

Doubtless the Territorial Central Committee of the People's Party will shortly issue suggestions and directions tending to guard the existing political rights of the community against unwarranted invasion.

THE "ASSAULT" CASE.

THE TRIAL OF OFFICER THOMAS.

This morning, in the District Court, the case of the People, etc. vs. Thomas F. Thomas, was called up. The charge upon which Policeman Thomas is to be tried is that, after he had succeeded in arresting Joseph Harvey, the negro who murdered City Marshal Andrew Burt, August 25th, 1883, he took his prisoner to the Marshal's office, in the City Hall, and there assaulted him with a deadly weapon, before lodging him in jail. The case was set for trial once before, but was continued because of the absence of a material witness for the prosecution, one J. M. Goodwin, better known as "Danite" Goodwin. This witness is again absent, though he was recently in the city, but it seems that the District Attorney has determined to proceed without him.

The morning session was spent in endeavoring to obtain a jury, but only ten of the twelve necessary were secured, owing to a number having formed or expressed an opinion relative to the case. Some of the jurors evidently did not want to serve, and although they testified that they had not heard any of the facts, yet had fixed opinions. A special venire of seven names was issued, returnable at two p. m., to which hour the Court took recess.

The special venire furnished only one juror, and another drawing was made containing five names. From this the jury was completed, and stands as follows:

C. D. Brinton,	A. W. Carlson,
Geo. Openshaw, Jr.	T. G. M. Smith,
Willard Pixton,	A. C. Shields,
M. F. Simmons,	Alfred Isom,
Geo. R. Emery,	Jas. T. Smith,
Jos. Derbidge,	R. G. Lambert.

After the jury panel was filled, the indictment was read, and Mr. Varian, of the prosecution, stated that they expected to show that after Joseph Samuel Harvey was taken to the City Hall, and that while there several officers, among whom was defendant, struck their prisoner with a club, their intent being to do bodily harm.

The first witnesses for the prosecution,

HOMER J. STONE, was called. He was at the U. P. ticket office on the afternoon of August 25, 1883, at the time of the murder of Marshal Burt; he ran to the scene of the occurrence, but did not see Officer Thomas at first; the negro murderer was taken into custody; Mr. Thomas was on one side; witness went into the City Hall with the crowd; the prisoner seemed to be either out of his mind or intoxicated; went to the Marshal's office at the City Hall; probably ten persons went in the room; J. M. Goodwin, M. H. Davis, A. Ivins and R. White were there; so were John Aird, and Officers Thomas, Hilton and Salmon; the prisoner was searched while in the room, and all his effects taken from him; Officer Thomas told the negro that if the Marshal was dead, the negro would be dead before morning, if he (the defendant) had to die for it; the officer then struck the prisoner with a policeman's club, and knocked him down, where he received several kicks; there were four officers around him; defendant did most of the striking; Mr. Hilton took out a pair of brass knuckles; there was only one club; the negro was knocked down twice; did not know whether Thomas knocked him down the second time or not; he staggered when he got up, and seemed stupefied; his head was bruised on one side; he was assisted to the jail by the officers; witness did not remember who took the prisoner out of the office to the jail; Aird was inside the jail and Hilton outside; did not remember seeing Thomas there.

Q.—What took place there?
Objected to by the defendant.

Mr. Varian said he proposed to show that officer Thomas struck the negro while in the jail.

Mr. Rawlins, of the defence, wanted to know upon which assault the prosecution intended to rely, as it was improper to prove two assaults in one charge.

The objection was overruled.
A.—I couldn't say; there was a disturbance; the door was opened, and the negro came out in a falling position. Witness was taking notes for publication; saw no club there.

