

Milton Latham

6th Governor, LeCompton Democrat
1860–1860

Inaugural Address

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GENTLEMEN OF THE LEGISLATURE AND FELLOW CITIZENS:

Entering upon the duties of Chief Magistrate of our young State, it is expected of me, in accordance with precedent, to briefly indicate the line of policy by which I will be governed. Nothing but "examples of the most revered authority" induces me to comply with this expectation. It would be a better custom, upon the termination of an official career, for an officer to point his constituency to his several completed acts, rather than, in the assumption of office, to promise what may not be consummated. Having a due sense of inability to fully meet public expectation in the discharge of the manifold duties imposed upon me, I should shrink from their responsibility were it not for the confidence that, in their execution, I have no other aim but to merit the generous faith of a free people, who have so honored me, and, at the expiration of two years, leave the blessings of our government unimpaired, if not enhanced; at the same time relying, with certainty, upon my motives, in all public acts, being received by the people with charity and indulgence, and my efforts to promote the good of society being sustained by a prompt and enlightened co-operation of the other branches of our State Government.

In a new State nothing can be so disastrous to its permanent prosperity as a continual change of her polity. This is strikingly true of California, so varied in her resources, so scattered in her population, and requiring so much caution in framing the general system of her laws. Alterations in her statutes cannot result in anything but continual confusion, while our advancement absolutely demands their stability and permanence. It is better even to suffer, for a time, under poorly-framed laws than to be afflicted with continued transitions into rules and regulations of persons and property purely experimental, which are again to be supplanted by a new order. The large mass of the people in a republic should always be as conversant with general laws as those persons following their study as a profession. One of the principal reasons why our prosperity has been retarded is owing to this spirit of innovation, each Legislature having almost felt it incumbent to undo the acts of its predecessor, thus destroying anything like stability. I sincerely trust that no general law will be interfered with, unless amendments are absolutely imperative, and that you will allow the social and material interests of the State to develop under existing statutes, trusting to tried experience to justify amendments.

In our past history, a morbid desire to experiment has given rise, more than any other one cause, to the debt with which we now find the State burdened, amounting to three millions [sic] eight hundred and eighty-five thousand dollars. Compared with our resources, this sum may be regarded as small; yet, we look in vain for some evidence justifying its creation, having no public buildings and but one charitable institution—an Insane Asylum—to point to as evidence of its being incurred for the State's benefit. The receipts of government should always be equal to, and—if possible, without oppressive taxation—greater, than the expenditures. Schemes of public improvements, however desirable they may appear, should never justify a variance from this rule, which should be stern and inflexible. Taking the Tenth Fiscal Year, commencing July 1st, 1858, and ending June 30th, 1859, as an example, the State Controller's books show our receipts to be one million one hundred and eighty-four thousand two hundred and twenty-one dollars and seventy-nine cents, and the expenditures to be one million one hundred and nine thousand one hundred and forty-three dollars and twenty cents, leaving a surplus of seventy-five thousand and seventy-eight dollars and fifty-nine

cents. The receipts for the year commencing December 16th, 1858, and ending December 15th, 1859, amount to one million one hundred and ninety-five thousand four hundred and forty dollars and seventy-three cents; and the expenditures to one million one hundred and sixty thousand nine hundred and twenty-nine dollars and fourteen cents, leaving a surplus of thirty-four thousand five hundred and eleven dollars and fifty-nine cents.

Curtailling the expenses of the Legislature in every reasonable manner, by refusing to make appropriations for objects not absolutely just, and by dismissing all employees of government not required, the State receipts would largely overbalance her expenditures. Though taxes are heavy, they will be borne cheerfully by the people, struggling with all the wants incident to the growth of a new State, if they see that the revenue is properly expended by their officers and representatives. In due time we shall require a building for the unfortunate blind—rapidly multiplying in our midst—one for the deaf and dumb; houses of reform for the young in crime, and other institutions belonging to all well-ordered and humane governments. But, in all these matters, let our progress be proportioned to our population, wealth, and ability.

As a starting point, there should be appropriated, during the present session, a small sum to commence at an early period, the erection of a State Capitol, which can be completed in a few years in accordance with fixed architectural plans. The amount so appropriated, if it meets with your approval, should neither increase the taxes, nor exceed the surplus in the treasury after the payment of the State expenses; for your State Capitol once permanently fixed, as it should be, legislation for other public institutions can then be molded in accordance with increasing necessities; the example and experience of our sister States proving and teaching that the public institutions of a State, should, upon the score of economy, if for no other reason, be concentrated, as far as possible, at the seat of government, and the record of our own brief existence showing the separation of even our few public institutions to be attended with unnecessary expenditure to the State, as well as themselves suffering from the want of constant and proper supervision.

