

JUROR BROWN'S CONDUCT

The District Attorney Is Sustained by the Court.

CONTEMPT CASES GO OVER

Mr. Smyth's Passion for Pure Air Is Too Much for Judge Murphy.

MAY NOT PRESIDE TO-DAY.

Captain Lees Details an Officer on the Trail of the Girl With Blossoms.

THE DURRANT CASE IN A MINUTE—BRIEF REVIEW OF THE PROCEEDINGS.

Judge Murphy disposed of two very important matters immediately after court convened yesterday morning. First of all he granted the District Attorney's request to exercise a peremptory challenge on Juror Brown. Mr. Barnes acted on the permission at once, and

was accepted and sworn to try the case, and before the jury was completed the counsel for the people, without filing any affidavit, but merely upon a statement almost identical with the one made by the District Attorney in this case, was permitted to re-examine the jurors so sworn, and after such examination was allowed to exercise a peremptory challenge on said juror, and this action of that court was sustained by the Supreme Court.

It thereupon is clear that either party may be granted the privilege of further examining a juror accepted and sworn to try the case, for the purpose of showing the name why a peremptory challenge should be allowed after the juror is sworn and before the jury is completed.

Section 1067 of the Penal Code provides that "a challenge to an individual juror is either (1) peremptory, which is the right either party has to challenge up to a certain number without assigning any cause; or (2) for cause. Here some legal cause as the code provides must exist in order to warrant its allowance."

Section 1068 provides: "It must be taken when the juror appears, and before he is sworn to try the case, but the court may for cause permit it to be taken after the juror is sworn, and before the jury is completed."

From this section it is clear that the Legislature by adopting it was satisfied that certain exigencies might arise, after a juror was sworn, and in the interest of public justice and a fair administration of the law, where a party should not be absolutely required to accept and retain on the jury an objectionable juror, even though he had been accepted and sworn.

I take it that if the challenging party were to claim the right to interpose a challenge "for cause," after the juror was sworn, then such a cause must be shown as would justify the court in allowing the challenge had it been interposed before the juror was sworn; but if it is sought to interpose a "peremptory" challenge after the juror is sworn, then the juror may be the subject of such peremptory challenge, although the ground upon which such peremptory is

charged that their conduct in the publication of matters connected with this defendant and the trial is an interference and an unjust interference with the proceedings of this court.

It seems to me that it would be readily admitted by every person, and certainly should be admitted by the controlling elements of the action of every person recognizing this right, that all parties accused of crime are entitled to a fair and impartial trial; that the proceedings in the courts should be conducted in a calm and orderly manner, and that, when a party is brought to trial, there should be no interference with the due and regular proceedings of the trial—that there should be nothing said or nothing done which would arouse a feeling of hostility or prejudice against a party on trial. This is not only the right of every person accused of crime—a legal right—but it is a constitutional right. It is a right provided for and guaranteed him by the organic law of the country, and no court with proper respect for itself, with a due regard to the rights of the party on trial, would hesitate to extend its arm—the strong arm of the law—to see that such party is protected in this constitutional guarantee of a fair and impartial trial; and it might as well be understood that no person, whoever he may be, or in whatever position of life he may be placed, however powerful or however powerful the machinery with which he is connected is concerned, has a right, by any act of his, to so publish and proclaim matters as to interfere with the just and proper administration of the law and the orderly conduct of the trial then proceeding in one of our courts.

This remark does not apply to this case, but it is a remark which I made years ago in another case in which similar complaint was made. In that case I said: "It devolves upon me to announce that, should a conviction occur in the case and the court was satisfied that any injury had been done, or any prejudice had been raised against the defendant in the case upon trial, by reason of any publication in the press, I would, unhesitatingly, under the oath that bound me to do so, administer the law and give the party a new trial, placing the injury and wrong at the feet of those who are guilty of it."

Of course this remark was a general remark, not applicable to this case or anticipating any result in this case, but simply to announce what I believe to be the law and the right of every person on trial to be protected from at-

that one has been excused, notwithstanding the objection of the defense, and without any cause—without sufficient cause.