Cross-examined by Mr. Sheeks, for the defence.—Saw the negro at the place of the shooting, struggling with Mr. Wilcken; Officer Thomas came along; the people gathered rapidly, and followed the officers to the Hall; J. M. Goodwin was there, and a number of others; witness went in the office among the first; there were about ten in the office; he went in with the officers; went in behind the prisoner; remained there about ten minutes; the prisoner was searched by the officers; he was next knocked down, and got up, and was knocked down again; witness was in the northwest corner of the room; Goodwin was there; the officers were around the prisoner; he was taken to the jail a couple of minutes after the second knocking down; in the room defendant had the prisoner by the coat, and struck him on the head; saw no other club; saw no pistol, but a pair

of brass knuckles, with which he believed Mr. Hilton struck the prisoner; saw no club before the striking, or afterward; thought defendant took it from his pocket; Salmon and Aird were also there; while the negro was being taken to the Hall he was talking and acting rather silly; was not hard to manage; in the office he was orderly, and made no resistance; heard no abusive language; was in the office about ten minutes; the wound on his head was pulpy and bleeding; he was assisted to jail, walking; did not remember what officers were with him; did not think he could walk alone; he acted like a drunken man; did not see any one strike him in the jail; saw no resistance; was leaning forward when he came out of jail, and fell; there was a crowd of several hundred persons there; did not see him get up afterwards; did not know whether Mr. Thomas was in the jail or not; there was considerable excitement in the office when he was there, but very little talking; did not know who did the kicking.

Re-direct, by Mr. Varian.—Saw a rope there; the prisoner was lying down when the rope was used; it was a policeman's club, (similar to one exhibited); when the negro was being taken to jail he acted in a silly manner.

The defense objected to testimony not concerning the defendant; objection sustained.

Milton H. Davis, Anthony Ivins, and Richard White were called, their testimony not differing materially from that of witness Stone, except that Davis and Ivins did not see Thomas use a club, and White was not sure whether he did or not.

The court adjourned until 10 a. m. to-day, Tuesday, when a policeman's club was offered in evidence by the prosecution, and that side rested.

Mr. J. L. Rawlins stated that the defense expected to prove that the negro was very violent, from the time of his firing the fatal shot, and that force was necessary to subdue him; that there was an excited crowd demanding that he be lynched; that he was taken to the Marshal's office, where officer Thomas searched him; that he made a break for the things taken from him, and Officer Thomas struck him in the face with his fist; that someone from behind seized the prisoner and threw him down, and Officer Thomas assisted him to rise, and struck no other blows; that there were no other wounds on the negro's head, except such as were inflicted upon him in the struggle with Officer Wilcken, at the scene of the murder; that no one examined the negro's head in the marshal's office; that it was with considerable difficulty that the officers got their prisoner to the jail; that the crowd which had gathered tried to force open the jail door; that Officer Thomas drew his pistol and ordered the crowd back, when the negro sprang past into the crowd, and instead of being disabled was so powerful that he got up three times in spite of the efforts of the crowd; that the officers were unable to take the prisoner from the crowd in time to save his life, and that officer Salmon, whom the witnesses for the prosecution testified was in the Marshal's office, was not at the City Hall at all. The negro was also a most violent character, having killed the Chief of Police in cold blood, and shot Officer Wilcken in the arm, and the action of the officers throughout was commendable.

WM. SALMON was called: Was not at the City Hall at the time of the hanging of the negro, as had been testified by the witness, Stone.

Dr. Jeter Clinton, Clem R. Horsley, John Aird, Dr. J. M. Benedict, Dr. Gus King, James White, and Wm. Hilton were called by the defense, their testimony agreeing with Officer Thomas' own account, as given below.

THOMAS F. THOMAS,

the defendant, went on the stand, and testified: He was on duty that day; when near the post office he heard some shooting and ran toward the place, when there he saw a tall negro, and Officer Wilcken; heard some one call that the negro did the shooting; several had hold of him; defendant ordered them back and put his "nippers" on the negro, and called George Hilton to assist him, William Hilton staying to see what was done; on the way to the City Hall, the negro was very boisterous, and wanted to kill more men; the crowd was calling to the defendant to release him, but he ordered them back; the negro asked, "Will you protect me;" defendant said, "I will, that's my business; keep quiet;" he told Aird, at the Hall door, to keep the crowd out; in the Marshal's office, he ordered the prisoner three times to hold up his hands, and then searched him, finding some money and other things; the negro was boisterous, and objected to being searched; he put the things on the desk; the negro called him some names, and the officer said if he acted that way he would slap him; he repeated it, and the officer slapped him with his open hand; then some one tripped the prisoner and kicked him, at which the officer ordered him left alone; some one said he shot an officer, and Thomas said if he had he would die; witness sent Aird to open cell No. 7, and followed with the prisoner, leaving Geo. Hilton outside to keep the door; Aird could not open the lock, and went for another key; Wm. Hilton came in; the colored man jumped, and Thomas drew his club and struck him on the arm, and the prisoner fell; Thomas told him to stay there; Aird

came in and the door was thrown open; defendant drew his pistol and ordered the crowd back; they seized the defendant, when the negro got past into the crowd; told the crowd to stand back, and got the negro on his feet, when he was knocked down by the mob again; this was done three or four times; some one then kicked defendant on the hand, and disabled him, when he was crowded back and retired to the City Hall.

