

must be the same in capital cases and in misdemeanors. A pardon may be conditional; and the condition may be more objectionable than the punishment inflicted by the judgment.

The pardon may possibly apply to a different person or a different crime. It may be absolute or conditional. It may be converted by the prosecutor, and must be expounded by the court. These circumstances combine to show that this, like any other deed, ought to be brought "judicially before the court, by plea, motion, or otherwise."

Blackstone, in his Commentaries, 4th Vol. p. 337, says:—

"A pardon may be pleaded in bar." In p. 376 he says:—"it may also be pleaded in arrest of judgment."

In p. 401 he says:—

"A pardon by Act of Parliament is more beneficial than by the king's charter; for a man is not bound to plead it, but the court must *ex-officio* take notice of it; neither can he lose the benefit of it by his own laches or negligence, as he may of the king's charter or pardon. The king's charter of pardon must be specially pleaded, and that at a proper time; for if a man is indicted and has a pardon in his pocket, and afterward puts himself upon his trial by pleading the general issue, he has waived the benefit of such pardon. But if a man avails himself thereof, as by course of law he may, a pardon may either be pleaded in arraignment, or in arrest of judgment, or in the present stage of proceedings in bar of execution."

The reason why a court must *ex-officio* take notice of a pardon by Act of Parliament, is, that it is considered as a public law; having the same effect on the case as if the general law punishing the offence had been repealed or annulled.

I therefore give you in charge the subject of treason and commit it to your serious deliberations. Judicially the court *knows nothing*; it is for you, as the grand inquest, to find facts.

With the criminal code of the United States, in its general provisions, as good citizens, I presume you to be acquainted; there are, however, several statutes of the United States to which I desire specially to call your attention. In a leading article in the columns of the "Deseret News" of the 15th of September, at that time the only newspaper published in this Territory and supposed to embody, to a certain degree, public sentiment, we find the following paragraph:—

"We can let the mails alone and avail ourselves of other channels of communication which will not be treasonable."

I deem it my duty in this connection to call your attention to the following statute of the United States (see Statutes at Large, Vol. 5, p. 735, sec. 9):—

"It shall not be lawful for any person or persons to establish any private express or expresses for the conveyance, nor in any manner cause to be conveyed, or provide for the conveyance or transportation by regular trips, or at stated periods or intervals, from one city, town or other place to any other city, town or place in the United States, between and from and to which cities, towns or other places, the United States mail is regularly transported, under the authority of the Post Office Department, or any letters, packets or packages of letters, or other matter properly transmittable in the United States mail, except newspapers, pamphlets, magazines and periodicals. And each and every person offending against this provision, or aiding or assisting therein, or acting as such private express, shall, for each time any letter or letters, packet or packages, or other matter properly transmittable by mail, except newspapers, pamphlets, magazines, periodicals, shall or may be by him, her or them, or his, her or their means or instrumentality, in whole or in part, conveyed or transported, contrary to the true intent, spirit and meaning of this section, forfeit and pay the sum of one hundred and fifty dollars."

The violation of the postal laws of the United States is not treason, but it is a violation of law exhibiting the *animus*.

A portion of the military force of the United States is stationed in this Territory. It is the duty of all good citizens to assist, as far as it lies within their power, in supporting the laws of the United States applicable to the regulation and control of its army; it becomes you, therefore, to consider the following statute of the United States, (Statutes at Large, vol. 2, p. 573, sec. 17):—

"Every person not subject to the rules and articles of war, who shall procure or entice a soldier in the service of the United States to desert, or who shall purchase from any soldier his arms, uniform, clothing, or any part thereof; and every captain or commanding officer of any ship or vessel, who shall enter on board such ship or vessel as one of his crew, knowing him to have deserted, or otherwise carry away, any such soldier or shall refuse to deliver him up to the orders of his commanding officer, shall, upon legal conviction, be fined at the discretion of any court having cognizance of the same, in any sum not exceeding three hundred dollars, and be imprisoned any term not exceeding one year."

For the protection of the records of the United States in any of its departments and the protection of such of its officers who may be engaged in properly preserving those records, and also to give force and effect to the proceedings of the courts of the United States in the discharge of their legitimate functions, the following statutes have been provided, (Statutes at Large, vol. 1, p. 115, sec. 15):—

"If any person shall feloniously steal, take away, alter, falsify or otherwise avoid any record, writ, process or other proceedings in any of the courts of the United States, by means whereof any judgment shall be reversed, made void or not take effect; or if any person

shall acknowledge or procure to be acknowledged in any of the courts aforesaid, any recognition, bail or judgment, in the name or names of any other person or persons not privy or consenting to the same, every such person or persons, on conviction thereof, shall be fined not exceeding five thousand dollars, or be imprisoned not exceeding seven years, and whipped not exceeding thirty-nine stripes. *Provided nevertheless*, That this act shall not extend to the acknowledgement of any judgment or judgments by any attorney or attorneys, duly admitted for any person or persons against whom any such judgment or judgments shall be had or given."

