

CLOSING UP THE DEFENSE OF DURRANT.

The Defendant Asked Dukes to Remember April 3.

TO TELL ONLY TRUTH.

Detective Gibson Said There Were Footprints on the Belfry Stairs.

MISS CUNNINGHAM GOES FREE.

Seeking to Impeach the Testimony of Mrs. Crosett - Many Witnesses.

THE DURRANT TRIAL IN A MINUTE - CLOSING THE DEFENSE.

A variety of small but important points were covered by the defense yesterday in the trial of Theodore Durrant for the murder of Blanche Lamont.

In the first place Judge Murphy decided that he had no power to force Miss Cunningham to a streetcar ride which had taken over the route that Mrs. Crosett told of in her testimony.

Several students and business men swore to the good reputation of the defendant.

Leonard Everett and Marvin Curtis testified as to a streetcar ride they had taken over the route that Mrs. Crosett told of in her testimony.

H. N. F. Marshall Jr., a CALL reporter, testified that on April 14 in an interview with Detective Gibson he saw footprints of a No. 9 shoe found in the dust on the belfry stairs.

Student Charles A. Dukes, under cross-examination, told of a conversation he had with Durrant in the jail in which Durrant had urged him to testify for the defense.

Charles T. Lenahan identified the ring he saw in the possession of Oppenheimer and also identified the letter he wrote to the defendant's lawyers appraising them of the fact.

The trial is continued this morning.

TWENTY-SECOND DAY.

Closing Up the Defense - Miss Cunningham Escapes the Jail - Many Witnesses for Durrant.

These are the closing hours of the defense of Theodore Durrant. Probably today he will go on the stand and give his version of the events of April 3, and it is quite probable that he will be the last witness in his own behalf.

The first business of the court yesterday was in relation to the contempt of Miss Cunningham, the newspaper reporter, who refused to answer Mr. Dickinson's question.

Justice Murphy finally ruled that he had no power to send her to jail for not answering the question, because the question was not a proper one.

Then several students came to the stand to testify that Durrant's reputation—in so far as they had any knowledge of it—was good.

Some business men gave the same kind of testimony. And some that were called for the same purpose could not testify on the subject because they had not the statutory knowledge of it—they had never heard it discussed.

Janitor Taber came to say that during his incumbency at Emmanuel Church no one had touched the ventilators, so far as he knew—this to prove the value of the diagram offered by the defense, which was made in September.

Dr. Cheney was recalled to state that in an interview with Detective Seymour he had spoken about the rollcall of his lecture. The court held the testimony to be irrelevant and immaterial and it was not allowed.

Two witnesses testified as to the time consumed by them in going from Walnut and Sacramento streets to San Jose avenue and Twenty-fifth street. They took the same route that Mrs. Crosett, the witness for the people who saw Durrant and Blanche in the Valencia-street car, says she took on that day; and it took these witnesses—including a five minutes' wait for the Devisadero-street car—six minutes longer than it took Mrs. Crosett.

The point will doubtless furnish both sides with lots of material for argument, both claiming that it favors their side. It was Leonard Everett and Marvin Curtis who took the streetcar ride at the expense of the defense. The former had also made measurements of the organ which King and Durrant carried downstairs on the evening of April 3.

C. W. Carpenter, the plumbing expert, was recalled to answer some questions propounded by Juror Smyth. These were touching the density of gas and whether it did not go down as well as up when it escapes from the jet. Mr. Carpenter thought it did.

N. H. F. Marshall Jr., a CALL reporter, furnished one of the bigger points of the day by testifying that Detective Gibson told him on the 14th of April, which is the day on which the body was found in the shoe, that he saw footprints of a No. 9 shoe on the stairs of the belfry.

Without doubt the defense will make the most of this point, claiming that it shows the most of the presence in the belfry of a man who wore a larger shoe than Durrant—about the size of the shoe found in Pastor Gibson's study in fact.

