TEST BASEBALL CASE ARGUED.

DID IT DISTURB THE PEACE OF THE SABBATH?

That Is the Very Gist of the Law, Says Justice Gaynor, and Yet It Is Not Averred in Any of the Affidavits—Court Asks the Lawyers for Briefs.

Supreme Court Justice William J. Gaynor, in Brooklyn yesterday, heard argument in the case of Frank Dillon and Edward Poole, members of the Brooklyn baseball team, who were charged with violation of the Sunday law by participating in the game at Washington Park on Sunday, May 29. This is the case which, by an understanding, was to be made a test of the legality of ball playing on Sunday when money is required for admission.

Bernard J. York, counsel for the Brooklyn Baseball Club, moved for the discharge of the accused on the ground that there was no allegation that the peace and repose of the Sabbath had been disturbed by the game. He cited Justice Gaynor's own decision, in which he held that such an allegation must appear in the complaint, and also cited a similar decision in a like case by Justice Barnard sixteen years ago.

"Is there no allegation in the complaint that there has been a disturbance of the tranquillity of Sunday?" asked Justice Gaynor.

"We cannot successfully maintain that there is," replied District Attorney Clarke. "I am so informed by Police Captain White; so if this complaint is to stand or fall by that, we are out of court, for we are absolutely unable to show by the people in the vicinity that they are disturbed by Sunday baseball."

Justice Gaynor said that he had absolutely no intention of differing with the decision of Justice Barnard in the Dennin case, but, on the contrary, intended to stand by it, being forced to do so, whether he wanted to or not.

Mr. York contended that the mere fact that Dillon and Poole were paid for their services made no difference, for to declare them guilty would be in effect to hold that the Sunday shows at Coney Island were unlawful.

"Baseball playing," said Mr. York, "instead of being injurious to morals has a good influence and goes toward better citizenship. We now recognize the necessity for innocent recreation on Sunday. No one in the vicinity of Washington Park complains that their religious liberty is disturbed and it is necessary to go miles from the grounds to get some one as a witness in this proceeding."

District Attorney Clarke said that the only point that interested him as a prosecuting officer was where the playing of baseball on Sunday was a violation of the law, the complaint had been made and it was his duty to see that the law was enforced. "What are you going to do with the Dennin case?" asked Justice Gaynor.

"There was no admission fee charged in that case," replied Mr. Clarke. "Baseball of itself is not a crime. It is criminal only when carried on in a business way on Sunday. Then it becomes unlawful."

"These defendants," said Mr. York, "are not charged with conducting a game of baseball for profit. If an admission fee was charged these defendants are not responsible for it." Mr. Clarke said that his contention was that baseball conducted for an admission fee on Sunday, was prohibited under the statute.

"I understand," said Justice Gaynor, "that some people came forward and instigated the police in this matter. Is none of them willing to swear that the repose of the Sabbath was interfered with? It is a very strange thing if they won't. It is very strange that ministers who want this law enforced are not willing to swear that the repose of the day is interfered with. It is the very gist of the law."

Lawyer John M. Perry, representing the Sabbath Association, said that he understood the church people were willing to swear that the game at Washington Park disturbed the peace of the day.

"I could get no such evidence as that," Mr. Clarke said.

Justice Gaynor said that he would take the case under advisement, directing counsel to look thoroughly into the law and submit briefs.

THE KIND OF MAN POUCH WAS.

Light on the Character of the Father Who Killed His Four Children.

ELIZABETH, N. J., June 7.—Albert Pouch, who was shot by his father, Joseph M. Pouch, at Roselle, N. J., yesterday, after the latter had killed his other three children by poison and pistol shot, died this morning. He was 14 years old and the oldest of the four children. The four bodies, together with that of the father, who killed himself, will be taken to Brooklyn to-morrow for burial in Greenwood Cemetery.

Some of the letters left by Pouch, which were brought to light to-day, showed the premeditation with which he planned his mad deed. A letter to his brother Frank E. Pouch, an undertaker of 305 Adams street, Brooklyn, gave directions for his burial, designated the kind of flowers he wished to be used, directed how he and the children were to be dressed and where the clothing could be found. He specified that white carnations be used on his own coffin, explaining that these were his wife's favorite flowers. He said that he told his wife, who died under suspicious circumstances a little more than a month ago, that he and the children would be with her inside of three months. He wished to be buried in his Masonic apron and desired the funeral services to be held in a Presbyterian church.

