THE SUPREME COURT.

Ridell Dillon Must Serve His Nine Years' Sentence.

A LENGTHY LIST OF OPINIONS.

The Church Escheat Proceedings Go Over Until the Next Term of Court.

The Judges of the Territorial Supreme Court rendered a large number of opinions, on cases previously submitted, yesterday afternoon, subsequent to the report in the News.

THE DILLON APPEAL.

Ridell Dillon, the Ogden man, who was recently sentenced by Judge Zilner to nine years' imprisonment for killing a man at Ogden (the jury having brought in a verdict of voluntary manslaughter), sued against the punishment imposed upon him. He says the Supreme Court of the Territory erred in denying his appeal from the sentence.

It will be remembered that Judge Miner overruled a motion for a new trial. To the order overruling the motion for a new trial the appellant excepted and assigned the same as error.

The opinion goes on to say that the commission of the homicide was proven by witnesses for the prosecution without any evidence to reduce the killing to manslaughter or to justify or excuse it. The defendant relied more heavily for a defense and offered evidence to prove it, and the prosecution offered evidence upon the issue to disprove it and sought to show sanity. Before the jury was charged, counsel for the respective parties said to the court that they expected it as proper to charge the jury upon the law of manslaughter as well as upon the law of murder, but the same counsel now insist that if the defense of insanity was not proven, the evidence showed the defendant guilty of murder, and that there was no evidence to support a conviction of manslaughter. The jurors might have believed testimony of the defendant, called witnesses to corroborate (insanity), was reliable in relation to the issues of which was offered on the trial, but his mind was so affected with liquor as to be a mitigation of the degree of the premeditation essential to murder. If the killing was intentional and unlawful and wholly from passion, induced by provocation, and done in a sudden heat and without the degree of thought essential to malice, he was guilty of voluntary manslaughter. The court was not prepared to hold that there was no evidence of such a state of mind at the time of the fatal injury. Further, the jury having found the issue of insanity against the appellant, he cannot cause to be heard to complain because he was not found guilty of murder instead of manslaughter. It appeared from the record that the evidence introduced by the prosecution established the homicide with malice prepense; if any evidence of justification or excuse; that the defendant relied upon insanity as a defense, and offered evidence on that issue to prove it; that the plaintiff offered evidence to disprove it; that considerable of the evidence was introduced on either side of the issue and that the court charged the jury that the defendant relied upon insanity as an affirmative defense; that the burden was upon him to prove it by a preponderance of the evidence, and that to the announcement of this legal proposition the defendant's counsel excepted. The law of the case, say, says the opinion, is "upon a trial for murder the commission of the homicide by the defendant being proved, the burden of proving circumstances of mitigation, or that justify or excuse it, devolves upon him, unless the proof on the part of the prosecution tends to show that the crime committed only amounts to manslaughter, or that the defendant was justifiable or excusable.

