

## THE PHILLIPS-KOLHYER CASE.

THIS case, according to adjournment of Thursday, was recommenced at two o'clock yesterday. Dr. Thompson was the first witness sworn for the prosecution. He testified to attending Mr. Kolhyer, who had received an injury on the upper part of the face. The wound was a contused and lacerated one. It had been dressed before witness saw it. He thought from the appearance of the wound that the nose was slit. The blow must have been a severe one. Such a wound could have been made with brass knuckles. Very severe blows were sometimes given with the naked fist. He could not say that the wound was made by brass knuckles. No other man could tell that without seeing the blow given.

Cross-examined by Mr. Miner. The blow was on the bridge of the nose. The wound appeared to be about an inch in length.

Mr. John Mantle was called as a witness for the prosecution, but he simply knew nothing at all about the matter at issue.

Captain Burt, chief of police, was next put on the stand by the prosecution. The witness was asked by Mr. Haydon whether the city police were authorized by him to carry and use brass knuckles.

Mr. Miner objected to the question as being entirely irrelevant to the case under investigation.

Mr. Haydon then made one of his characteristic splurgic efforts, in which he dilated on the barbarous nature of the weapon in question, his comparisons being so outrageously far-fetched as to make them appear ludicrous. This will be understood when it is stated that he spoke in this connection of the veto of the civilized world against the use of copper bullets in warfare, the poisoning of wells, the suffocating of armies by causing them to inhale atmosphere impregnated with poisonous gases, &c. What all these matters had to do with an officer striking a person who was resisting him in the discharge of his duty it was very difficult to understand. He further stated that his object in asking the question in dispute was that he expected a negative answer, and would be glad to hear it, for he did not want it to go abroad to the world that an officer of Salt Lake City was authorized, under any circumstances, to resort to the use of brass knuckles. Then Mr. Haydon went soaring off about this being a city pretending to be Christian. In no other city in the world did the police, he said, ever resort to the use of brass knuckles.

Mr. Miner replied, stating that he wished to see the day when this everlasting prating about the moral status of Salt Lake City as compared with other cities would cease. Mr. Phillips was charged as a private citizen for a violation of the law, and was not on trial for malfeasance in office, and that consequently whether Mr. Phillips was authorized or not as an officer to carry brass knuckles, had not the remotest connection with the case, and he objected to the continual dragging in of irrelevant matter.

The Court then said that when Mr. George R. Maxwell made the affidavit against Mr. Phillips he was asked whether the charge was made against the accused as a private citizen or as an officer, and he chose to proceed against him as the former. The question asked of Captain Burt had therefore no bearing on the present case. The Court also mentioned, incidentally, that the Justice's Court had been frequently used by lawyers to attempt to elucidate matters entirely foreign to the cases at issue. A few days ago when James Langley was under examination on a charge of setting fire to the Winder property, Mr. Maxwell asked a number of questions which were quite irrelevant, with the object of creating an effect, and the Court had allowed it, because it was right that it should be known that there was nothing unworthy exposed by their being answered. In the case referred to Mr. Maxwell asked a witness, Mr. Kirby, whether or not \$1500 had been drawn by Captain Burt and paid to certain parties for doing some dirty work connected with the Baker affidavit. Mr. Kirby then stated that he knew nothing about the drawing or paying of any such money, and that he himself was paid \$125 as a city detective, and that no money, so far as he was aware, had ever been paid by Captain Burt to Langley, and that whatever money the latter had received for detective work had been paid him by Kirby himself. The Court ruled that Mr. Haydon's question had

nothing whatever to do with the case.

Mr. Haydon said he felt grieved that, for the reputation of the City, he was not permitted to ask the question.

The Court said: "Well, don't take it any more to heart than you can help. It might hurt you."

Mr. John W. Fagan was the next witness for the prosecution. The first question asked him was whether Mr. Phillips had ever used brass knuckles on him, which was objected to by Mr. Miner as having nothing to do with the case. Mr. Haydon said his object in asking the question was to show that Mr. Phillips was in the habit of using brass knuckles.