Of all the subjects demanding legislation during the present session, no one is of greater importance than the proper disposition of your State prison. The views expressed upon this question by my predecessor, in the main, agree with my own. The lessee system should be ended, and the prison conducted under the control of the State. It is not reasonable to suppose that the hirer of convicts would pursue any other policy than that which will give a moneyed value to his contract. This is at once destructive of the very object of incarceration, to wit: punishment and reform. Experience has proven the impropriety, if not the inhumanity, of leasing the management and care of those condemned to toil and privation, and public opinion is unanimous in demanding a reform in this important matter.

When the Legislature, however, on the twenty-sixth March, 1856, passed an Act authorizing a lease for five years of the prisoners, it was not singular that this should have then seemed the most feasible plan for the disposition of their rapidly increasing number. A majority of our sister States from the first, compelled prisoners to contribute by their labor to their own support. But a comparison of their number with ours, will show that California was, at an early period, the land of refuge for the most hardened of all countries, and their number was so disproportioned to the means of our government, that the State authorities might then well sanction a system the continuation of which experience has shown to be most ruinous. The high price of all articles of consumption in 1856 might well have led the Legislature of that date to believe that ten thousand dollars a month was not unreasonable for the care and support of four hundred and seventy-one prisoners, with a prospective increase.

The subsequent decrease in the cost of living, and the manifest bad workings of the plan adopted in 1856, soon attracted public attention, and it became apparent that the State was paying very dear for the service rendered. Upon the twenty-sixth December, 1857, the last warrant for the monthly payment of ten thousand dollars to the lessee was issued, and in February, 1858, the Legislature passed a law authorizing the Governor to take possession of the prison, thus abrogating by enactment its own contract. This was an assumption of power, belonging to the courts only, and however odious or hard the State's engagement, it should have been adhered to by it as one of the contracting parties, until the only proper tribunal under the Constitution, could have passed upon a question purely judicial. From March 1st, 1858, to May 13th 1859, the State continued in charge of the prison, at which time it was restored, by a decree of the Supreme Court,

to the sub-lessee. The sum expended by the State for its maintenance during this time, including the amount adjudged to be paid for the unlawful entry, was one hundred and eleven thousand one hundred and eighty-one dollars and ninety cents. The sub-lessees alleging their ability to comply with the contract of March, 1856, now claim by suit the price therein stipulated, from December 26th, 1857, to the present time, amounting to near two hundred and fifty thousand dollars. To add to the complex nature of this vexed subject, there is also a claim for forty thousand dollars, charged as the value of the personal property of the sub-lessee, seized by the State Government, as State property, upon first of March, 1858. It is clear to my mind that, equitably, the sub-lessees are not entitled to the contract price while the State was at the expense of carrying on this institution; but whether they are legally, it is for the courts to determine. It will be found, by reference to reports and examination, that there is such confusion and mixing up of public and private property, that, were there no other reason, this alone would demonstrate the necessity of ending litigation and contentions alike ruinous to the State and the parties in adverse interest. I earnestly recommend to the Legislature the appointing of a Select Committee to inquire into all these matters, to confer with the sub-lessees upon a basis of fair and equitable adjustment of all disputes, to report the sum deemed proper and right to be paid by the State; and, acting in a conciliatory spirit, it will at once appropriate such sum as may seem just, and terminate forever this complication in the management of one, the most important, of our public institutions. I am assured that a committee will be met in a proper spirit by those interested in the contract. If, however, all attempts at an amicable settlement fail, then I trust that a law will at once be passed authorizing suit to be brought against the State, in order that the courts may decide speedily all the questions involved. So soon as this is accomplished a law should be passed specifically regulating the management of the prison, providing for an election of Warden and other officers, making them directly answerable to either the Legislature or to the people for the faithful discharge of their duties. The solitary confinement of the convicts, except when laboring—their sanitary regulation, and the division of their large number, by locating a branch prison at some point accessible and endowed with great natural advantages, should follow. The turning of convict labor to their own subsistence—the gradual relief of the State from the burden of their support, is feasible and within the compass of the present representatives of the people. There is no reason why their own industry should not only be made profitable, by being directed in mechanical pursuits not conflicting with free labor, but even be a source of economy to the State in the preparation of materials and erection of our public buildings.