The authority of the legislature to enact such a law was unquestioned, the intent manifest, there was no room for construction and the court must respect the law. The constitutional relation of the legislature was that proof of the killing, without evidence to mitigation, or that tended to justify or excuse it, imposed upon the defendant the burden of furnishing such proof. Otherwise stated, when the prosecution proved the homicide, without more, the defendant must prove the fact that he sets up as an affirmative defense, and such fact was not proved when the evidence offered on one side of the issue, be in support, when weighed against the evidence on the other side of the issue, and against it, only raised a reasonable doubt in the mind of some, or when the evidence offered for and against it was balanced. The statute includes all affirmative defenses, and the phrase "balance" the balance of insanity. Without a statute on the subject the law would presume sanity, and the defendant would have to show he did not prove it. Authorities were conflicting as to proof of insanity in a criminal case, and the Tidwell case, 4 Utah, was cited, followed by an extract from an opinion by Chief Justice Shaw touching upon the subject. A great number of authorities are referred to in the opinion, and there are quotations from some of them. Continuing, Judge Zilner says that it is easy to ascertain exactly the relative weight of material things. If the weight of one side of the scale is heavier than the weight of the other, the inclination is apparent and unmistakable. But it is not so easy to determine the weight of evidence on opposite sides of an issue, but never theless the law makes it the duty of courts and jurors in the investigation of truth to ascertain the relative weight of proof on opposite sides of an issue with such certainty as the evidence of the minds of men enable them to. If the prosecution offered no other evidence of sanity as the defendant did of insanity, the proof on the one side balanced the proof on the other, and the presumption of sanity began a reasonable doubt and no evidence to weigh against it. The court, on the trial of the cause, charged the law of the burden of proving insanity was on the defendant, and that he was required to prove it to the satisfaction of the jury by a preponderance of the evidence, but that he was not required to establish it beyond a reasonable doubt. * * * That the defendant is presumed to be innocent until proven guilty beyond a reasonable doubt, and that this presumption applies in every fact necessary to the crime, and that if every one of them is not proved beyond a reasonable doubt, the jury should acquit. In this the court charged the jury that insanity was an affirmative defense, and that the burden was on him of proving it by a preponderance of the evidence. This was proper, inasmuch as the homicide was established by the prosecution without any evidence having to prove insanity. The jury was also charged upon the whole case that the law presumed the defendant innocent until proven guilty beyond a reasonable doubt. The jury did not find that the killing was intentional, but they must have believed that it was intentional and unlawful in order to find the defendant guilty of voluntary manslaughter. Taking the charge as a whole, both sides and some of its propositions were conclusively stated, but when all of them are considered together, we are of the opinion that it was substantially correct. We find no error in the record. The judgment of the court below is affirmed.

Judge Anderson concurs, while Judge Blackburn dissented, with leave to file a separate opinion.

OTHER DECISIONS.

In the case of Joseph Watson, Julia Howell, intervenor, the title to the west half of the east half of section 2, of range 1 west, township 2, south of range 1 east, Salt Lake meridian, Judge Blackburn read the opinion, which affirmed the judgment of the court below in favor of the defendant.

Judge Zilner read the opinion in the case of the Globe Savings and Loan Co., vs. The Phenix Fire Insurance company. The action was brought to recover the amount of certain insurance policies and the court below gave in favor of the plaintiff. The judgment was reversed and the cause remanded.

In the case of James Peck vs. E. C. Gilbert et al., the opinion of the court in reversing the judgment was reversed and the cause remanded.

In the case of Harkness, Wyman & Co. vs. J. M. McCleve, the judgment of the court below in favor of the plaintiffs for the amount of a promissory note was affirmed.

In the case of Ellen Ottinger vs. Thos. McEvoy and A. P. Kimball, in which the plaintiff obtained judgment for the amount of a promissory note, the judgment of the court below was affirmed.

In the case of the Globe Title Deed Company vs. J. Ed. Taylor, the judgment of the court below discharging an attachment was sustained.

In the old case of U. S. Ellis vs. W. H. Dwyer et al., in which Ellis obtained the sum of $2000, the finding of the court below in favor of the plaintiff was affirmed.

In the case of Jane Dillon, in which the plaintiff recovered personal property, horses and cattle, the judgment of the court below was affirmed.

In the case of Arizona Dickson vs. Pleasant Grove City, the judgment of the court below in favor of the plaintiff was affirmed.

In the case of Frederick Turner vs. Riding Stevens, in which the plaintiff asserted damages for the publication of a libelous circular, the judgment of the court below was affirmed.

In the case of Mary A. Long vs. the Citizens' Bank, at Ogden, involving $1000, the judgment of the court below in favor of the defendant was affirmed.

In the damage cases of Isaac Chilton, administrator of the estate of Joseph Snow vs. the Union Pacific Railway Company, the judgment of the court below in the plaintiff's favor for $6,000 was affirmed. Notice of an appeal to the Supreme Court of the United States was given.

In the case of John White vs. the Union Pacific, in which the plaintiff appealed from an order granting a new trial, the judgment was affirmed.

The judgment of the court below in favor of Charles D. Hess vs. William Lowe, administrator, was reversed. The action was brought for the specific performance of a contract for the sale of certain property. The court below found for the plaintiff.

G. A. Dargan was admitted to practice.

THE CHURCH CASES.

The lengthy opinion, the exceptions of the defendants to the report of Master in Chancery Lauritzen, as to the application of the exclusive Church funds, was read by Judge Zilner at least.

