The farmers of the State have not, as a general thing, the time nor the means to carry on experiments on a large scale. They are compelled to produce a crop annually for the support of their families, and cannot afford to make tests of many varieties of seeds and different methods of cultivation when they know that a majority of these experiments must be conducted at a loss. The object of the State farm is to have these experiments carried on under the supervision of a person especially educated for the purpose, that the test may be conducted intelligently and under the most favorable conditions, and that the results obtained may be accurate and entitled to the confidence of the farming community. These results are not only given to the public through printed reports and newspapers, but they are witnessed by the pupils of the college, who assist in the labors of the farm, and through them the different sections of the State from which they come are directly benefited. The college, in this manner, affords opportunities for its students to obtain a thorough education in the sciences, classics and mathematics, and also in scientific farming, and at the same time brings to the knowledge of agricultural communities many new facts by which their business may be more profitably conducted.

Under the direction of the State Board of Agriculture, farmers' institutes have been held at various points in the State, which have been attended and addressed by the faculty of the college, and by many of the most intelligent farmers. In this manner a new interest has been developed in improved methods of farming, which will be of great

benefit to the agricultural interests of the State. Many of the essays read at these institutes were of great merit, and I would recommend that the secretary of the State Board of Agriculture be authorized to procure copies of those most meritorious, and have them published with the reports of the different officers of the Agricultural College for distribution throughout the State. I would also concur in the recommendation made by the State Board of Agriculture, that some provision be made for the collection and publication of statistical information relating to our agricultural interests. Letters are constantly being received by officers of the State government and by officers of the State Board of Agriculture, from persons who contemplate emigrating to Colorado, making inquiries in relation to the condition of our agricultural interests, which could be easily furnished by sending a pamphlet on this subject containing the requisite information.

The mines of the State are at the present time exempt from taxation, and the burdens for the support of the State government rest largely upon the farmers. I trust that the Legislature will make a liberal appropriation for the support of the State Agricultural College, and for such publications as may benefit the farming interests.

#### THE IRRIGATION LAW.

The Legislature of 1879 passed an act to determine the water rights of various parties throughout the State, and providing remedies for enforcing these rights. The bill, as passed, received the attention and careful consideration of some of the ablest men in the State. It was not expected by its authors that it would be perfect in all respects, but it was an experiment, and the best that could be accomplished at that session. The law has now been in force for two



years and its good features, and defects, are well understood. The farmers are vitally interested in securing legislation this winter that will remedy the objections to the present law, which were not foreseen, but which the experience of two years has made apparent.

In many portions of the State the rights to water are more valuable than the land lying adjacent to the streams. When these conflicting rights are ascertained and determined, it is important that there should be some summary method for enforcing them. A delay of one or two weeks, in a dry season, frequently results in the loss of valuable crops. And after the crop is destroyed it affords the person no satisfaction to know that he had the legal right to the water which some other person appropriated at the critical moment. I trust that you may be able to amend the present law in such a manner that these water rights may be definitely determined, and that remedies for enforcing them may be provided, which will be speedy and effective, at the time when the condition of the crops will not admit of delay. The farming interest is largely represented in the present Legislature. I doubt not that this question will receive the attention which it justly deserves.

#### STOCK LAW.

The stock law passed by the last Legislature has, I understand, been generally beneficial to the stock men. While its provisions were designed almost entirely to meet the wants of the herds ranging at large over the plains in the eastern portion of the State, the burdens were made to fall upon the owners of herds which were kept in fenced enclosures, as well as upon those whose stock ranged over the prairies.

The provision relating to the collection of the tax has

not been enforced in several of the counties, including some which were most largely benefited by the enactment. I think the law should be amended so that no taxes should be imposed upon cattle that are not embraced in the round-ups, and that provision be made in some manner for enforcing the collection of the tax in the counties benefited by it. The benefits and the burdens should go together. There are other amendments to this law which are desirable, including changes in the boundaries of the round-up districts, which are well understood by the representatives of the stock interest in each of your bodies.

STATE BOARD OF LAND COMMISSIONERS.