Cross-examined by Mr. Varian.—Heard the cries of "Lynch him!" Did not know who was shot until Hilton told him in the jail; did not notice how many were in the Marshal's office; some came in through the court room; the negro was boisterous at times, as though either drunk or crazy; defendant had his club in his pocket; slapped the negro because he made him mad, and was excited, because he heard an officer was shot and was called names; the blow did not stagger the prisoner; his face was bloody; somebody pulled him down; did not know who it was; he was tripped down once; defendant remonstrated; Hilton was close by; said if the prisoner shot an officer he ought to die; did not know who was in the room; in the jail the negro made a break for the door, the officer moved to strike him, and he leaped over and fell to the floor, on his side; Wm. Hilton then came into the jail; it was rather dark; did not want the prisoner inside the second door; the "nippers" were on when the prisoner was taken into the office; was a little afraid he had a weapon; did not think it necessary to keep the "nippers" on; defendant had been hurt by smaller men in the office; struck the negro because he was very abusive.

The defense rested.

Mr. Varian, for the prosecution, made the opening address to the jury; he was followed by Mr. Rawlins in behalf of the defendant.

The Court then adjourned until 10 a. m. to-day.

This morning Hon. F. S. Richards made an able argument before the jury, and Mr. Varian closed for the prosecution.

The Court charged the jury that to find the defendant guilty, it would be necessary for the evidence to show, beyond a reasonable doubt, that the defendant did as charged without reasonable provocation; the officer had the right to use such force and means as were needed to arrest, prevent the escape of, and control as well as protect the prisoner. He had no right to act from passion, malice or ill-will, or because of the use of offensive language. Mere errors of judgment should be looked at with leniency, and the jury should take into consideration the circumstances, and judge reasonably and fairly; those actions impelled by improper motives were criminal. The jury could find either for assault with deadly weapon, with intent to do bodily injury, for assault, or not guilty.

The jury, after being out four hours, returned a verdict of "Not Guilty."

LOCAL NEWS.

FROM FRIDAY'S DAILY, MAY 15.

The Tramway.—The Alta Tramway will open for freight and passenger business to-morrow. Trains will leave the D. & R. G. W. depot in this city daily for Alta at 7.25 a. m., and, returning, arrive here at 5 p. m.

Delinquent Tax-payers.—Chas. O. Whittemore, attorney for the bondsman of ex-Assessor and Collector Crismon, is preparing to enter suits against parties who are delinquent with their County, School and Territorial taxes, a list of whose names was published in the News some time ago. Some fifty suits will be commenced by May 30, if the parties do not come forward and settle their taxes before that date.

Arrests in Ogden.—Yesterday Mr James Taylor, Deputy City Recorder, of Ogden, was arrested on a complaint charging him with unlawful cohabitation, and examined before Commissioner McKay. Several members and relatives of his family were subpoenaed and testified, after which he was placed under \$1,500 bonds to await the action of the grand jury.

Just before going to press this afternoon we learn that Officer Moroni Brown, of Ogden, has to-day been arrested on the charge of unlawful cohabitation under the Edmunds law.

The "Mammoth" Case.—The suit of Elias Morris, Esq., against the Mammoth Mining Co., commenced in the District Court this morning. The amount involved in this case is about \$13,000, for work done at the Mammoth mine. The defendants claim that they cannot be held responsible for the contracts made by their manager, and on this ground are seeking to place the responsibility of payment upon H. M. B. Johnstone. The issues for the other half of the sum owing to the plaintiff will be tried in the First District, Mr. Morris having a mechanic's lien on the buildings.

