WILL SERVE HIS TERM.

Supreme Court Affirms Judgment in the Case of Louis H. Norman.

DEFENDANT CONVICTED OF ADULTERY,

And Sentenced to One Year in the State Prison—The Law on the Crime—Walker Gets Three Years.

The supreme court handed down an opinion today in the case of the state of Utah against Louis H. Norman, appellant, affirming the judgment of the trial court.

Norman was convicted by a jury in the first district court, Cache county, on the 24th of April 1897, of the crime of adultery and sentenced to one year in the state prison. Motions for a new trial and an arrest in judgment were made and overruled, when an appeal was taken.

Norman's offense was committed with a married woman named Kinsline Clifford at the defendant's store in Millville, Cache county, some time in December, 1896.

The contention of counsel for the accused was that at the time the crime was alleged to have been committed there was no law in force in this State which made adultery a public offense. It was argued that the act of the territorial legislature purporting to make any adultery and other kindred offenses, approved February 4, 1892, was in force page 5, was repealed by a valid law of the Territory, and, except as to polygamy, is now beyond the power of the State by any provision of the Constitution; and that the law of Congress which provided for the punishment of adultery as a crime, ceased to have force when the Territory became a State.

It was further contended that the acts of Congress fully covered the whole subject and took away from the Legislature the power to legislate concerning the same, and that therefore the act of 1892 was absolutely void.

The court holds that the first clause of section 5 of the organic act empowered the Territorial Legislature to legislate as to "all rightful subjects of legislation and that no restraint whatever was imposed as to legislation respecting crimes."

Says the court "while it is true that any enactment of the Legislature was susceptible of being disapproved by Congress and rendered invalid, the converse is equally true that if an enactment was not so disapproved it was valid, unless in conflict with the Constitution of the United States, or unless the legislation of Congress on the same subject was exclusive, or the territorial law was repugnant thereto."

The court fails to find any provision in the organic act, or in any of the laws of Congress applicable to the Territory of Utah, which in any wise operated to restrain the Legislature from enacting laws respecting polygamy or adultery.

"The law of Congress," continues the court, "were not enacted because the Legislature had no power to legislate on these subjects, but because the Legislature, having the power, failed to exercise it."

The court finds that the act of 1892, concerning adultery and other crimes is valid and that the statute is not in conflict with the laws of Congress.

On the question as to whether section 3 of the act of 1892 was continued in force by the State Constitution, the court holds that it was by virtue of section 2, art. 24, of the State Constitution, and that it will remain in force until altered or repealed by the Legislature. The maxim "expressio unius est exclusio alterius," quoted by counsel for appellant, the court finds has no application to the case at bar.

Another point raised by counsel for Norman was that the motion for an arrest in judgment ought to have been granted because the record failed to show that the defendant was lawfully bound over by the justice of the peace named in the information. In the absence of any insistance at or before the trial that the defendant was not lawfully committed, the court holds that such proof was unnecessary.

Under the Constitution and laws of this State, the court says, "a prisoner has the right, with the consent of the State, to waive examination before any committing magistrate.

"Therefore, where a prisoner, when called upon to plead, interposes no objection, that he has not been lawfully committed, or waived an examination before the committing magistrate, and goes to the trial without objection, the examination will be presumed to have been waived."

Counsel for Norman also contended that the verdict of the jury was not justified by the evidence, and violating that the defendant was convicted on the uncorroborated testimony of the prosecuting witness. At variance upon of the testimony presented to the mind of the court that the point is not well taken. The court holds that there is no absolute rule of corroborating blood as to the defendant's guilt and supports the judgment of the lower court.

The opinion is written by Justice Burch, Chief Justice Zane and Justice Miner concur.

THREE YEARS FOR WALKER.

An Ex-Night watchman Sentenced by Judge Norrel Today.

R. P. Walker, the ex-nightwatchman, convicted of burglarizing a State street store, and stealing $25 cigars, was this morning sentenced by Judge Norrel to three years in the State prison. The defendant when asked by the court if he had any reason to say before sentence was pronounced said "nothing, your honor."

JACKSON DAY FESTIVITIES.

Democratic Committee Send in the Names on a Bill for Benefaction.

Gus A. Bancroft, proprietor of the Knutsford hotel, is about to begin proceedings against D. C. Dunbar, D. Ledlie Kenyon, Morgan H. Dale, P. J. Dockery, Moses Thatcher, F. S. Harris, H. W. Bloan, George M. Cannon, H. G. Ryan and O. W. Powers to recover $357, balance alleged to be due on "special use of the hotel on Jackson's day. On the date named a reception was given at the Knutsford hotel by the democratic members of the Legislature, which body was then in session, refreshments were served during the evening, and the event was quite an important one, and was given on behalf of the Democratic party. The bill is for $420, and Mr. Holmes claims that only $63 has been paid, leaving a balance of $357. Suit for which amount is now also judgment.

JOHN H. HAMILTON'S ESTATE.

Mother of Deceased Opposes His Wife's Petition and Alleges She Killed Him.

Mrs. Mary Hamilton, mother of John H. Hamilton, deceased, who died on the 12th of April last, has filed an answer to the petition of Mrs. Hattie Hamilton, widow of the deceased, who asked to be appointed administratrix of the estate. Mrs. Hamilton makes charges that Lou Hamilton killed her husband and that "the seven weeks before the said John H. Hamilton died, accident hereto, died, he was living separate from the petitioner, Lou Hamilton, and had violated her marriage vows by committing adultery, and had consented to the said adultery that she the petitioner had so violated her marriage vows and had been unfaithful to the defendant."

That on the 12th day of April, 1897, when the said John H. Hamilton died, he was killed by the petitioner, Lou Hamilton, [illegible] petitioner, Lou Hamilton, is the very last person to whom the decedent would have wished to entrust the administration of his estate."

It is also alleged that the deceased did not have any household goods and that he left no will, also that Hamilton left surviving him, Lou Hamilton, the widow, and Mary Hamilton, the mother, and that John H. Hamilton left his life at the hands of his wife, Lou Hamilton. In conclusion it is alleged that the deceased left $150 in the bank, a gold watch, chain and charm, valued at $25, and other goods of the aggregate value of $25, and that it is prayed that Mrs. Hamilton's petition to be appointed administratrix be denied, and that Mary Hamilton, mother of the deceased, be appointed to perform that duty.

Venire for More Jurors.

A venire was issued from Judge Cherry's court today for twenty-five talesmen jurors, made returnable tomorrow morning. Frank Harris, Thomas Judge, Wilford Woodruff, Jr., Ed W. Williams, R. W. Young, Patrick Phelan, Wilford Woodruff Jr., Ed W. Morgan, J. Kirkland and Ralph Snowball.

To Quiet Title.

Judge Hiles took up today the case of Charles Chandler against Mary Norman, mining company against Albert P. Hobbs, Liberty E. Holden and H. Newbrough.

Plaintiffs brought the suit to have a deed made by Mary Norman to them in 1895 declared valid. Also that Chandler left surviving him, Lou Hamilton, the widow, and Mary Hamilton, the mother, and that John H. Hamilton left surviving him, Lou Hamilton, the widow, and Mary Hamilton, the mother, and that John H. Hamilton left his life at the hands of his wife, Lou Hamilton. In conclusion it is alleged that the deceased left $150 in the bank, a gold watch, chain and charm, valued at $25, and other goods of the aggregate value of $25, and that it is prayed that Mrs. Hamilton's petition to be appointed administratrix be denied, and that Mary Hamilton, mother of the deceased, be appointed to perform that duty.

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