

traded them to a neighbor for a horse with which he purposed to start to California. Shortly afterwards the owners discovered their cattle being driven away by their unsuspecting neighbor into his field, and claimed them. It behooves every settler to be always on the 'look out' and carefully watch or secure his property, as many are prowling about, making livings, and procuring outfits out of our means. I would not be severe upon the stranger, but I would suggest that we look with suspicion on every man who has no method of earning his bread honestly, and roams about the premises of our citizens, whether he have fine clothes or coarse. When you trade with strangers be sure that they are the legal owners of the animals they offer for sale, and thus use a little effort to protect yourselves and friends against rascality. Our butchers can, with a little trouble, do much towards protecting the public against illegal traffic in cattle.—[CITIZEN.]

#### TO THE EDITOR OF THE 'NEWS':—

SIR:—I was much amused on Saturday evening last, being present when one of our new stranger-officials was about to serve a summons on one of our citizens. The deputy did not know the party, but insisted on seeing the person to be summoned; and when told that he was not present, but that he could leave the paper, he refused, stating that he was acting under instructions and must put it into the hands of the party. Being informed that the law states that he should leave the paper, he still declined doing so, remarking that he would fill his instructions. I am of opinion that when a man's duty is defined by law, he can operate under no private instructions, but execute firmly the duty required of him.

Yours, &c.

AN OLD RESIDENT.

The law on service of notice is as follows:—Part of Sect. 4, page 133 of "Revised Laws of Utah;" "The notice, or any process required before trial, may be served by the party, or agent, by reading the same to the person to whom directed, or by leaving a certified copy thereof at his usual place of abode," &c.

ROBBERY.—Last week Mr. Thomas Benbow of South Cottonwood missed four oxen from his herd, and after diligent search of a few days got tidings of their being in a field at Mill Creek on the State road. On going there he discovered that they were taken on to this city. After a little inquiry he found them in the possession of a butcher who had purchased them from a stranger. This man was found and arrested and tried before a Justice, but he brought two men who swore that the prisoner had traded for them from a man unknown to them for two yoke of oxen. With the usual leniency of our Judges he was dismissed on payment of costs. It is our opinion that butchers should be very careful in buying cattle at this season of the year, as many are stolen from the settlers by strangers who are 'hard up,' and who would rather steal than beg, or even seek for an honest livelihood. The Judges would do well to inflict the severest penalties of the law on such lawless exactors, that the public may have some show of protection.—[CITIZEN.]

PAINFUL INCIDENT.—On Thursday night last a poor abandoned creature was seen walking our streets in a pitiable condition. She had on a thin dirty sun-bonnet, a mean calico dress with apparently no underclothing, and no shoes or stockings. The night was piercing cold, and she had on no other dress to protect her from the inclemency of the weather. It is the first person ever seen walking these streets in the character of a prostitute, and excited the sympathy of those who witnessed her degrading position. It appears that she had been for some time in the vicinity of Camp Floyd, and became at last so abandoned that she was driven from that place, and now ashamed to meet her acquaintances she went forth under the mantle of night to follow her wicked choice. After some friendly counsel from the police she sought shelter in a house kindly opened for her. This speaks plainly, without any comment, of the progress of the times. O, Christianity!—[CITIZEN.]

A FREE COUNTRY.—QUITE COOL.—As the tenant of a house, in which is a large Hall, closed up, was quietly and industriously enjoying his dinner, he heard some persons open the front door, walk coolly up stairs, and enter the hall. Having charge of the premises he followed quickly after, and discovered two or three men preparing themselves with 'hems' and stretching 'swallows' to practise in the art divine of singing. Being strangers to him he questioned the authority by which they entered so unceremoniously, when they muttered something about getting leave themselves or by proxy, but could not say of what person. They were politely requested to retire until they could produce leave from the proper quarter, which they did, no doubt believing that they were deprived of their privileges in a free country and of entering where they liked as they were the sons of the free?—[ABROAD.]

INFORMATION WANTED OF WILLIAM LLOYD.—Salt Lake City, Utah.—If the above-mentioned party, who emigrated with his family from Staffordshire, in 1850, and joined the Mormon community, will communicate with the under-named, he may hear of something to his advantage. He should state through what medium a correspondence may be opened with him.

JOHN WARD, Solicitor, Burslem, Staffordshire.