Substantial Sympathy.—We mentioned a few days since that a subscription was being taken up in Manti for the benefit of Parley P. Pratt, one of those now in the Penitentiary, for having cohabited with their wives. We learn from a gentleman just up from Sanpete, that this action was quite spontaneous on the part of the Manti citizens, and was equally the result of their admiration for the firm stand he had taken in refusing to make the promises which the prosecution de-

manded, and their sympathy for his family, who were deprived of their only means of support by the persecutive penalty inflicted upon him. Within an hour from the time the subscription was started, a considerable quantity of flour and bacon had been donated—sufficient probably to supply his family in that line during the term of his imprisonment. These provisions were shipped to this city in connection with freight for S. P. Teasdel, who, with his usual generosity, paid the freight on them, and will have the same delivered at their destination. This is a substantial kind of sympathy, a little of which is worth more than all the tears that could be shed over the humiliation and suffering to which our brethren and their families are being subjected at the hands of vile oppressors.

Pleasant Grove Items.—Frank Beers, of Pleasant Grove, is building a hotel at that place for the accommodation of the traveling public, which will be finished and ready for occupation in July. It will present a very neat and comfortable appearance.

But little building besides this is going on there at present.

That settlement, which has been noted in the past for the fine quality of its fruit, is now suffering a serious infliction from insect pests. Not only are the caterpillars, such as prevail in this city, very abundant there, but worse still, there are myriads of small, green lice infesting certain varieties of trees, which so far have baffled all efforts to destroy them. The people are adopting various methods of getting rid of the caterpillars such as clipping off limbs, shooting them with powder, sweeping them off, etc. When once removed from the tree, they have an effectual way of preventing them from regaining their former position by smearing wagon grease in a band around the trunk of the tree, which they will crawl up to, but not attempt to cross, and when they accumulate there they can easily be crushed and killed.

The lucern last year in that region was considerably damaged by a species of small green worm, but so far this year that pest has not made its appearance, and there is a prospect for a big yield of lucern, as also of cereals.

BEAVER COURT ITEMS.

Received by Deseret Telegraph.

BEAVER, May 15, 1885.

Editor Deseret News:

The case of the United States against W. Fotheringham is still progressing. Yesterday afternoon and this forenoon have been occupied in examining jurors. A good deal of bias has been manifested by the Court in the obtaining of proper jurors, occasional preaching having been indulged in as to civilization being opposed to "Mor non" polygamy, and the latter being contrary to the law of God, of nature and of civilized society. The panel as completed stands twelve odd numbers. The indictment was read and the prosecution made a statement of the case to the jury. John W. Fotheringham was the first witness called. The defendant has two sons of the same name and the prosecution found that the Marshal had subpoenaed the wrong John, and consequently got matters somewhat mixed. An adjournment was accordingly taken until two o'clock, that the other witness, who is in the western part of the county, might be found.

MOONSHEE.

SEVERE ACCIDENT.

A YOUNG MAN HAS HIS SKULL CRUSHED IN WITH A CLUB.

Yesterday afternoon a number of young men were playing a game of base ball in the street in front of the D. & R. G. W. ice house, in the Fifteenth Ward. One of them aimed a heavy blow at the ball, but missed, and swinging around, the bat slipped from his hands and went flying through the air, the thick end striking Joseph Parry a terrific blow above the right eye, breaking the skull. Dr. Benedict was summoned and attended the injured boy, who is about 16 years of age. The surgeon found that the superior bone, over the eye, had been crushed in, but no injury to the brain had resulted. The wound was properly dressed and cared for, and to-day the patient is feeling much better.

It has been a matter of surprise that, in view of the manner in which boys crowd around the striker during a game of ball, and the liability of the bat being "thrown," that so few mishaps of the kind above narrated have occurred. It is to be hoped that this will have some effect as a warning, and that those who engage in ball-playing will learn to have some regard for the personal safety of themselves and others.

Pastry Without Butter.