For the consummation of all these ideas thus generally foreshadowed, I shall hold myself in readiness, at all times, to cooperate with the Legislature, to whose discretion and wisdom their execution must of necessity be chiefly intrusted [sic].

In connection with this subject, I desire to express my views upon the power of pardoning convicts, as vested in the Executive by the Constitution.

During the past eight years, one hundred and sixty-seven convicts have received Executive clemency, being nearly one-eleventh of the entire number imprisoned, independent of escapes, deaths and discharges.

From this statement it would appear that either the Courts have been influenced by passion or unjustifiable haste, or that the power of relieving criminals of the judgment of the law has been unwarrantably exercised. Which is the case, it is not my province to even surmise. But I am sure, that the framers of our compact of government never designed that the pardoning power vested in the Executive, was to be used to thwart the judgment of the Courts. The power to pardon is a mere incident to the execution of the law, intended to aid its just operations— never to set it at defiance. When sentence is once passed, the Courts become powerless; and though subsequently it may appear—during the operation of the punishment—by newly discovered evidence, that the person so convicted is innocent, or new facts may show that the judgment is too severe, no power exists in the Court to remedy the wrong. Then, and then only, does the Constitution design that the Executive shall step in and arrest by his decree the unjust rigor of the law. In this respect, he is but a part of its matured policy, and acts in pursuance of a provision at once necessary and humane. I am aware, that the Governor often finds himself in a very trying position, when he is presented with petitions signed by the officers of the Court and the Jury who tried the criminal, recommending Executive clemency, accompanied as they often are by the tearful prayers and solicitations of distressed and almost heart-broken friends and relatives. These petitions are often signed without reflection, and more to avoid importunities,

than from a real belief that the convict should be freed from the penalty of his crime. The responsibility involving, so often, the terrible issue of life or death, is thus easily, and oftentimes thoughtlessly cast upon the Executive.

If our laws were always certain of execution, how seldom would be their infraction. If in our State, as in older political communities, the violation of rights of life, liberty, and property was promptly met by punishment, regardless of persons, how much more seldom would they be set at defiance. Too often powerful friends and improper influences mock at and avert the enforcement of the penalty incurred.

My duty is to my mind plain under the Constitution, which I, this day, have sworn to obey; and although my sympathies and feelings as an individual may often prompt me to exercise this power and free the criminal from the punishment adjudged, I will not, with my understanding of my duty as an officer of the law, pardon any one unless I am satisfied, from indubitable evidence, that the Court originally rendering the judgment would have done differently if the same facts presented to me had been before it prior to its final action.

The proposed act granting a franchise for the construction of a bulkhead in the harbor of San Francisco, will doubtless be brought to your consideration. The feasibility, and even necessity of this project, has already been the subject of much Legislative discussion. There is no disguising the fact that, under our popular institutions and the selfish speculating spirit of the day, straight-forward, honest legislation is becoming more and more difficult. It is the duty of those intrusted [sic] with law-making, to acknowledge this fact, to accept it as undeniable truth—then sternly resist and correct it, if possible.

A measure of such magnitude as this bulkhead, originating in a city where capital, and indeed all the forms of power are concentrated, is oftentimes urged from bad motives and with improper means. And between the good faith and honest convictions of some advocates, and the bad faith of others, it is often difficult to determine as to their real merits. On the other hand, caution should also be exercised against prejudices in legislating upon the immediate interests of San Francisco. There is a natural want of sympathy between men living in the country and those who live in cities. But there is no sense in its engendering an unfair or ungenerous spirit in dealing with matters affecting the rights, and the prosperity of all. San Francisco depends upon the growth of the State. She is simply a striking exponent of the material power and intelligence of the country. The citizens of our mountain counties ought to be as proud of her as all Americans are of New York, all Englishmen of London, and all Frenchmen of Paris.