Student Charles Duke said it was a fact that Durrant had asked him to testify as a favor to him that he remembered seeing him on Dr. Cheney's lecture. This came out on cross-examination, and witness said that Durrant told him he wanted him to swear to nothing but the truth.

Then came Charles T. Lenahan, whose testimony was originally outlined exclusively in THE CALL. Mr. Deuprey went right at him in a bold, bad way.

"When did you see your mustache?" was his first question.

Mr. Lenahan replied mildly that he never had such an adornment, and he stuck to this in spite of Mr. Deuprey.

Lenahan is the man who took a ring—like the ring of Blanche Lamont—to Pawnbroker Oppenheimer's shop on the 13th of April. Mr. Deuprey did not touch upon the date of the transaction, but Mr. Barnes will have a chance in the morning. The supposition is that Mr. Lenahan, wearing a mustache and an overcoat like that worn by Durrant when Oppenheimer says he saw him, would greatly resemble Durrant.

Of course, the introduction of this testimony will be taken as a virtual admission that somebody really did try to pawn a ring very much like Blanche's at Oppenheimer's shop.

Heretofore the defense has occupied the position of denying in toto the testimony of Oppenheimer, whom they will argue is under obligations to the police. But now, it is plain, the defense will rely upon shaking Oppenheimer's damaging evi-

dence on the ground of mistaken identity. However, the case goes on in the morning and Mr. Lenahan will be heard from more in extenso.

The attendance is quite as large as usual, the courtroom being as crowded as it ever was. Among the spectators yesterday were three members of the Tribly company: Svengali, in the person of William Lackaye, the Zouzu and the Dodo—Martineti and Simmons—were all most attentive listeners, disguised as they were by ordinary civilian habiliments, throughout the entire performance.

THE MORNING SESSION.

Leonard Everett's Streetcar Trip. Juror Smyth Wants to Know More About the Gas.

"Call P. A. Smith," said Mr. Dickinson when court opened in the morning.

"Wait a moment," said Judge Murphy. "I desire to rule upon the relevancy of the question propounded to Miss Cunningham."

"Considering the question itself, 'Where did you obtain your information for the article?' and the purpose for which it is asked, as stated by the counsel, I do not think the court has any power to compel the witness to answer the question. I have been looking up the avail-

able authorities on the subject and am now convinced that the question is improper, and shall sustain the objection of the District Attorney."

"Now, here is another matter that I want to call attention of counsel to at this time. In the examination of Dr. Cheney there were certain questions propounded by counsel for defense, which, upon objection by the District Attorney, I refused to allow. Now, while I am still of the opinion that these questions were improper, I am now of the opinion that in this case, or if I do to make the error on the side of the defendant."

"I will overrule my own ruling in this case and permit the questions to be asked. Mr. District Attorney, you will have Dr. Cheney recalled for further examination."

Mr. Dickinson—Dr. Cheney will be here at 11 o'clock, your Honor.

Then the first witness of the day was called and sworn. His name was T. A. Smith and he proved to be one of the students of the senior class of Cooper Medical College, but he was absent from Dr. Cheney's lecture and had secured no notes of it.

Student F. B. Robinson came next. He was also absent from Dr. Cheney's lecture and had secured no notes of it.

Then there came some more witnesses as to the reputation of the defendant. Frank Decker, Dalton Bros., commission merchants, was the first. He lives in the same block with the Durrant family, and the children of the two houses have always been very intimate. Mr. Dalton said he had known Durrant six or seven years, he said, and knew that his reputation was good.

Dr. M. Thrasier said he had known Durrant for some years, and that his reputation was good.

George W. Bond, a member of the Signal Corps of the National Guard, said he had known Durrant for several years, and was with him under arms during the troublesome days at Sacramento. Durrant's reputation for truth and integrity and for peace and quiet was good, he said.

Edward A. Bunker of Alameda had known Durrant six or seven years, he said, and knew that his reputation was good.

