

CONVICT THOMAS IN 20 MINUTES

Two-Year Penalty For Killing County Police Chief.

Witnesses Describe Fight On Eighteenth Street Road.

AGREEMENT OF DETAILS

Within twenty minutes a jury in the Criminal Court yesterday returned a verdict convicting Frank Thomas, formerly a county patrolman and one time chief of the county police, of voluntary manslaughter and fixing his punishment at two years and one day in the penitentiary for the killing of E. H. Powell, formerly chief of the county police, at Snider & Schnell's saloon on the Eighteenth-street road the night of May 15. But two witnesses were introduced by the Commonwealth, and the case was submitted to the jury without argument.

The evidence agreed, in the main, that the killing grew out of dissatisfaction on the part of Thomas because he was required to do extra work in patrolling the district of a brother officer, John Sanders, while the latter was allowed to do police duty at extra pay at Churchill Downs race track. There was no evidence to show that any animosity between the two men had existed prior to the tragedy. While all of the eye witnesses agreed that there had been a few words and a scuffle before the shooting, the witnesses for the Commonwealth could not testify as to who struck the first blow.

Jury Quickly Drawn.

Commonwealth's Attorney Joseph Huffaker and his assistant, Lorraine Mix, and Attorney William S. Heidenberg appeared for the prosecution, while James P. Edwards appeared for the defense. Less than an hour was consumed in obtaining the jury. The first witness for the Commonwealth was Elmer Pillard, 1052 South Eighteenth street, a special county patrolman at the time of the tragedy. Questioned by Attorney Heidenberg, he said he had been appointed to the county police force by Capt. Powell, who was his personal friend. That on the night in question he went by himself to the opening of Snider & Schnell's saloon, arriving about 9:30 o'clock, and saw Thomas soon afterward, and that Powell arrived about 10 o'clock.

Powell, he said, drank nothing during the evening. He and Powell were leaning against, or sitting on an iron railing in front of the saloon, he said, when Thomas came out and approached Powell, shaking his finger and saying, "I am getting damned tired doing John Sanders' work."

The witness said Powell replied: "Do you know who you are talking to?" and that Thomas answered, "Yes, I am talking to the chief of the county police." A blow followed so quickly, Pillard said, that he could not tell by whom it was struck and that the two men fell to the ground with Powell on top and, as well as he could tell, with Powell's hands on Thomas' shoulders. Three shots followed immediately, but, as well as he could see, Powell made no attempt to reach his weapon. He said that he believed Powell died immediately, but that he ran to telephone for an ambulance.

Powell Large Man

On cross-examination by Attorney Edwards he described Powell as a man six feet tall, weighing about 220 pounds, and about 35 years old. He said that the gathering at the saloon opening was largely attended by members of the county police force because Snider, one of the proprietors, had formerly been a county patrolman. To the best of his knowledge there had been no previous difficulty

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threw up my pistol and shot him in the head."

Further examined, he said that the blow felled him so that his right arm was partially pinioned against the wall of the saloon; that Powell carried his pistol in a holster on the left side and that he could see his hand as he reached for the weapon. Asked whether he believed his life was in danger, he answered, "I knew if he got his gun I wouldn't be here now."

Upon a rigid cross-examination by Commonwealth's Attorney Joseph M. Huffaker Thomas' testimony was not materially shaken. He insisted that he never had borne any malice against Powell for any cause. He explained that he shot three times because, although he saw Powell's head fall, he did not know how seriously his antagonist was hit and still believed that his own life was in danger. He said he had protested about doing Sanders' work several days before, but that, while he felt he was being unjustly treated, he was not angry. He also said, in answer to further questions, that he never had heard that Powell had made any threats about him, and that if Powell bore him any malice he never knew it.

Saw Thomas Struck.

David Tabler testified for the defense that he was standing in the car tracks and saw Powell strike Thomas and that he heard three shots fired. On cross-examination he maintained that, notwithstanding Powell's size and bulk, and that he, the witness, was standing behind him, he could see Powell strike the defendant.

C. T. Thompson, of Hazelwood, said that he was standing about six feet away. That he overheard parts of the conversation and saw Powell strike Thomas and catch him by the throat as he started to fall. He further said he saw Powell draw his pistol four or five inches from the holster. That when he was shot the arm dropped as if it had been struck with a club and that the pistol slipped back into the holster. He stood by this part of his testimony under a vigorous cross-questioning by Mr. Huffaker, and said he had volunteered as a witness without invitation or subpoena. William Hart, Jr., said he was standing in the shadow of a pole ten feet away and saw Powell strike Thomas and catch him as he fell, and that he saw Powell reach under his own coat, though he could not see a weapon. On cross-examination he admitted having been friendly with Thomas and his son.

Louis DeMarsh and Tom McBroom testified that they had heard Powell say at Weber's saloon, on the Eighteenth-street road, the Wednesday before the shooting, that if any of his patrolmen disputed his authority he would break their necks. Dr. J. B. Shacklette, who was called to the scene of the killing in his professional capacity, said he found a considerable contusion on Thomas' left jaw and scratches and blood on the left side of his throat that looked like the traces of fingernails.

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or ill will between the two men. He said that when Thomas protested against doing Sanders' work Powell had said, "You fellows ought to help each other out."

Steve Crimmins, a county patrolman, said that he saw Thomas drink two or three small beers during the evening; that when the trouble started he was standing outside the saloon near the rear of the building. He said his attention was first attracted by hearing Thomas' remark about talking to the chief of the county police, and next by the scuffle when the men fell to the ground. When he reached them, he said, Thomas was going down with Powell on top of him, and it looked like Powell's hands were close to Thomas' neck. The shooting he described almost as did Pillard, and said that Powell's pistol was found in its holster with all loads intact.

Thomas Surrenders.

On cross-examination he said that he helped Thomas from under Powell's body and that Thomas gave him his pistol. He said that he noticed a swelling on Thomas' left jaw and scratches on his neck.

Thomas was placed on the stand in his own behalf, and said that in March previous to the affair he had been chief of the county police force, but that he had resigned because it paid no more money than a regular beat and was more responsibility without the opportunity to make fees that ordinary patrolmen could earn. He said that no hard feeling had existed between him and Powell, and that the latter, in fact, had not been appointed a member of the force at that time.

His description of the events at the saloon previous to the shooting differed materially from that of the other witnesses only in the statement that he came out of the saloon first and was standing on the pavement when Powell came out and walked over to the railing where Pillard was standing. He said that on entering the saloon Powell had told him that he wanted him to watch in the Sanders district.

Talks With Powell.

When Powell reached the railing, he said, he told him: "I am getting tired of doing Sanders' work while he is at the racetrack getting \$3 a day." Powell's reply was: "Do you know who you are talking to?" he said, and "I told him, 'Yes to the chief of the county police.' Then he jumped off the rail and hit me and knocked me down and grabbed me by the throat and I saw him reaching across for his gun. I