"The objection is overruled," said the court, and the defense took another exception. The examination of veniremen then began in earnest.

A. P. Sheppard of 2112 Steiner street was called by the prosecution and challenged by the defense on his statement that he did not think he was in a frame of mind to become a competent juror. The prosecution consented and the juror was excused.

E. A. Bullis, 1015 Steiner street, was challenged and excused for the same reason.

R. A. Miller of 312 Beale street stated that he would not be willing to join in a verdict on circumstantial evidence. He was challenged for this reason and excused.

G. C. Ludington, 2512 Fillmore street, was allowed to depart for the same reason.

Ex-Supervisor C. W. Tabor of 630 Twenty-third street, stepfather of Clarence and Elmer E. Wolf, important witnesses in the case, was excused by consent of both sides for this reason.

R. Bunton of 1118 O'Farrell street was excused by reason of the fact that he would not bring in a verdict of guilty involving the death penalty.

J. Bucher of 1905 Church street was challenged and excused by reason of a fixed opinion on the case.

H. M. Levy, president of the Hale-Norcross Mining Company, residing at 1302 Polk street, was challenged and ex-

A CATHOLIC CONVENTION.

The Second Step in a Great Educational Movement in the Church.

AT THE CATHEDRAL TO-NIGHT.

Reading Circles to Unite and Join the Catholic Summer School of America.

The Catholic reading circles of San Francisco will hold a convention at St. Mary's Cathedral this evening for the purpose of establishing a union of the various circles, adopting a universal course of studies and formulating a plan for organizing new branches and, in fine, inaugurating a Catholic Summer School on this coast similar to those in the East.

About five months ago a meeting, at which 600 young ladies and young men were present, was held at the cathedral. The object was to get Catholics interested in the educational movement to establish reading circles in every parish. Since then five reading circles have sprung into existence and they have flourished and excited the interest of a large number of prominent Catholic young people, and, having passed the experimental stage and become a recognized factor in parish work, the clergyman, who agitated the movement, and the lay members, who took an active part in it, have decided to hold this convention with a view to permanent organization and joining the Reading Club Union of the Catholic Summer School of America.

The circles from parishes that will be represented at the convention are the Cathedral Circle of St. Mary's Cathedral, the Archbishop Riordan Circle of St. Charles, the Thomas Aquinas Circle of St. Peter's, the Holy Cross Circle of Holy Cross Church on Eddy street and the Ladoria Circle of St. Ignatius Church. There are also several circles organized in the City, from which representatives will be sent.

In the beginning it was wholly due to the efforts of very Rev. J. P. Prendergast, vicar general of the archdiocese, that the new educational movement, which had spread throughout many Eastern and Western States, was taken up by members of Catholic churches in this diocese. He gave it an impetus and saw it safely launched when the work was given over to Father Dempsey. So far, however, there has been no definite line of work for the circles. They went along independently, meeting once a week, each following out its own plan in the reading and discussing of papers covering history, literature, art and Catholic doctrine. Now they propose to adopt the plan of the National Union.

A full course requires four years' study, but members may join for one year or longer. Special or advanced courses will be prepared for those who complete the regular course. The plan consists of carefully prepared reading courses, and wisely selected books. The course for each year is complete in itself. In these studies the lessons are marked in advance each week, and the amount of reading in each study clearly defined. The advantages of membership are set forth in a circular to be issued at the convention.

Following is the order of study to be recommended: October, November and December—Church history and physics.

January, February and March—Church history, sacred Scripture and physics.

April, May and June—Sacred Scripture and early English literature. Members may follow a different order of reading if they so desire.

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RAPHAEL'S GREAT LOSS.

Must Stand All of the Damage to Both Stock and Store.

A Four-Inch Pipe on the Third Floor Burst and Flooded the Building.

Owing to the bursting of a large water pipe the interior of Raphael's clothing establishment on Kearny street presents a strange contrast to its usual orderly appearance. Clothes soaking with water,

George F. Ehrenpfort, 1751 Ellis street, was passed by the State and excused on challenge of the defense.