The American pie has been subjected to more unjust abuse from foreign writers than any other of our distinctive products, if we accept the recent tirade against the American hog. And yet we cannot say that it has been altogether undeserved, because of the villainous compound, thick, hard and heavy, that is too often made to do duty as a "crust," and which by courtesy is called "pastry." Light, tender, flaky, and digestible pie-crust and all kinds of pastry can be made most read-

ily by the use of Royal Baking Powder without any butter, or with half the usual portion, if preferred, or with a small quantity of lard or other shortening as desired. Pie-crust thus made is much more wholesome and digestible, besides being more economical and easier prepared. In addition to saving all the butter if desired, one-third the flour is also dispensed with, as the crust is rolled that much thinner, the leavening qualities of the Royal Baking Powder swelling it to the requisite thickness. If drippings or lard be used Royal Baking Powder removes any unpleasant taste, rendering the crust as light, sweet and pleasant as if made from the finest butter. Those who know the appetizing qualities of the genuine home-made American pie will rejoice that by the aid of Royal Baking Powder in the pastry it can be made quite as digestible as it is delicious.

TERRITORIAL ITEMS.

CULLED FROM LATEST EXCHANGES.

—In Manti, potatoes are selling for 20 cents, butter 15 cents and eggs 8 cents.

—Last week the output of bar silver from the mines in and near Butte exceeded \$161,000.

—The *Miner* says that nearly 400 new buildings are under course of construction at Butte.

—One night last week Mr. Southard had his left shoulder dislocated while at work in the Ontario mine near Park City.

—A \$60,000 fire occurred in the town of Billings, Montana, the fore part of last week, which is supposed to have been the work of incendiaries.

—It is estimated that three tons of arsenic and ten tons of sulphur go out into the atmosphere each day from the four large smelter stacks at Anaconda, Montana.

—Last week Jack Spinnett, a laborer living at Seattle, W. T., committed suicide by shooting himself through the head. The cause was attributed to drink and debt.

—On Thursday evening, Jonathan Meeham, of Provo, received a kick from a horse, which broke his collar bone. The injury received proper attention from Dr. Simmons.

—Harry Rivers, now local editor on the Butte *Miner*, is about to start a small evening paper in that city called *The Town Talk*, devoted chiefly to theatrical and sporting matters.

—Gilbert Parker, aged nineteen years, son of G. W. Parker, a prominent South Park, Colorado, stockman, shot and killed himself at Como, one day last week. Unrequited love was the cause.

A young woman named Lottie Cole was arrested in Deer Lodge, Montana, last Thursday, charged with passing counterfeit money. The officers found a quantity of bad bills on her person at the time of her arrest. She was lodged in jail.

—Follett and Farmer have been arrested at Monroe, Sevier County, on a charge of horse stealing. Don Nebeker and Asa Hawley, Jr., are the complaining witnesses, and it is claimed that the theft occurred prior to their arrest for the Manti murder.

—A convict named Johnson, who attempted to escape from the Idaho penitentiary one night last week, hung himself in his cell with a rope improvised from his shirt on Thursday afternoon last. One of the wardens cut him down in time to save his life.

—A new city charter has been adopted by the citizens of Dillon, Montana. The voting for its adoption occurred on the 4th inst, and was an exceedingly close contest. The total number of votes cast was 207, 104 of which was in favor and 103 against adopting the new charter.

—A Frenchman who was convicted of grand larceny at Hailey, nearly a year ago, and sentenced to one year in the Idaho penitentiary, attempted suicide last week by cutting his throat with a case knife. The attempt was unsuccessful and resulted only in an ugly gash. His time will be out in a few days.

—One day last week a young urchin of Park City turned burglar and entered the private room of one of the employees at the concentrating works, and stole \$10 in cash. He purchased a \$3 watch and then proceeded with a companion to have a game of billiards. He was caught and most of the money recovered.

—Last Thursday afternoon a man named Rosenstock was victimized to the extent of \$510 in a Butte saloon. He engaged in throwing dice with a number of confidence sharpers, who succeeded in getting all his cash. The officers were informed of the affair, and after a vigorous hunt found and arrested the gambling sharpers.

Simply Wonderful!

The cures that are being made in nearly all chronic diseases, by Compound Oxygen, which is taken by inhalation and which acts directly on the weakened nerve centres and vital organs, restoring them to the normal activities which had been lost, are simply wonderful. If you are in need of such a treatment, write to Drs. Starkey & Pallen, 1109 Girard street, Philadelphia, for such documents and reports of cures as will enable you to judge for yourself whether it will be of any use in your particular case.

Orders for the Compound Oxygen Home Treatment will be filled by H. E. Mathews, 606 Montgomery Street, San Francisco.