The lands owned by the State embrace sections sixteen and thirty-six in each township (excepting mineral lands), which are granted for school purposes. They also include 487,573 acres granted for other purposes, such as public buildings, State university, penitentiary, etc., which have already been selected. In addition to the selected lands, the State is entitled, under the several acts of Congress, to 315,739 acres, which have not been selected for the reason that the lands in those portions of the State which have been surveyed, and are now subject to entry, are of such a character that it has been deemed inadvisable, up to the present time, to locate them to make up the deficiency to which the State is entitled. The report of the Secretary of the Land Board gives all the details in relation to the State lands. It also contains numerous recommendations of great value, which have been brought to the attention of the secretary and the board during the past two years. These recommendations, which have been indorsed by the State Board of Land Commissioners, should receive the attention of the appropriate committee and of your honorable bodies.

It is important that suitable legislation should be obtained at this session in relation to the leasing and sale of these lands, in order that the grants may become of the greatest possible value to the State. As these interests are so large and so valuable, they should be committed to the care of some person of experience and well-known ability. The salary now provided by law for the secretary of the Land Board is only \$1,200 per annum. I think no business man would be willing to commit the management of such large landed interests to a clerk whom he could employ for such compensation; and for this reason I think it would be a matter of economy for the State to raise the compensation of the secretary to the sum of \$2,000 per annum.

The rents received by the State from its leased lands are now four times as great as they were two years ago, and by proper attention, this sum can annually be very largely increased.

In addition to the recommendations made in the Secretary's report I would suggest that some provision be made by which the timber standing on the State lands may be sold. It is impossible for the Land Commissioners to know of the depredations constantly being committed on timber lands scattered throughout the State, or to prevent them. It is reported that valuable tracts have already been stripped of their timber by unknown parties, from which the State may have derived considerable revenue had the Land Board been empowered to sell the timber independent of the land. There is no question of greater importance to the financial interests of the State than the proper management and disposition of the State lands.

THE NATIONAL GUARD.

The Legislature of 1879, in order to promote the effi-

ciency of the militia of the State, passed an act creating the National Guard. For the purpose of supporting this organization it levied an annual poll tax of fifty cents upon each male inhabitant of the State above the age of twenty-one years, and provided that out of this fund the necessary expenses of each company for rent of armory, fuel, lights, etc., should be paid, that the different companies should be uniformed, and that an encampment should be held lasting not less than four nor more than six days in each year. If this tax had been collected, as the law required, it would have been sufficient to support and uniform the different companies. But many of the counties have failed either wholly, or partially, in enforcing this portion of the law.

The tax collected for 1880 was less than one-fourth of the amount which should have been realized from the persons who actually voted at the annual election. The result has been that the revenue derived from this source has been insufficient to pay the necessary expenses of the companies already in service. The State has been unable to uniform a single company. During the excitement growing out of Indian troubles, applications were made to me to accept companies in nearly every populous town in the State. On account of the meagreness of the military fund I was compelled to decline the services of these companies, excepting those organized at places near the Indian reservation. During the troubles at Leadville last year, I accepted several companies of infantry and cavalry for the preservation of the peace in that locality.

The number of companies now in the service, and the places where they are located, are given in detail in the report of the Adjutant-General. Only two companies have ever been uniformed by the State. Several other com-

panies have procured uniforms from their own company funds or by private subscriptions.

The Adjutant-General states that there is not an overcoat or cartridge-belt in the department, excepting a few purchased by the Chaffee Artillery, and there is no camp or garrison equipage whatever. However indifferent the people may be in times of peace to the existence of military organizations, their necessity is immediately realized as soon as troubles arise. Oftentimes the fact that there are military companies near at hand will avert the troubles which they are designed to suppress. As long as we remain a frontier State, with Indians upon our border, and a floating population that is not permanently identified with any community, there will be demands from time to time for the services of the militia. Private citizens have given largely heretofore for the support of these organizations. The commander of the Chaffee Artillery alone has contributed more from his own means to maintain two military companies than one-half the tax collected from the people of the entire State for military purposes during the year 1880. As it is impossible to determine in advance in what portion of the State the services of the militia may be needed, the burden of their support should rest upon the State and not upon private parties. The members of these different organizations receive no compensation for the times they spend in drilling and fitting themselves to become soldiers, and are always subject to the call of the Commander-in-Chief or the various Sheriffs of the State, in case of public danger. It is not unreasonable therefore that they should expect the State to provide them with suitable clothing and equipage.