Whether, within some reasonable time, the harbor of San Francisco will require, or whether it now requires, a bulkhead, is a question upon which there are different views. The evidence taken last winter before a committee of the Legislature, exhibits a strong conflict of opinion, both as to the extent to which the harbor is filling up, and as to the cause—from which it would appear that the necessities of commerce cannot be so urgent as to demand immediate legislation. The fact that the merchants of San Francisco, as a class, are opposed to it, makes this the more conclusive. True, they may be mistaken as to their own interests. But conceding that they are wrong in their opposition to a bulkhead, still they can hardly be wrong as to the fact of their being no immediate necessity for any measure whatever. If the shipping interests of that city were suffering daily, to an extent that demanded legislative action, there would be presented before you a general and constant application for relief. Rival interests would produce, here and there, opposition to even just measures; but that the general mass of the mercantile community would not fairly represent the real wants of their own harbor, seems incredible.

In a matter so important to the State, and one involving such a vast outlay of money, a mistake would be attended by the most disastrous consequences, and every precaution should be used to guard against premature and unwise action. I would, therefore, recommend to you, if any action at all on this matter is deemed advisable by the Legislature at present, to appoint, or authorize to be appointed, a board of experienced and disinterested scientific men to settle the primary questions involved in this controversy.

If it should be found, on the report of such a board, that a bulkhead is necessary, then a survey of the harbor should be made with reference to the currents and other pertinent matters, so as to furnish the best lines for the structure, and determine the best mode of construction. This survey would require much scientific knowledge and much experience, and should be made by men of undoubted ability and integrity.

When these indispensable preliminaries shall have been satisfactorily concluded, the Legislature will then—and not before—have to determine by whom the bulkhead shall be built—whether by individuals, by a company, or by the City of San Francisco.

I am free to say that, at present, I regard as questionable, the propriety of giving to any one company the right to construct a bulkhead, or to protect in any other way an entire city front. It might create a mammoth monopoly, with immense power to interfere with and control the local, if not the general policy of the State—and that, too, in spite of any restrictions that could be imposed. The same objection applies to authorizing the city corporation to do the work, as it might create an ever-flowing fountain of political corruption, and ultimate bankruptcy.

But these are questions which can be better determined at a future time, when we have more information and reliable data to act upon, and, for the present, it does seem most clear, that it would be premature for this Legislature to take any decisive action, until surveys demonstrate the primary cause and the remedial necessities beyond all question.

Upon the twenty-eighth of April, 1857, an act was passed to provide for the payment of equitable claims against the State, and to contract a Funded Debt for that purpose. The first section of this law limits these claims to the sum of three millions [sic] nine hundred thousand dollars, and the twelfth section requires all claims to be presented prior to January 1st, 1859, or to be excluded from the provisions of the law. Under the eighth article of the Constitution, this debt was submitted to the people for their ratification, at the general election in the fall of 1857. The people, by a decisive vote, recognized the debt as legitimate, but when the claims were duly presented, it was found that three million nine hundred thousand dollars did not cover the claims entitled to be funded as set forth in the eleventh section of said law. The same arguments and reasons which demanded the passage of the original, apply to the passage of another law, to be submitted to the people, to ratify this excess, supposed to be one hundred and sixty three thousand seven hundred and eighty-four dollars and twenty-six cents. I am confident that the people will not refuse to pay this surplus as if included in the original law of April 28th, 1857.

Nothing can so injure us abroad, or demoralize public feeling at home, as even a hesitation to meet our State liabilities, justly incurred. The State can do nothing so base as to repudiate its public faith, causing loss to those who acted upon its credit. Every good citizen will regard our State's honor as his own, and protect it, not only as precious, but as sacred. The rights of our own inhabitants cannot be deemed inviolable, if the State renounces the principles that constitute alone their security. If, as a political community, we become odious in the opinion of strangers, we would soon feel dishonored in our own. The subject, therefore, imperatively demands prompt attention, which I doubt not it will receive.

All attempts to introduce into our Legislative Halls, discussions upon national political topics, should be frowned upon and discouraged. It is right that the Representatives of the people in our State Legislature, should, when a necessity arises, instruct our exponents in the National Congress upon matters directly affecting their constituency, but only when they are presumed to be ignorant of the opinion of the people, upon matters relating to the State's good. We have abundant subjects for investigation, without expending the tax-payers' money in the consideration of political dogmas, which have but little, if any, application to us as a community, and which, in the main, are marked only by their abstraction.

