iers, is made the occasion of an attempt to create ill-feeling between the military authorities at Fort Douglas and the municipal authorities of this city. This is a revival of the old tactics. We do not think they will be successful. There has been no real conflict between the city officials and the officers at the Fort. Mutual respect has been the rule and there has been but little misunderstanding. It is not true that any imputation has been made that General McCook has "committed an injustice" in the course he has taken concerning arrested soldiers. We have heard no such charge and do not think there is any ground for it. The facts are these:

A ruling of the Supreme Court of the Territory, which has not been tested in a higher court, has decided that municipal ordinances are not "laws of the land" in the meaning of the Fifty-Ninth Article of War, and that therefore the military and not the city authorities have the right to try and punish soldiers who violate the ordinances of the city. Notwithstanding this, the General has not interfered with the city authorities in arresting and punishing disorderly soldiers until in the recent case of Quillivan and Sheridan, and then not until he was led to believe that unnecessary violence had been used toward them by the police.

We are satisfied that Gen. Mc-Cook is and has been sincere in his expressed desire to "co-operate with the police force." It is to his interest to preserve order and discipline among the men in his command, and he knows that rowdyism and inebriety out of the camp are liable to lead to insubordination and disorder within the camp. We find no fault with the General for requiring arrested soldiers to be turned over by the city to the military authorities. It is in accordance with the ruling of the highest court in this Territory. It is therefore the law until set aside by another ruling of the same court or of the court of last resort. We think the ruling wrong. But the General is not responsible for that. And on demand of the military authorities the city is not legally justified in retaining soldiers in custody.

There is no conflict on this point. Lawless soldiers may be arrested by the police as before. The people are not to be left a prey to the violence of disorderly men simply because they wear the uniform of Uncle Sam. But when such offenders are placed in jail by the police, the Commander at the Fort is to be notified and furnished with the names of witnesses against them, that he may proceed to punish them according to the ruling. All the difference is, that the offending soldiers will be tried by a Court Martial instead of by the City Justice. Under the Articles of War the penalties must be the same in both instances. We are of the opinion that they are not likely to be less rigidly inflicted under a military sentence than by the decision of a city magistrate.

We believe that the intent of the law of the United States is clearly to place unruly soldiers, in time of peace, under the operations of the civil law. They are not *then* to be tried by the military. It is only in time of war that they are to be tried by court martial, and then only for certain grave offences. Here is the Article of War that provides for this:

"Art. 58.—In time of war, insurrection or rebellion, larceny, robbery, burglary, arson, mayhem, manslaughter, murder, assault and battery, with an intent to kill, wounding by shooting or stabbing, with an intent to commit murder, rape, or assault and battery with an intent to commit rape, shall be punishable by the sentence of a general court-martial, when committed by persons in the military service of the United States, and the punishment in any such case shall not be less than the punishment provided, for the like offense, by the laws of the State, Territory or district in which such offense may have been committed."

What does this imply? Why, any lawyer, and any person with a reasoning mind, will recognize the principle that as it is only in time of war that punishment for these offences is to be inflicted under military authority, at other times the jurisdiction of the civil power prevails, as is expressly provided in Article Fifty-Nine, which we have previously given to our readers. That the language of the latter article is not to be used in the narrow sense in which it was construed by the Supreme Court of this Territory under the notoriously erroneous McKean administration, is evident when the article is carefully read. It provides that an officer or soldier who is accused of a capital crime or any offense against the person or property of any citizen which is punishable by the laws of the land, is to be delivered over to "the civil magistrate," and military officers are required to aid the officers of justice in apprehending and bringing him to trial. Observe, any offence which is punishable by the laws of the land, brings the offending soldier, in time of peace, under the jurisdiction of the civil magistrate. Are not drunkenness, assault, riotous conduct, and those disorderly acts of which a few men from the Fort are frequently guilty, "offences punishable by the laws of the land?" And is not the Justice who presides in the Court at the City Hall a "civil magistrate?" And is it not clear that, these points being granted, the City Court has jurisdiction except in time of war?

But it is objected that municipal ordinances are not "laws of the land." What are they then? An ordinance is defined in law and in philology as "legislative, a statute, a law, a decree." Ordinances are laws in a certain sense. A municipal ordinance is only operative within municipal bounds, but it is usually a law of the land adopted for municipal purposes. It is so in this city. The city ordinances are conformable to the territorial statutes. He who violates them violates the laws of the Territory. He may be tried under either. If a soldier commits a breach of the peace, he violates the law of the Territory, and thus commits an offence punishable by the laws of the land, even admitting the strained construction of the ruling that now obtains.

What is to be done under these circumstances? According to the Fifty-Ninth Article of War he is to be turned over to the "civil magistrate." There is no authority in the law by which he can be tried under military authority, *except in time of war*. This being a time of peace he must be tried by the civil magistrate, and the military authorities are required, on pain of being dismissed from the service, to aid in delivering him over and bringing him to trial. The Justice at the City Hall not only a police magistrate but a Justice of the Peace, under the laws of the Territory, which, it is not disputed, are laws of the land. Then if the technical construction of the Supreme Court is to be followed, the soldier in custody must be tried under the laws of the Territory by the "civil magistrate," and cannot be lawfully tried under the Articles of War by court martial.