During the past two years nineteen new companies

have been received into the service. Adjutant-General Hall has labored earnestly to promote the efficiency of the National Guard, and it is owing largely to his efforts that they are now in a condition to command the confidence and to protect the interests of the people. His report contains many valuable suggestions, which, I doubt not, will receive your serious consideration.

#### COMMON SCHOOLS.

The advantage and the necessities of the common school system has never been underestimated in Colorado. The earliest settlers who came here were not only men of enterprise, but generally men who had received good educational advantages in older States. They knew that the safety of society rested upon the intelligence as well as the virtue of the people.

From the days of the first settlements until the present time the school house has followed the progress of the pioneer into the remotest mining camps in the mountains. And to-day the tourists from the East are as much surprised at the excellence of our schools as the richness of our mines.

We have received from the general government large grants of land for school purposes, but as so large a proportion is upon the arid plains, but little revenue has been derived from them. The schools have been mostly supported by a direct tax upon the districts. The expenditure during the past year was \$11.07 per capita of the school population, and of this amount the school fund only yielded 53 cents per capita.

I believe no tax is more cheerfully paid by our people than that imposed for the support of the common schools.

In mining communities we see greater inequalities in the distribution of wealth than in any other portion of the country. We see colossal fortunes accumulated in a few years. The taxes paid by our prosperous miners for the support of the public schools are large, yet no class of the community is so vitally interested as they are in educating the rising generation. The security of their property must depend upon maintaining social order, and the continuance of a pure and stable form of government. If the masses are ignorant they can expect nothing but disorder and anarchy in the future.

The report of the Superintendent of Public Instruction gives all the details in relation to the schools during the past two years. It is an exhaustive review of the various questions connected with the educational interests of Colorado, and contains many valuable suggestions which should command attention.

Professor Shattuck has, for four years, devoted his best services to the cause of education in the State. The present prosperous condition of our educational interests, which are appreciated at home and highly respected abroad, is owing in a large degree to the intelligent supervision which they have received from him.

STATE UNIVERSITY.

I have received no report of this institution. From personal visits at various times, I know it to be under the supervision of an intelligent and able president, who is thoroughly devoted to the interest of the University, and of an intelligent corps of professors. The attendance is large, and the institution is in a most prosperous condition.

STATE BOARD OF HEALTH.

The board have carefully inspected the penitentiary, the insane asylum, mute and blind institute and the various

educational institutions of the State, and reported upon their respective sanitary conditions. The annual report contains carefully prepared articles upon various subjects effecting the health of the citizens of the State. The publication of these articles in connection with the report of the board it is hoped will disseminate valuable knowledge among the people. Inasmuch as the services of the members are gratuitous, it is unreasonable to expect that they should pay for the publication of the reports which embody the results of their labors. I would recommend that an appropriation be made for this purpose, and also that some reasonable compensation be provided for the secretary, for the collection and publication of vital statistics that may be of benefit to the health of the people of the State.

#### FISH CULTURE.

I invite your attention to the interesting report of the Fish Commissioner, Mr. Sisty. With the small amount of funds placed at his disposal, by the last Legislature, he has done all that was possible to introduce new varieties of fish to the State, and to preserve the varieties which we now have. The propagation of fish by artificial means for the purpose of furnishing a cheap and abundant supply of food, is receiving the attention of the Legislatures of most of the States. While this is the case it is very much to be regretted that there is a disposition in some parts of the State to permit practices which will result in the entire extermination of the fish in many of our streams. The present fish law is sufficiently stringent, but like other laws is not self-enforcing. Unless there is a determination on the part of the people to prevent the catching of fish by nets, by the use of explosive materials, and at improper seasons of the year, it is not possible for the Fish Commissioner to prevent their speedy extermination.