G. W. Haskell, 118 Cumberland street, was excused on the challenge of the State on the ground of possessing an opinion that would require evidence to remove.

W. K. Taylor, 117 Octavia street, was excused on the defendant's challenge.

S. F. Holtum, 804 Page street, was challenged by the prosecution on the ground that he had stated that under no circumstances would he give a verdict on circumstantial evidence where the verdict might be death.

J. H. Doolittle, proprietor of the St. Nicholas Hotel, was passed by the State, but was challenged by the defense on the ground that he had formed an opinion. The challenge was allowed.

S. Schloss, 411 1/2 Octavia street, was excused on the State's challenge because he stated that he would hang a person on circumstantial evidence.

C. H. Dolan, 123 Twenty-fourth street, said he had conscientious scruples against inflicting the death penalty, and was excused on the peremptory challenge.

W. Kaiser, 211 Post street, said that under no circumstances would he join in a verdict for death on circumstantial evidence. He was excused by the State.

L. Gately was excused by the State because he had an opinion as to the guilt or innocence of the defendant.

Z. Zimmerman, 1108 Railroad avenue, said he would not render a death verdict on circumstantial evidence, and he was excused by the State.

A. T. Patrick was excused by consent of counsel on both sides on the ground that he was a brother-in-law to one of the parties to the action, Mr. Bohlen, the detective.

B. Lazansky, 105 Clay street, was passed by the State. But in answer to questions by the defense he said he had an opinion that no evidence would remove. He was excused.

efficient work of the patrol comparatively large amount of goods escaped unhurt, as the burning stock was promptly covered with tarpaulins and the walls probed so as to allow the water to fall in the aisles and behind the counters.

The next danger to be encountered owing to the flood of water was the electric light wires, which began sputtering as soon as the water formed a connection between the exposed parts of the wires and the woodwork surrounding them. The lines were promptly cut, doing away with the danger of fire.

In speaking about the matter yesterday Julius Raphael said that it would be impossible to estimate the loss at the present time, as an entire inventory had not been taken, and that it would require several days to adjust matters.

The loss will have to be borne by the corporation, as the Underwriters refuse to recognize loss by water without fire assisting in the ravages.

Attorneys have been consulted in the matter, and are all of the opinion that there is no redress for the firm, the break being purely accidental and due to the negligence of no one.

Mr. Raphael was to have left for the East this evening, but owing to the accident he has decided to postpone his trip indefinitely.

THE LATEST IN CYCLING.

The Proposed Racing Circuit Not Likely to Be a Success.

There will be a circuit of race meets in Southern California during September as follows: Santa Ana, 5th; San Diego, 7th; Riverside, 9th; San Bernardino, 11th; Los Angeles, 14th; Pasadena, 21st. There will be both class A and B events, and no doubt several of the northern flyers will attend. It looks doubtful whether the proposed circuit in this part of the State will come off at all, and if it does, success is very problematical, as there seems to be no head to the venture. The opening date was originally intended to be August 10, which was changed to the 17th, and is now again postponed to the 24th, at which time the circuit may start at Petaluma. As the best class A men cannot follow it, however, and there are few class B men to race, it is not to be expected that the circuit will be of much value.

The Waverly Cycling Club is the latest wheeling organization in this city, and starts out with a charter membership of fifteen. The officers are: George M. Hamilton, president; W. E. Elston, secretary; treasurer; Ernest Elliott, captain; Joe Reay, first lieutenant; Henry Heinze, second lieutenant.

Captain Theodore C. Dodge and Harry Perrill of the Bay City Wheelmen will start this morning on a week's tour wheel through San Mateo, Santa Clara and Santa Cruz counties. W. E. Lee and A. W. Rhys, of the same club, left yesterday morning for Lake County, where they will enjoy a two weeks' vacation. Sanford Plummer and E. E. Stoddard, of the Bay City, have just returned from a hunting trip through the western part of Sonoma County.