He directed that the hymns "Nearer, My God, to Thee" and "Gates Ajar," be sung, and left instructions that all of the dead should be buried in the same plot in Greenwood Cemetery. He had written an inscription to be placed on the tombstone of his wife. It contains only the dates of her birth and death. He wrote that he was prepared to meet his God, that he was a Christian and had done a Christian act.

He complained that a Roselle minister who had promised to call to see him again after a first visit, had never done so. The people of Roselle, he said, were not Christians or they would have called to inquire if his children had attended Sunday school.

Neighbors threw some additional light to-day on the character of Pouch. According to them, he was perpetually wailing against what he termed the greed of corporations. He constantly asserted that the majority of men did not get their due in worldly goods.

"He was the sort of man," said one of his neighbors, "who, if he were getting $10 a week in the employ of a man whose business netted a profit of $25 a week, would grumble because he did not receive $12.50."

WANT THOSE TELEPHONES BACK.

Mr. McAdoo Told by Lawyers That the Police Just Stole Them.

Daniel O'Reilly and Maurice Meyer sent a joint letter to Police Commissioner McAdoo yesterday in behalf of the New York and New Jersey Distributing and Circulating Company, whose offices were included in the sweeping raids of May 20. The lawyers quote District Attorney Jerome as saying that these raids were illegal and then ask Mr. McAdoo to surrender thirty telephones which were gathered in from the company's quarters.

The letter quotes sections of the Penal Code in reference to the seizure of property used in gambling and expresses conviction that none of them covers the telephones. It therefore appeals to Mr. McAdoo, as one who has "always in the public press professed a great respect for the law," to "forthwith cause the said property to be returned to the New York and New Jersey Distributing and Circulating Company, from which it was stolen by the police."

Mr. McAdoo is further invited to regard the letter as a formal demand.

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FULTON SUBMERGED ALL NIGHT.

Submarine Remains Under Water for Over Twelve Hours—Trial Successful.

NEWPORT, R. I., June 7.—There was an interested crowd gathered on the dock at the torpedo station this morning to see what would take place when the submarine torpedo boat Fulton came to the surface after her submersion of the night, she containing besides the members of the crew, Naval Constructor J. J. Woodward, a member of the Naval Trial Board.

It was 11:10 when the Fulton came to the surface. All night long she had been watched by members of the seaman gunners class to see that she did not come to the surface for air, these men being in charge of Lieut. C. Nelson. It was a long night for these men, but they saw the electric light burning in the conning tower of the Fulton, a signal that all was well. For over twelve hours the Fulton was entirely submerged to a depth of from four to ten feet.

As soon as the Fulton was awash the hatch was opened and Capt. Cable, in charge of the boat, came out on deck, followed by Naval Constructor Woodward and members of the crew, nine in all. It was then learned that everything had passed off nicely on board the boat, and only once during the night was the foul air pumped out and fresh air let in from the air chamber, and this only being done as it was required by the board.

The members of the board would have nothing further to say than that the trial was most successful in every particular.

To-morrow several runs will be made by the Fulton over the measured mile course in Narragansett Bay for the purpose of ascertaining her speed. Thursday morning she will leave for New Suffolk, L. I.

LAWN TENNIS.

Stephen C. Millett Beats H. H. Hackett in Metropolitan Championship Tourney.

Some good matches were witnessed yesterday in the second day's play for the Metropolitan championship on the West Side courts, 116th street and Amsterdam avenue. In the men's singles Stephen C. Millett, Calhoun Cragin and Ross Burchard, all of the home club, have passed the second round. In that round Millett defeated Harold H. Hackett, the old Yale champion, in straight sets, the second of which was at love. The strong play by Millett has somewhat of a surprise. On the opening set the score reached deuce several times before Millett took the two necessary games. Hackett weakened after the hard fight on the first set and could do nothing with Millett's fast drives.

In a close three set match Calhoun Cragin disposed of Wylie C. Grant of the New York Tennis Club, the indoor champion. Grant showed up well in the second set, which he took rather easily at 6—2. The first and third went to Cragin on better all-round work. In the same round Ross Burchard scored an easy win over J. Steinacher.

In the doubles Robert Le Roy and Harold H. Hackett had no difficulty in defeating E. D. Roberts and Smith, the latter pair getting but one game in the two sets played. The veteran Clarence Hobart, paired with S. C. Millett, took two straight sets from J. H. Hall and Lombard. Hobart was abroad last summer, and his reappearance on local courts was an event of interest. This team seems easily the strongest combination in the running.