The report shows that some of the fish, which the commissioner was able to obtain from the east, arrived in excellent condition, and that in a few years we may hope to have the ponds throughout the State supplied with German carp, one of the most valuable species of fish for food purposes which has been introduced in this country. The large shipments of white-fish eggs, donated to the State by Superintendent Potter, of Ohio, where a total loss, on account of the delays which occurred while they were being transported here. Commissioner Sisty has devoted much time to the study of this subject and the various recommendations which he has made are worthy of your consideration.

SECRETARY OF STATE'S OFFICE.

The report of the secretary shows that the business of the office has increased about five-fold during the past two years. The number of articles of incorporation filed have been enormous, and it has been impossible for Secretary Meldrum, with but one deputy to assist him, to bring up the recording to a period later than December, 1879. It is, in my judgment, absolutely necessary that he be provided with another deputy or clerk. I concur in the recommendation that the fees to be paid into the State treasury at the time of filing articles of incorporation should be at least ten dollars, and they might properly be fixed, I think, at twenty-five dollars. From my personal knowledge of the increase of business during the past two years in the offices of the State treasurer, and State auditor, I feel it my duty to recommend that a clerk be allowed each of them, or that some reasonable appropriation be made to enable these officers to procure necessary clerical assistance. Neither the secretary of State, the treasurer or auditor with the present small salaries, can afford to employ a deputy if the officer relies upon the salary for his own support.

## REVISION OF THE LAWS.

The demand for the general laws of 1877, has been so great that the English edition is very nearly exhausted. The secretary of State estimates that the copies now on hand will not supply the demand for more than six months. I would suggest, for your consideration, whether it will not be advisable to have the laws remaining in force, after the executive shall have acted upon the bills passed at the present session, revised and prepared for publication by some competent attorney to be employed for that purpose, or that a commission be appointed to codify the laws and to report them for adoption at the next session of the Legislature.

## NEW JUDICIAL DISTRICTS.

The great influx of population and the unexampled business activity since the date of our admission as a State have greatly increased the amount of litigation, both civil and criminal. The suits pending in the courts and undetermined, are very numerous, and involve interests of great magnitude. The district courts have not only been overworked, but they have been unable to hear and determine a large number of important cases brought before them. The constitution (sec. 14, art. vi.) provided that no increase in the number of district courts, or district judges, should be made until after the year 1880, and that after that period, the number should not be increased oftener than once in six years.

In considering the question of adding new districts and new judges, it will be necessary for you to consider both the requirements of the present time and what they may reasonably be expected to become during the next six years.

The dockets of some of the courts are crowded with cases which will require many months to dispose of. In the district court of Lake county, alone, I understand that there are over fifteen hundred civil cases, and more than one hundred and fifty criminal cases pending, which have not been reached for trial.

Some of these cases, especially those affecting titles to mines, involve interests which are not only of great importance to the suitors, but to the prosperity of the counties in which they are located. Where the working of a mine is enjoined until the question of title is determined, it affects both the laboring men employed upon the mine and the community in which they live, as well as the owners of the property.

It is reasonable to expect that the present Legislature will make such an increase in the number of district courts that the business of the various counties may be transacted, not only upon the present basis of business, but with due regard to the increase which may be anticipated during the coming six years. The State should guarantee to its citizens, and those who may hereafter come here, a speedy determination of those rights affecting either life, liberty or property.

#### LOCATION OF STATE CAPITAL.

You are required by the constitution of the State to make provisions for submitting to the people the question of where the State Capital shall be located. Article VIII, section 2, of the constitution, makes it the imperative duty of the present Legislature to provide the necessary machinery by which the people can, at the general election this fall, express their preferences as to the proper location of the State Capital, and in case no choice is made that the question shall be determined at the general election in 1882.

## APPORTIONMENT OF LEGISLATURE.

The present representation of the different counties in the two branches of the Legislature is based upon what was believed to be a fair apportionment according to the population at the time the constitutional convention was in session in 1875. But in order that no county should be deprived of the representation to which it might become entitled, by virtue of its increased population, the constitution provides for a new apportionment at this time. The growth of different sections has been so unequal that, according to the present apportionment, several of the largest counties are practically without representation.

These counties are the ones most recently settled, and on this account the necessity for legislative action, suited to the present condition of affairs existing there, is much greater than that required by the older counties.