These are the plain and inevitable conclusions to be arrived at by examination of the Articles of War. The muddle that has been brought about is the fault of a judiciary with an anti-"Mormon" mission. The determination to thwart everything supposed to be "Mormon," so biased the Judges under the McKean administration that the most egregious errors were committed, and the Supreme Court of the United States, on appeal, set many of the rulings of that period aside. This ruling was never appealed from. If it had been it would doubtless have met the fate of others. It is in direct opposition to the genius and ntent of the law concerning the military and civil powers, interferes with the administration of regulations designed for the protection of citizens, and virtually sets a lawless soldier in a city free from punishment, or subjects him to trial and punishment without color of law, for the power of the military officers to try him for civil offenses only prevails in time of war.

It is an absurd ruling with vicious consequences. But neither the municipal authorities of Salt Lake City nor the Commanding officer at Fort Douglas is responsible for it. And yet it is a question worthy the attention of both branches of the public service, whether after all it would not be better to be governed by the law, and, if the municipal ordinances are not to be considered laws of the land, to punish unruly and lawless soldiers under the territorial statutes, and thus comply with the prevalent ruling, and at the same time do no violence to the Articles of War.

MORE EVIDENCE AGAINST THE "SPAULDING STORY."

THE stupid invention known as the Spaulding story has been thoroughly exposed and its assumptions completely overturned, but it is continually repeated and appears to be the only refuge of those who want to account for the Book of Mormon on any other than the true hypothesis, namely, that it is a divine record translated by divine power. The Spaulding story was chiefly concocted by D. P. Hulburt or Hurlburt, who was excommunicated from the Church at an early day, and who made it up to fulfil his threat of vengeance against the Church authorities. The character of the man, the falsity of his statements, proofs that Sidney Rigdon—who, he claimed, stole the Spaulding manuscript and helped Joseph Smith work it over into the Book of Mormon,—never saw the Prophet nor the book until after it was published, have been repeatedly shown up, but of course have no weight with those who will not be convinced. However, as additional testimony on this subject, we publish below the statement of a gentleman familiar with some points bearing on this matter. It will be interesting to the Latter-day Saints, if not to their enemies. We clip it from a letter written by Mr. Hyram Rathbun to the Lamoni, Iowa, *Herald* of August 2nd, 1884, and dated Lansing, Michigan, July 17, 1884:

I remember very distinctly when my father, Robert Rathbun, and uncle George Miller, both lived in Mantua, Ohio, in the years of 1828, 1829 and 1830. My father had been a minister in the Close Communion Baptist persuasion. But he, with uncle George Miller, had more recently been carried away with the reformation which had swept through the Western Reserve in Ohio. It was a kind of a reform Baptist movement. One Sidney Rigdon was regarded at the time as the one towering above all others in ability, and consequently a leader in the reformation. During the year of 1830, one Parley P. Pratt and one Oliver Cowdery, came along. Father opened his doors and received them kindly; and they preached in father's house. Mr. Pratt gave father a Book of Mormon, and requested him to read it. He also gave Sidney Rigdon one, making the same request of him that he did of father. My father was much more of a preacher than he was a debater. Uncle George Miller was not much of a preacher but an indomitable biblical debater, and a sharp, shrewd critic. They agreed to read the book through on this wise: 1st. They covenanted together to pray each day at ten o'clock in secret while reading the book through, for divine wisdom, and for the direction of the Holy Spirit, that they might know of a truth and be directed of God for or against the Book of Mormon. 2d. Father was to read, and Uncle George Miller was to criticise. 3d. They were to lay aside all prejudice, all partiality; and with all Christian candor and righteous fairness, endeavor to reach their conclusions. The result was that they both embraced the new faith, and through all the checkered scenes of life maintained it and finally died in the triumph of that faith.

Sidney Rigdon at once rejected the Book of Mormon given him as an imposition, and boldly withstood Parley P. Pratt and Oliver Cowdery. But Uncle George Miller set right in upon Sidney Rigdon with all his indomitable and unconquerable perseverance, as though it was a life and death struggle; and never gave up the contest until Mr. Rigdon became convitced, and finally converted to the new faith also. This was not a public, but a private controversy They called it then, "The faith once delivered to the Saints." *This was Sidney Rigdon's first acquaintance with the Book of Mormon.* And it was a very trying time with these Reformed Badtists to see their standard bearers with a good many others go over to what was then called "The Church of Christ," and "The faith once delivered to the Saints."