(Statutes at Large, vol. 1, p. 117, sec. 22):—"If any person or persons shall knowingly and wilfully obstruct, resist or oppose any officer of the United States in serving or attempting to serve or execute any mesne process or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer or other person duly authorized, in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars." (Statutes at Large, vol. 10, p. 170, sec. 4):—

"Any person who shall wilfully and knowingly destroy or attempt to destroy, or with intent to steal or destroy, shall take and carry away any record, paper or proceeding of a court of justice, filed or deposited with any clerk or officer of such court, or any paper or document, or record, filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document or proceeding so taken, be deemed guilty of felony, and on conviction in any court of the United States, having jurisdiction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge."

We are surrounded here by various Indian tribes and it is important that the laws of the United States in regard to them should be enforced; your attention is particularly directed to this provision of the "Intercourse act":—

(Statutes at Large, vol. 4, p. 731, sec. 13.):—"If any citizen or other person residing within the United States or the territory thereof, shall send any talk, speech, message or letter to any Indian nation, tribe, chief or individual, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquility of the United States, he shall forfeit and pay the sum of two thousand dollars."

You will next inquire, gentlemen, into offences against the criminal code of this Territory.

In its general provisions, enumerating crimes and offences, that code is similar to the code of every other State and Territory in the Union.

In the present condition of things here, occasional acts of violence do not come upon us unexpectedly. You, as the grand jurors for this district, are charged with the responsible office of inquiring into disturbances of the public peace and the violations of the penal code. You will meet those, gentlemen, I feel assured, with the promptness and address which the exigency requires.

Your attention is specially directed to the statute provided in regard to Gaming, which you will find in these words:—

"If any person keep a house, shop, or place resorted to for the purpose of gambling, or permit or suffer any person in any house, shop, or other place under his control or care, to play at cards, dice, faro, roulette, or other game for money, or other things, such offender shall be fined not more than eight hundred dollars, or imprisoned not exceeding one year, or both, at the discretion of the court. In a prosecution under this section, any person who has the charge of, or attends to any such house, shop, or place may be deemed the keeper thereof."

"If any person play at any game for any sum of money or other property of any value, or make any bet or wager for money or other property of value, he shall be punished by fine not exceeding three hundred dollars, or by imprisonment not exceeding six months."—[Revised Statutes, p. 188, sec's. 39-40.]

There is one subject of general importance to which I desire to call your attention and from an examination into which we cannot well escape. Polygamy, it is charged, prevails to a considerable extent in Utah. This is an offence against the law of every State and Territory in the Union, Utah only excepted.

The statute book here is a blank upon that subject: there is nothing in the acts of Congress that touches the question.

Whether the civil or the common law furnishes the basis upon which the statutes of this Territory have been erected, does not concern the inquiry. Each jurisprudence condemns polygamy and stamps it as a crime. Judge Kent in his Commentaries (vol. 2, p. 81) thus speaks of this offence:—

"The direct and serious prohibition of polygamy contained in our law, is founded on the precepts of Christianity and the laws of our social nature, and it is supported by the sense and practice of the civilized nations of Europe. Though the Athenians at one time permitted polygamy, yet generally it was not tolerated in Ancient Greece, but was regarded as the practice of barbarians. It was also forbidden by the Romans throughout the whole period of their history, and the prohibition is inserted in the Institutes of Justinian. Polygamy may be regarded as exclusively the

feature of Asiatic manners, and of half-civilized life, and to be incompatible with civilization, refinement and domestic felicity."

Mr. Justice Blackstone, in respect to it, employs this language (vol. 4, p. 163):—

"Polygamy can never be endured under any rational civil establishment, whether specious reasons may be urged for it by the Eastern nations, the fallaciousness of which has been fully proved by many sensible writers."

But in northern countries the very nature of the climate seems to reclaim against it: it never having obtained in this part of the world, even from the time of our German ancestors, who, as Tacitus informs us, 'prope soli barbarorum singulis exoribus contenti sunt.'"

Criminal courts are authorized of their own motion, as a learned judge thus states, "to call the attention of grand juries to, and direct the investigation of matters of general public import, which, from their nature and operation in the entire community, justify such intervention. The action of the courts on such occasions, rather bears on things than persons, the object being the suppression of general and public evils, affecting in their influence and operation, communities rather than individuals, and, therefore, more properly the subject of general than special complaint."

In a condition of things so anomalous and so utterly at war with the generally received opinions, upon which the fabric of our Government rests, free inquiry must be unchecked, and a field opened where the maxim may be verified that "error ceases to be dangerous when reason is left free to combat it."