In a matter of this kind the only object which should be sought, is to give each county its just representation.

## THE DEATH PENALTY FOR MURDER.

The statutes provide that "the punishment of any person or persons convicted of the crime of murder, shall be death." (Section 615, General Laws of 1877.) Under the construction which has been given by the courts to Section 868, of the General Laws of 1877, if a person pleads guilty to the crime of wilful and deliberate murder, the death penalty cannot be inflicted, but the punishment is imprisonment in the penitentiary for such period as the court may deem proper.

Under this construction of the statute, if the evidence against a person charged with the crime of murder is so conclusive that he can entertain no reasonable hope of

acquittal, he can, by pleading guilty, escape the death penalty. But if the circumstances of the homicide are of such a character that the accused hopes for an acquittal, and after submitting all the facts to the consideration of a jury he is found guilty as charged in the indictment, the court can impose the penalty of death.

A large number of persons are now confined in the penitentiary at Cañon City who have plead guilty to the crime of murder, and are being supported at great expense to the State. I recommend that said Section 868 be repealed, or that it be so amended that if capital punishment is continued in the State, the criminal against whom the evidence is conclusive, and who admits the commission of the crime, shall be subjected to as severe a penalty as the criminal who asserts his innocence and submits all the circumstances of the case to the determination of a jury.

#### REPORTS OF JUDGES.

I transmit herewith, the reports of the judges of the Supreme Court, and of the judge of the first judicial district. The other district judges have failed to make reports.

The recommendations of Judge Elliot are very numerous, and show the defects in the present laws which have been brought to his attention during an active experience upon the bench. The judges of the Supreme Court commend it as an able and painstaking presentation of defects in our statutory law, and they express the hope that it will be regarded as deserving the attention of the General Assembly.

The judges of the Supreme Court intimate that, in their opinion, a thorough revision of the statutes is desirable, if not necessary. The various recommendations are so tersely stated that it is impossible for me to condense them and unnecessary to repeat them at length.

## LEADVILLE TROUBLES.

In the latter part of May, 1880, a strike began among the employes of some of the mines at Leadville, and in a few days it became general throughout the camp. The Sheriff of the county communicated with me, from time to time during the progress of the trouble, advising me, in each communication, prior to June 13, that he felt able to preserve the peace.

Strikes on a smaller scale had frequently broken out in this State, and it was hoped and believed that some adjustment would be made of the difference between the miners and mine-owners whereby this one would terminate as peaceably as those which had preceded it.

I am informed that during the interval between the first and thirteenth of June, men not belonging to the laboring classes had begun to participate in these difficulties. Although nearly all the miners were peaceably disposed, and conducted themselves with great moderation, it was believed by a large number of the citizens of Leadville that in the excited condition of public feeling a few desperate men might precipitate a collision that would bring untold calamities upon the city.

Shortly after midnight, on the thirteenth of June, I received several dispatches from prominent citizens of Leadville, including one from Sheriff Tucker, representing the condition of affairs there as very alarming, that there was danger of bloodshed and of destruction of property, and calling upon me to declare martial law.

I telegraphed the Sheriff at once, directing him to summon to his aid every law-abiding citizen in the county, to preserve the peace. At the same time I directed David J. Cook, Senior Major-General of the State Militia, to pro-

ceed at once to Leadville, and take such steps as might be necessary for the safety of the city and its inhabitants.

General Wilson, the Major-General of that Division, was at the time absent from the State.

I hoped and believed that these measures would result in preventing further trouble or disturbance.

About noon of the same day, however, (June 13,) I received a dispatch containing the signatures of over one hundred of the leading citizens of that place, informing me that it was absolutely necessary that I should declare martial law there immediately. This dispatch was signed by the Sheriff of the county, the Lieutenant-Governor of the State, by various county and city officials, and by men who, although in private life, have been for years well known and respected throughout the State. No representations or information of a different character reached me from any source while this question was under consideration.