In regard to D. P. Hulburt, sometimes called Dr. P. Hulburt, I have this to say: That it so turns out in the wonderful providence of God, that I have had quite an acquaintance with this very peculiar sort of a man. The facts in his case are these: 1. He was excommunicated from the Methodist Episcopal Church for improprieties with the opposite sex, and lying. 2. He was excommunicated from the Church of Jesus Christ of Latter-day Saints, for improprieties with the opposite sex, and lying. 3. Upon this event he swore vengeance upon the Latter-day Saints, and undertook to destroy them. 4. He then went into the more western and newer part of the state of Ohio, where he was not known, and wormed himself into the "Church of the United Brethren in Christ," and was ordained an Elder among them. Here, both in the conference and in the church, there was a constantly growing uneasiness about his improprieties; until in the fall of 1851, when he was held before the Sandusky Annual Conference of said church, for a trial on charges of gross improprieties toward the opposite sex, lying and intemperance. Each charge; to wit, First, improprieties toward the opposite sex; Second, lying; Third, intemperance, was clearly and fully sustained; and he was suspended from the ministry one year; and as that year he grew from bad to worse, he was entirely excommunicated at the next session of the conference which was held in the fall of 1852.

How do I know all these things? I will tell. In regard to the first item, my mother's people were all Methodists, so that I was blessed with seven Methodist preachers as near relatives. Hence, the ex-communication of said Hulburt from the Methodist Church was familiar household talk whenever any of them met together. In regard to the second and third items first above enumerated, my father had something more to do with than the former. I remember of hearing him tell about said Hulburt imposing upon the church; what a bold, impudent, lying man he was, and when ex-communicated from the Latter-day Saints, how he swore he would have vengeance upon the Mormons. I remember of hearing all of these things talked over and over again. But in after life, I heard him tell what a time he had with the Methodists, what a time he had with the Mormons, he boasted how he swore vengeance upon them. He said that Spaulding manuscript was a little insignificant thing of only about twenty pages, and had no more relation to the Book of Mormon than he had to the inhabitants of the moon; "but," said he, "I made it tell upon them to their eternal damnation." And here he seemed to glut himself in what he had done, what a great thing he had done out of nothing. The obscene language I heard him use to an old minister in abusing him when all alone, and as he supposed, no one hearing him, was so disgraceful and black that I would not tell it under any consideration, except under oath, confirmed me in all the charges brought against him.

In regard to the fourth item, I only have to say that at that time I was an Elder with Mr. D. P. Hulbert, of the aforesaid Sandusky Annual Conference of the Church of the United Brethren in Christ, and personally knew of those grievances. I was one of that honorable, august body of Elders, who for over two days before Bishop Edwards patiently heard his trial, and thoroughly and faithfully investigated all the testimony in his case. And we all came to the same conclusion, that he was a very bad man, and guilty of each charge made against him. We all voted yea. I, Hirum Rathbun, voted on the case to suspend him from the ministry for one year, and by so doing give him a chance to redeem himself; but he went on from bad to worse, and at the next Annual Conference of 1852, by vote, we excommunicated him from the Church for improprieties with the opposite sex, for lying, and for intemperance.

HYRAM RATHBUN.

HE STARTS RIGHT.

THE new Governor of Idaho has started in well. If he continues to be the same kind of Bunn as at present, he will gain the approval of all law-abiding citizens. A strong effort was made on his arrival at the capital of the Territory to obtain from him a commutation of the death sentence on a convicted murder. The following communication shows what manner of man the new Governor appears to be:

EXECUTIVE OFFICE
Boise City, Idaho,
July 30th, 1884.

Dear Sir:—The petition and other papers filed in this office, praying the death penalty imposed upon George Pierson, convicted of killing John T. Hall, alias Johnny Behind the Rocks, be commuted to imprisonment for life, have all been carefully read and thoroughly considered. I deeply regret that I have been unable to find in them sufficient reason to warrant executive interference with the sentence pronounced upon the ill-fated man by the court, and most devoutly hope he may find mercy in heaven. While the disregard of the laws existing among certain classes of this commonwealth, has not weighed anything with me in my consideration of Pierson's case, yet I desire to say now, at the outset of my administration, and it should be understood by all, particularly those who carry "guns," that I shall rigidly enforce the laws, so far as I am able, and under all circumstances be very slow to set aside the judgment of the courts.

If the happy and much-to-be-desired condition of our empty jails and unused scaffolds dawns upon this Territory, during my occupancy of the gubernatorial chair, it must come through the behavior of the people and not by the pardoning power vested in

Your most obedient servant,
JOHN BUNN, Governor.

HON. ALANSON SMITH,
Att'y for defendant, Boise City.

The law providing the death penalty for murderers is in accord with the divine injunction. The common manner of inflicting it is objectionable, but capital punishment is proper for capital crime. A Governor of a State or Territory is expected to see that the laws are faithfully executed. It is only when mitigating circumstances or exculpatory evidences are found to exist after sentence has been passed, that the Executive is justified in preventing the full effects of conviction. The protection of life and property requires strict enforcement of legal penalties and the backbone of Governor Bunn appears to be endowed with the requisite rigidity to effect this. We hope that his future career will be as much to be commended as his initiatory official performance.

A New York doctor steps forward and declares that beer, instead of being less harmful than strong alcoholic beverages, as has been generally believed, is more so.

Two bark peelers at work on Beach Mountain, near Forestburgh, N Y., a day or two ago, killed fifty-one rattlesnakes, ranging from eighteen inches to four feet in length.