Metropolitan Championship — Men's Singles—First round—Henry Mollenhauer, Kings County T. C., defeated Louis J. Grant, New York T. C., by default; Calhoun Cragin, West Side T. C., defeated H. F. Hollbrook, West Side T. C., by default; Wylie C. Grant, New York T. C., defeated Charles Galway, New York T. C., 6—4, 6—2.

Second Round—Stephen C. Millett, West Side T. C., defeated Harold H. Hackett, West Side T. C., 6—7, 6—0; Calhoun Cragin, West Side T. C., defeated Wylie C. Grant, New York T. C., 6—4, 2—6, 6—4; Ross Burchard, West Side T. C., defeated J. Steinacher, New York T. C., 6—1, 6—3. Men's Doubles, Scratch—First round—Robert Le Roy, New York T. C., and Harold H. Hackett, West Side T. C., defeated E. D. Roberts and Smith, 6—0, 6—1; Stephen C. Millett and Clarence Hobart, West Side T. C., defeated J. M. Hall and Lombard, 6—1, 6—1.

On the New York Tennis Club courts, 123d street and Manhattan avenue, the men's handicap singles was the event of the day. Because of the large number of defaults a large calendar was disposed of.

Men's Handicap Singles—Preliminary round—E. Basch, half 15, defeated W. F. Blagden, owe half 15, by default; F. P. Fox, half 15, defeated William Holston, half 15, 6—2, 6—1; H. W. Warner, owe half 15, defeated C. W. McMullen, scratch, by default; Robert Le Roy, owe half 30, defeated J. F. Lutz, half 15, 6—1, 3—6, 6—1; J. Steinacher, half 15, defeated Henry Mollenhauer, owe half 30, by default.

First Round—J. Steinacher, half 15, defeated William Stickney, half 15, by default; N. G. Johnson, half 15, defeated F. G. Anderson, owe 30, by default; W. J. Schloss, half 15, defeated C. C. Kelley, owe 30, by default; O. H. Hinck, owe half 15, defeated Wylie C. Grant, owe half 30, by default; Robert Le Roy, owe half 30, defeated H. W. Warner, owe half 15, 7—5, 6—0; F. P. Fox, half 15, defeated E. Basch, half 15, by default; A. J. Hinck, scratch, defeated L. H. Turner, scratch, by default; M. S. Clark, scratch, defeated G. Sollinger, half 15, 1—6, 6—3, 6—7; P. B. Hawk, scratch, defeated Charles Cobb, half 15, 6—1, 6—4; W. M. Hall, 15, defeated F. Kastner, half 15, 6—3, 8—6, 6—3; R. W. Wilkes, half 15, defeated Oscar Childs, half 30, 6—1, 6—4; T. C. Trask, owe half 15, defeated L. W. Becker, half 15, by default; E. H. Stern, half 15, defeated R. H. Palmer, owe half 15, by default; José Chaves, half 15, defeated Ross Burhard, owe 30, by default; J. Charles Galway, half 15, defeated H. E. Stern, half 15, 6—0, 6—2.

Second Round—José E. Chares, half 15, defeated Charles Galway, half 15, 6—0, 6—3; E. H. Stern, half 15, defeated T. C. Trask, owe half 15, by default; W. M. Hall, 15, defeated R. W. Wilkes, half 15, 6—3, 6—4; M. S. Clark, scratch, defeated P. B. Hawk, scratch, 6—1, 6—2; Robert Le Roy, owe half 30, defeated J. Steinacher, half 15, 6—1, 6—2; W. G. Johnson, 15, defeated W. J. Schloss, half 15, 6—8, 6—1; O. H. Hinck, owe half 15, defeated Kenneth Bulkley, scratch, 6—2, 8—6.

Third Round—E. H. Stern, half 15, defeated José E. Chares, half 15, 6—2, 6—3; M. S. Clark, scratch, defeated W. M. Hall, 15, 6—4, 6—3.

The Morristown Field Club continued play yesterday for the Kahn cups. In the semi-finals of the men's handicap singles E. L. Kip defeated George Henry two sets to one, and C. W. Throckmorton won a two set match from Bigelow. Both sets on this latter match were deuce.

Second Round—George Henry defeated P. Litchfield, 8—6, 7—5.

Semi-final Round—E. L. Kip, scratch, defeated George Henry, 6—0, 6—8, 6—4; C. W. Throckmorton, scratch, defeated Bigelow Watts, half 15, 7—5, 8—6.

JEFFRIES WANTS FIGHT PUT OFF.

Champion Not in Condition—Munroe Refuses to Postpone Battle.