At that time the railroad was not completed to Leadville. Trains were only running as far as Buena Vista, about forty miles distant from that point. To have collected troops from other portions of the State, and sent them to Leadville, would have involved great delay, as well as enormous expense. They could not have reached there before Wednesday night, June 16. Such action could not have afforded the relief, which was represented to me to be absolutely necessary, *immediately*.

Upon the state of facts, as I understood them to exist, there seemed to be no alternative between declaring martial law, or of refusing to act in the premises, and taking the chances of collision between excited classes of the people which might result in serious loss of life, and even in the destruction of the city.

I deemed it my duty to declare martial law, and thereupon issued a proclamation to that effect, placing General Cook in command, as soon as he could reach the city, and General Wm. H. James temporarily in command, until General Cook should arrive.

Companies of militia were immediately organized, and order was speedily restored.

Throughout these troubles General Cook and General James acted with the greatest skill and prudence. No life was lost, no person was injured, and no property was destroyed.

The order of June 13 was revoked on June 22, as soon as General Cook advised me that he thought the civil authorities could maintain the peace, unaided by a military force.

When the application was made to me on the thirteenth of June, I had no time to consider the question as to whether the county or the State would be responsible for the expenses.

As soon as the troubles were over, the bills for these expenses were presented to the State for payment. The Attorney-General examined the question, and it was thought best by the Attorney-General and myself, considering the amount involved, that the opinions of other eminent counsel should be obtained. I therefore submitted the question of the liability of the State to General Bela M. Hughes, and Wells, Smith & Macon for their opinions. I submit herewith the opinions of these gentlemen, and of the Attorney-General, in which they all agree that the State, and not the County of Lake, is liable for the expense. When the disturbance at Leadville reached such a magnitude that the Sheriff could not control it, and he called upon the Executive, it thereby became a matter of State



importance affecting the peace, welfare and good name of the State; and the expenses incurred by Executive action became a charge against the State.

The bills were all carefully examined, and approved, by General Cook. Adjutant-General Hall subsequently went to Leadville and carefully investigated each bill, and they were afterwards acted upon by the Military Board, which spent several days in considering them.

They amount, as allowed, to the sum of \$19,506.15, for which certificates of indebtedness have been issued.

#### INDIAN TROUBLES.

In the fall of 1879 a portion of the tribe of Ute Indians, which had, for many years, annoyed and intimidated settlers in the northern and northwestern portion of the State, which had murdered many citizens, and had committed frequent depredations upon the property of our people, engaged in acts<sup>o</sup> of direct hostility against the Government. The facts connected with the attack upon Major Thornburgh's command, the murder of Father Meeker and all the male employes at the White River Agency, and the captivity of the women, are all well known to the public. These crimes were committed on the Ute Reservation.

Immediately upon receiving news of this outbreak, I dispatched couriers to all the frontier mining camps near the reservation, to notify the settlers of the condition of affairs, in order that they might guard against possible dangers. The alarm which was felt throughout the western half of the State, on the receipt of the news of these Indian atrocities, was intense and widespread. It extended to towns and mining camps that were nearly two hundred miles distant from the nearest Indian.

Demands were at once made upon me from the several

localities which believed themselves to be in danger, for arms and ammunition, and in some cases for the protection of State troops.

At that time the entire number of serviceable arms owned by the State was nine hundred and forty. Of this number four hundred and seventy had been obtained from the General Government the preceding spring, through the exertions of Senator Hill. Five hundred and eighty stand of these arms were in the hands of regularly organized militia companies. The remaining number (360) were in the State armory at Denver. They were all that were at my disposal and that could be sent for the protection of endangered settlements.

I was able to procure six hundred additional stand of arms from the General Government by executing a bond that the State would return them whenever demanded.

Upon representations made to me by a large number of the leading citizens of Lake City that that portion of the State was in imminent peril, I dispatched General Cook to that locality by special train with arms and ammunitions, and ordered the military company at Saguache to proceed there at once. Scouts were also sent to various localities in order that the settlements might be notified if the Indians left the reservation to attack them.

General Wilson gave his personal attention to the protection of the points northwest and southwest of Leadville. General Hamill went in person to Middle Park to arm and organize the settlers that they might defend themselves in case of attack. The State arms and those obtained from the General Government were distributed at those points which seemed to be in the greatest danger.

