

JURORS FOR THE GREAT FAIR CASE

Actual Proceedings in the Trial Now Under Way.

MANY OF THE TALESMEN CHALLENGED.

Some Were Prejudiced, While Others Were Too Willing.

BOTH SIDES WITHHOLD THEIR SELECTIONS.

A Grand Array of Legal Talent in Court, All Alert and Primed for Battle.

The trial of what is doubtless the chief issue in the great struggle over the millions left by the late ex-Senator James G. Fair—the issue involving Mrs. Nettie Craven's interests in the vast estate—began before Superior Judge Slack yesterday morning, with the important preliminary work of the impaneling of a jury.

Judge Slack had moved his quarters again, using this time the courtroom of Department 8, instead of his own, which is now in the hands of a force of workmen. It is understood, however, that as soon as convenient, he will again hold his sessions in the Supervisors' commodious chambers.

There was an immense attendance at yesterday's session, indicating that the public has lost none of its interest in this celebrated contest.

The number of the attorneys retained to represent the several interests involved is so great they occupied the major portion of the space inside the railing, leaving little room there for visitors. Mrs. Craven, accompanied by her daughter, Margaret, was on hand early, and took a seat immediately in front of the jury-box along with her legal champions, D. M. Deimas, W. W. Foote, Judge Denison and Mr. Brittain. Some distance back from these notables were arrayed the attorneys for the Fair children and attorneys representing other interests involved, all of whom have combined to fight Mrs. Craven's claims. Among these were Messrs. Pierson, Knight, McEnerney, Mitchell, Heggerty, Lloyd and Wheeler.

The particular issue that the jury now being selected is to hear was the first matter referred to when Judge Slack took his seat yesterday morning and court had been formally declared to be in session. It was through a question asked by Mr. Deimas. That gentleman wanted the court to elucidate on the point—that is, to know just what sort of a showing they were expected to make in court.

Judge Slack said he had thought that a matter already understood.

"Your Honor's decision that we should try the case by a jury is clear enough to me," said Mr. Deimas, "but I want to know just what you think of this issue to be tried. We want to know if we are to try the case by a jury, or if we are to try the case by a judge, or if we are to try the case by a jury and a judge, or if we are to try the case by a jury and a judge and a jury."

"do the best he could" when it came to passing upon the disputed deeds.

Mr. Foote made short work of the gentleman when he handed him a photographic copy of the deeds held by Mrs. Craven and asked him to read them. Mr. Foote struggled with them manfully, but had to give it up as a bad job. He could not read them at all, so he was excused by both sides by mutual consent.

At this juncture the court took the customary noon recess.

B. F. Garratt, the foundryman, was taken in hand by Mr. Pierson when court reconvened for the afternoon session, and promptly gave it out that he was not qualified to serve as a good juror.

He said he had found himself greatly interested in the romantic story of Senator Fair's life and death and the struggle for his millions. He had read nearly everything printed in the newspapers about the case and had expressed some very emphatic opinions both at home and at the foundry.

"Was that opinion such that evidence would be required to remove it?" asked Mr. Pierson.

"I think so, as I still retain that opinion," replied the talesman.

Mr. Foote asked Mr. Garratt a few questions, and the latter, in a perfunctory sort, as he was satisfied that the foundryman would not do. Mr. Garratt was challenged and Judge Slack sent him away.

Rudolph Samson, an importer of Japanese goods, said in response to Mr. Pierson's long string of questions that he knew none of the parties connected with the case. When Mr. Foote took hold of him he confessed readily that he had formed an opinion so strong that he could not rid himself of it and therefore could not be an impartial juror.

Mr. Foote's challenge had the effect of severing the talesman from further connection with the case.

Richard C. Matteson, a Larkin-street grocer, couldn't say that he knew anybody concerned in the great case, and told Mr. Foote that he had read very little about it and did not know anybody connected with it.

There was nothing to do but to pass Mr. Pierson's challenge, and he was accordingly removed from the list of twelve men who will finally pass upon the evidence.

H. B. Burlingame's responses to Mr. Pierson's queries were affirmative only in two instances. He had met Mrs. Craven some four years ago, when his son was a pupil at her school, and was also acquainted with one of the parties named in the case. To Mr. Foote he said he had read considerable about the case, but was quite sure he had not formed any definite opinion as to the merits of any of the claims, nor had he ever expressed himself on the subject.

He, too, was passed.

William A. Brown had read a good deal about the case and had talked with good authority on the subject, but he was asked to know something about it. Upon this he had formed an opinion that he was sure disqualifies him from serving. No amount of questioning on the part of Mr. Pierson would get him to say that he could cast his opinion aside, and he was excused.