Judge John A. Marshall, attorney for Receiver Lawrence, filed a paper asking for instructions as to the payment of taxes upon certain property.

The court then adjourned sine die.

SALT LAKE DRUGGISTS.

They Will Entertain Visiting Pharmacists at the Knutsford.

The Salt Lake Druggists' Association have prepared a programme for the reception and entertainment of the Territorial pharmacists who will meet in this city on Tuesday next. Invitations have been sent to all the druggists in the Territory. The meeting will be held at the Knutsford Hotel. The formation of a Territorial organization with a large membership is confidently looked for. The first meeting will be held at 10 o'clock on Tuesday. A second meeting will be held during the afternoon. At the close a carriage drive to all the permanent points of interest in the city will be taken.

On Wednesday two more meetings will be held and the organization completed. A banquet of the Knutsford will be Wednesday night will close the proceedings.

Nimrods' Society.

The weekly meeting of the Nimrods' Society was held last evening, Chairman J. J. Walker presiding. The minutes read, "Come, let us shoot our journey pieces." A. W. Judd offered prayer. Joseph H. W. Salisbury notured on the subject of "The Philosophy of Unbelief." Many of the instrumentalities of skepticism were laid bare by the soldier's scientist. The effusions of the Gospel were held up as shining mirror with the vagaries of infidelity.

A duet, "Come were the violets blow," was rendered with great effect by Instructor Richard Ring and Mrs. Camilla Cobb.

By request, Prof. Willard Done read "Mr. Pickwick's proposal to Mrs. Bardell," which met with the approbation of the audience. The school sang "Praise to the Lord." The benediction was pronounced by G. M. Robinson.

Those who participated at the Nimrods' Society meeting were: Jos. J. J. Walker, Mrs. Mary E. Salisbury, Prof. Mason and Wm. J. F. Peebles.

MUSIC AND DRAMA.

The United States Marine Band and Mile Dora Tonight.

"THE TAMING OF THE SHREW."

Coming Attractions at the Salt Lake Theatre. — Wonderland. Miscellaneous.

THE MARINE BAND.

In the famous Marine band of Washington under the direction of John Philip Sousa, and with Dora as the vocal star, more are about fifty instrumentalists. The present is the first trip across the continent the band has ever made, though it has existed as a government institution ever since 1825. It is noted in the matter service but is maintained at the government barracks, Washington, and never leaves the national capital except upon a written order by the secretary of the navy, approved by the President. The concert tonight extends from Adelaide to Day Tie, the finest the band has ever enjoyed. The tour is under the management of D. Blakely, of New York, who says out the east in regal style, special Pullman cars are at his disposal.

Manager Blakely, of New York, has taken several for enterprises through the country—Gilmore, Thomas, Strauss, Anthony Juvenile Band, etc.—but his experience of letting the U. S. Marine Band, fifty strong, to the east is the thrust of all. There are fifty in the party, all told. The expense to the manager is great, for the band is not given a day's rest, average of 100 miles of travel accomplished.

SOME OF LOCAL INTEREST.

The Juvenile Tabernacle Choir will have an encore for the Sunday School Union evening tomorrow night.

The Fireside and Midland ward choirs will unite in giving Sunday's grand morning concert, as it is to be given in forty-two days, and a daily average of 100 miles of travel accomplished.

DARY A SOLID SCAB

Instantly Diagnosed Blood and Skin. Home Doctors Fail. Cured by the Cuticura Remedies.

There is some tendency and kind of the disease. It manifested itself about two years ago. We found it very difficult to get rid of it. When any small blemish appeared it would spread and become a sore. We had to use a lotion to keep it from spreading. We tried many remedies and finally gave up in despair. We saw the Cuticura Remedies advertised and they did talent. I can now say that the Cuticura Remedies have cured me of the disease. I am now free from it and I feel like a new man. I have not seen a sore since I commenced using the Cuticura Remedies. I am a strong believer in the Cuticura Remedies, for they have cured me. I have tried many other remedies before I found the Cuticura Remedies, but they did me no good. I am now free from the disease and I feel like a new man. I would recommend the Cuticura Remedies to any person who is afflicted with the disease