You should inquire fully into this matter, and if it be true that polygamy does prevail in this Territory and is sought to be incorporated as one of our social institutions into the social and political body of the country, it is due to history that so extraordinary a pretension should be presented to the world under the solemn sanction of your finding. Inquire into the extent to which this practice prevails, and report to the court your conclusion upon the subject. Then let the responsibility attach to those to whom it legitimately belongs. If the Legislature of this Territory desires to conform to the code of each and every State and Territory in the Union, upon your presentment they will know the fact that polygamy does prevail here and they can act accordingly. If Congress can stretch out its arm to enforce the principles that underlie the American social fabric, upon your presentment Congress then can act.

Truth can harm nobody; find that truth, gentlemen, in respect to this question; let it go to the world, and, according to my reading of the law, your responsibilities and those of this court will be at an end.

In regard to your general duties permit me to warn you against passion-prompted accusations; let coolness and deliberation guide your every act; the responsibility upon you is not the responsibility of a day.

You cannot enter into considerations of public policy; if the law denounces a crime and affixes a punishment, and you have the power to inquire into that crime, you cannot look aside from the operation of the law to avoid inflicting the punishment.

You have been selected for your intelligence and honorable character to discharge the solemn duties of this inquest.

It is probable that no grand jury in the United States ever held in its grasp questions so grave and comprehensive as those which ought to occupy your minds.

Further instructions from the Court will be offered you, if in the course of your inquiries it shall be necessary.

The Attorney for the Territory, appointed under the authority of the United States, is at hand to assist you.

You can retire.

WOOD and HAY wanted at the Deseret News Office.

ESSENCE OF VEXATION.—An Irishman dragging his coat in the mud and nobody to tread on the tail of it.—[Ex.]

Married:

In this city on Saturday, Nov. 18, 1858, by Bishop A. Hoagland, Mr. SAMUEL P. TEASDEL, of the Norwich Conference, England, and Miss ANN ROBERTS, of Denbighshire, North Wales.

Died:

From cold and lung complaint at Dr. J. Ginton's, in this city on the 9th inst., LUCINA SNOW, widow of Levi Snow and mother of Erastus Snow, one of the Twelve Apostles, aged 74 years and 24 days.

She was the oldest daughter of William and Hannah Streeter. Her mother died in the vicinity of Woonsocket, Rhode Island, in the fall of 1854, near which place also died many of her ancestors of the Mason family at very advanced ages. They were remarkable for their activity of mind and body up to the last.

She was born in Cumberland, R. I., Oct. 16, 1784, and married to Levi Snow, Nov. 29, 1801, by whom she raised seven sons and four daughters, viz., Levi Mason, born Feb. 15, 1803; Lucina, Aug. 20, 1804; William, Dec. 14, 1805; Zerubbabel, March 29, 1809; Willard, May 6, 1811; Mary Minerva, July 30, 1813; Shipley Wilson, April 7, 1816; Erastus, Nov. 9, 1818; Charles Van Ransselaer, Aug. 24, 1820; Lydia, Dec. 7, 1823; Melissa, Aug. 20, 1826.

When their first two were yet only babes, they were swindled out of their farm and hard earned possessions in Lunenburg, N. H., and removed to St. Johnsbury, Vermont, where they opened a new farm and reared the balance of their family, being among the first settlers in that part of the State.

Deceased was a prominent and active member of the Methodist Episcopal Church for many years previous and at the time of her death the fullness of the gospel.

In the summer of 1832, when Elders Orson Pratt and Lyman E. Johnson bore the glad tidings to that people, she welcomed them as angels of the Lord.

She was baptized by Orson Pratt in June 1833 and removed with her family to Kirtland, Ohio in the spring of 1836, and the same fall proceeded to Far West, Mo., where she shared the persecutions of the Saints and sacrificed another comfortable home for the gospel's sake. She was

next located temporarily in Lima, Ill., and afterwards at Montrose, opposite Nauvoo, where her husband died in Oct. 1841 and where she continued to live until the exodus of the church in 1846, where she moved with her children and sojourned near two years at Winter Quarters and finally arrived in this city in Sep. 1848, where her soul rested happy and contented in the sweet enjoyment of the spirit of the gospel, surrounded by her numerous friends, children, grand children and great grand children, to all of whom she was a bright example of industry, economy, frugality and faith. May they be able to emulate her virtues and rejoice in her celestial glory.—[COMMUNICATED.]

New Advertisements.

YELLOW OCHRE,
RED ditto Drop Lake. E. D. WOOLLEY & Co.

BLACK LEAD,
BROWN Umber. E. D. WOOLLEY & Co.

JUST OPENED
A LARGE stock of Shoes. E. D. WOOLLEY & Co.

HATS & CAPS. E. D. WOOLLEY & Co.