These arms were believed to be needed at once if at all, and were sent by the swiftest means of conveyance and at the expense of the State, excepting those taken to the Middle Park by General Hamill at his own expense. The cost of transportation was regarded of less importance than the speedy protection of the settlements.

During this time the United States Government was sending federal troops into the State in large numbers. It was supposed that they came here to punish the guilty Indians. But negotiations were soon opened, which lasted through many weeks. Several of the chiefs of the tribe were taken to Washington (including Captain Jack, the principal leader in the revolt), and a treaty was effected, providing for the removal of the White River Utes from the State to the Uintah Reservation, and for locating the balance *as farmers* either in Colorado, New Mexico, or Utah as the commissioners appointed for that purpose might determine.

This treaty, at the present time, has not been fully carried into effect. No guilty Indian has been punished, except that Douglas, who is believed to have been the most friendly chief of the White River Tribe, and not connected with the murders, has been incarcerated in the military prison at Fort Leavenworth for nearly a year.

#### THE JACKSON MURDER.

All the facts which have been ascertained by the white people of the State in relation to the capture and murder of young Jackson are too fresh in the public mind to require restatement. There are other matters subsequent to the murder which are not generally known. On the fifth day of October last a complaint was sworn to before M. S. Waller, a justice of the peace at Gunnison

City, charging Indian Agent Berry and others with being either principals or accessories to the murder. Warrants were issued by justice Waller upon this complaint, but instead of placing them in the hands of the Sheriff of Gunnison County or one of his deputies, the justice deputized one E. C. Smith, who held no position as an officer of the law, to make the arrest of Berry.

Smith proceeded alone to the Los Pinos Agency to secure his prisoner, and on reaching there endeavored to make the arrest. Berry refused to recognise any authority on the part of Smith to arrest him, and refused to surrender as a prisoner.

On the 16th day of the same month, (October, 1880,) a United States Deputy Marshal passed through Gunnison city on his way to Los Pinos with a warrant from the United States Court for the arrest of Berry, charged with substantially the same crime. Upon this warrant Berry was arrested by the marshal.

After the federal marshal had left Gunnison City for the Reservation, Waller, the Justice of the Peace, for the first time placed a warrant for Berry's arrest in the hands of Sheriff Yule of Gunnison county. The fact that the justice withheld the warrant from the sheriff, who was the proper officer to serve it, was unknown to me until after Berry was in the custody of the United States authorities. Had the warrant been placed in the hands of Sheriff Yule or his deputy in the first instance, there is but little reason to doubt that Berry would have been arrested at once by the officers of the State.

As soon as it was known that the United States marshal had Berry in custody, I requested Attorney-General Wright to apply to the Federal Court for an order directing

the marshal to deliver him to Sheriff Yule, that he might be tried in the State Courts.

The question of jurisdiction was argued before the Federal Court, the State being represented by Attorney-General Wright, Senator Teller, and Dixon and Reed, and Berry by eminent counsel. The United States Court declined to surrender Berry to the State authorities. Judge McCrary in announcing the decision of the Court, held that the Federal Court has exclusive jurisdiction for the trial and punishment of all persons accused of crimes committed anywhere on the Ute Reservation.

Before Judge McCrary had rendered his decision, Judge McMorris, then Judge of the Fourth Judicial District, at my request made an order for a special term of the District Court for Gunnison county, to be held on the third Monday of December, with a grand jury, to inquire into the circumstances connected with Jackson's murder. When the Court convened on that day, Judge Helm (the present Judge) was of opinion that it would be useless for the State Courts to take further action in the premises after the decision rendered by the Federal Court. No action was taken.

#### THE GUILTY INDIANS.

Whether or not Berry and the other parties against whom complaints have been made had any criminal connection with the surrender of Jackson to the Indians, it is not claimed by any one, so far as my knowledge extends, that they were the parties who actually murdered him. This crime was committed by the Indians, and they are the chief criminals. Up to the present time no steps have been taken by the United States Government to punish these Indians for this crime.