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Dickinson—it is important to us in argument. The Court—I shall sustain the objection. "To whom and at what time did you first speak of the rollcall?" then asked Mr. Dickinson, persisting.

Mr. Barnes made the same objection and the court made the same ruling. Mr. Dickinson then asked witness if he knew Student Kearney, now deceased. Receiving an affirmative reply he followed up the lead by inquiring what, if anything, Kearney had said to him concerning the presence or absence of Durrant at the lecture in question.

Mr. Barnes again objected. Mr. Dickinson said that he wanted to show that Kearney told witness that he, Kearney, did not answer for Durrant at the lecture on the afternoon of April 3.

Judge Murphy sustained the objection of the District Attorney. Then he called Mr. Dickinson's attention to the questions which he had previously overruled, but which he was now prepared to allow.

The questions were as to whether, in an interview with the counsel for defense, witness had not stated that he had personally investigated the correctness of the rollcall and that he was satisfied from the investigation that Durrant was present, as the book shows.

The Court—The court withdraws its previous ruling on that point, and you may now ask the question and I shall instruct the witness to answer it.

Mr. Dickinson—I do not care to ask the question now, but prefer to stand by the record as it was made.

The Court—Very well; then let the record show that the court, at this time, offered to permit the question and that the counsel did not wish to put it.

Mr. Dickinson—We have no desire to ask the

the church on October 7, and measured the organ that King and Durrant carried down from the organ-loft on the afternoon of April 3. It was 47 1/2 inches in height, he said, 19 1/2 inches across the top, and 25 inches at its widest point.

Then he timed himself in walking diagonally across Bartlett street from the schoolhouse to the south gate of the church. It took him just seventy-one seconds, he said.

"You didn't have a young lady with you, when you took that walk, did you?" asked Mr. Barnes on cross-examination.

"I did not."

E. W. Carpenter was recalled to answer a couple of questions for Juror Smyth. Carpenter is the plumbing expert. He was asked whether gas was much lighter than air? He said he thought it was.

Mr. Smyth asked him if, when gas escapes from a chandelier, the person standing beneath did not smell the escaping gas immediately?

He said he thought they did. Gas expands in all directions.

That was all the questions Mr. Smyth had to ask, and then court adjourned for the noon recess.

THE AFTERNOON SESSION.

Footprints in the Belfry—The Conversation Between Dukes and the Defendant.

Edward P. Hulme, who was a member of the Signal Corps at the time Durrant joined, was the first witness of the afternoon session. He was asked concerning the requirements of candidates for admis-

sion to the Signal Corps, and answered that a committee was always appointed to inquire into the character of the applicant.

Mr. Deuprey asked the witness if such a committee had investigated Durrant's character. There was an objection interposed by the District Attorney. It was sustained by the court.

J. C. Mensdorffer was called, but he knew nothing concerning the admission of Durrant to the Signal Corps, and departed again without adding anything material to the record.

H. N. F. Marshall Jr., who is now and was on the 14th of April last a CALL reporter, was called. On the latter date he had an interview with Detective Gibson between 1:45 and 2:30 o'clock in the afternoon in the detective's room at the new City hall.

"Did Gibson say anything then about having seen footprints in the dust?" asked Mr. Deuprey.

"Yes, sir; he said there were footprints made by a No. 9 shoe on the belfry stairs."

"Was there anything said about a No. 9 shoe?" asked Mr. Barnes, for cross-examination.

"I don't remember as to that."

"Who else were present at the interview?"

"None."

"Did you ever see the defendant since his arrest?" asked Mr. Barnes.

"Yes, sir; I did."

"Did you ever visit him?"

"Once in the County Jail."

"Did you ever visit him at the City Prison?"

"More than once."

"Once or twice?"

"On September 30, at your residence, did you have an interview with John F. Connor concerning the talk you had with Durrant in the County Jail on the 1st of September?"

"I had an interview with some newspaper man about that time."

"Did you state to Mr. Connor in that interview that when on the stand before you and Mr. Durrant, in the morning you had a conversation with him?"