INGLE and GOODY, Solicitors, Hibernia chambers, London bridge, S.E.—[Times, Sept. 9, 1858.]

#### District Court.

On Monday, the 22d inst., the United States Court, for the 3d Judicial District, met pursuant to adjournment.

After reading the minutes of the last meeting of the Court, Chas. M. Smith, Esq. asked the Court to excuse Mr. Hubbell from serving on the grand jury, on the ground that he was not such a citizen as the statute required, being only a transient resident, whereupon the Court discharged him.

The Court appointed Mr. Eleazer Miller Foreman of the grand jury, after which the Clerk administered the customary oath to him, and then to the other jurors, four at a time.

Judge Sinclair read his charge to the grand jury.

#### NAMES OF GRAND JURY.

Eleazer Miller,	G. A. Neal,
A. B. Miller,	C. L. Craig,
Stephen B. Rose,	A. H. Raleigh,
Ormus E. Bates,	J. S. Kintsing,
John B. Kimball,	John Kay,
B. F. Pendleton,	J. C. Campbell,
George Stringham,	Elias Perry,
Abel Gilbert,	John Kerr,
Ezekiel Lee,	John M. Wallace,
Stephen Luce,	D. W. Bayliss,
Harrison Severe,	D. H. Beck,
H. Cabot,	

#### NAMES OF PETIT JURY.

Benj. D. Spencer,	J. S. Higbee,
H. S. Beatie,	Wm. Price,
Chas. Woodward,	N. H. Felt,
John Y. Greene,	Enoch Reese,
Ute Perkins,	Heman Hyde,
C. V. Spencer,	John S. Mendenhall,
John Nebeker,	Calvin J. Foss,
Ira Miles,	William Thomas,
Benj. Hampton,	Jas. Finley,
Sam. Bringham,	Wm. W. Sterrett,
Lyman Leonard,	J. F. Stone,
Benj. Covey,	W. J. Perkins,

The Court adjourned to Tuesday, the 23d, at 11 a.m.

Tuesday morning the Crier called the Court to order, and proclaimed it open for business.

Fines having been entered, but the execution stayed, against Charles Woodard, John B. Kimball and Benj. Spencer for neglecting to appear on the jury, they came forward and showed reasons why their fines should not be enforced. The reasons assigned being satisfactory to the Court the fines were remitted.

Mr. Brookie was sworn a deputy to Marshal Dotson.

The District Attorney said, "I have a matter to which I wish to call your Honor's attention. It is with regard to two Indians who are held prisoners here, awaiting their trial. I think they belong to the other District, and if such be the case, there is a provision made for their removal. I have taken an extract from the 33d Sec. of a Congressional Act upon this subject, and by that your Honor will find that the Judge has the authority to remove the prisoners and witnesses to the District where the offence was committed."

C. M. Smith, Esq. stated that himself and Dr. Hurt were attorneys for the prisoners, and that he would be happy to have those prisoners tried before this Court; and thought it would be more conducive to justice, if the Court were so to rule. Mr. Smith quoted from the Law of 1802, regulating process in Indian countries, and contended that the only process that had been served upon his clients was served in this District, and he believed within the limits of this city, and that the prisoners were therefore within the jurisdiction of this court.

Mr. Wilson replied that he was not aware that there was any objection to the question he presented, but in reference to the objections of the learned counsel for the defence, he could only say that in prosecuting criminals, we must conform to the laws which we find upon the subject. He argued that the Act of 1834 states what shall be taken cognizance of by the courts of the United States, and that as this Territory has been organized within certain boundaries, that law refers to the Indians, and applies to the whole of this Territory, and hence crime must be prosecuted in the county or District where it is committed.

The Court ruled that the Indian intercourse Act of 1834 repealed the Act of 1802; and stated that if the Act of 1802 were in force west of the Mississippi, then there would be in this court extraordinary jurisdiction. After reasoning at some length on the nature and application of the Territorial code, the necessity of making the Indian intercourse Act effectual in this case, the prosecution being in the name of the people of the United States, his Hon. concluded his ruling in the following words:—"Most earnestly desiring not to have, or exercise any unreasonable jurisdiction, I shall direct these prisoners to be removed to the other District."