LOST
A BLUE CLOTH CLOAK, lined with check linsey. Please bring it to the Deseret Store. E. D. WOOLLEY & Co.

UPRIGHT & CIRCULAR SAWS.
FROM 7 inch to 36 inch diameter complete with mandrills, pulleys, &c. E. D. WOOLLEY & Co.

BARLOW & WRSENBACH,
WATCH & CLOCK MAKERS, Gold and Silver-smiths, 3d house south of the Salt Lake House, in Godby's Drug store.

Back shop, first door east of the Deseret Store. Old Gold and Silver bought—price according to quality. JAS. M. BARLOW, OCTAVE WRSENBACH.

STRAYED
FROM South Cottonwood, on the 18th of November, a white horse COLT, red ears, blue spot on rump, no brands.

Information that will lead to his recovery will be thankfully received and properly rewarded by the subscriber at Bishop Cahoon's.

38-1 WM. CUNNINGTON.

TAKEN UP
BY the subscriber one four year old red and white STEER, white in the face, white belly, legs partly white, large white spot on the left thigh, white on top of the shoulders and on rump, lower half of the tail white, branded on left hip but not to be understood.

The owner can have him by proving property, paying charges. AMOS MAYCOCK, Ogden Hole.

\$5 REWARD.
STRAYED from me about the first of this month a small light colored horse MULE, rough shod all round, branded on near thigh A with a small circle connected

with the top of the A and on the off thigh with full forehead, saddle and collar marks, and when rode paces.

Any person delivering me said mule, 15th Ward, G. S. I. City, shall receive the above reward; or any information that will lead to his recovery shall be liberally rewarded.

37-2* WM. C. MOODY.

\$10.00 REWARD.
WILL be paid to any person who will give information to the subscriber of the whereabouts of the following described cattle:—

Three years old STEERS; the first grizzly or roan, with two C's or two O's on the left horn, and had when strayed a bell on; the second spotted, branded on left horn same as the first, with staggy horns; and the third dark red, bordering on brindle, branded on the left hip thus (some three inches in length, with A A C cut on the left horn).

The above steers strayed from me at Mount Fort near Ogden city on or about the 15th of Oct. last.

38-2* AARON CHENEY, Mound Fort.

LIST OF ESTRAYS IN POSSESSION OF THE POUND KEEPER, LEHI, U. Co.

ONE roan line back COW 4 years old, branded on left side and O on right hip.

One black 3 year old HEIFER, branded P C on left hip.

One light red 3 year old STEER, branded on left side X on left hip, right ear off.

One red and white spotted three year old STEER, with red neck, brands on left hip.

One light red and white 4 year old STEER, with star in face; no brands.

One brindle and white 4 year old STEER, branded on right hip.

One yellow line back OX, white face, brindle round the eyes, 6 years old.

One red and white spotted OX, with white strip in forehead, branded with a diamond on left hip and H N on left shoulder, 6 years old.

One red brockle face COW, about 10 years old.

One red sided line back yearling HEIFER, branded N on left hip.

One light red three year old STEER, right horn droops a little, branded on right hip.

One roan line back 3 year old STEER, an under bit out of right ear.

One dark brindle 2 year old HEIFER, star in face branded D CLIFT on left horn.

One dark red 2 year old STEER, star in forehead, branded J on left hip W G on left shoulder.

One light brindle and white ball face 2 year old STEER, swallow fork in each ear and under bit in left.

One red and white yearling STEER.

One red brockle face yearling HEIFER, white spot back of each shoulder, brand A left hip.

One red yearling HEIFER, little white under belly, branded on left hip and a three cornered or triangle hole in right ear.

One red and white yearling HEIFER, white spot in face, tip of right horn off, branded J on left hip.

One red and white spotted yearling HEIFER, white spot in face, branded J left hip.

One red ball faced yearling BULL.

One red yearling BULL, slit in left and crop off right ear.

One red yearling BULL.

One red yearling HEIFER.

One 3 year old HEIFER and CALF, no brands or ear marks.

One white STEER CALF with red ears, crop off left ear, upper and under bit off the same ear.

One red and white pided STEER CALF, crop off the left ear, upper and under bit off the same ear.

One red STEER CALF, with star in the forehead, crop off right ear, upper and under bit off same ear.

The above named ESTRAYS will be drove in my yard on the 5th of December, and those not claimed will be drove to the General Estray Pound, G. S. L. City on the 6th day of December.

38-1 WM. CLARK, Pound Keeper, Lehi City, U. Co.

SELECT SCHOOL.
THE undersigned will commence a Select School in the West House of the Fourteenth Ward School Buildings on Monday next, 15th inst.

TERMS:
For common branches, including READING, WRITING, ARITHMETIC, GEOGRAPHY, & ENGLISH GRAMMAR, per quarter \$5.00. One half to be paid in advance.

36-3 ISAAC BOWMAN.