The examination of Louis J. O'Farrell elicited the information that he could boast of no particular acquaintanceship with any of the people interested in the litigation. He knew some of the attorneys and litigants by sight only. But he had read a good deal about the development of the case and the trial of J. J. Cooney, but had not formed any clear-cut opinion. Mr. O'Farrell thought he would make a fair, unbiased juror.

Mr. Foote had a few important questions to ask the talesman and when he did he found out that the law firm of Knight & Heggerty had transacted business for his brother, J. J. O'Farrell, the real estate dealer, who not long since went into bankruptcy. The talesman was working for his brother at that time. He declared, however, that personally he had never had any dealings of consequence with the attorneys mentioned and was certain he had never discussed the Fair case with them. He also admitted an acquaintanceship with Attorney Heller, but had not talked with him either. Mr. O'Farrell was passed.

Harrie C. Biggs of the California Machine Company had read all about the case, and had formed an opinion that it could take very strong evidence to shake. He was promptly challenged and allowed to return to his business.

For similar reasons Patrick Boland was

excused. He did not believe he could rid himself of the opinion he had formed.

Owen McHugh was another whose mind was in such a condition that he would not do for a juror.

Sigmund Shoenberg, who deals in tailors' fittings, had an opinion, too, based upon what he had read and heard, but it was not so pronounced and fixed that evidence might not change it. The attorneys for the Fair children were anxious to retain Mr. Shoenberg on the panel, and fought against Mr. Foote's challenge.

The court decided, however, that the talesman had clearly shown himself to be biased and allowed the challenge.

One of the most interesting examinations of the afternoon was that of S. G. Hoag, a publisher of periodicals. Mr. Hoag knew most of the attorneys in the case—some by sight and others personally—and also knew Judge Cooney. He met the latter at a Republican meeting during the last campaign.

"Do you know Mr. Deimas, too?" asked Mr. Pierson.

"Oh yes, quite well."

"How long?"

"Oh, ever since I met him at that celebrated Stockton convention."

Mr. Foote inquired of the good-natured laugh that followed this remark and Mr. Deimas joined in, too.

"Were you a delegate to that convention?"

"No, but I was pretty close in."

Mr. Hoag acknowledged frankly that he had kept well posted on the Fair case by reading the papers. He had formed opinions, too, but they were so varying in their nature that he scarcely knew where he stood at present.

"Give it up," he said, "I would read an article one day and have an opinion or impression until I would read something else, and then I would have another. That is the way it has been with me right along."

"Well, how do you stand now?" asked Mr. Foote, smilingly.

"I give it up," replied Mr. Hoag, with a hopeless shrug of his shoulders.

Both sides seemed to like this talesman and he was passed without a challenge.



DIVINITY HEDGES NOT OUR JUDGES

Freedom of the Press Is Not Yet Dead in This City.

Jurors Think Candidates for Places on the Bench May Be Criticized.

S. M. Shortridge, Attorney for Editor Marriott of the News Letter, Outlines the Law.

Frederick Marriott, editor and proprietor of the San Francisco News Letter, yesterday called on Judge Daingerfield's court to defend himself upon the misdemeanor charge of having libeled Judge J. C. B. Hebbard. The room was thronged with interested spectators.

S. M. Shortridge, representing the defendant, asked permission of the court to interpose a demurrer to the indictment, saying that he believed the pleadings to be fatally defective. If that were true it would be imposing a useless expense on the community to go through with a long and in some respects a vexatious trial. He thought it was within the sound discretion of the court to hear the objections to the indictment in order to save the public treasury from an unnecessary burden.

Attorney Julius Kahn, on behalf of the prosecution, insisted that the defendant had made the offer of a demurrer too late. He urged a trial on the issues framed. Judge Daingerfield sided with the attorneys for the prosecution. He said, however, that if the District Attorney is doubtful in regard to the soundness of the indictment now is the time for him to speak.

District Attorney Barnes responded that

Prominent Figures at the Trial of Editor Marriott in Judge Daingerfield's Court.

he drew the indictment and felt great confidence in it.

Mr. Shortridge asked if there was not a point in the indictment which caused him to pause and doubt.

After a slight hesitation Mr. Barnes said he supposed counsel referred to the question as to whether the editorial in question is really libelous per se.

Attorney Kahn made a brief reply, and the court overruled the defendant's motion.

The names of the jurors in the box were then read as follows: Charles W. Welch, Thomas G. Taylor, R. H. Woods, Charles Kane, Adam Wagner, John C. Anderson, A. M. Lawyer, Henry Klindt, James P. Dorland, K. Gampitz, John J. Engler.