Mr. Williams asked the Court to excuse Mr. James Finley from serving on the traverse jury, stating as a reason why he should be excused that he was a resident of Missouri and wished to leave for that State.

The Court ordered that Mr. Finley be discharged, and that the Marshal summon another juror to fill his place, and one that is a resident of the District.

Mr. Hardy, an alien, took the oath of allegiance and was admitted a citizen of the United States.

Court adjourned to 11 o'clock to-morrow morning.

Wednesday, 11 a.m., Court opened pursuant to adjournment.

On application Judge Sinclair ordered a table and seats to be provided for the use of the re-

porters, and remarked, "If there are any other persons who wish to take notes of the proceedings of this court, they shall have ample opportunity of doing so."

The Clerk read the minutes of yesterday; after which the Judge observed, "With regard to my charge to the grand jury, Mr. District Attorney, I will remark that it is in the hands of a publisher in this town, and for want of galleys, or something of that kind, he could not have it stricken off until he gets ready to strike off his paper, but as soon as it is ready I shall be happy to furnish those gentlemen a copy who wish to have it."

Mr. Wilson, District Attorney: "May it please your Honor, I would suggest that any public or court document should be left in the hands of the Clerk in future, that copies may be obtained by such persons as have a right to them, on the order of the Court. For my part I cannot see what business a printer has with a document of that kind for such a length of time."

The Court replied: "The instructions to the grand jury are either written or oral as the Court may please, and if the charge had been oral you would not have had a copy."

His Hon. then re-read his opening address to the members of the bar.

The grand jury were called and the Marshal took charge of them, by order of the Court, who informed them that if they wanted witnesses they must inform the Court, that the witnesses might be subpoenaed and sworn in court, and then carry a ticket to the foreman. The grand jury then retired.

On the suggestion of the District Attorney the traverse jury were adjourned until Friday morning.

Mr. Smith suggested that as the Indian prisoners were in court, the sentence by which they were to be transferred to the other district might be passed upon them, and that there was no necessity for his Honor to be kept waiting until all the formalities of the law were gone through.

The Judge replied, "Well, sir, I suppose you do not intend to interpose any objection; they are transferred, and are now in the hands of the Marshal, but it was necessary that they should be brought into court to have this done, and there are certain rules to be observed which may be of importance to the Marshal when he goes to Washington to collect his pay."

Some discussion took place as to who should provide the Indian prisoners shoes and blankets sufficient to make them comfortable. There being neither law nor satisfactory precedent relative to the question, the court declined to furnish the clothing and suggested that it belonged to the Indian department.

Adjourned to Thursday at 10 a.m.

REPORTER.

#### JUDGE C. E. SINCLAIR'S CHARGE.

##### GENTLEMEN OF THE GRAND JURY:—

You have been impanelled and sworn as Grand Jurors for the Third Judicial District of this Territory, which comprises the counties of Great Salt Lake, Tooele, Shampip, Saint Marys, Humboldt and Carson. Your inquiries will be circumscribed within these designated limits. The functions you are called upon to exercise, gentlemen, are of the most serious and important nature, at once to the Government of the United States and the people of the United States in the Territory of Utah.

Your inquiries will be first directed to offences against the United States.

The highest crime known to the laws of the United States is that of treason. The Constitution of the United States thus defines it:—

"Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort."

And further declares:—

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Congress has declared death to be the punishment for treason.

The facts connected with the recent difficulties between this Territory and the Government of the United States, this court cannot know until they are brought under investigation before it. It is, however, my duty to call your attention to the circumstances which for some time past have surrounded the people of this Territory; to the relations which they and the Government of the United States have respectfully sustained towards each other; and to the consideration of affairs now existing, legally considered.

In a proclamation of the President of the United States, dated April 6, 1858, under a solemn sense of responsibility for the truth of his declarations, the President has said to the people of this Territory:—