The court said the question had nothing to do with the present case, but had reference to another which happened several months ago and which had all been settled, the circumstances of which were that Mr. Phillips went to arrest Mr. Fagan and that the latter resisted and abused the officer and even got the best of the latter for a time, but the officer finally got the best of him.

The prosecution here rested their case. Alex. Zcomzor, the Dutchman to whom Kolhyer said he administered good advice, was the next witness. He requested Mr. Phillips to go with him and arrest Kolhyer, who had assaulted witness. Kolhyer refused to go with the officer, saying, "No son of a b—h" would take him. He finally, however, consented to go. Kolhyer kept his right hand by his right side, and witness thought he intended to do him harm as he made a belligerent move towards him. Mr. Phillips asked witness to go on ahead, as he did not want to have any trouble. He wanted to take Kolhyer along peaceably.

Cross-examined by the prosecution. He did not see Kolhyer have a pistol, but he had his hand in a place where people generally carry a pistol.

Mr. William Cooper was next placed on the stand. He stepped into Kolhyer's butcher shop on the night of the 23rd. Mr. Phillips was trying to persuade Kolhyer to go with him, and the latter used some very bad language to Mr. Phillips, who said to Kolhyer, "You may as well go, for you know I have a right to take you." Kolhyer made a sharp movement towards a man who was standing near by, as if he meant to strike him. Kolhyer stopped at the Elephant corner and talked with some men who offered to go his bail. He struggled several times to get away from Mr. Phillips, especially near Kahn's store, where he struggled with Mr. Phillips and threw him on one side. In the scuffle Phillips hit Kolhyer. Afterwards Kolhyer said, "Where is my pistol?" As he said this a pistol fell to the ground as if it had slipped down his pants, and was picked up by Mr. Kirby. When Phillips struck Kolhyer, the latter said, "You son of a b—h, you have knocked me over the head with a six-shooter." Just before striking, Mr. Phillips said he would not stop any longer and that Kolhyer must go right along. On the way from Kolhyer's shop up the street, the latter said, "No G—d d—n Mormon son of a b—h" would take him, and that he would "put a head" on Mr. Phillips, besides a great deal of other bad language and threats.

Mr. Phillips then made a statement, which was in accordance with the general testimony given in the investigation, and the defense then rested their side of the case.

Mr. Haydon made an argument for the prosecution, in which he again brought in the copper bullets in warfare, the poisoning of wells and of the atmosphere, the use of vitriol, &c. placing them in juxtaposition with brass knuckles, the latter being, he said, a barbarous weapon, while the pistol and such like were weapons of gentility and civilization. The peace, order and dignity of Salt Lake City were dilated upon at length. "Let it not go forth to the world," &c.

Mr. Miner followed. He reviewed the evidence at length, besides showing that the prosecution had over-shot the mark in the making of the complaint, and that Mr. Phillips was not guilty of the charges contained therein. With regard to the power of an officer to arrest parties without a warrant, he read a statute passed by the Legislature in January, 1860, which says that an officer can arrest parties supposed to be guilty of a felony or misdemeanor with or without process. He expressed a conviction that the present case had been got up for political effect. He asked why it was that the prosecutor of the commonwealth was not present to conduct this case, and answered by saying that it was because he was not wanted. It was a significant cir-

cumstance also that the affidavit was not made by Kolhyer, but by George R. Maxwell. The complaint showed the most unmitigated vindictiveness. It charged Mr. Phillips with the commission of one crime and the intent to do something else. At the worst the offense, if any had been committed, was merely an assault to prevent the escape of a prisoner who was in lawful custody. Kolhyer was evidently acting under instructions in resisting arrest by an officer without a warrant. He insisted on stopping on the way to the City Hall, not for the purpose of getting bail, for bail had been proffered to him by several individuals before he reached Mr. Kahn's store, but he wanted it to be known by his friends that he was under arrest without a warrant, and that instructions had been given that an officer attempting to make arrests in this way should be "shot down like a dog." Congressional legislation was wanted by certain parties, who thought a collision would probably hasten it along. Political effect was wanted, and hence the present proceedings and the cause which led to them. With regard to the carrying of brass knuckles by policemen, he alluded to their being carried in other cities, and the almost universal policeman's "billy," a still more deadly and barbarous weapon.