There is, however, one subject, notwithstanding it belongs to Congress, which, I trust, will receive unmistakable action from not only the Legislature, but, so far as is possible, the entire people of the State: I refer to the overland mail. The Government of the United States is now paying for our mail facilities, one million one hundred and forty-one thousand dollars per annum. If our people, by petition, and their

Representatives, by a positive expression of opinion, would demand of Congress a daily overland mail, to the exclusion of all other contracts, I am satisfied, on the score of economy and benefit to us as a State, that such an expression would not be unheeded. If, instead of the four different mail routes now in operation and paid for by the government, a contract should be made for a daily overland mail, the route to be selected by the contractors, as their own interest would dictate, the greatest possible good would enure to us. That route most accessible at all seasons of the year, and possessing most advantages would be selected. The passage of the United States Mail daily over any route, would make it the common highway for all those seeking a home with their families and property on the Pacific slope. This would be so, not only from a sense of security and protection by the General Government, by the daily passage of the United States Mail, but because all along its course would soon spring up villages, towns, and settlements, of a hardy class, who would, in themselves, constitute an ever-present power, to intimidate aggressions and punish outrages. Such a highway would soon relieve our State of the greatest blight to her prosperity, the want of a large permanent population.

And above this immediate present benefit, it would—sooner than all other efforts now used combined—bring about the much longed-for consummation of one of the greatest material ideas of our century—the building of the great Atlantic and Pacific Railway.

Action by the People and Legislature might not be met at once by a response from Congress, on account of existing contracts; but it will surely pave the way for its completion upon their termination.

It is well known that our State, though young in years, has been the scene of lawlessness without a parallel in the history of our sister republics. It is not my purpose, by any act of mine, to foster the angry passions which are the legitimate result of such past unreasonable combinations. He who is an enemy to the law, is an enemy to all civil or religious liberty. The isolated acts of such ebullitions of popular frenzy are not the subjects of so much regret, as the terrible consequences upon the heart of society itself. The laws when not executed soon sink into contempt with the mass of the people, and the seeds of anarchy are sown broadcast in the popular mind, to bear bloody fruit, when least anticipated. If the people of our State are to acknowledge no power but physical force, no obedience but personal fear, then indeed is our system of government a mockery and a curse. Our whole theory of political association rests upon the respect in each citizen's heart, for the majesty of the law, not alone its written mandate, but upon an unwritten sentiment of the necessity of its observance, without which the objects of our political union would be indeed poorly subserved. Whatever power the Constitution and the Laws vest in me, shall be wielded to maintain the dignity and enforce the execution of Legislative decrees; and I confidently rely upon correct public sentiment, to aid me in this firm resolve.

Another evil, incident to our republican form of government, is a tendency to concentrate in the hands of the Executive, patronage and power. As the wants of the country increase with her wealth and population, and new offices are created, found necessary to carry out the laws, a disposition has increased in our State, to vest the power of filling them with the Executive. This should be promptly checked. Its consequences may be of the worst possible nature, by vesting your Executive with more power and authority than was designed by the framers of the Constitution, or is compatible with the public weal.

As far as possible all officers should be elective, in order that the public voice may be heard in the selection of those most fit to be intrusted [sic] with public duty. The conferring of patronage upon the Executive, while it imposes an unpleasant duty, can never give as great a security to the public, that the proper person will be selected, and the duties belonging thereto as faithfully discharged, as when the accountability is direct to the people. Each department of your government, should be vested with the selection of all officers incident to a faithful discharge of its own duties. But beyond this, the power should rest with the governed, as far as is possible, to select their own representatives for official duty. I shall ever be found ready to apply these sentiments to present or future laws.

I shall, upon future occasions, gentlemen of the Legislature, avail myself of the privilege of the Constitution, in the recommendation of any measure which I may deem worthy of attention. The more

simple we can render the operation of our government, the better will it subserve the purposes of its creation. The great Ruler of the Universe has bestowed upon us blessings which enable us to institute a favorable comparison with the most prosperous and gifted of our sister States. In mineral wealth we are without an equal; and our rapid stride in commerce and agriculture will soon render us the peer of the most prosperous communities. Our alluvial soil, our matchless climate, our auriferous products, should fill our hearts with gratitude to God, that he has cast our lot in a land so blessed.

Let it be our aim to make our State, morally and intellectually, co-equal with her physical endowments.

The wonderful and almost romantic book of California's history lies beneath our hands, and we, of all our fellow-citizens are privileged to write our names and deeds therein. Let the fair, pure page that lies before us, white and open, in the future be marred by no unseemly blot or erasure; and may the record of our convictions, in even the manner and form of their expression, be such as the honest man may scan with pleasure, and the ardent well-wisher of his State find nothing to regret.