SAN FRANCISCO, June 7.—It leaked out last night that Jim Jeffries had made proposals to Munroe to postpone the fight fixed for June 17 on the ground that he found it impossible to get into condition in the short time remaining. As the story goes, Bill Adams, a close friend of Jeffries who returned from Harbin Springs last Saturday, approached James Coffroth, manager of the Yosemite Club, who made the match, and asked him to use his influence to have the fight postponed. He told Coffroth confidentially that Jeffries began training too late and that it was impossible for him to get into condition in the little time remaining. Coffroth would not consent, as he declared he had made all arrangements for the 17th and would be a heavy loser if the fight were postponed.

Then Adams went to Munroe and broached Jeffries's proposal to postpone the battle. The Butte miner grinned when he was told Jeffries could not get into condition, but he said he had signed articles to fight on the 17th, and if Jeffries was not in shape it was the champion's own fault, as he had had plenty of time for preparation. So it's up to Jeffries to get into condition in the ten days left to him.

VANDERBILT AUTO RACE OPEN

RESTRICTIONS PLACED ON THE FIRST TWO CONTESTS.

Cup Must Be Competed For in This Country Twice and Will Then Become a Really International Trophy—First Competition Will Be Held On October 8.

On Oct. 8 the first great automobile road race, that for the trophy presented by W. K. Vanderbilt, Jr., will be held in this country, and the cars that were not permitted to go abroad will then have a chance to prove their abilities. This was settled upon yesterday afternoon after a final conference between Mr. Vanderbilt and the racing board of the American Automobile Association, and a meeting of the executive committee of the A. A. A., at which the agreement was ratified.

The articles of the deed of gift have been finally approved and signed and the conditions drawn up. The conditions of the race are, in outline:

The trophy will be officially known as the "William K Vanderbilt, Jr., cup." It is to be raced for annually through the American Automobile Association, or its successor, and the Automobile Club of France will be the foreign representative of the American Automobile Association. The date of Oct. 8 has been fixed for this year and the entries will close Sept. 8, but in future years the date for the race will be between Aug. 15 and Oct. 15, and the entries will close on March 15. The distance of the race will be not less than 250 miles and not more than 300 miles. It must be held on the highway and in no part upon a track.

It will be an open race from the beginning, but it will be so restricted during the first two years that it will hardly rank as an international race until 1906. During 1904 and 1905 the race must be held on American soil. Thereafter it may be held here or abroad at the option of the holder of the cup. All members of clubs recognized by or affiliated with the American Automobile Association and all clubs recognized by or affiliated with the Automobile Club of France will be eligible to compete. This opens the race to all those to whom the Bennett cup race is open. Not more than ten cars from any one country can compete. Every challenge and entry must be accompanied by a fee of $300, for each car, half of which will be returned if the car actually starts.

When the contest is held in the United States the American Automobile Association will select the course, secure the necessary permit, assume all expenses except the personal ones of competitors, decide the awards of places in the order of finish, attend to the policing of the course, the appointment of officials, the charge of neutral zones, or controls, &c. When the race is held abroad these duties will devolve upon the Automobile Club of France.

The commission governing the contests will be in 1904 the racing board of the American Automobile Association, of which W. K. Vanderbilt, Jr., is now a member; in 1905, the racing board of the A. A. A., W. K. Vanderbilt, Jr., and one member of the French Club to be named by its president. During the future years that the race is held here the commission will be the same as in 1905. During the years that it is held abroad the commission will consist of the race committee of the Automobile Club of France, one member of the A. A. A. and W. K. Vanderbilt, Jr.

The competing cars may be of any horsepower but must weigh not less than 881 pounds nor more than 2,204 pounds. Each competing car must carry two passengers, weighing not less than 137 pounds apiece.

Numbers will be assigned to the cars by lot and the number drawn will represent the order of its start in the race. The cars will be started at one minute intervals. The car covering the course in the least time will be the winner of the cup. The first car will be started in the race at daylight, or as soon thereafter as the commission deems proper. The races in this country will be governed by the rules of the A. A. A.; abroad they will be under the rules of the French clubs.

The course for the race has not yet been selected, but it will almost beyond doubt be on Long Island.

The cup offered for the race has been completed and is said to be a more costly one than the Bennett cup. In a few days it will be put on exhibition at Tiffany's for a period.

GOLF.

Annual Tournament of the Eastern Trades Association.