At the conclusion of Mr. Miner's argument Mr. Haydon repeated about the copper bullets, the poisoning of wells, and the like.

The Court then asked that Kolhyer exhibit, in open court, the injury inflicted on him by Mr. Phillips, but Kolhyer was not there. The Court said that it had seen Mr. Kolhyer's nose soon after the blow was given, but thought it should be shown for the satisfaction of the many spectators in court, who appeared to be curious in relation to the case.

The Court then summed up about as follows:

A great deal had been said about brass knuckles and something had been proved about them. The first pair the Court had ever seen was brought here by a lawyer from California. Kolhyer stated, under oath, that he came here with \$400, and intimated that he was robbed. When he came here he gave \$15 as security for his appearance next day, and he had to borrow the latter amount from some of his friends, yet he said, under oath, that he had been robbed of \$400. Mr. Kolhyer knew very well that he did not need any body to go his security, for the Court had previously frequently taken his word; yet with \$400 in his pocket he called on several individuals to go his security. Besides the threats of Kolhyer against the officer, he struggled to get away, evidently without any premeditation, Mr. Phillips hit him, and probably he did so with brass knuckles. But no person could believe that Phillips hit Mr. Kolhyer with the intent to slit, cut and mutilate the latter. The first talk of the matter was about a charge of assault and battery against Mr. Phillips, and the latter's bail was at first placed at \$25, at which Mr. Maxwell sneered. When the Court found out the nature of the complaint he altered the amount to \$100.

Now, nobody believed that Mr. Phillips, when he hit Mr. Kolhyer, did so with malice aforethought, with intent to maim him. There was no time for such premeditation. The prosecution had shot a great deal too high, and had entirely overshoot the mark. The decision of the Court was that Mr. Phillips be discharged.

We herewith append a copy of the affidavit against Mr. Phillips, that the public may see the great straining propensities of those who got up this case.

TERRITORY OF UTAH,  
County of Salt Lake.

George R. Maxwell, after being duly sworn, according to law, says: That heretofore, to wit, upon the 22nd day of December, A. D., 1872, one William G. Phillips, at Salt Lake City, Salt Lake County, Territory of Utah, with force and arms, with a deadly and dangerous weapon, to wit, brass knuckles, did assault one Phillip Kolhier, then and there, being in the peace and dignity of the People of the United States in the Territory of Utah, and did feloniously, wilfully and maliciously strike, beat and wound the said Phillip Kolhier, with intent him the said Phillip Kolhier to maim, and did then and there cut, mutilate and slit the nose of him, the said Phillip Kolhier, contrary to the form of the statutes of Utah, in such case made and provided, and against the peace and dignity of the People of the United States in the Territory of Utah; Wherefore process is prayed, that the said

William G. Phillips be arrested and dealt with as the law directs.

GEO. R. MAXWELL,

Subscribed and sworn to before me, the undersigned, on this 24th day of December, 1872.

JETER CLINTON, J. P.

## OBITUARY.

At his residence in the 17th Ward, Jan. 1st, 1873, at 9 p. m. of inflammation of the lungs, ST. PHEH WINCHESTER, in his 73th year.

Deceased was born in Vershire, Orange Co., Vermont, May 8th, 1793, and was the son of Benjamin and Bethia (Benjamins) Winchester. He was baptized into the church of Jesus Christ of Latter-day Saints in 1833, and moved to Kirtland, Ohio, the same year. Was captain of a company in Zion's Camp in 1834. Was ordained an Elder soon after his baptism. He shared the persecutions of and was driven with the church from the States of Missouri in 1838-9, and Illinois in 1846. He remained at Winter Quarters until the spring of 1849, and reached Salt Lake City in Aug. of the same year where he remained up to the time of his death. He was a man of strong constitution, of quiet, persevering and industrious habits, of excellent character, of firm and unwavering faith, and a kind husband and father.

