

FORTY YEARS FOR HARLAN.

HE WILL HAVE TO SPEND THEM AT SAN QUENTIN.

Attorney Henley Strives to Procure a New Trial for His Client.

Yesterday was the day set for the sentencing of Charles Harlan, convicted of criminal assault on a fifteen-year-old girl named Rita Martin. The case has been prosecuted from the beginning with the active assistance of the Society for the Prevention of Cruelty to Children.

William H. Henley, the defendant's counsel, made a hard fight for his client, and presented a strong and carefully prepared argument in support of his motion for a new trial, but Judge Hughes could not be persuaded to adopt his view of the question.

The grounds on which he asked for a new trial were: That the court misdirected the jury in matters of law during the trial; that the court erred in decision of questions of law arising during the trial; that the verdict was contrary to the law and evidence; misconduct on the part of the District Attorney during the trial; that the court did not have jurisdiction to try the case.

He also asked for further time in which to prepare his motion, as he had worked diligently on it, but there are over 100 cases bearing on similar cases. Judge Hughes thought he had ample time to prepare the motion, and denied the request for a postponement.

Attorney Henley then attacked the age of consent law, under which Harlan was convicted, on the ground that it was not legally passed, and that the previous law, making the age of consent 14 years, was now in force.

He introduced the journals of the Senate and Assembly for 1897, when the law was passed, and also the History of Bills, to prove that Assembly bill No. 76, the law in question, was amended in the Senate after passing the Assembly and was sent to Governor Budd, who asked the House to pass a concurrent resolution recalling it, on the ground that the Assembly had not concurred in the Senate amendments before sending it to him for signature; that the concurrent resolution was passed, the bill sent back to the Assembly, the Senate amendments concurred in and the bill sent back to the Governor, signed and enrolled. He argued that the Legislature had no right to recall the bill, and the Governor had no right to send it back, and therefore it was not legally passed.

The Governor's duty, he said, was to have vetoed it. Only three things are in the power of the Governor when the bill is sent to him—first, to approve it; second, to veto or reject it; third, to let it become a law at the expiration of ten days without his signature. But he had no right to send it back.

Judge Hughes asked if there was any rule or statute requiring the Legislature to pass a concurrent resolution, as the Governor had suggested.

Mr. Henley said he had been unable to find any, and that the Governor had no authority to ask it, and the Legislature to pass such resolution. If the bill was defective, as the Governor stated, it was his duty to veto it, and then a new bill could have been introduced and passed in a legal manner.

Judge Hughes asked if, as the rules of the houses require action by one house on amendments passed in the other, the action of the Assembly in sending the bill to the Governor was a legal transmission.

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DELMARK'S STORY.

Rough Treatment He Experienced Near Iowa Hill.

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His face and head showed evidences of a terrible beating, and that was what he claimed to have got. Delmark says that the several days ago he went to Iowa Hill to cook at the Star Hotel. When he got there he found that he was expected to cook, wash the dishes and do everything in the kitchen, and as he is about 60 years of age he soon found that the work was too heavy for him. He was advised to work until 11 o'clock at night and get up at 3 in the morning.

Thursday evening, Delmark says, he informed the proprietor of the hotel, Charles S. Walsh, that he could not do the work and that he would be obliged to quit in the morning. He says he cooked breakfast yesterday morning and then, as the stage had gone, started to walk to Colfax, seven miles away. When he had got about a mile and a half from the hotel, he was overtaken by Walsh's brother and another man who ordered him to return to the hotel, and upon his protesting, they told him that they would make him go. Rather than have trouble with them he started to return. When they had gone a short distance they struck into a trail which they said was a short cut back to town, and after following it for about a hundred yards, Walsh, the brother of the proprietor of the hotel, turned and knocked him down. The two men then proceeded to beat him and kick him until he became unconscious. It was more than an hour before he regained his senses and managed to get back to the road, where he was found by a teamster and taken to Colfax. He says he had six bits when he was knocked down and that the money gone when he regained consciousness, though whether or not his assailants took it he is unable to state.

Delmark was treated at the Receiving Hospital. His head and face were literally a mass of cuts and bruises. He says he stated his case to the Constable at Colfax, but was advised to take no steps in the matter, for the reason that both of his assailants would swear they had not injured him.

Sharbaro Cases Dismissed.

In the City Justice's Court yesterday the several cases against A. Sharbaro, charged with embezzling the funds of the Bersaglieri Guard, were dismissed. Prior to the dismissal, arrangements had been made for a settlement of the difficulty, satisfactory to all concerned. It is understood that if there is a shortage in Captain Sharbaro's accounts, it will be made up by him.

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The Big Graphophone.

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SMITH—In Fair Oaks, August 4th, Eliza B. Smith, mother of Elvin Smith of Dixon, Illinois, a native of New Hampshire, aged 64 years.

Remains will be shipped to Dixon, Ill.

BILBY—In Franklin, August 4th, Mrs. Jane Bilby, mother of Richard A. Bilby and Mary E. Freeman, aged 76 years, 2 months and 7 days.

All friends and acquaintances are respectfully invited to attend the funeral at 1 o'clock Sunday, August 6th, at Franklin Cemetery.

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