

The building of a convenient and solid structure for a cow barn, along with hay loft and purchase of machinery for cutting feed, enables us to take much better care of the stock, and at the same time greatly economize the feed. The improved hog pen, built during the year, enables us to keep more hogs, in better condition, and removes them farther away, doing away with the stench that in the hot weather frequently reached the asylum building.

Taking into consideration the disadvantage laborer under during the past year the farm has done fairly well. The products amount to \$2,527.11; the expense of the farm, \$1,466.56. Balance in favor of the farm, \$1,060.55.

A barn building is needed for the proper care of the teams, farming utensils, wagons, etc. The present old shed is unsuitable for that purpose. These buildings should be taken farther away from the asylum and placed between the hog-pens and cow barn. This would bring together all that class of buildings on a line facing south, and enable us to stack the hay and all other farm products together, economizing space and facilitating labor.

The fence around the farm, now completed, saves a great annoyance from loose stock that have heretofore destroyed a large amount of garden truck every summer and fall; and also from the still greater annoyance of parties constantly riding and driving through the asylum grounds.

In bringing this report to a close, I wish to express to the president and board of directors my sincere thanks for the kind and continued support you have always extended to me in the administration of the affairs of the asylum, and hope that you will pardon me for the reiteration of matters in this report, with which you are perfectly familiar. Our needs, while greater, are so nearly of the same nature as detailed in former reports, that it would have been impossible for me to omit some reiteration and comply with my duty in the matter.

I also wish at this time to testify to the general faithfulness of the officers and employees of the asylum, for their cheerful co-operation in carrying out all measures for the benefit of the asylum and its inmates, and that, at times, under very discouraging circumstances.

Our thanks are also due, on behalf of the inmates of the asylum, to the editors and proprietors of the Salt Lake Herald, the Salt Lake Tribune, THE DESERET NEWS, Provo Enquirer, Utah Valley Gazette, Nephi Ensign, Snopete Sentinel and Wasatch Wave, who have regularly furnished the asylum, free of charge, copies of their valuable papers. Also to Hon. John T. Caine, and many other friends of the institution for papers, periodicals and books. Respectfully submitted,

WALTER R. PIKE, M. D.  
Medical Superintendent.

TERRITORIAL INSANE ASYLUM,  
Provo, Utah, November 30, 1890.

### SUSPENDING SENTENCE:

In the Territorial Supreme Court Jan. 21, the following decision was rendered upon the power of the courts to suspend sentence, the question having been raised in the Pardon Dodds case:

*In the Supreme Court of the Territory of Utah:*

The People of the Territory of Utah, plaintiffs, vs. John W. Blackburn, Judge of the First District Court, defendant.

HENDERSON, A. J.:

This is an application for a writ of mandate directing the defendant to proceed to sentence Pardon Dodds for the crime of voluntary manslaughter, of which he stands convicted in the First District Court. The case is brought to a hearing upon a return made by the defendant to an alternative writ heretofore issued, from which it appears that in February, 1889, the said Pardon Dodds was indicted for the crime of murder; that he was arraigned and pleaded not guilty; that in September following he was put upon trial in the First District court at Provo, before a jury and the Hon. John W. Judd, the then presiding judge. That on the 26th day of September the jury rendered a verdict of guilty of voluntary manslaughter, and thereupon the court, by an order duly entered, appointed October 10th, 1889, as the time for passing judgment upon such conviction.

On the 10th day of October, the prisoner being present and Judge Judd presiding, the district attorney moved for judgment and sentence, and the prisoner, by his counsel, moved the court that the sentence and judgment be indefinitely suspended during good behavior. And thereupon the court, by an order, entered in its minutes, reciting that good and sufficient reasons being made to appear therefor, granted the defendant's motion and suspended sentence during good behavior. On the 15th day of October, Judge Judd having resigned, he was succeeded by Judge Blackburn, the defendant. On the 21st day of October, at a session of the court then being held and Judge Blackburn presiding, the District Attorney moved the court for an order appointing a time for pronouncing judgment, which the court refused and still refuses to proceed to sentence.

Upon this record we are asked to issue a mandate to the defendant to proceed to judgment and sentence.

Ample authority is vested in the court by the statutes of the Territory and rules of practice to set aside verdicts for errors or want of proof to support them; but this power was not invoked in this case, and Dodds stood convicted before the court of the crime of voluntary manslaughter, by a verdict which was in full force and effect. After conviction the trial court may undoubtedly suspend judgment temporarily for stated periods from time to time. It may be proper to do so to allow the

defendant time to move for a new trial, to perfect an appeal, to present a petition for pardon, and to allow the court time to consider and determine the sentence to be imposed. People vs. Reilly, 53 Mich., 260; Wharton's Cr. Pl. and P., sec. 913; Com. vs. Dowdwin, 115 Mass., 133; State vs. Addy, 43 N. J., L 113.

But when a defendant stands convicted and all the remedies provided by law for testing the correctness of the conviction have been exhausted or waived, we have no doubt it is the duty of the court to keep control of the case and within a reasonable time proceed to give judgment, and in doing so to exercise such discretion as the statute governing the particular offense commits to the court. The authority to wholly relieve parties from a conviction for crime is not given to the courts, but belongs to the pardoning power. People vs. Morrisette, 20 How. Pr., 118; People vs. Reilly, 53 Mich., 160; People vs. Brown (Mich.), 5 Criminal Law, Mag. 868.

It is apparent from this record that it was not intended by the court to temporarily suspend judgment, but on the contrary, to entertain the prosecution no further and to discharge the defendant therefrom without sentence. The statute Com. Laws, 1888, section 4457, which prescribes the punishment for voluntary manslaughter, the crime for which Dodds stood convicted, is as follows:

"Voluntary manslaughter is punishable by imprisonment in the penitentiary not exceeding five years."

It will be seen that by this statute the largest discretion is vested in the court. It extends from a maximum imprisonment in the penitentiary down to the least appreciable space of time, no minimum being designated. No doubt the legislature, in committing this discretion to the court, recognized the fact that there might be extreme cases where a party might legally be guilty of the crime, and yet the circumstances be such that the penalty should be purely nominal. Of course such a case would be an extreme one, but it can readily be imagined; on the other hand the case may be such as to require the extreme penalty provided for by the statute. Within these limits, then, the court in this case was authorized to exercise its discretion. It might have designated a term of imprisonment so brief that the prisoner could not have reached the penitentiary before it expired; or, if he did, that would have only required him to be received and discharged.

We think it is to be presumed from this record that the learned judge who presided at the trial, and heard all the testimony, in his discretion, determined that this was a case in which the lightest penalty which by law he was authorized to inflict should be imposed; and that being purely nominal and requiring of the officers to execute it, a merely perfunctory duty, and useless expense, he refused to pass sentence at all. This, we think, is the reasonable presumption. From this