"Whereas the Territory of Utah was settled by certain emigrants from the States and from foreign countries, who have for several years past, manifested a spirit of insubordination to the constitution and laws of the United States. The great mass of those settlers, acting under the influence of leaders to whom they seem to have surrendered their judgment, refuse to be controlled by any other authority. They have been often advised to obedience, and these friendly counsels have been answered with defiance. Officers of the federal government have been driven from the Territory for no offence but an effort to do their sworn duty. Others have been prevented from going there by threats of assassination. Judges have been violently interrupted in the performance of their functions, and the records of the courts have been seized and either destroyed or concealed. Many other acts of unlawful violence

have been perpetrated, and the right to repeat them has been openly claimed by the leading inhabitants, with at least the silent acquiescence of nearly all the others. Their hostility to the lawful government of the country has at length become so violent that no officer bearing a commission from the Chief Magistrate of the Union can enter the Territory or remain there with safety; and all the officers recently appointed have been unable to go to Salt Lake or anywhere else in Utah beyond the immediate power of the army. Indeed, such is believed to be the condition to which a strange system of terrorism has brought the inhabitants of that region, that no one among them could express an opinion favorable to this government, or even propose to obey its laws, without exposing his life and property to peril.

After carefully considering this state of affairs, and maturely weighing the obligation I was under to see the laws faithfully executed, it seemed to me right and proper that I should make such use of the military force at my disposal as might be necessary to protect the federal officers in going into the Territory of Utah, and in performing their duties after arriving there. I accordingly ordered a detachment of the army to march for the City of Salt Lake, or within reach of that place, and to act, in case of need, as a posse for the enforcement of the laws. But, in the meantime, the hatred of that misguided people for the just and legal authority of the government had become so intense that they resolved to measure their military strength with that of the Union. They have organized an armed force far from contemptible in point of numbers, and trained it, if not with skill, at least with great assiduity and perseverance. While the troops of the United States were on their march, a train of baggage wagons, which happened to be unprotected, was attacked and destroyed by a portion of the Mormon forces, and the provisions and stores with which the train was laden were wantonly burnt. In short, their present attitude is one of decided and unreserved enmity to the United States and to all their loyal citizens. Their determination to oppose the authority of the government by military force has not only been expressed in words, but manifested in overt acts of the most unequivocal character."

The Constitution of the United States has ordained and established a separation between the different Departments of Government; the Executive, the Legislative, and the Judicial; each operates in its respective sphere.

Invested with the Judicial authority of this District, it becomes my grave and solemn duty to recall your attention to the facts upon which this proclamation is founded, and to say to you that these are fit subjects for your investigation. It is further proper for me to say that if treason has been committed in this Territory, the President of the United States has pardoned the offence upon a certain precedent condition indicated in this language of his proclamation:—

"But being anxious to save the effusion of blood, and to avoid the indiscriminate punishment of a whole people, for crimes of which it is not probable that all are equally guilty, I offer now a free and full pardon to all who will submit themselves to the authority of the federal government."

Of this pardon, gentlemen, although a public fact in the history of the country, this court cannot take judicial cognizance. The Supreme Court of the United States in the case of the United States vs. Wilson (see 7th Peters, p. 150) holds this language:—

"The Constitution gives to the President, in general terms," "the power to grant reprieves and pardons for offences against the United States."

As this power had been exercised from time immemorial by the executive of that nation, whose language is our language, and to whose judicial institutions ours bears a close resemblance, we adopt their principles respecting the operation and effect of a pardon, and look into their books for the rules prescribing the manner in which it is to be used by the person who would avail himself of it.

A pardon is an act of grace, proceeding from the power intrusted with the execution of the laws, which exempts the individual on whom it is bestowed from the punishment the law inflicts for a crime he has committed. It is the private, though official act of the executive magistrate, delivered to the individual for whose benefit it is extended, and not communicated officially to the court. It is a constituent part of the judicial system that the judge sees only with judicial eyes, and knows nothing respecting any particular case of which he is not informed judicially. A private deed, not communicated to him, whatever may be its character, whether a pardon or release, is totally unknown and cannot be acted on. The looseness which would be introduced into judicial proceedings, would prove fatal to the great principles of justice, if the judge might notice and act upon facts not brought regularly into the cause. Such a proceeding in ordinary cases would subvert the best established principles and overturn those rules which have been settled by the wisdom of ages.

Is there anything peculiar in a pardon which ought to distinguish it in this respect from other facts?

We know of no legal principle which will sustain such a distinction.

A pardon is a deed, to the validity of which delivery is essential, and delivery is not complete without acceptance. It may then be rejected by the person to whom it is tendered; and if it be rejected, we have discovered no power in a court to force it on him.

It may be supposed that no being condemned to death would reject a pardon; but the rule