"Did you say that you felt sorry for him and that Durrant asked you to testify for him?"

"Yes, sir; I did."

"Did you then ask him to testify as a favor to him, that he wished you could state it as a fact?"

"That is similar to what I told the reporter; but it is not all."

"That is a fact that such a conversation did take place between you and Durrant?"

"Yes; but there is more of it."

"I told the reporter that Durrant also said to me that I was not to say anything but the truth."

"State the whole conversation."

"Well, he asked me about some of the points on milk sterilizing. He asked what kind of corks were used in the morning you had a conversation with him going out early at one of the lectures."

"How long did the conversation last?"

"About half an hour."

"Have you any recollection now of Durrant being present?"

"No, sir."

"Was Durrant's seat near yours?"

"It was immediately at my right."

"Don't you know, for a fact, that Durrant did not occupy his seat that afternoon?"

"No, sir; I have no recollection about that."

"Did you have any conversation with Durrant then?"



WITNESSES AND SPECTATORS AT THE DURRANT TRIAL YESTERDAY.

[Sketches by a "Call" artist.]

question now. The testimony already is that the rollbook is correct, and it was only for this purpose that we desired to ask it originally.

Leonard Everett was recalled to tell about a certain streetcar trip he made from the corner of Walnut and Sacramento streets—near the residence of Mrs. Crosett's relative—to the residence of Mrs. Crosett, at Twenty-fifth street and San Jose avenue.

This trip was taken in company with Marvin Curtis, and for the purpose, of course, of impeaching the testimony of Mrs. Crosett, who said she met Durrant and Blanche Lamont in a Valencia-street car going toward Emmanuel Church on the afternoon of April 3. When she was on the stand Mr. Dickinson cross examined her closely as to the route she took and the time consumed by it.

Curtis and Everett kept a scheduled memorandum of their trip, which was offered in evidence, and is as follows:

We took the Sacramento streetcar coming east at the southerly corner of Sacramento and Walnut streets at 2:21 P. M.

Got off the car at Devisadero and Sacramento streets at 2:26.

Took the electric-car going south on Devisadero street at 2:31.

Went south on Devisadero to Turk, arriving there at 2:36.

Transferred there to another Devisadero-street car going south to Page at 2:37.

We got off at Page street and walked one block to Haight, arriving at Haight and Devisadero streets at 2:42 1/2.

We took the Haight-street car going east at 2:44 and arrived at the junction of Market street at 2:50.

We walked over to the Valencia-street cars and boarded one going south at 2:52.

We reached Twenty-second and Valencia streets (where Mrs. Crosett says that Durrant may have gotten out, if he did not alight at Twenty-first street) at 3:02.

We continued on to Twenty-fifth street and got off at 3:05.

We reached Twenty-fifth and San Jose streets at 3:07 and San Jose one block to No. 239, arriving there at 3:07 P. M.

According to this schedule the trip was made in forty-six minutes, but Mr. Barnes and Judge Murphy both brought out by questions the fact that a five-minute wait was had at Devisadero and Sacramento streets.

Doubtless this schedule will furnish a good deal of material for arguments on both sides.

Leonard Everett had more testimony than this to give. He said he had gone to

the Signal Corps, and answered that a committee was always appointed to inquire into the character of the applicant.

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"State the whole conversation."

"Well, he asked me about some of the points on milk sterilizing. He asked what kind of corks were used in the morning you had a conversation with him going out early at one of the lectures."

"How long did the conversation last?"

"About half an hour."

"Have you any recollection now of Durrant being present?"

"No, sir."

"Was Durrant's seat near yours?"

"It was immediately at my right."

"Don't you know, for a fact, that Durrant did not occupy his seat that afternoon?"

"No, sir; I have no recollection about that."

"Did you have any conversation with Durrant then?"

"No, sir."

"Or with his parents?"

"No, sir."

"I understand that the reporter made a statement to you and asked you if such things were true?" asked Mr. Deuprey.