Walter D. Sheldon and Harry E. Terrill, of the Bay City Wheelmen, met with a peculiar accident last Sunday night. They were riding a tandem on Golden Gate avenue, and as they reached the corner street a boy on a single wheel turned the corner. There was not time to avoid a collision, and the tandem was badly damaged, while the rider of the single wheel was knocked fully twenty feet away and his wheel went with him. Terrill was considerably bruised and the boy suffered several contusions. The fault lay with the boy on the single wheel, as he was racing around a corner without paying any heed to possible consequences.

Next Sunday will see three different attempts made to lower the coast five-mile road record, as handicap races are to be run for that distance by the Olympics and Reliance Club Wheelmen and the Imperial Cycling Club. The Olympics will have the most talent entered in their race and are in doubts as to whether the Fruitvale-San Leandro or San Mateo-San Carlos course is the best. This will be decided at a meeting this evening. It would be desirable if all three clubs would hold their races over one course, as then the other clubs could attend and enjoy a good day's sport. The Reliance Club riders know every inch of the way over the San Leandro course, as they live across the bay and train on it. So they will probably favor their race being run on that course, but the Olympics and Imperials think the straightaway stretch beyond San Mateo is in better condition, and they want a place where their men will have a chance of beating Alexander's time of 12:03.25.

Captain Dodge has called a club run of the Bay City Wheelmen to Golden Gate Park for next Sunday, which will be largely attended, as it is his last run but one, the club being held early in September. The members are at a loss as to whom to choose for the next captain, and

NEARLY WELL

The Astonishing Rapidity With Which Cures Are Made

AT THE BIG WHITE BUILDING

By Professor Hudson and His Associates—From East, North and South the Testimonials Come to This Grand Western Institute—What Is Being Accomplished Daily There.

IT HAS BEEN SAID THAT THIS IS A WICKED generation, but it is not true. It is true that there are a few noteworthy exceptions. There are those who, whilst having due regard for the propriety of keeping in the fashion don't mind going outside of it, and being somewhat different from the general run of the brothers and sisters when they find that a good turn has been done them. One of these gentlemen is Mr. F. Clyde, a well-known resident of Victoria, B. C., and we are now giving this distinguished citizen of the Dominion of Canada credit for his manliness and his veracity. Mr. Clyde, it seems, has been afflicted with severe sickness to that great curative establishment—the Hudson Medical Institute—for assistance. His case was taken under consideration by the general run of the doctors, and his ailment had been made, treatment was forwarded him to the pretty little city from which he came. He was not an ordinary case by any means, and it is altogether probable that had Mr. Clyde been asked what he had given to have had his regular health and strength restored, he would have named the great Hudson Medical Institute—founded by the late Dr. J. H. Hudson, and now, as we have said, in the hands of his associates, who are practicing in the big white building at the corner of Market, Stockton and Ellis streets. He has named a good round figure. But Mr. Clyde is nearly well now—in fact, the goal is right in sight, and he has had a large amount of money for the inestimable boon of restored health either. Of course, he has paid the regular fee, but he has had a large amount of marked before, he is man enough to acknowledge the great, immense good, that has been done for him. He writes, dated Victoria, B. C., August 5th of this year, as follows:

Hudson Medical Institute—Gentlemen: "I wish to thank you for the pleasure and gratitude that I write you these few lines, for I believe I am just about cured. I think one more month will do it. I have been in the hospital for some time, and you have done for me so far. I received the brush you sent me all O. K., and I now forward you the same. I have had a large amount of money for the inestimable boon of restored health either. Of course, he has paid the regular fee, but he has had a large amount of marked before, he is man enough to acknowledge the great, immense good, that has been done for him. He writes, dated Victoria, B. C., August 5th of this year, as follows:

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A SPECIMEN ROW OF SPECTATORS AT THE DURRANT TRIAL. [Sketched by a "Call" artist.]

based would not be a ground of challenge "for cause."

Now let us consider the language of section 341 of the criminal practice act as it existed prior to the codes and upon which the decision People vs. Durrant is based. It is of a peremptory challenge, and of a binding force and effect under section 1068, Penal Code, I have not the time now to discuss, but for the reason that I think the strict construction claimed to have been given in that case to the section in the