## DECEASED.

At Pleasant Grove, Dec. 22, after 8 months' illness, of dropsy, P. L. N. EDMONSON GREEN, daughter of Thomas and Margaret Kendall, of Gisburn, Yorkshire, England.

Deceased was born July 3, 1810; joined the church of Jesus Christ of Latter-day Saints A. D. 1840; came to this Territory with her former husband, the late John Bank A. D. 1850. She was known and respected by a wide circle of friends; passed through many scenes of severest trial, and proved herself a faithful and true-hearted Latter-day Saint, a loving wife, and an affectionate mother.

By our fruits, whether good, whether evil,  
At last we are shown,  
And he who has nothing to gather,  
By his lack shall be known.

Mul. Star, please copy. [Com.]

At Paroway, Dec. 12, of stricture of the urethra, ELIJAH NEWMAN.

Born in Hampshire Co., Virginia, Sept. 17, 1793; Emigrated to Cincinnati, Ohio, where he embraced the Gospel; in 1833 moved to Missouri; suffered with the Saints in their mobblings and with them was expelled from the State settled in Nauvoo; worked upon the Temple till completed; received blessings therein, and with the first companies in 1846 crossed the Mississippi river for a home in the West; came with the Pioneers in 1847 to S. L. City; went as a Pioneer with rest. Geo. A. Smith to Iron Co., where he lived a faithful and true Saint to the day of his death. He leaves a wife and six children and numerous friends. [Com.]

At Morgan City, Morgan County, Dec. 26, of small pox, SARAH ANN, infant daughter of George (Jr.) and Emma C. Simmons.

Mul. Star, please copy.

Near Brigham City, Dec. 25, of consumption, BARBARA, wife of Gordon S. Beckstead, aged 42 years.

Deceased was born at Delhusa, (Dalhousie?) Canada West; embraced the gospel about 1845 reached Utah in 1850; became the wife of Gordon S. Beckstead in 1851. Consumption had long preyed upon her system. She died in full faith and was much respected by all who knew her. She left no children. [Com.]

At the residence of John Eddins, near Mill Creek, December 27th, at 11.30 p. m. of palsy, SUSANNAH LIPTROT RICHARDS, relict of Willard Richards, aged sixty-four.

Deceased embraced the gospel in Preston, England, shortly after the arrival of the first Elders from America, in 1833, and crossed the sea with Levi Biobards, on his return to Nauvoo, Illinois, in 1843.

She was driven with the Saint from Nauvoo in September, 1846, and emigrated westward to Winter Quarters, (now Florence, Neb.) where she remained till 1848, when she emigrated to Salt Lake City.

Deceased never doubted the truth of the everlasting gospel, and rejoiced in the hope and faith of a glorious resurrection with the just. [Com.]

DIED. — In the 15th ward, Dec. 17th, of congestion of the lungs, SAMUEL RUSSEL, son of Andrew S. and Mary E. Gray, aged eight years, three months, and sixteen days.

At the Deseret Mills, Sugar House Ward, Salt Lake City, December 25th, SARAH TUFFLEY ROWLEY, wife of George Rowley, aged 35 years, 5 months and 10 days.

Deceased was the daughter of Peter and Jane Tuffley, was born in Chedworth, Gloucestershire, England, July 15, 1837 where she embraced the gospel, and emigrated to this Territory, in the hand car company, in 1859. She was a most estimable woman and a true Latter-day Saint, and was beloved by all who knew her. She died in full faith of a glorious resurrection, exhorting her little daughter of twelve years, (an only child) to be faithful and always remain with the Church of Jesus Christ of Latter-day Saints. The funeral took place from the residence of James W. Cummings, in the Sugar House Ward, Dec. 27th. She rests in peace and her good works live in the memory of her friends. — Com.

## ESTRAY NOTICE.

I HAVE in my possession one dark bay or brown mare mule two years old, branded B on left thigh.

The above, if not claimed and taken away, will be sold at 1 o'clock p. m. on Wednesday, Jan. 15, 1873, at the district estray pound in Porterville, Canyon Creek Precinct.

OSCAR C. STODDARD, Pound-keeper,  
Jan. 4, 1873. d57 s w l e