There were twenty-seven entries yesterday in the annual one day tournament of the Eastern Trades Golf Association, held at the Nassau Country Club. The players were all out for fun, save a half dozen who have a standing on the local links, and of this set the best of the morning scores were 88 by F. C. Jennings, 89 by Percy Jennings and Frank H. Simmonds, and 93 by Frank B. Barrett. Simmonds improved in the afternoon and won the chief prize, his own gift as president, with 89, 86—175. There were fourteen prizes in all. The players being divided into classes of four each, and there was also a handicap.

Nassau nomenclature was not good enough for the fun seekers and they rechristened the holes in this style; 1, Up and Away; 2, President Simmons; 3, Duffer's Cinch; 4, Chicken Croquettes (an allusion to the mound bunkers); 5, Condenser Head; 6, Has Beens; 7, Washer; 8, Back to the Woods; 9, Down the Alley; 10, Far and Sure Mike; 11, Nason Trap; 12, Drive and Put; 13, Outlet; 14, Up to You; 15, Slow Freight; 16, A Peach; 17, Half and Half; 18, All Over.

There were also special rules, mostly explanatory or condemnatory. Some of the rules were:

No restriction upon the quantity of sand used in teeing.

If a player miss the ball and strike his caddie, the caddie will be disqualified and sent home at the player's expense.

The player shall drive from the tee until those in front are at a safe distance—say 30 yards—or have played at least seven strokes.

Any player teeing his ball in a bunker will be disqualified.

It is permissible for a player to ask his partner the line, but it is left to the discretion of the player so asked to give the right line or not.

When partners get so far separated as to be unable to count one another's strokes, the score handed in by each, plus four, shall be taken as correct.

The results in the class events, at thirty-six holes medal play, mounted up to stupendous scores for some of the jolliners. The summary:

Class A—President's cup—Frank H. Simmonds, Baltusrol, 89, 89—175; P. R. Jennings, Garden City, 89, 92—181; F. C. Jennings, Nassau, 88, 98—186; Frank B. Barrett, Fox Hills, 93, 93—186.

Class B.—E. C. Maltby, 99, 85—184; F. C. McLane, 115, 106—221; C. E. McInnes, 119, 120—239; F. H. Seward, 125, 144—269.

Class C.—J. R. McMahon, 128, 127—255; M. D. Fisk, 129, 130—259; A. A. Ainsworth, 133, 130—263; C. A. Bridgman, 130, 142—272.

Class D.—F. C. Eckhardt, 141, 148—289; G. M. Bridgman, 144, 128—272; G. G. McDuff, 165, 172—237.

Consolation Class—F. A. Buckman, 127, 158—330; F. M. Chew, 183 159—342; W. S. Appleton, 191, 199—390.

There were two prizes in each class. The afternoon handicap was won by Frank B. Barrett. It was a "blind" event, to whoever should come nearest to 80, and Barrett's card was 93, 12—81. The organization is composed of wholesale dealers in heating and ventilating apparatus, plumbers' supplies and auxiliary lines.

Cape May Cup on Its Way to New York.

Special Cable Despatch to THE SUN.

COWES, June 7.—The Cape May cup was despatched on its way to New York to-day.

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The Nichols—W. H. Nichols; 100
The Buckley—M. A. Buckley; 80
The Swannanoa—F. Schrader & Son; 80
Grand View Heights—I. Bernstein; 70
Poellman House—H. DeMyer; 90
Hillside Villa—Walter Brown; 40
Lennon House—John C. Lennon; 35
The Pleasant View House—J. H. Van Orden; 40
Drew Cottage—Mrs. E. McCarthy; 25
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MONTICELLO

The Frank Leslie—Frank L. Ernhout; 100
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Palatine Hotel—P. C. Murray; 100
Hotel Palm—Jos. Egnew & Co.; 125
Furnished Cottages—McLaughlin Bros.
Monticello House—Harms & Dickhut; 40
Real Estate For Sale or Rent—J. M. Watson
Hotel Royal—Monroe H. Weasmer; 40.

ROSCOE

The Campbell Inn—J. Campbell; 100
Beaverkill House—H. W. Beringer; 50
The Valley View Villa—J. W. Albee; 20
Gregory Cottage—W. W. Gregory; 10

WHITE LAKE

The Arlington—Sanford & Winship; 200
Prospect House—W. C. Kinne; 125
Mansion House—J. P. Kinne & Co.; 125
The Kenmore—E. M. Van Order; 100
West Shore Hotel—John J. Van Order; 85
Hillcrest—Paul E. Van Morstein; 50
The Hoffman—D. T. Hoffman; 50
The Main Hotel—C. Lewis; 50
The Palatine—D. A. Dolson; 60

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