Any one familiar with their habits and customs can readily understand how impossible it is for the law officers of the Government to secure their conviction and punishment. Their acts are the acts of the tribe. Whoever may strike the death blow or be the executioner, he is not performing an individual act but is executing the decree of his race. The tribe are the guilty parties. No member will disclose any of the circumstances connected with such an act. The investigation at Los Pinos in 1879 showed that their testimony under oath was but a monotonous succession of perjuries. No secret society known to modern times can more jealously guard a secret than this tribe has done in concealing the facts surrounding the killing of young Jackson. These facts are known to the entire tribe, yet no white man knows who murdered him.

It is probable that Jackson will pass into the history of the State along with the eleven men massacred at Dead Man's Gulch, with William Potts and his companions murdered at La Veta, with Father Meeker and his associates, and the long list who have fallen victims from year to year to savage fury; and no Indian will be punished. If, however, any action should be taken by the Federal Government, it is not unreasonable to suppose, in view of our past experience, that the guilty parties will be taken to Washington and loaded down with presents to appease them.

Bills have been introduced in Congress by our delegation and are now pending there, providing for amendments to the Indian treaty, and the act ratifying the same in order that the entire tribe may be removed from the State. Such legislation is earnestly desired by our people and is rendered absolutely necessary by the existing condition of affairs. If any considerable number of these Indians

remain in the State, it is inevitable that conflicts must occur between the two races.

Our settlements not only border upon the reservation for a distance of over five hundred miles, but owing to the configuration of the mountains it is necessary that settlers and freighters should cross over a long distance on the reservation and through the Indian Camp, over a road authorized by the Government, to reach some of our most prosperous mining regions. As long as the two races are thus brought in contact, and so many of our settlements are exposed to attacks from savages who spare neither age nor sex, there is constant danger of an Indian war.

The decision of Judge McCrary, if it gives the proper construction to the treaty and acts of congress, places these Indians beyond the jurisdiction of our courts. But the duty still rests upon the State to defend her citizens. It is for the Legislature to determine to what extent the executive may incur indebtedness for this purpose. We all know that the Ute tribe is both warlike and formidable. They have horses without number and are supplied with the most approved arms of modern warfare. That they have no fear of the general government has been conclusively demonstrated with the past eighteen months.

In case of a conflict between this tribe and the State, it would be necessary for the State to purchase arms, ammunition, horses, saddles, provisions, blankets, etc., to properly equip the troops. The State troops should also be furnished with Gattling or Hotchkiss batteries.

There have been several occasions during the past two years when public sentiment would have supported me in taking any hostile measures against this tribe.

The necessary expenses incurred by an Indian war may

have been somewhat overlooked. It cost the United States Government two million dollars to capture ninety-three Modocs. The frontiersmen familiar with Indian habits could have doubtless accomplished this result at a much smaller cost. But to successfully overcome the Ute tribe on grounds with which they are thoroughly familiar, would be a task of great magnitude, and would not only involve great expense, but would expose many settlements to unusual danger.

And inasmuch as there is greater willingness to incur indebtedness than to pay it, the authority for an outlay of such a nature should be expressly given by the Legislature.

I have called your attention to this Indian question at some length, that you might give it the careful consideration which it requires, and make such provision for emergencies that may arise, in case the Indians remain in the State, as in your judgment seems proper.

In a few days I shall have the honor of submitting some further matters for your consideration.

#### CONCLUSION.

I desire, in conclusion, to express my thanks to the State officers who have been associated with me during the past two years, for the courtesies and consideration which I have received from them in all our official intercourse. They have ever been ready and willing to heartily co-operate with me in my efforts to serve the public interests.

I should do violence to my own feelings if I did not allude to the late William B. Vickers, who was my Private Secretary for fifteen months preceding and at the time of his death. He was so modest, so faithful in the performance of his duties, and so true to his convictions and his friends, that he endeared himself to the people of the entire



State. He has left to his widow and children a good name which is more precious than riches.

The records of the retiring administration have now passed into the permanent history of the State. It cannot be expected that mistakes have not been made, for no human government is perfect.

It is hoped and believed however, that the affairs of the State have been administered honestly and economically and according to the best ability of the respective officers.

FREDERICK W. PITKIN.

*Denver, January 5, 1881.*