District Attorney Barnes read the indictment, which sets forth the fact that last October Mr. Marriott published in his paper, the San Francisco News Letter, an editorial, of which the following is a copy:

A WORTHY JUDGE, FORTHOOTH!

In another part of the News Letter appears an article signed by a member of the People's Home Savings Bank depositors, showing adequate cause why Judge Hebbard should not be re-elected. The statements made in this terrible document will cause every honest man to shrink from voting for a creature who is thus clearly proven to be an enemy of numerous widows and orphans, and morally unworthy to hold the position of a judge. Intelligent men will learn well the lesson that article teaches, and will see to it that he is removed from the high position he discharges. If tools are to be elected to the Judiciary, the honest man better get out of the City. But it will be more natural for us to relegate the tools to the oblivion they so richly deserve.

The publication of this article, Mr. Barnes explained, could not in any event be regarded as anything more serious than a misdemeanor. If it could be shown that the publication was unjustifiable in a legal way then a conviction of misdemeanor would be asked for by the prosecution.

The article referred to as having appeared "in another part of the News Letter" was issued by authority of the committee of the People's Home Savings Bank and read as follows:

AN APPEAL TO VOTERS.

Your attention is called to the fact that an unrighteous and unjust man, J. C. B. Hebbard, is now a candidate for the position of Superior Judge at the approaching election.

So the inquiry proceeded in a sprightly manner throughout the day.

In the afternoon Deputy District Attorney Walter Hinkle appeared to assist in the prosecution, taking his seat beside Judge Hebbard, who occupies a place at the table reserved for the attorneys for the prosecution, and took notes of questions and answers, occasionally offering words of counsel and advice to the lawyers.

"Do you know Alvinza Hayward, James Cross, administrator of the Hobart estate, T. H. McCarthy, E. F. Kendall, Thomas S. Williams Jr., and the other persons who were indicted on a charge of libeling Judge Hebbard?" was one of Mr. Kahn's stereotyped questions.

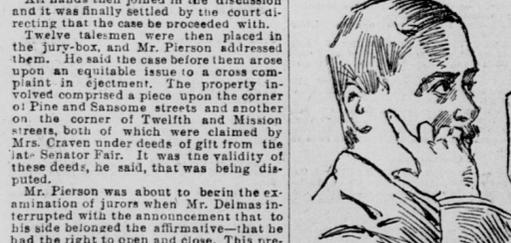
On the other hand Mr. Shortridge wanted to know if Attorney W. T. Baggett, who was mixed up in some kind of a Hale & Norcross litigation, was known to the pro-protective juror. Following this up the same question was asked in regard to Attorney H. W. Hinton, Attorney Henry E. Highton, Attorney James A. Wain, General John F. Sheehan, Colonel George Stone, ex-City Counselor John A. Durs, ex-Attorney-General W. H. H. Hart, W. M. Fox, Attorney Henry Backhoff and half a dozen more gentlemen, who were by inference joined in the number of those who are seeking to press the prosecution in this case.

Incidentally it was developed that jurors hold to the opinion that newspapers have a right and ought to be privileged to criticize candidates for positions on the judicial bench.

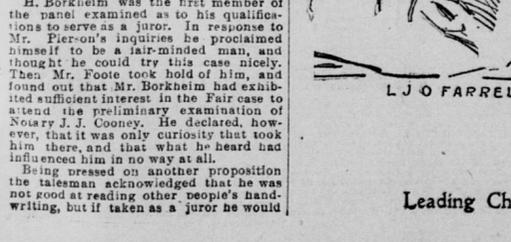
Ten jurors were examined and passed for future consideration and action by the court. Proceedings will be resumed at 10 o'clock this morning.



H. BORKHEIM



W. Z. TIFFANY



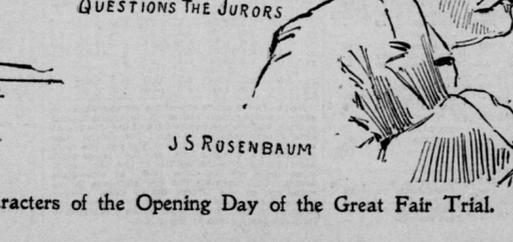
W. Z. TIFFANY



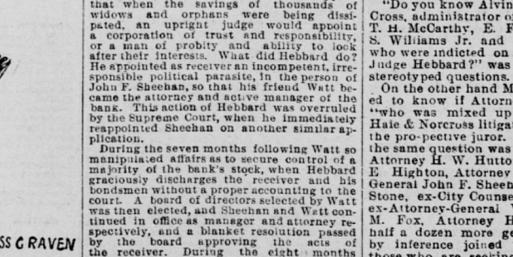
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Leading Characters of the Opening Day of the Great Fair Trial.